



Appeal Decision

Site visit made on 29 January 2025

by **M Aqbal BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 May 2025

Appeal Ref: APP/D1265/W/24/3347006

Summer Dairy, Rough Down Lane, Catherston, Leweston DT6 6LZ

- 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 Daniel Savage against the decision of Dorset Council.
 - The application Ref is P/FUL/2023/06272.
 - The development proposed is operational development relating to use of building and land within curtilage to flexible use (Class C1 'Hotels').
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Decision

1. The appeal is allowed and planning permission is granted for operational development relating to use of building and land within curtilage to flexible use ('Class C1 'Hotels') at Summer Dairy, Rough Down Lane, Catherston, Leweston DT6 6LZ, in accordance with the terms of the application, Ref P/FUL/2023/06272 and subject to the Schedule of Conditions to this decision.

Preliminary Matter

2. In reaching my decision, I have considered the revised version of the National Planning Policy Framework (as amended) that was published in December 2024 ('the Framework').

Background

3. The appeal site comprises a single storey agricultural dairy barn ('the Barn') with associated concrete yard and access.
4. Planning permission is not being sought for the use of the Barn. This is because the appellant asserts that the change of use of the Barn for (Class C1 'Hotels') is permitted development under the provisions of Schedule 2, Part 3, Class R¹ of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO').
5. The Council disputes that the Barn benefits from the provisions of Class R of the GPDO, largely due to the lack of a Lawful Development Certificate ('LDC'). However, and for the purposes of determining this appeal, having taken account of the evidence before me, which includes the appellant's notification of change of use from agriculture to C1 Hotel Use under the provisions of Schedule 2, Part 3, Class R of the GPDO for the appeal site, it is more than likely that the change of use of the Barn to (Class C1 'Hotels') would be permitted development. My conclusion on this matter is based on the information before

¹ Development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a flexible use.

me at present and does not prejudice any future application for a LDC and/or, where relevant, any enforcement proceedings.

6. Whilst Class R of the GPDO does not allow for any associated operational development to take place as part of the permitted development right, this does envisage that building works or other operations may be reasonably necessary to use the building or land for the use proposed under Class R. The application, which is the subject of this appeal, is for such operational development to the Barn and the provision of a parking and turning area, which would be accessed via the existing access.
7. Accordingly, this appeal only relates to the extent of the proposed operational development. Nonetheless, because the proposal is clearly predicated on the proposed use of the Barn for Class C1 Hotel use, I have had regard to this as far as this is relevant to the proposed operational development.
8. The Council has issued a LDC under ref. WD/D/20/002343, which demonstrates that the Barn can be repaired and restored to its former external appearance without the need for planning permission. I have had regard to this 'fallback scheme' in determining this appeal.

Main Issue

9. The main issue is the effect of the proposal on the character and appearance of the area including the Dorset Area of Natural Beauty (AONB) ('Dorset National Landscape').

Reasons

10. The appeal site lies adjacent to Rough Down Lane (a public bridleway footpath) with open pasture to the western, northern and eastern boundaries. The appeal site is also located within the Dorset National Landscape. The special qualities of the Dorset National Landscape include its fine landscapes, undeveloped rural character; tranquillity and remoteness, and dark night skies.
11. The Dorset National Landscape enjoys the very highest level of landscape protection, equal to that of National Parks. The statutory purpose of the designation is to conserve and enhance the natural beauty of the area. The Framework affords great weight to conserving and enhancing landscape and scenic beauty in National Landscapes.
12. Section 85 of the Countryside and Rights of Way Act 2000 ('CRoW') placed a duty on relevant authorities to have regard to the purposes of the designation. Clause 245 of the Levelling Up and Regeneration Act 2023 amended this such that Section 85 of the CRoW Act now requires relevant authorities to seek to further the purposes of the designation.
13. Furthermore, the Dorset National Landscape's Management Plan 2019-2024, sets out the legal basis and background of this landscape and articulates a policy framework for the conservation and enhancement of its natural beauty.
14. Also, the appeal site is located within the Wootton Hills Character Area, as defined by the National Landscape's Landscape Character Area ('LCA'). The Wootton Hills is noted for its wooded hills and patchwork of small, irregular unimproved pastoral fields on valley bottoms with dense species rich hedgerows, hedgerow trees and small broadleaved woodlands.

15. The LCA provides guidelines for the area: The overall objective for the Wooded Hills should be to conserve the intimate, undeveloped and pastoral appearance and protect the wooded character, and require good design to limit the impacts and use appropriate planning conditions to secure ongoing control.
16. The appeal site is set on the lower slopes of its hillside setting and separate from other development. For these reasons and because it is adjacent to a public bridleway footpath, its location is sensitive to change.
17. The roof of the Barn is, in part, clad with corrugated metal sheeting and its external walls comprise a mix of corrugated metal sheeting and render/brick. The adjacent concrete yard is bound by metal fencing and gates.
18. The Barn does not appear to have been used for some time. Nonetheless, because of its agricultural origins, functional design and appearance and location in a field, it is settled within its surroundings and contributes to the rural character of the area and has a strong visual presence. Even so, because the Barn is in a dilapidated and unkempt state, its contribution towards the appearance of the area is limited.
19. Under the proposed scheme, the Barn would be clad externally with materials which reflect those already incorporated in the Barn. As a consequence of the proposal, the composition of these materials on the Barn, its scale and form, would not be too dissimilar to the works required to restore the Barn under the fallback scheme.
20. The elevations facing the open countryside to the north and east are sympathetically designed. For example, no windows are proposed on the north elevation and the four windows along the east elevation would be small to limit light spill. No windows are proposed on the elevation which faces the adjacent public bridleway footpath. The larger windows and glazed doors would be along the Barns elevation which faces the yard and already includes a window and openings.
21. Nevertheless, the proposed scheme would introduce more glazing on the Barn. Even so, due to its single storey scale, the sympathetic treatment of its elevations along with the enclosure and screening afforded by existing landscaping and the proposed native hedgerow, the extent of light spill appreciable from distant views would be negligible. Whilst some light spill would be noticeable from the adjacent public bridleway footpath, this would be limited to passing views and in the context of an existing building. Therefore, and despite its location the proposal would not unacceptably undermine dark skies.
22. The extent of land associated with the Barn is largely confined to its yard and although this would be used in association with vehicle parking and turning, because of its modest size this would only support a limited level of activity. Moreover, the development associated with the proposal, would not appreciably extend beyond the developed parts of the appeal site. Consequently, the level of domestication arising from the proposed operational development to support the C1 Hotel use would be limited.
23. Against the context of the existing built form of the Barn and the fallback scheme, the operational development associated with the Barn would be sympathetic to its appearance and surroundings. As such, when viewed in the surrounding landscape, the proposal would not detract from the rural character of the area, the quality of its views or its tranquillity. Moreover, the proposal would improve the appearance of the Barn and support additional planting without any harm to the landscape character.

24. For the above reasons, the proposal would not harm the character and appearance of the area and would preserve and enhance the natural beauty of the Dorset National Landscape. Furthermore, as far as the proposal would facilitate the proposed C1 Hotel use, this would back some of the secondary objectives of the Dorset National Landscape, which include supporting rural industries and managing demand for recreation.
25. I, therefore, find no conflict with the aims of Policies ENV1, ENV10 and ENV12 of the adopted West Dorset and Weymouth & Portland Local Plan ('LP'). Together, these policies seek to: protect the landscapes, seascapes and geological interest in the plan area; support high quality design and sympathetic materials and development that contributes to the character, special qualities or natural beauty of the AONB; and require the retention and protection of trees, and sufficient landscaping to successfully integrate with the site and its surroundings.
26. Accordingly, the proposal does not undermine the requirements of the Dorset AONB Management Plan 2019-2024 or the landscape characteristics of the Wootton Hills Character Area Type.
27. Policy SUS3 of the LP, specifically relates to the adaptation and re-use of agricultural buildings. Because the proposal is not for the change of use of the Barn, only the first part of this Policy is relevant. This requires that the existing building is of permanent and substantial construction, makes positive contribution to the local character, and would not need to be substantially rebuilt or extended. Based on my observations, the proposal is consistent with these requirements.

Other Matters

28. Because the proposal is not for a change of use, any concerns raised by other parties relating to the proposed use of the Barn, including whether or not there is a need for holiday let accommodation in the area, the effects of this type of use on increased phosphates, local highways and implications for further precedents are outside the remit of this appeal.
29. I have been informed that the proposal is similar in appearance to a previous scheme at the appeal site, which was refused planning permission. However, the refused scheme was for a change of use, whereas the proposal before me is for operational development. As such, the determining issues are unlikely to be the same.
30. I have also received representations, which assert that the appeal site would be 'impractical or undesirable for the change to residential use.' In part, this is based on the building's 'capability of conversion' with regard to the provisions of Class Q of the GPDO and the findings in the *Hibbit* judgement. However, based on the Middle Duntisbourne appeal, I share a similar opinion to that Inspector, in that, comparisons with Class Q and the findings of the *Hibbit* judgement are of limited relevance to the appeal scheme before me for the following reasons. Firstly, the appeal before me relates to development in support of Class R and not Class Q of the GPDO. Secondly, the Inspector's conclusions in the *Hibbit* judgement led her to reach the view that the proposal was not permitted development, which is not the case in this instance.
31. Based on the information available to me, appeal ref. 3300903 relates to the conversion and extension of a former milking barn to a dwelling. In this case there were no permitted development rights available and the proposal is for a change of use. Appeal ref. 3235854 is for operational development to allow change of use of the building to flexible

use (C1). However, the existing building was a large open sided steel frame barn, which was converted into a two storey hotel. Therefore, the scale of the building in this appeal is much larger than the Barn.

32. Because the circumstances of the above appeals are not directly comparable to the scheme before me, these do not alter my findings on the main issue.

Conditions

33. I have had regard to the conditions put forward by the Council considering the requirements of the Planning Practice Guidance and the Framework. In addition to the standard timescale condition for the implementation of the planning permission, I have imposed a condition specifying the approved plans in the interests of certainty.
34. A condition for the provision of a scheme for the turning / manoeuvring and parking of vehicles is necessary in the interests of the satisfactory functioning of the development.
35. Conditions requiring the details of external materials and the details of the proposed landscaping and its implementation and maintenance are necessary in securing a high quality development, which safeguards the character and appearance of the area.
36. A condition specifying tree protection measures is necessary to protect an existing tree. A condition requiring that all external lighting be agreed with the Council is necessary for protecting dark skies and wildlife. A condition specifying that the development is carried out in accordance with the Ecological Impact Assessment report is necessary to safeguard wildlife and enhance biodiversity.
37. Where necessary and in the interests of clarity, flexibility and precision, I have altered the conditions to better reflect the relevant guidance. Also, where required and because the proposal is predicated on the use of the Barn for Class C1 Hotel use, some of the conditions I have imposed reflect this.

Conclusion

38. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
- 2) Subject to the requirements of any of the other conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the following plans: 21-175_E100 A: Site Location Plan; 21-175_P100: Proposed Site Plan; 21-175_P200 A: Proposed Ground Floor Plan and 21-175_P300 B: Proposed Elevations.
- 3) Prior to their installation, the details and samples of all external facing materials for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be undertaken in accordance with the approved materials.
- 4) Before the building on the development site is first occupied for C1 Hotel use, a scheme for the turning / manoeuvring and parking of vehicles shall be submitted to and approved in writing by the local planning authority. Thereafter, the scheme for the turning / manoeuvring and parking area shall be provided prior to the first occupation of the building for C1 Hotel use. Thereafter, the turning / manoeuvring and parking areas shall be permanently maintained, kept free from obstruction and available for the purposes specified.
- 5) Before the building on the development site is first occupied for C1 Hotel use, details of the proposed landscaping as indicated on plan: 21-175_P100: Proposed Site Plan, shall be submitted to and approved in writing by the local planning authority. The details shall include the quantity, size, species, position of planting and a timescale for planting. Thereafter, the landscaping shall be undertaken in accordance with the approved details and timescale.

If within a period of 5 years from the date of planting of any tree/shrub/hedge that tree/shrub/hedge, or any tree/shrub/hedge planted in replacement for it, is removed, uprooted, destroyed or dies, (or becomes in the opinion of the local planning authority seriously damaged or defective), another tree/shrub/hedge of the same species and size originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variations.

- 6) Prior to its installation, the details and specifications of any external lighting for the development site shall be submitted to and approved in writing by the local planning authority. Thereafter, any external lighting shall be installed and maintained in accordance with the approved details and specifications.
- 7) No construction, delivery and/or contractors' vehicles, materials storage and/or fires shall be allowed at any time during construction works within the protection zone, which extends 20 metres from the trunk of the mature Ash tree to the east of the development site as shown on approved plan: 21-175_P100: Proposed Site Plan.
- 8) The development hereby permitted shall be carried out in accordance with the Mitigation and Compensation and Biodiversity Net Gain Strategy as set out in the submitted Ecological Impact Assessment report dated October 2023.