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## Appeal Decision

Site visit made on 7 February 2017

**by Helen Hockenhull BA(Hons) B.PI MRTPI**

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

**Decision date: 24 February 2017**

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**Appeal Ref: APP/E2734/W/16/3164526**

**Low Wood Farm, Track from Gill Beck to Rues Lane, Timble, Otley LS21 2NS**

- 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 Kevin Morris against the decision of Harrogate Borough Council.
  - The application Ref 16/01245/FUL, dated 24 March 2016, was refused by notice dated 17 June 2016.
  - The development proposed is the partial demolition and retention of remainder of general purpose agricultural building.
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### Decision

1. The appeal is allowed and planning permission is granted for the partial demolition and retention of remainder of general purpose agricultural building at Low Wood Farm, Track from Gill Lane to Rues Lane, Timble, Otley LS21 2NS in accordance with the terms of the application, Ref 16/01245/FUL, dated 24 March 2016, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Low Wood Farm Plans, Elevations and Section Drawing Scale 1:100, dated 20 March 2016.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  - 4) The building hereby approved shall be used for the purposes of agriculture only as defined in section 336 of the Town and Country Planning Act 1990 (as amended).

### Main Issue

2. The main issue in this case is the effect of the proposed development on the character and appearance of the countryside and the landscape character of the Nidderdale Area of Outstanding Natural Beauty.

### Reasons

3. The appeal site is located in open countryside within the Nidderdale Area of Outstanding Natural Beauty (AONB). The site is in an isolated location and is
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accessed via an unadopted track which also leads to Cherry Tree Cottage, the appellant's residence. The land rises to the south and comprises open agricultural land. North of the appeal site the land falls away where there is a belt of woodland alongside Gill Beck. The appeal building can be viewed from a southerly direction over the open agricultural fields.

4. There is a long and complicated history to this case. Essentially the current building on the site constructed between 2006/2007 is unauthorised. The rebuilding of the barn followed the structural failure of the original building on the site. An Enforcement Notice to demolish the building was issued by the Council in 2009. However in 2010 it became evident that a number of bat species has occupied the barn. Bats are protected under the Conservation of Habitats and Species Regulations 2010. As a result the Council did not pursue this Notice however issued a further Enforcement Notice in 2014 requiring the partial demolition of the building thereby retaining part of the structure to accommodate the bats. An appeal was made by the appellant however the Notice was upheld with the time for compliance extended to March 2017. The current appeal relates to a revised scheme which demolishes part of the building and includes the provision of a single storey lean to extension to the eastern side of the building and other alterations to window and door openings. These works fall short of that required by the 2014 Enforcement Notice.
5. The barn consists of a central core with three extending elements to the east, west and north. The Council and the appellant are in agreement that the western end of the barn should be removed. This forms part of the requirements of the 2014 Enforcement Notice. I note the Council's comment that this could already have been demolished as a European Protected Species License (EPSL) is in place for these works. However discussions have continued with regard to the rest of the building. It seems appropriate to me that all works to the barn take place at one time in order to minimise the potential disturbance to the bats.
6. The unauthorised building on the site is of significant length and I agree with the Council that as result of the positioning of the window and door openings it has a domestic appearance. The Council has raised concern that the proposed partial demolition and alterations would result in a building that would not look like a traditional rural barn. The appearance would still be that of a large dwellinghouse. The alterations proposed would significantly reduce the length of the building. Together with the reduction in height of the eastern end of the barn and provision of a simple lean to, I consider that in terms of scale the barn would be more in keeping with rural buildings in the locality. The scheme also proposes revisions to the size and position of window and door openings. This provides a more random arrangement which I consider would be in keeping with a traditional agricultural building.
7. I note the Council's view that the retained lean to structure to the north elevation and the lean to proposed to the eastern elevation would form incongruous features. However the appellant has provided evidence of a number of barns in the locality which have a variety of lean to extensions. I viewed this to be the case on my site visit. I do not therefore consider that a lean to extension would be out of character with a rural building. I acknowledge that the lean to proposed to the eastern end of the barn would project forward of the central part of the building. Whilst this is a less

common feature, the appellant has brought my attention to a similar example at a farm off Askwith Moor Road about a mile from the appeal site.

8. In terms of the height of the barn, the appellant states that the overall height has not increased from that of the original building however ground levels were reduced due to poor conditions. The Council has commented in their Statement that the height of the barn is excessive in their view. This is due to the building having a first floor. Whilst overall the building provides adequate height for the storage of large farm vehicles, the subdivision into two floors restricts the height of vehicles and equipment that can be stored. In any event I note that the 2014 Enforcement Notice did not require the reduction in height of the central part of the barn.
9. The appeal building would be visible from a southerly direction. I am mindful that from this viewpoint only the lean to extension at the eastern side of the building would be viewed over and above that which would remain if the 2014 Enforcement Notice were to be complied with in full. I consider that the building would have the appearance of an isolated stone barn not untypical of other rural buildings in the locality and would sit comfortably in this landscape.
10. Clearly because of the presence of the bats, a protected species, the works proposed in this appeal would require a European Protected Species License (EPSL). I am advised by the appellant that a license has been obtained but that it would require modification in respect of the start and completion dates. I have no evidence to suggest that this would not be forthcoming.
11. I do not doubt that the requirements of the 2014 Enforcement Notice would result in a building of an appropriate scale and design having regard to the countryside location and provide a suitable habitat for the bats. Furthermore it seems likely to me that a license to carry out these works would be secured. However, in determining this case, I must consider whether or not the scheme before me would be acceptable in terms of its impact on the character and appearance of the area and the AONB.
12. Whilst I note the health and financial difficulties of the appellant, these matters have not influenced my overall conclusions.
13. The building replaces an existing barn on the site. On the basis of the submitted evidence, I consider that in terms of its scale, design, and appearance the appeal proposal would reflect a typical agricultural building and would not cause material harm to the character or appearance of the countryside area or the landscape of the Nidderdale AONB. I therefore find no conflict with Saved Policies C1, C2 and HD20 of the Harrogate District Local Plan and Saved Policies SG4 and EQ2 of the Harrogate District Core Strategy which aim to conserve and protect the landscape of the AONB. The proposal would also comply with paragraph 115 of the National Planning Policy Framework (the Framework) which gives great weight to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty.

### **Conditions**

14. I have given consideration to the conditions suggested by the Council in light of the Framework and Planning Practice Guidance. I note the Council's view that a standard timeframe condition would not be appropriate in this case as a

license from Natural England would be required and this would be outside the scope of the planning regime. However with any development it can be the case that other consents are required to comply with other legislation, for example Building Regulations approval. Without such consent a scheme cannot proceed. I have already discussed above that a license exists for the works and it appears likely that the modifications required would be granted. I therefore consider that a timeframe condition is appropriate and necessary in the interests of proper planning.

15. Whilst not suggested by the Council I consider that a condition requiring the development to be carried out in accordance with the submitted plans is necessary for the avoidance of doubt. In addition I consider that a condition requiring the use of materials matching that of the existing building is necessary in order to protect the character and appearance of the area.
16. Finally the Council has put forward a condition to restrict the use of the building to agricultural purposes. I consider this to be necessary to protect the landscape and because any other use would require the further consideration of the local planning authority.

### **Conclusion**

17. For the reasons given above and having regard to all other matters raised I allow this appeal.

*Helen Hockenhull*

INSPECTOR