



Appeal Decision

Site visit made on the 25 April 2023

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th May 2023

Appeal Ref: APP/J0405/W/23/3316912

Dunsty Hill Farm, Edgcott Road, Calvert Green, Buckinghamshire, OX27 0BJ.

- 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 Highbarrow Holdings Limited against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 20/04204/APP, dated 1 December 2020, was refused by notice dated 19 August 2022.
 - The development proposed is External Alterations to existing barn.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by the appellant against the Council. This is the subject of a separate decision.

Preliminary Matters

3. The Council also included in the reasons for refusal of the application objections on the grounds of inadequate parking provision for the development proposed and a failure to demonstrate greater efficiency in the use of natural resources in the proposed development. However, there is no change of use proposed in this application as a business use has already been permitted through the GPDO¹. Likewise, the use of resources inherent in the building as proposed to be altered, like measures to minimise energy use; water consumption and waste minimisation, are aspects that are beyond the scope of this appeal.

Main Issue

4. The main issues are:
 - Whether the external alterations proposed would amount to the total reconstruction of the building;
 - The effect on the character and appearance of the area;

Reasons

5. The appeal site comprises a dilapidated building said to have been previously in agricultural use, which lies in a farmstead surrounded by open fields to the

¹ As set out in Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

south of the village of Calvert Green. A more detailed description of the building is given in the first main issue below. I note that the Council issued a Certificate of Lawful Development in 2020 that the use of the building can change to commercial uses as specified within Class R under permitted development rights. The proposed change of use is therefore lawful.

Nature of the External Alterations

6. In assessing this issue I have taken account of the legal opinion given by David Evans of Keystone Law submitted in support of the appellant's case. I note it is generally accepted (in paragraph 7) that under the provisions of this class of the GPDO the "associated operational development" has to be "reasonably necessary" to use the building under Class R.
7. The submitted plans show the existing former agricultural building and the proposed building post the external alterations but the plans do not describe the nature or extent of the work. However, the LPA submission letter from the appellant's agent ` 1 December 2020 sets out that the alterations would "involve the replacement of the wall elements, new doors and window openings, a new roof and the replacement of the structural columns." Further the letter goes on to state that the lower walls will be re-constructed in brick and the upper parts will be brick with timber cladding. The roof will be replaced and the replacement roof will use composite tiles with a slate appearance.
8. At my site visit I noted the present state of the building, which is extensively covered with vegetation, and I observed that the structure is in a poor physical condition. Given the degree of new building work set out in the submission letter, overall it appears to me that the alterations proposed are very substantial and little, if anything, will remain of the existing building. I acknowledge that the appellant's agent says that the footings will be retained but there is no evidence before me that these, which serve a utilitarian farm building, can be reused and meet modern building requirements.
9. The appellant says in the submission letter that a structural assessment has been carried out of the existing building, but there are no details of that included with the appeal documents. Normally, in such a case I would have expected to see detailed drawings of the existing building annotated to describe the parts of the structure that would be retained. Such detailed drawings could be checked through the construction process. The Agent says in the submission letter that "elements of the existing building will be retained wherever possible" but this adds to the doubt in my mind over the extent of alterations and the degree of new building, rather than provide the necessary certainty.
10. The appellant acknowledges that the complete demolition of the existing building would negate the provisions of the GPDO and, following the carrying out of the alterations, if no elements of the previous building remain, the Council would be justified in the taking enforcement action. However, the planning system is about creating certainty in the development process before it commences rather than have to resort to remedial action afterwards.
11. I have also taken account of the other appeal decisions mentioned in the appellant's statement. However, in addition to the points of principle raised above, these all appear to rest on the facts of each case and the inspector's

observations of the specific building whilst on site. The circumstances involved therefore appear to be materially different to those in this appeal.

12. Overall, on the evidence put forward and my observations on site I find that the proposed external alterations exceed what is reasonably necessary to ensure that the existing building is retained to facilitate the proposed commercial uses. It is more likely that the proposal would result in the construction of a new building which is beyond the scope of the provisions of Class 3 of Schedule 2 of the GPDO.
13. Given this conclusion I do not need to consider the effect of the external alterations on the character and appearance of the area.

Conclusion

14. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR