

Appeal Decisions

Site visit made on 10 September 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2024

Appeal A Ref: APP/J0405/W/24/3344010

**Gubbins Hole Farm, Edgcott Road, Marsh Gibbon, Buckinghamshire
OX27 0AN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Ms Kate Solomon against the decision of Buckinghamshire Council.
 - The application Ref is 23/02990/COUAR.
 - The development proposed is change of use and associated building operations to convert existing agricultural building to single dwellinghouse.
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Appeal B Ref: APP/J0405/W/24/3341660

**Gubbins Hole Farm, Edgcott Road, Marsh Gibbon, Buckinghamshire
OX27 0AN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Kate Solomon against the decision of Buckinghamshire Council.
 - The application Ref is 23/02350/APP.
 - The development proposed is change of use of former agricultural buildings to be used for ancillary purposes.
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Decision Appeal A

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use and associated building operations to convert existing agricultural building to single dwellinghouse at Gubbins Hole Farm, Edgcott Road, Marsh Gibbon, Buckinghamshire OX27 0AN in accordance with the application 23/02990/COUAR and the details submitted with it and subject to the conditions in the attached schedule.

Decision Appeal B

2. The appeal is allowed and planning permission is granted for change of use of former agricultural buildings to be used for ancillary purposes at Gubbins Hole Farm, Edgcott Road, Marsh Gibbon, Buckinghamshire OX27 0AN in accordance with the terms of the application, Ref 23/02350/APP, subject to the conditions in the attached schedule.

Applications for costs

3. In respect of appeals A and B, applications for costs have been made by Ms Kate Solomon against Buckinghamshire Council. These applications are the subject of separate decisions.

Preliminary Matters

4. As set out above there are two appeals on this site. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
5. Appeal A is accompanied by a copy of a unilateral undertaking (UU) which seeks to not dispose of the proposed barn conversion separately from the farmyard and vice versa. I comment further on the undertaking in my reasoning below.

Main Issues

6. The main issue in respect of appeal A is whether the proposed development would provide adequate living conditions for future occupiers with regard to noise and disturbance.
7. The main issues in respect of appeal B are;
 - whether the proposed development would give rise to a future need for other buildings to fulfil the on-going operations of the farm holding, and
 - whether the scale of domestic storage proposed is justified and subservient to the existing dwelling to be considered ancillary.

Reasons

Appeal A

8. The appeal site is a farm consisting of several buildings which is accessed from Edgcott Road by a long track. The wider area consists of mostly open and extensive fields which are bordered by dense hedgerows.
9. The appeal building is a large steel framed structure which is currently vacant and there are sections of the barn that are proposed to be demolished as part of the appeal proposal. The building is surrounded by other agricultural buildings that are mostly vacant or used for storage.
10. The Council are concerned that due to the nature of the wider use of the site, combined with the close proximity to other agricultural buildings that this could be detrimental to the living conditions of future occupiers. The Council note in particular that livestock have been housed in some agricultural buildings and there is various machinery present.

11. The appellant states that while the farm has been used for dairy farming in the past, since their ownership it is now within an environmental stewardship scheme and management of the land includes hay production and grazing, albeit the appellant does not own the livestock.
12. I note from the evidence that the wider farmstead is under the ownership and control of the appellant and they are seeking to reside in the proposed dwelling. In this regard it is clear that the owners in occupying the proposed dwelling would be unlikely to carry out harmful uses that would result in unacceptable living conditions.
13. However, notwithstanding the intended occupation I must have regard to the future occupiers of the site. In this regard the appellant had provided a signed UU with the appeal which prevents the disposition of the proposed dwelling from the surround farmstead. This would mean that any future occupiers would also have control of the surrounding buildings and would be able to ensure that no uses take place that would unacceptably harm their living conditions.
14. In regard to the agricultural use of the land, while it is noted that this has the potential to change in the future, the evidence provided indicates the stewardship scheme that the appeal site is currently part of until 2027. This is less intensive farming and is unlikely to result in unacceptably living conditions for future occupiers. In regard to future schemes or uses, the UU would secure ownership and therefore make it very unlikely for more harmful agricultural uses to take place that would negatively impact the living conditions of future occupiers.
15. The appellant has also proposed to demolish a large section of the agricultural building subject to this appeal which is vacant and no longer required as well as a slurry pit and tank close by. While I note the Council's concerns that the section of barn is not within the red line it is clearly within the appellant's ownership and control. The appellant has also provided a plan which clearly identifies the section of barn to be demolished as well as the slurry pit and tank and therefore a 'Grampian' style condition to secure the demolition of these buildings would meet the required tests and further increase the likelihood that future occupiers would have adequate living conditions.
16. I note the Council raise concern over the planning unit of the appeal site in the event that no agricultural use is taking place. However, it is clear that an agricultural use would remain on the appeal site and be linked to the unilateral undertaking.
17. I therefore conclude that the proposed development would provide adequate living conditions for future occupiers with regard to noise and disturbance.

Appeal B

Whether the proposed development would give rise to a future need for other buildings to fulfil the on-going operations of the farm holding

18. The appellant has provided information and evidence that outlines that the appeal site is in a stewardship scheme which is a less intensive agricultural use as already outlined within this appeal decision. As a result, it is clear that a number of buildings that were required for the previous dairy farming are no longer required and redundant.
19. The storage required for the current farming activities can be accommodated in the large and more modern storage facilities that are located on the edge of the site. It is also noted that some of the grazing activities and sowing of seeds and cutting of hay is undertaken by external contractors and neighbouring farms, so the storage required with the appeal site is limited.
20. I note the Council's concern in relation to the potential for farming activities to change within the appeal site. However, the appellant has demonstrated that the current stewardship scheme runs until 2027 which secures the farming activities in the short term. The appellant has also provided their intention is to keep the farm in stewardship schemes but these cannot be applied for in advance. While the Council's concerns are noted, and I accept that farming activities are subject to change, however, there is no evidence to suggest that the appellant is intending on returning to the dairy farming or other more intensive farming activities that would require the storage of the buildings subject to this appeal or beyond the capacity of the remaining buildings.
21. I therefore conclude that the proposed development would not give rise to a future need for other buildings to fulfil the on-going operations of the farm holding. I find no conflict with Policy C1 of the Vale of Aylesbury Local Plan (VALP) 2013 – 2033 September 2021 (LP). Amongst other things, this seeks to ensure that the re-use of an existing building would not give rise to a future need for another building to fulfil the function of the building being re-used.

Whether the scale of domestic storage proposed is justified and subservient to the existing dwelling to be considered ancillary

22. The original farmhouse is modest in size and there is a general lack of outbuildings associated with the building. The appellant is seeking to utilise existing buildings that are no longer required for the agricultural use and re-purpose them for domestic use.
23. The Council consider that the scale of storage proposed is not justified. However, it is clear that due to the modest size of the original farmhouse and lack of storage associated with this dwelling, combined with the needs of the appellant to store their vehicles, domestic items and play equipment that there is justification for additional storage on the appeal site. The buildings subject to this appeal cover a large area, however, they are each small in scale and separate from each other which would therefore accommodate the different storage requirements of the appellant.

24. I am also mindful that a suitably worded condition could be imposed to ensure that the use of the buildings are ancillary to the main dwellinghouse which would prevent them from being used for other purposes.
25. In relation to the Council's concerns over potential works to these buildings in the future, the appeal before me is for a change of use with no external alterations proposed. It is therefore not before me to assess and there is no evidence to suggest this would be the case.
26. I therefore conclude that the proposed development is justified and the use of the buildings could be controlled by condition to ensure that they would be ancillary to the main dwelling. I find no conflict with Policy C1 of the LP which amongst other things, seeks to ensure that the existing building is inherently suitable, in terms of its size, design and construction for the intended re-use.
27. The Council have alleged conflict with Policies BE2 and NE4 of the LP, however, these Policies relate to design of new development and landscape character and locally important landscape. However, the Council have found no unacceptable harm to the character and appearance of the area and therefore these Policies do not appear directly relevant to this main issue.

Conditions

Appeal A

28. Paragraph Q.2(3) stipulates that development under Class Q is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date. I have also attached condition 2 requiring the development to be carried out in accordance with the approved plans, in the interests of certainty.
29. For the reasons outlined already, condition 3 is required in order to secure the removal and demolition of a section of the appeal building, slurry pit and tank in order to protect the living conditions of future occupiers. Conditions 4 and 5 are necessary to address the risks associated with unexpected contamination and to ensure that any remedial works have been carried out.
30. The appellant has proposed a condition that would restrict the use of some of the buildings within the site, however, I find this excessive and unnecessary, especially in light of condition 3 and the UU.

Appeal B

31. I have considered the Council's suggested conditions in the event I were to allow the appeal. Where necessary, and in the interests of clarity and precision, I have slightly altered them to more closely reflect the advice in the Framework and the Planning Practice Guidance.
32. Condition 1 is the standard condition which relates to the commencement of development and condition 2 specifies the approved plans for the avoidance of doubt. Condition 3 is required in order to ensure that the appeal buildings remain in ancillary use to the main dwelling in order to protect the living conditions of existing occupiers.

Conclusion Appeal A

33. For the reasons given above the appeal should be allowed and prior approval should be granted.

Conclusion Appeal B

34. For the reasons given above the appeal should be allowed.

D Wilson

INSPECTOR

Schedule of conditions (Appeal A)

- 1) The development hereby permitted must be completed within a period of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance drawing numbers A.01.1, A.01.3, A.01.4, A.01.5 and A.01.6. as received by the Local Planning Authority on 29 September 2023.
- 3) The dwelling hereby permitted shall not be occupied until the sections of the building highlighted to be demolished on drawing: Building and Area Plan Proposed Drawing no 001 have been demolished, the slurry pit and tank decommissioned and removed, and the land restored in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority.
- 4) If during the development works contamination is encountered which has not previously been identified:
 - a) A contaminated land assessment shall be conducted which must include relevant soil, soil gas, surface and groundwater sampling, and be undertaken by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
 - b) A site investigation report detailing all additional investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and, if required, a proposed remediation strategy shall be submitted to the Local Planning Authority. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters. The Local Planning Authority shall approve in writing such remedial works as required prior to any remediation works commencing on site.
- 5) Prior to the first occupation or use of any part of the development, a validation report shall be submitted to and approved in writing by the Local Planning Authority. The validation report shall include details of the completed remediation works and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to demonstrate that the site has reached the required clean-up criteria shall be included in the validation report together with documentation detailing the type and quantity of waste materials that have been removed from the site.

Schedule of conditions (Appeal B)

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the details contained in the planning application hereby approved and approved plans A.01.1, A.01.2 as received by the Local Planning Authority on 4 August 2023 and 43513_02_P as received by the Local Planning Authority on 14 August 2023, and in accordance with any other conditions imposed by this planning permission.
- 3) The domestic storage hereby permitted shall be used solely for the purposes ancillary to the dwellinghouse known as Gubbins Hole Farm and shall not be separately used, let or disposed of.