



Appeal Decisions

Hearing Held on 25 August 2020

Site visit made on 24 August 2020

by H Butcher BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2020

Appeal A: APP/P1615/W/19/3242248

Callow Hill Farmhouse, Brand Green, Redmarley, Gloucester GL19 3JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Jane De La Mare against the decision of Forest of Dean District Council.
 - The application Ref P1853/18/FUL, dated 19 November 2018, was refused by notice dated 13 June 2019.
 - The application sought planning permission for conversion of redundant barn to holiday accommodation without complying with conditions attached to planning permission Ref DF10163, dated 7 December 1993.
 - The conditions in dispute are b) and e) which state:
 - b) The holiday accommodation for which permission is granted shall only be occupied for a period not exceeding 4 weeks for any single letting and a return within 4 weeks by the same household shall not be permitted. A register of lettings shall be kept available for inspection by officers of the Council.
 - e) Except where required by another condition attached to this permission, the development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans and particulars including in the application and shall be carried out prior to the development being brought into use and shall thereafter be retained as such unless amendments are subsequently agreed, in writing, by the Local Planning Authority.
 - The reasons given for the conditions are:
 - b) The site is in an area where consent would not normally be granted for permanent residential accommodation and the Local Planning Authority wishes to retain control over the use, in the interests of amenity.
 - e) The Local Planning Authority wishes to ensure that the development is completed strictly in accordance with the approved plans and attached particulars.
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Appeal B: APP/P1615/Y/19/3242256

Callow Hill Farmhouse, Brand Green, Redmarley, Gloucester GL19 3JE

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Ms Jane De La Mare against the decision of Forest of Dean District Council.
 - The application Ref P1691/18/LBC, dated 11 October 2018, was refused by notice dated 13 June 2019.
 - The works proposed are described as: "After approved design to create one bedroomed annex/holiday cottage."
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Decision

1. Appeal A is invalid.
2. Appeal B is dismissed.

Application for Costs

3. At the Hearing an application for costs was made by Ms Jane De La Mare against Forest of Dean District Council. This application is the subject of a separate Decision.

Preliminary Matters

Appeal A

4. Planning permission DF10163 and listed building consent DFLBC/440 were granted on 7 December 1993 and 6 September 1994 respectively for the conversion of a barn at Callow Hill Farmhouse into holiday accommodation. Appeal A concerns an application under s.73a for a new grant of planning permission for the conversion of a redundant barn to holiday accommodation with modifications to the plans condition, to allow revisions to the internal and external works to the building, and a condition relating to the use of the barn. However, the Council considered in their determination of this application that planning permission had not commenced but instead had lapsed and consequently conditions attached to that permission were not capable of being varied under S73a of the Town and Country Planning Act 1990.
5. It is put to me by the appellant that development commenced prior to 7 October 1997, within the five years stipulated by the commencement condition on the planning permission, by virtue of various works having been undertaken which included the insertion of a window in the rear elevation of the barn. This would be in accordance with permission DF10163 and would be material so as to constitute a commencement of development. However, there is nothing definitive before me to say specifically when this work took place.
6. A statutory declaration from Graham Williams, the previous owner, more generally claims to have undertaken unspecified works; he does not narrow down exactly what was done. Nor does this declaration state when whatever works he is referring to took place; not even to a particular year. Rather it merely states works were commenced within the five year time limit of the permission. Whilst I accept he is now 70 years of age and that the questions of what was done and when concerns something that purportedly happened over 20+ years ago, this does not alter the facts, or lack thereof, before me.
7. Other evidence in support of the appellant's claim includes an email from the Council. This relates to a screen record which indicates an application for building regulation approval in respect of the barn conversion was submitted in August 1994, and a commencement date, for building control purposes, of 7 October 1997. Notifying building control of commencement of works is simply an applicant telling the Council they intend to start work for the purposes of getting building control approval; it does not actually confirm that work has started. Furthermore, even if I accepted something had commenced on site at this time, there is no detail in this email in respect of what works had been done in order to enable me to be satisfied that permission DF10163 had commenced. There is also correspondence about pre-commencement

conditions but again this does not provide any conclusive evidence of what was done and when.

8. Therefore, looking objectively at the evidence before me, I am unable to conclude that planning permission DF10163 has been commenced. I am therefore of the view that this permission has lapsed and consequently I am unable to consider the appeal under S73a of the Town and Country Planning Act 1990.
9. For this reason, Appeal A is invalid. No further action will therefore be taken in connection with this appeal.

Appeal B

10. Appeal B concerns an appeal against a refusal of listed building consent only. There is no corresponding planning application; Appeal A being the means by which planning permission for the proposed works was sought. However, for the reasons set out above Appeal A is invalid. I therefore deal only with the refusal to grant listed building consent (Appeal B) in my decision below.
11. At the time of my site visit various works had been undertaken to the building. Some elements of the proposal before me in Appeal B had been carried out but other works, such as the removal of a number of the brick infill panels to the front of the building; works which are not detailed on the plans, had also been carried out.
12. The appellant claims a 'stippling' of the panels on the plans indicates their replacement, but this is not an obvious conclusion for a person to come to, and there are no annotations or a key to this effect on the plans. There is also no detail regarding this in the supporting information nor were the Council aware that this had been applied for. The rooflights in-situ are also larger than those shown on the plans. For the purposes of Appeal B I have therefore assessed the proposal as shown on the plans rather than the works that have been carried out on site.

Main Issue

13. The main issue in Appeal B is the effect of the proposed works on the special architectural and historic interest of Callow Hill Farmhouse which is Grade II listed.

Reasons

14. The building to be converted is a barn which sits in close proximity to Callow Hill Farmhouse; a modest 17th Century timber framed cottage which is Grade II Listed. The barn was formerly a stable and hayloft building used in conjunction with the cottage and dates from around the 18th century with later 19th century extensions. Whilst the listing makes no reference to this building part of the significance of Callow Hill Farmhouse is derived by this historic, ancillary outbuilding which speaks to the past of the property. The rural, traditional timber frame construction of the barn which is visible from both inside and out also adds to this significance.
15. The barn at both ground and first floor consists of three open bays. It is proposed to subdivide the first floor of the building with one of the bays being enclosed to provide a landing and bathroom. The hayloft would have originally

been open plan therefore the subdivision of this area would reduce the legibility of the building. The proposed staircase, which I understand replaces a more historic staircase, would also be awkward and prominent, jutting out as it does across part of an entrance.

16. I note that permission DF10163 also permitted subdivision of the first floor, but this would have been less harmful as the kitchen which was to take up one of the bays was to be subdivided by half high partitions, as confirmed at the hearing, which would not have had the same impact in terms of completely cutting off the bay as the proposal before me. In any event, this permission has been found to have lapsed.
17. The proposal includes the insulation of the internal walls of the building with, as specified on the application form, 50mm insulation and 100mm thermal blocks. This would amount to fairly chunky additions to the inside walls which would obscure part of the internal timber framing, specifically the ends of the roof trusses. The finish of the walls would also be far smoother and flatter than the historic walls they would cover which again would obscure the architectural and historic interest of the building. Consequently, these works of insulation would neither preserve nor better reveal the significance of the asset contrary to the guidance in the National Planning Policy Framework (the Framework).
18. I accept the need for insulation of the building to make it habitable and I note that the appellant has had regard to Historic England guidance on the insulation of solid walls and timber framed walls. This shows ridged impermeable internal insulation with a ventilated cavity, which is the appellant's intention with the appeal building. Whilst this might be a suitable option, notwithstanding the need to ensure the cavity is adequately ventilated, following this guidance is not a guarantee of the granting of listed building consent for such works which also requires consideration of how these may affect the appearance and character of the materials, details and finishes of historic or architectural interest in a designated heritage asset.
19. In addition to the above, alternative methods of insulation which are permeable, thinner and more sympathetic to the natural undulation of historic walls were discussed at the hearing, but which have not been fully explored in this case. The appellant has suggested that the internal insulation provides additional loading capacity for the building but there is no substantive evidence before me that this is necessary. Whilst internal insulation may be preferable to external insulation, this does not overcome the issues I have outlined above.
20. Bringing these points together the proposal would cause harm to the special architectural and historic interest of Callow Hill Farmhouse. The proposed works would also conflict with para 193 of the Framework which anticipates great weight being given to the conservation of designated heritage assets. I have also had regard to policies CSP.1 of the Core Strategy and AP.1, AP.4 and AP.5 of the Allocations Plan which require the protection of designated heritage assets.
21. The harm I have found would be 'less than substantial' given the scale and impact of the proposals on the designated heritage asset as a whole. Nevertheless, less than substantial harm does not equate to a less than substantial planning objection. This harm, as per the Framework, should be weighed against the public benefits of a proposal.

22. The proposed works would facilitate the use of the building for tourism which, given its modest size would amount to fairly modest benefits to the local economy, and similarly the same would apply to the social benefits of the rural location to potential holiday makers. Its use as an annexe for the appellant also amounts to a modest benefit. It is suggested the building would deteriorate if not used in the manner proposed but it would be unlikely to deteriorate at a rapid rate if used purely in conjunction with the main house, and there would be some value in its use as such. Furthermore, its prominent location to the front of the property would also encourage maintenance of the building. This benefit therefore carries minimal weight. Whilst investment might be being made into the barn, for the reasons set out above, that which is proposed would result in harm, which significantly reduces this benefit.
23. It was agreed by the main parties that elements of the proposal, such as the works to the ground floor where fewer openings in the historic fabric were proposed, would be less harmful than Permission DF10163. Given my findings above, however, this permission from 1993 is not extant and therefore cannot be implemented which significantly reduces the weight to be afforded to this matter.
24. In light of my findings above these public benefits are not sufficient to justify the harm that would be caused to the listed building; harm that must be given considerable importance and weight in the balancing exercise.
25. The appeal is dismissed.

Hayley Butcher

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Peter Tufnell

Mr Iain Smith

Mr Alan Steele

Ms Jane De La Mare

FOR THE COUNCIL:

Mr Stephen Colegate

Mr David Haigh

Mr Tony Gwynne