



Appeal Decision

Site visit made on 29 March 2023

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2023.

Appeal Ref: APP/J0405/D/22/3313349

Village Farm Barns, Boarstall, Aylesbury, Bucks, HP18 9UX

- 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 & Mrs J Kingsbury against the decision of Buckinghamshire Council.
 - The application Ref 22/02225/APP dated 15 May 2022, was refused by notice dated 3 October 2022.
 - The development proposed is formation of a tennis court with associated fencing, creation of a natural swimming pond, provision of terraced/paved areas, formation of path, realignment and alteration of driveway and repositioning of dovecote.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the impact of the proposal upon i) the open countryside and Area of Attractive Landscape and ii) the significance of the non-designated heritage asset and potential medieval activity of archaeological interest.

Reasons

Open countryside and Area of Attractive Landscape (AAL)

3. The appeal site is a residential barn conversion which was granted permission, under reference 12/01726/APP, for a four-bedroom dwelling together with a glazed link connection and the provision of parking, amenity space and new access. Access was amended via 12/A1726/NON followed by permission for a garage and storage building under 13/03087/APP. There are several elements to the appeal proposal including the formation of a tennis court and a connecting gravel path, re-alignment of the existing driveway, re-location of the existing dovecote and the provision of a natural dwelling pool, natural regeneration zone and related permeable paved/terraced areas.
4. The appeal site is located within the Brill Winchendon Hills AAL. AALs have greater significance than, for example, Local Landscape Areas. This, along with the rural setting of the appeal site as a barn conversion, means that I find it to be more sensitive to change, and encroachment into the surrounding area. At the time of my site visit, driving to and from the appeal site along Brill Road, I found the character and appearance of the area to be rural, characterised by traditional style buildings, farmyards and dwellings along with more notable features in the vicinity such as St James' Church and Boarstall Tower. Within existing properties overall levels of urbanisation or domestication are limited.

5. The Legal Opinion, provided by the appellant, states that the approved red line location plan is C608-L01 which is stated to be referred to in condition 2¹. Having reviewed the permission no such reference is made to this plan within condition 2 which relates to ecology. Despite this I note that above the conditions attached to the permission there is a list of approved drawing numbers which includes plan reference C608-L01. A copy of this plan has been submitted before me along with plan reference C608-P01 Rev B. The Legal Opinion, and statement of case, also refer to a non-material amendment made in March 2013 under reference 12/A1726/NON, however, no details of this amendment nor a Rev C amendment to C608-P01 Rev B are before me. Despite this I note that Rev C was an alteration to the drive and that the Legal Opinion acknowledges no material differences for the purposes of the advice given which concerns planning units and curtilage as appropriate.
6. Condition 8 of 12/01726/APP refers to plan reference C608-P01 Rev B confirming that the residential curtilage to be used in association with the development permitted shall be that shown in that plan. I find this plan is not entirely clear as to where the curtilage of the appeal site is (curtilage being separate to matters relating to a planning unit as a use of land). At the time permission was granted under 12/01726/APP the area in question would likely have been agricultural in association with the barns which were converted. Plan reference C608-L01 shows a red line going around the entire site which means it is one planning unit as a domestic dwelling in Use Class C3 and is not agricultural in use. It falls to consider whether, individually or cumulatively, the proposals would result in character and appearance impacts that would warrant refusal.
7. The Council's delegated report, within site constraints, confirms that permitted development rights have not been removed. A grass court, with fencing no higher than 2m, could likely be constructed by the appellant but I attribute this limited weight as a fallback position or material consideration. Based upon the evidence before me I am not convinced that there is a greater than theoretical possibility this would be implemented in the event this appeal failed given that for a tennis court to function for its intended purpose the fencing needs to be of a certain height which will always need to exceed 2m. Even if I did attribute weight to this, as a fallback position, the proposed tennis court fencing would be 2.75m high chain link. I acknowledge such materials are, to some extent, visually permeable but chain link, on metal posts, would result in a harsh contrast to the currently softly landscaped and open area. In addition, the synthetic grass finish would, presumably, would have appropriate court markings as well as a gravel path linking it to the driveway further contributing to impact and spread of general domestication across the largely undeveloped site within the open countryside.
8. I acknowledge, from my site visit, that the court (at ground level) would be limited in visibility beyond the appeal site boundary and that the fencing may also be limited in views. Visual impact would most likely be limited to the tops of the tennis court fencing. Despite this character and appearance are two separate matters within the consideration of a proposal. It should be kept clearly in mind that appearance is the outward, visible qualities (what it looks like) whereas character is the sum of all the qualities which distinguish an area (what it feels like or is like) which can include historical associations. In this

¹ Planning Permission Reference 12/01726/APP – January 2013

- case the currently open space, free of domestic paraphernalia, around the barns is a quality which distinguishes the area and which has been historically the case around the former historic farmstead.
9. The proposed pool is stated to be a natural swimming pool with a related paved and terraced area. I note that this would be in an area which historically accommodated a track, hardstanding and areas of external storage. In this case I find that the location, much closer to the barns and existing built form in domestic use, would have a more limited encroachment into the open countryside and surrounding landscape so the potential to accommodate a pool in this general location is acceptable. That said, the information provided as to the proposed pool is very limited within the proposed site plan with only a couple of sentences of commentary. Had I found the proposal acceptable in other regards a materials and landscaping condition could have been applied to ensure an appropriate finish for this element.
 10. The Council's heritage officer confirms no in principle objection to the movement of the dovecote, and I have no evidence to conclude differently in principle, however, the proposed location could be improved by siting closer to the re-located driveway or existing built form. The re-location of the driveway I find to be acceptable as it would result in the existing driveway being removed which, with a minor realignment, would result in an overall neutral impact to character and limited to no impact upon appearance beyond the appeal site boundary.
 11. In this case I find that the proposals would, cumulatively and overall, introduce domestic built form which would be uncharacteristic within the open countryside at increasing distances from the residential dwelling and existing built form. I find that it is clear that the original permission for conversion of the barn was intended, as a result of approved plans and Council reports referencing a wildflower meadow (condition 8) to some extent, to overall restrict residential paraphernalia and reduce general domestic encroachment into the surrounding area as a result of the permission granted.
 12. Overall, I find that the visual impacts of the proposal upon the appearance of the area would likely be limited beyond the boundary of the appeal site but within the site itself users would see encroachment into what is currently a green, open, space surrounding rural barn conversions regardless of residential classification or not. The proposals, cumulatively (but particularly the proposed tennis court), would fail to preserve the intrinsic character and beauty of the AAL as a result of the proposed domestic paraphernalia and built form.
 13. The proposal would be contrary to Aylesbury Local Plan 2021 (LP) Policy BE2 which requires new development proposals to respect and complement the physical characteristics of a site and its surroundings including the scale and context of the site and its setting and the natural qualities and features of an area. The proposal would also be contrary to LP Policy NE4 which requires proposals to consider landscape character in terms of local character and distinctiveness in terms of settlement form and field pattern.

Non-designated heritage asset and potential medieval activity of archaeological interest

14. The second reason for refusal asserts that the appeal site is a Non-Designated Heritage Asset (NDHA). There is no nationally recognised criteria for

determining whether a building should be considered an NDHA and indeed it is necessary to apply a degree of professional judgement in determining whether a building merits such non-statutory status. The layout of appeal site is stated to have experienced limited change since the late 19th century. The footprint of the farmhouse, outbuildings and some farm buildings are noted on the 1879 OS map. The farm buildings, constructed in brick and timber under a clay tile roof, represent a regular courtyard plan of a traditional farmstead. This configuration is also stated to be seen on the 1898 OS Map. The appellant has not counter argued this specific commentary from the Council's heritage officer.

15. Considering the general setting and close proximity to both the Grade II* listed St James' Church as well as Grade I listed Boarstall Tower, as notable historic buildings, I find that the appeal site is representative of a historic farmstead. I would consider this of historic interest as part of the past lives and events of the general area regardless of their architectural or artistic interest. The barns, outbuildings, granary store and former farmhouse associated with Village Farm have strong group value and together they make notable contribution to the character, history and evolution of the rural area of Boarstall. I find the building(s) do fall within the category of buildings that possess sufficient heritage significant to merit identification as a NDHA and the site has been noted as a candidate for inclusion which also confirms the layout and limited change as noted above.
16. As noted within, and for the reasons outlined, the first main issue I find is that the visual impacts of the proposal upon the appearance of the area would likely be limited beyond the boundary of the appeal site but within the site itself users would see encroachment into what is currently a green, open, space surrounding rural barn conversions regardless of residential classification or not. The currently open space, free of domestic paraphernalia, around the barns is a quality which distinguishes the area and the introduction of domestic built form would be uncharacteristic within the open countryside at increasing distances from the residential dwelling. I find this alters the rural character of the appeal site, however, whether it would diminish the ability to *appreciate* the significance of the NDHA is finely balanced due to general limited visibility of the proposals as outlined.
17. Regardless of this the National Planning Policy Framework 2021 (the Framework) paragraph 203 requires a balanced judgement having regard to the scale of any harm or loss and the significance of the NDHA. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In this case I find the proposals to affect the significance of historic farmstead, as an NDHA, as introduction of domestic built form would be uncharacteristic within the open countryside at increasing distances from the residential dwelling. Furthermore, whilst not a refusal reason from the Council but a matter noted by the heritage officer, I have concerns that there is insufficient evidence to support that the proposals would not impact upon the wider rural setting, i.e. the surroundings in which a heritage asset is experienced, of the listed buildings of St James' Church and Boarstall Tower as designated heritage assets in close proximity to the appeal site.
18. Most archaeological remains are NDHAs and are of archaeological interest as a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point. It is stated, within a third-party

comment as well as the appellant's statement, that a comprehensive archaeological survey was conducted in 2008 across a section of the appeal site. It is stated, albeit no copy is before me, that evaluation identified activity in connection with medieval pottery production as well as possible occupation.

19. Permission is noted to have been subsequently granted for a range of works, none of which were contingent on, nor required, particular consideration of archaeological remains other than through a method statement for archaeological mitigation and investigation measures. I acknowledge this, however, based upon the documentation before me none of the proposals to date involved excavation to the likely depth required as a result of the proposed natural swimming pool. This is stated to have a finished depth of 1.5m so it would be fair to assume that excavation for actual construction and engineering works would exceed this depth. This would result in vastly differing potential impacts compared to previous works which would have been comparatively shallow in depth below ground.
20. Given that previous evaluation identified activity in connection with medieval pottery production as well as possible occupation at the appeal site it is fair to consider archaeological remains could be present in the areas affected by the proposals. No desk-based assessment, or field evaluation, has been submitted. Assessment and evaluation of archaeological matters should take place before a proposal is determined to protect the presence of remains and assess their potential significance.
21. Without any evidence before me it is not possible to determine whether remains of significance exist in the areas affected, most notably in this case as a result of excavation for the natural swimming pool, or that appropriate mitigation can be achieved. I do not find it appropriate for such matters to be controlled or secured via planning conditions as a result of these factors and evidence when further combined with the currently limited information as to the construction works and general specification as to the swimming pool.
22. The proposal would alter the rural character of the traditional farmstead as a NDHA though whether it would diminish the ability to *appreciate* the significance of the NDHA is finely balanced due to general limited visibility of the proposals as outlined. Regardless of this, in the absence of archaeological evaluation it is not possible to ascertain the extent of medieval activity within the appeal site. Such evaluation should take place before a proposal is determined in order to protect the presence of remains and assess their potential significance.
23. The proposal would be contrary to LP Policy BE1 which confirms heritage statements and/or archaeological evaluations may be required to assess the significance of any heritage assets and the impact on these by the development proposal and that all development should weigh the direct and indirect impacts upon the asset and its setting. The proposal would also be contrary to LP Policy BE2 which requires new development proposals to respect and complement the physical characteristics of a site and its surroundings including the scale and context of the site. The proposal would be contrary to paragraph 203 which requires the effect of an application on the significance of a NDHA should be taken into account in determining the application.

Other Matters

24. Third party comments in support of the proposals are noted, however, a lack of objection is a neutral consideration. I have dealt with matters relating to design and visibility within the main issues above. As a result of the impacts upon the character of the area and general spreading of domestic paraphernalia, for the reasons outlined above, I do not find the proposals would enhance the property concerned.

Conclusion

25. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR