
Appeal Decision

07 DEC 2015

Site visit made on 10 November 2015

by Paul Singleton BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 December 2015

Appeal Ref: APP/W9500/W/15/3129852

Land near to Demesne Farm, Fylingthorpe, Whitby, North Yorkshire

YO22 4QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by L.E & G. Hodgson against the decision of North York Moors National Park Authority.
 - The application Ref NYM/2014/0725/AGRP, dated 20 October 2014, was refused by notice dated 15 December 2014.
 - The development proposed is a general purpose agricultural building.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for a general purpose agricultural building at land near to Demesne Farm, Fylingthorpe, Whitby, North Yorkshire YO22 4QF in accordance with the terms of the application Ref NYM/2014/0725/AGRP, dated 20 October 2014 and the plans submitted with it, subject to the following conditions:
 - 1) No trees, shrubs or hedges to the east and south east of the site of the approved building shall be cut back, felled, uprooted, wilfully damaged or destroyed without the prior written consent of the Local Planning Authority.
 - 2) No development shall take place until details of the following have been submitted to and approved in writing by the Local Planning Authority:
 - a) the extent of excavation required to form the building platform;
 - b) the proposed siting, form and profile of any bund to be formed through the re-use of any material excavated for the construction of the building; and
 - c) the trees and other vegetation to be planted on or adjoining the proposed bund to provide additional shelter and screening to the building.The development shall be carried out in accordance with the approved details.
 - 3) No external lighting shall be installed on the approved building.
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Procedural Matters

2. I note that there is a misspelling in the site address on the application form and I have used the corrected spelling of Demesne Farm in this decision. The application form is also unclear as to the description of development and I have adopted that used by the Authority in its decision as providing a full and clear description of the proposal.

Main Issue

3. The main issue is whether or not approval should be given in respect of the siting, design and appearance of the proposed building with regard to its effect on the character and appearance of the area and its inclusion within the North York Moors National Park.

Reasons

4. Schedule 2, Part 6, Class A of the GPDO allows the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of works for the erection of a building which is reasonably necessary for the purposes of agriculture in that unit. The proposal complies with these requirements in that it is intended to serve the agricultural unit which the appellant will continue to farm when he has retired from the tenancy of Low Farm and is for use by the livestock that will be grazed on that land. The permitted development right is subject to certain exclusions set out in paragraph A.1. The Authority has not suggested that the proposal would be excluded on the basis of any of the criteria listed in that paragraph and I find that the proposal does benefit from permitted development rights under Class A.
5. Under paragraph A.2(2) of Part 6 of the GPDO prior approval is required in relation to the siting, design and external appearance. The Authority has raised no objection on the grounds of design or external appearance, accepting that the building's design indicates an agricultural purpose and would be in keeping with existing modern agricultural buildings in the area; I agree that this would be the case. The Authority's key concern is that the proposed building would be in a remote location apart from any neighbouring farmsteads and other existing buildings and that, for this reason, it would be contrary to the relevant policy and guidance on the siting of agricultural buildings. That policy and guidance is comprised in Core Policy A and Development Policy 12 of the North York Moors National Park Authority Local Development Framework Core Strategy and Development Policies Document (2008) (Core Strategy) and Part 5 of the Authority's Design Guide (2013).
6. Although primarily intended to be applied to applications for planning permission rather than to schemes which benefit from permitted development rights these policies and guidance are helpful in assessing the acceptability of the proposed siting. The Core Strategy predates the publication of the National Planning Policy Framework in 2012 but I consider that the policies referred to above are consistent with Section 3 of the Framework with regard to supporting a prosperous rural economy, and Section 11 which requires that great weight be given to conserving the landscape and scenic beauty of National Parks.
7. Criterion 3 of Development Policy 12 requires only that new buildings should be related physically and functionally to existing buildings associated with the

business and provides for exceptions to this rule where there are exceptional circumstances relating to the agricultural necessity for a more isolated location. Whilst the Design Guide refers to new buildings generally being within or adjacent to existing groups, it recognises that this may not always be possible due to the practicalities of farming.

8. Where there are no existing buildings on the agricultural unit which the proposed building is to serve or otherwise associated with the agricultural business, the criterion 3 siting preference cannot be met. The Design Guide acknowledges that siting is dependent upon the function of the building and that the siting preference within the guidance is a general rule rather than a fixed requirement. In this case, the Authority accepts that a building is required as a safe feeding and handling area for livestock in order to reduce the level of poaching of land by the herd in accordance with Natural England advice under the Catchment Sensitive Farming Scheme. Given that it is needed for the farming activity on this agricultural unit there is a clear operational need for the building to be located within the unit. I consider that this need does arise from the practicalities of farming the unit, rather than the personal circumstances of the appellant, and that it accords with the Design Guide in this respect. In addition, although I find no direct conflict with criterion 3 of Development Policy 12, the proposal must, logically, be treated as an acceptable exception since there is an agricultural necessity for the building to be in a more remote location.
9. The building would occupy a low lying position within the agricultural unit and would be cut into the slope of the ground and aligned with its long elevation parallel with the contours of the land. These measures follow the Authority's design guidance as to ways in which the visual impact of the building can be minimised. The site also benefits from screening by a small pocket of woodland immediately to the north and a further small plantation on higher ground, some 50 or so metres to the south. Although no details have been submitted the appellant intends to use the material excavated to create the building platform to form a bund at the western end of the building and for this to be planted with trees as a wind break and to provide additional screening.
10. When travelling from the east, users of the bridleway that passes through the holding would not see the building until they had passed through the farm gate. Initially in direct view, it would appear as a relatively low building, sitting down in a hollow and against the background of open fields sloping up to the woodland on the skyline; the building would pass out of view relatively quickly as the route follows rising ground to the south west. For users coming from the other direction, the building would be in view for a longer period but, again, would be perceived to be in a natural hollow in the landform and read against the backdrop of the adjacent pocket of woodland. The provision of a planted bund at the western end of the building would help to soften the impact of the building in these views.
11. Users of the route coming from the east will most likely have passed through or been aware of the proximity of Fylingthorpe village and will have passed the extensive building group associated with Demesne Farm shortly before entering the agricultural unit. Users coming from the other direction are likely to be focused on the impressive vista of Robin Hoods Bay and headland but are likely to be conscious that they are approaching a relatively large settlement and of the presence of other similar farm buildings within the wider landscape. For

these reasons the proposed building would not necessarily be perceived by users of the bridleway as being incongruous within the landscape or as a distraction from their experience and enjoyment of the rural and coastal character of the area. Accordingly I consider that the proposal would not harm the character and appearance of the area, having regard to its inclusion in the National Park.

12. I have had regard to the statutory purposes of National Parks to conserve and enhance the natural beauty, wildlife and cultural heritage of their areas and to promote opportunities for the understanding and enjoyment of the special qualities of National Parks by the public and do not consider that the Authority's ability to fulfil its statutory purposes would be compromised by the proposed development. The special qualities of the landscape in this part of the National Park include a strong presence of agricultural buildings and activity and the proposal would help to support that activity. Accordingly, I conclude that the proposal would be consistent with Core Policy A of the Core Strategy and its objectives with regard to encouraging a more sustainable future for the Park and its communities whilst conserving and enhancing its special qualities, and with the relevant policies within Sections 3 and 11 of the Framework with regard to supporting a prosperous rural economy and the conservation of the landscape and scenic beauty of National Parks.

Conditions

13. Development permitted by Schedule 2, Part 6, Class A of the GPDO the proposal is subject to the standard conditions set out in paragraph A2 and the appellant's attention is drawn particularly to those conditions concerning the time limit for the implementation of the permission and the requirement to remove the building and restore the site should its agricultural use cease within 10 years from the date on which the building is substantially completed.
14. Paragraph W13 of the GPDO states that prior approvals may be granted subject to conditions that are reasonably related to the subject matter of the prior approval; in this case, comprising siting, design and appearance. In the interests of minimising the effect on the landscape, conditions giving protection to existing trees and vegetation and requiring approval of the details of how excavated materials would be re-used to form a landscaped bund are necessary. For the same reason a condition is also appropriate to require that there should be no external lighting installed on the approved building. I consider that the other matters raised in the conditions suggested by the Authority are adequately covered in the approved plans and details of the application.

Conclusions

15. I conclude that the appeal should be allowed and approval granted subject to the standard conditions and the additional conditions attached to this decision.

Paul Singleton

INSPECTOR

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