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## Appeal Decision

Site visit made on 23 January 2025

**by R Kent BA (Hons) MTP DipM MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 26 February 2025**

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**Appeal Ref: APP/D1265/W/24/3350867**

**Land Adjacent to Hermitage Village Hall, Hermitage Lane, Hermitage, Sherborne DT2 7BB**

- 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 Mr & Mrs P. Maybery (BWK Construction Ltd) against the decision of Dorset Council.
  - The application Ref is P/FUL/2024/01720.
  - The development proposed is described as “Carry out external alterations to barn to facilitate permitted commercial use”.
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### Decision

1. The appeal is allowed and planning permission is granted for external alterations to barn on Land Adjacent to Hermitage Village Hall, Hermitage Lane, Sherborne, DT2 7BB in accordance with the terms of the application, Ref P/FUL/2024/01720, 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 drawing 23-133-04 C.
  - 3) Prior to their installation samples of the materials to be used in the external alterations hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

### Preliminary Matters

2. A revised ‘Floor Plan, Elevations & Block Plan’ drawing 23-133-04C was submitted with the appeal which made a minor change to the indicative internal layout of the building. As this has no effect on the proposed alterations to the external appearance of the building it does not constitute a significant change to the application. For the same reasons, the plan would not generate the need for further consultation and I have determined the appeal on the basis of that plan. The Council has commented on it and I have taken its comments into account in my decision.
3. As the proposal is for the external alterations to the building only, for clarity I have omitted the reference to the works being “to facilitate permitted commercial use” from my formal decision. In this regard, the documentation submitted by the Appellants at both application and appeal stage is clear that permission is sought

for external works only, and not for any change of use. I have consulted the main parties on this and have taken their comments into account.

## **Main Issues**

4. The main issues are:

- the scope of the application with particular reference to whether the proposed external alterations can be considered separately to the use of the building; and
- the effect of the proposal on the character and appearance of its surroundings.

## **Reasons**

### *Scope of application*

5. Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) allows the change of use of a building and any land within its curtilage from use as an agricultural building to a range of flexible uses. One such use is a hotel.
6. In September 2023, the Council was given notice under paragraph R.3.(1)(a) of the GPDO of the appellants' intention to use the building on the site as "an apart hotel (use class C1)" under Class R. The notification included confirmation of the date when the use would commence, the nature of the use and a plan indicating the location of the building. As the floor area of the building does not exceed 150sqm, the appellants did not need to make an application under paragraph R.3.(1)(b) for a determination as to whether prior approval was required.
7. Whilst the description of development on the planning application form states that the external alterations are to "facilitate permitted commercial use," it does not state that the proposal is for a material change of use. The application and appeal is for full planning permission for the external alterations to the building only.
8. The Sustainability Report and checklist submitted as part of the application made clear that the scope of the application related solely to the exterior of the building. The Council's Officer Report also acknowledges that the application was made specifically for operational development for external works to the building.
9. Whether the proposed use of the building and the works to convert the building constitute permitted development under GPDO Class R is disputed by the Council. However, it is not within my remit in the context of an appeal under section 78 of the Act to formally determine whether the proposed change of use constitutes permitted development under Class R as questioned by the Council.
10. The appropriate route to determine whether a change of use would be lawful, including the consideration of whether the building constitutes an "agricultural building" for the purposes of Class R or whether the use as an "ApartHotel" falls within Use Class C1, is through an application for a certificate of lawfulness of proposed use or development. Moreover, the Council also has powers under Part VII of the Town and Country Planning Act to seek information about activities being carried out on a site and, if appropriate, take further action using powers under that Part.

11. Class R grants planning permission for change of use. It does not grant planning permission for associated operational development. The Appellants consider that the proposed use falls within Class R and have followed the notification procedure in paragraph R.3.(1)(a) accordingly. It is therefore appropriate for the Appellants to make a planning application for the external alterations of the building separately from making the material change of use.
12. I have been referred to other appeal decisions in the Cotswolds<sup>1</sup>, Wiltshire<sup>2</sup> and Cornwall<sup>3</sup> where this approach has been followed. The Cotswolds decision notes that a separate planning application is required for the associated operational development as part of the Class R permitted development right and considered the proposed building works separately from the change of use.
13. The Wiltshire decision related to an application for full planning permission for the operational works for an “upcoming” change of use to use under Class R. As is the case in this appeal, the appellants’ stated intention was that the proposal was only for the associated operational works and not for the change of use.
14. Although the Cornwall appeal was against the refusal to grant prior approval under Class R, it too notes that Class R is restricted to the change of use of the building and that any associated operational development reasonably necessary to use the building under Class R is required to be the subject of a separate planning application.
15. Therefore, notwithstanding the Council’s concerns about whether the proposed use would be permitted under Class R, the evidence before me shows that the submission of a planning application to carry out external alterations to the building is a valid approach.

#### *Character and appearance*

16. The building is set back from the road and adjacent to the boundary with the village hall. A detached house lies beyond its eastern boundary with open countryside to the south and across the road to the north beyond a belt of trees.
17. Whilst it is utilitarian and functional in appearance, the low height of the building coupled with the existing trees, the boundary hedgerows and its position between two more substantial buildings means it is not prominent in the landscape. As a rural building, of an agrarian form and clad in materials commonly found on rural buildings in the countryside, it makes a modest contribution to the character of its surroundings.
18. Whilst the insertion of new doors and windows would alter its current agrarian appearance, the proposed external alterations would improve the appearance of the building by replacing the existing mix of external cladding and timber boarding with new cladding. Its position between the neighbouring house and the village hall means that the change in its appearance would not be harmful to the character of the wider countryside. I note that the Council raised no objections to the proposed appearance of the building and I have found no reason to come to a different conclusion.

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<sup>1</sup> APP/F1610/W/17/3188502

<sup>2</sup> APP/Y3940/W/20/3260576

<sup>3</sup> APP/D0840/W/20/3254577

19. Overall, for the reasons given, the proposed external alterations would improve the appearance of the building and would make a positive contribution to the character of its surroundings. The proposal would therefore comply with policies SUS3 and ENV12 West Dorset, Weymouth & Portland Local Plan 2015 (the LP) which seek to respect and enhance the local character.

### **Other Matters**

20. The Council and interested parties have raised the issue of whether the building is capable of conversion to an alternative use. It is further alleged that unauthorised works have been undertaken to the building. However, those matters relate to the proposed change of use, whereas the planning application which is the subject of the appeal relates solely to external alterations to the building. Accordingly, it is not within the remit of this appeal to consider those matters.
21. The South Cambridgeshire<sup>4</sup> appeal decision which has been referred to differs from the current appeal in that it was an application for prior approval. I have not seen the full details of that scheme, but in this appeal the proposal is for the external works only and not for the change of use. Different circumstances therefore applied in that appeal.
22. Reference has been made by interested parties to the availability of parking and the absence of a hardstanding; the suitability of the site access; the adequacy of the sewer system and other services; and the absence of public transport and other facilities. The suitability of the site for tourist accommodation; the potential for noise from the village hall; and possible contamination have also been referred to. Whilst all these matters are relevant to the use of the building, they are not relevant to the proposed external alterations which are the subject of this appeal. Moreover, I have seen no evidence that the appeal proposal would result in the loss of trees on the site.
23. Interested parties have also referred to other development plan policies. Policies ECON1 and ECON5 of the LP relate respectively to employment development and the provision of tourist facilities. As these relate to the use of the building they are not relevant to the appeal proposals. Policy SUS4 deals with the replacement of buildings outside defined development boundaries. The proposal is not for a replacement building and therefore the policy is also not relevant.

### **Conditions**

24. In addition to the standard commencement condition, a condition requiring compliance with the submitted plans is necessary for reasons of certainty. As full details of all the proposed external materials have not been provided, a further condition requiring their submission is also necessary.
25. Conditions have been suggested by an interested party. As the proposal is solely for external alterations, conditions requiring a further survey of the building or a definition of minimal operational work is not necessary or reasonable. Similarly, as the proposal is for external alterations, a restriction on foundations is not necessary. A condition requiring compliance with building height and safety regulations standards is unnecessary as these matters are covered by other legislation and do not relate to the proposed external alterations. Inspection and

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<sup>4</sup> APP/W0530/W/22/3303443

enforcement regimes are matters for the Council to address and a condition relating to them is neither reasonable nor necessary.

**Conclusion**

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

*R Kent*

INSPECTOR