

**Parish: Deighton**  
Ward: Appleton Wiske & Smeatons

**5**

Committee Date : 10 March 2022  
Officer dealing : Mr Nathan Puckering  
Target Date: 21 January 2022  
Date of extension of time (if agreed): 11 March 2022

**21/02800/FUL**

**Retrospective change of use of land and barn to residential use.**

**At: East Field Barn Deighton Lane Deighton Northallerton**

**For: Mr L Snowden.**

**This application is referred to Planning Committee due to it being of significant public interest.**

## **1.0 Site, Context and Proposal**

- 1.1 East Field Barn was a relatively small agricultural building located approximately 365m north-west of Deighton. It is completely detached from the village and stands alone within an area of open countryside. It is accessed via a track which runs southwards off Deighton Lane. The building was constructed using concrete blockwork and a clay pantile roof, the building has since rendered. Views of the building itself are relatively open at present, especially as one travels along Deighton Lane to the north and east.
- 1.2 The site has a lengthy planning history, with two prior notifications refused and then dismissed at appeal, for the conversion of the building under Part 3, Class Q of the General Permitted Development Order. However, works started in November 2018 to convert the former agricultural building to a dwelling, with this being completed in 2020. External work to facilitate this conversion was effectively limited to the insertion of additional openings for windows. The Council issued an Enforcement Notice in relation to this unauthorised change of use in December 2020, which the applicant sought to Appeal. The appeal was subsequently dismissed in June 2021, noting that the appellant did not appeal ground a, that planning permission should be granted and as such, the current application has been accepted, for determination by the Council.
- 1.3 This retrospective application is seeking to formalise the change of use from the agricultural building to a dwelling. Included in the submission but not yet implemented is a landscape scheme which includes the planting of a native species hedgerow to the south and east of the building, as well as running along the access track to the north. This will be substantiated by several native trees mostly to the south-east and north-east of the building. Furthermore, throughout the consideration of this application, amended plans were submitted which include the cladding of the building with timber cladding.

## **2.0 Relevant Planning History**

- 2.1 16/01099/MBN - Notification for prior approval for proposed change of use of agricultural building to a dwellinghouse. - Refused and Dismissed at Appeal

- 2.2 17/00959/MBN - Application for Prior Notification for proposed change of use of agricultural building to dwellinghouse and associated operational development - Refused and Dismissed at Appeal
- 2.3 17/00198/CAT3 - Unauthorised construction of building in countryside. - Enforcement Notice Issued

### **3.0 Relevant Planning Policies**

As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

Local Plan Policy E1: Design  
Local Plan Policy E2: Amenity  
Local Plan Policy E7: Hambleton's Landscapes  
Local Plan Policy IC2: Transport and Accessibility  
Local Plan Policy S1: Sustainable Development Principles  
Local Plan Policy S3: Spatial Distribution  
Local Plan Policy S5: Development in the Countryside  
Local Plan Policy HG5

### **4.0 Consultations**

- 4.1 Parish Council - no comments received - expired 12.01.2022
- 4.2 NYCC Highways Department - In the absence of any speed data, the visibility at the existing access has been assessed as falling slightly below the standards set out in the Deign Manual for Roads and Bridges. This is due to the horizontal alignment of Deighton Lane in this location. However, given the history of use associated with the existing access, a refusal on highways grounds would be difficult to sustain on this occasion.
- 4.3 Street Naming & Numbering - No an application would not be required as already registered.
- 4.4 Environmental Health and Yorkshire Water were consulted but submitted no comments.
- 4.5 Site Notice & Neighbour Notification - 20 letters of support received at the time of writing, with the following comments:
- the applicant is a pillar of the community and supports local businesses
  - the applicant should be able to remain in the community
  - the applicant always helps people in the village
  - the current situation is causing distress and seems to be unjust and unfair
  - the quality of work on the building has been exceptional
  - local people should be able to live in the area and it is difficult to buy
  - the building is in keeping with the area and once the landscaping scheme has been implemented it will be even better

## 5.0 Analysis

- 5.1 The main issues in this case are i) the principle of a dwelling in this location, ii) design & the impact on the character and appearance of the open countryside, iii) amenity and iv) access/highway safety.

The principle of development

- 5.2 In February 2022 Hambleton District Council adopted the Hambleton Local Plan. Policy S5 of the Local Plan concerns development in the open countryside. The countryside is defined as land outside the existing built form of a settlement identified in the settlement hierarchy, in which Deighton is classified as a "Small Village", the lowest level on the hierarchy.
- 5.3 Policy S5 sets out a number of general aims and requirements to "ensure that new development recognises the intrinsic beauty, character and distinctiveness of the countryside as an asset that supports a high-quality living and working environment, contributes to the identity of the district, provides an attractive recreational and tourism resource and is a valued biodiversity resource."
- 5.4 The second part of policy S5 supports the conversion of rural buildings when it can be demonstrated that:  
the building is:  
i. redundant or disused;  
ii. of permanent and substantial construction;  
iii. not in such a state of dereliction or disrepair that significant reconstruction would be required; and  
iv. structurally capable of being converted for the proposed use;  
and the proposal:  
i. would enhance the immediate setting; and  
ii. any extension or alteration would not adversely affect the form, scale, massing or proportion of the building.
- 5.5 It is pertinent to note that the assessment of the above policy must be taken at the point before conversion, given this is a retrospective application and the works have already taken place. Officers would acknowledge from previous site visits that the building was not in a state of disrepair and given no structural works have taken place, the building was clearly capable of conversion. As such, the development was in line with policy S5 as far as points ii and iii are concerned.
- 5.6 Notwithstanding, concern must be expressed regarding compliance with requirement i. The supporting Planning Statement specifically states in para 2.2 that the building in question was previously used "solely as an agricultural store, for machinery, tools and hay." This would be consistent with the Council's Enforcement Officer's observations on 20th October 2017 prior to the work beginning along with visits undertaken as part of the appeal process which witnessed the building in use for agricultural purposes.
- 5.7 As a result, based on the evidence provided as part of this application, along with the planning history of the site, it is not possible to establish whether the proposal complies with requirement i of policy S5 in that it appears it was still in use and therefore not "redundant" or "disused".

- 5.8 In addition, the latter part of the section of policy S5 which concerns conversion has a clear requirement for the development to "enhance the immediate setting" of the site/building. This is consistent with the relevant comparative section of the NPPF which also makes the distinction at para 80(c) that the development would re-use redundant or disused buildings **and** enhance its immediate setting.
- 5.9 The development in this case is considered to fall short of representing an improvement to the setting. Prior to conversion, the building represented a typical small agricultural building situated relatively close to a rural settlement. These types of structures are evident all around the District and are considered to help to characterise the rural landscape and the appearance of the countryside as a whole. As a result, the building and its use as an agricultural building was not considered harmful in terms of its impact on the locality or the open countryside, nor was the building and its use harmful to local residential amenity.
- 5.10 It is noted that policy S5 simply requires there to be an improvement to the setting and just because the building was not harmful prior to conversion does not automatically mean there is not an improvement resulting from the scheme. The applicant has submitted a professionally prepared landscape scheme and is also now proposing to clad the building in wood, in an attempt to ensure it is in-keeping with the rural surroundings. However, it is Officer's position that the landscaping scheme and alteration to the building does not outweigh the harm resulting from development, which in itself represents a harmful incursion into the open countryside resulting from the creation of a dwelling in this location.
- 5.11 The Planning Statement concludes that the proposed landscaping scheme will "limit any detrimental impact that the use of the building for residential purposes/domestic related paraphernalia may be considered to perpetuate, along with the fact that the proposed landscaping scheme will also enhance the building's immediate setting."
- 5.12 Even if one was to accept that the landscaping scheme will go some way to address the harm caused by a residential use in this inherently rural and open countryside location by effectively hiding the development; it is clear that this is required only because of the harm created by this development.
- 5.13 As set out above, the building in its previous use and form was not considered harmful. The harm has arisen by the domestication of the site and its surroundings. The landscaping scheme, which it should be noted could be implemented without the need for this conversion, is not enough to say the scheme as a whole has led to an improvement. At best it has meant the scheme has had a neutral impact by screening the harmful residential use created by this development. However, as already established, the building previously only had a neutral impact on the locality and thus even in a best-case scenario, logic dictates there has not been an improvement/enhancement. This is in direct conflict with policy S5 and the NPPF.
- 5.14 As a result of this conflict with policy S5, it has been established that the site does not lend itself to residential use and the principle of the development would not be supported by the Hambleton Local Plan or the NPPF.

#### Design & Impact on the Open Countryside

- 5.15 Policy E1 of the Hambleton Local Plan concerns the design of development. It sets out a lengthy list of design principles that development must meet, including responding positively to site context, making efficient use of land, and achieving a satisfactory relationship with surrounding uses. In addition to policy S5 requiring development in the open countryside to recognise and protect the intrinsic beauty and character of the countryside, policy E7 also requires proposals to, amongst other things, take into consideration the degree of openness and special characteristics of Hambleton's landscapes.
- 5.16 Whilst the building has retained the understated scale of the building and not been extended unnecessarily, despite the alterations by way of the timber cladding, it still has the appearance of an inherently domestic building which raises further concerns as to whether it can be said to respond to the site context, as per the requirement of policy E1. As already discussed, it is considered that the creation of a dwelling on this site is in direct conflict with the character of the surrounding locality and as such this proposal does not recognise the intrinsic rural character of the immediate landscape. This means the development fails further in meeting the requirements of policy S5, as well as policy E7.

#### Amenity

- 5.17 Policy E2 of the Hambleton Local Plan states that "all proposals will be expected to provide and maintain a high standard of amenity for all users and occupiers, including both future occupants and users of the proposed development as well as existing occupants and users of neighbouring land and buildings, in particular those in residential use." This relates to issues such as air pollution, daylight provision, noise and disturbance and water pollution.
- 5.18 Overall, there are no concerns relating to amenity in respect of the conversion. Whilst it is noted the applicant appears to operate a smallholding in the immediate vicinity to the site, this was very much on a minor scale and as such there is no issues relating to the impact on amenity.
- 5.19 There is a single dwelling located approximately 160m north of the site, adjacent to the access track. This is a suitable distance away to ensure there will be no harmful impact on the amenity of the residents of this property resulting from the proposed conversion. On the whole, the proposal complies with policy E2.

#### Access & Highway Safety

- 5.20 Policy IC2 of the Hambleton Local Plan relates to transport and accessibility and states that Hambleton District Council will work with other authorities to secure a safe and efficient transport system. On this occasion, NYCC as the Local Highways Authority were consulted on the application. Whilst they expressed concerns that the visibility at the access onto Deighton Lane falls below the expected standards, given the historic use of the site as an agricultural building and the fact large tractors and the like could reasonably be expected to use the access historically; refusal on the grounds of unsafe access would be unjustifiable.
- 5.21 On the whole, the proposal is considered to comply with policy IC2.

## Planning Balance

- 5.22 The proposal on this occasion effectively constitutes the conversion of an understated, rural building which had a neutral, unarmful impact on the character and appearance of the surrounding open countryside. Whilst a fairly comprehensive landscape scheme has been submitted as part of the development, this at best neutralises the harm caused by this harmful incursion into the open countryside and therefore on balance the scheme as a whole does not meet the bar of representing an improvement to the setting of the building. This is in direct conflict with policy S5 of the Hambleton Local Plan and para. 80 of the NPPF. The rural and understated location does not lend itself to a residential use without causing harm to the character of the open countryside. This creates further conflict with policy S5, as well as policy E7. On this basis, the proposal is recommended for refusal.

## 6.0 Recommendation

- 6.1 That subject to any outstanding consultations the application be **REFUSED** for the following reason(s)

1. The proposal constitutes the conversion of an understated, rural building which previously had a neutral, unarmful impact on the surrounding open countryside. Whilst a fairly comprehensive landscape scheme has been submitted as part of the development, this at best neutralises the harm caused by this harmful incursion into the open countryside and therefore on balance the scheme as a whole does not meet the bar of representing an improvement to the setting of the building. Furthermore, it is apparent that at the time of conversion the building was not redundant or disused and therefore the proposals fail to meet the requirements of para. f. i. of policy S5. As a result, the conversion scheme fails to meet the requirements of policy S5 of the Hambleton Local Plan and therefore the principle of the development is in direct conflict with local policy.