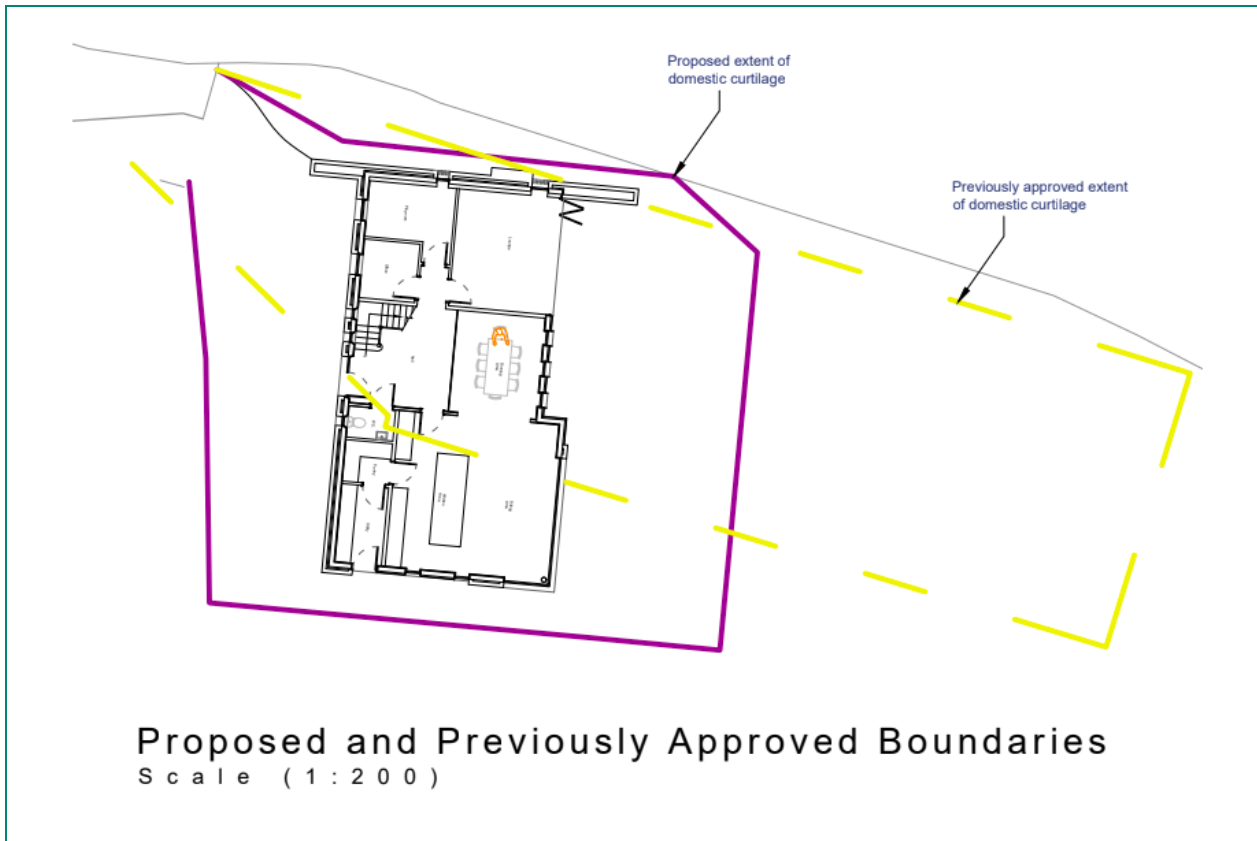


APPELLANT'S STATEMENT OF CASE

Section 78 Town and Country Planning Act 1990

4th May 2023

Appeal by Alan and Anne Davies Settlement 2014 Trust (“The Appellant”) against the refusal of Ribble Valley Borough Council (“The LPA”) to grant full planning permission for the Demolition of an agricultural building (with class Q consent for residential) and erection of a new dwelling.



Pinfold Farm, Preston Road, Ribchester, PR3 3YD

Prepared by MacMarshalls Rural Chartered Surveyors & Planning Consultants



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1. SITE INTRODUCTION

- 1.1. This Appeal has been prepared and submitted on behalf of the Appellant against the refusal notice issued by Ribble Valley Borough Council ('the LPA') on the 13th March 2023 under planning application number 3/2022/1180. The full planning application was for the demolition of an agricultural building (with class Q consent for residential) and erection of a new dwelling.
- 1.2. This Appeal relates to the land shown edged red on the Site Plan, hereinafter referenced as the "appeal site". All the Appellant's adjoining owned land is shown edged blue on the submitted Location Plan (on the same sheet as the Site Plan).
- 1.3. The appeal site is known as the yard at Pinfold Farm, Preston Road, Ribchester, PR3 3YD. Three buildings at Pinfold Farm occupy the site with access, existing parking for 3 cars and hardstanding yard area. The site extends to 1114m². The three buildings include a fully enclosed steel portal framed building, timber pig shed and storage buildings and their curtilages. Building 1 walls are constructed of concrete blocks to 1.5m high, clad in yorkshire boards and the other buildings are of timber construction. The front western elevation of building 1 has a sliding steel door and the pitched roof is covered in concrete cement roof sheets. Up until March 2011, the buildings were used as part of Pinfold Farm's unit to house sheep and for storage.
- 1.4. A full set of approved plans, appeal decision and documents relating to the Class Q approval are contained within Appendix 1.

2. CHANGES TO THE APPLICATION DURING THE LPA DECISION PERIOD

- 2.1 No changes were made to the application during the LPA decision period.

3. THE LPA'S REASONS FOR REFUSAL

- 3.1. The Application was decided via delegated decision.
- 3.2. Three reasons for refusal were stated in the LPA's decision notice for planning application 3/2022/1180:

'1 - The proposal would lead to the creation of a new residential dwelling in the defined open countryside, located outside of a defined settlement, without sufficient justification insofar that it has not been adequately demonstrated that the proposal is for that of local needs housing that meets a current identified and evidenced outstanding need nor does the proposed dwelling benefit from adequate walkable access to local services or facilities thus placing reliance upon the private motor vehicles contrary to Key Statements DS1, DS2, DMI2 and Policies DMG2, DMG3 and DMH3 of the Ribble Valley Core Strategy 2008 - 2028. Whilst a fall-back position is acknowledged, which is a material consideration, this fall-back relates to a conversion with different policy considerations and so carries very limited weight in the overall planning balance.



2 - The proposal, by virtue of the external appearance of the dwelling, the horizontal repositioning of the proposed residential unit, driveway/parking area and the likely visual impact of associated domestic paraphernalia such as sheds, washing lines, children's play equipment and fence lines would result in the introduction of an incongruous form of residential development which is overtly domestic and would result in a cumulative visually suburbanising effect of the landscape being of significant detriment of the character, appearance and visual amenities of the area contrary to Policies DMG1 and DMG2 of the Ribble Valley Core Strategy. Whilst a fall-back position is acknowledged, which is a material consideration, this fall-back is considered to result in less visual harm in comparison to the development proposal and so carries very limited weight in the overall planning balance.

3 - Insufficient evidence has been submitted to assess the potential impact of the development on protected species, including bats. In the absence of such information therefore, the likelihood that the proposed works will cause disturbance to bats result in the loss of a bat roost or cause injury or death to bats and other wildlife within or adjacent to the site cannot be determined and the proposed works therefore fails to accord with Key Statement EN4 and Policy DME3 relating to Site species protection and conservation of the Ribble Valley Core Strategy 2008 - 2028.'

3.3. The LPA expanded on their reasons for refusal within the officer's delegated report.

4. ADDITIONAL DOCUMENTS SUBMITTED WITH THE APPEAL

4.1. An updated bat survey report has been submitted with the appeal and produced by Angela Graham Bat Consultancy Service (dated 22/03/23).

5. RELEVANT PLANNING POLICY AND GUIDANCE

5.1. The Site is designated in the Open Countryside. The proposal is to be assessed against the Ribble Valley Core Strategy (adopted 2014) and the National Planning Policy Framework (NPPF) (2021).

6. APPELLANTS GROUNDS OF APPEAL

6.1. The LPA's reasons for refusal are rebutted. It is assumed that all other elements of the proposal are considered acceptable to the LPA. Therefore, I only provide comments on the reasons for refusal. Commentary on other aspects of the proposal can be found in the submitted original planning statement.

6.2. Proposition 1 - The proposal does create a new residential property outside of the defined settlement area, therefore in non compliance of the adopted development plan, however there are material considerations (the fallback position) for deviating away from the plan. Public transport is also readily accessible to local service centres.

- 6.2.1. Both parties acknowledge that the proposal would normally conflict with the development plan, insofar as it being identified as an unsuitable location for housing within the development plan. However, they disagree on the impact of the fallback position.
- 6.2.2. Although the LPA says a fall-back position is acknowledged as a material consideration within refusal reason 1 on the decision notice, it goes on to state that this fall-back relates to a conversion with different policy considerations and so carries very limited weight in the overall planning balance. This statement appears to be misguided in consideration of the case law presented within the original planning statement.
- 6.2.3. It is established in case law that permitted development rights can legitimately represent a fallback position when considering alternative proposals for development of the same site. The relevant legal principles relating to fallback were set out in *R v Secretary of State for the Environment and Havering BC (1998) EnvLR189*. In that case Mr Lockhart-Mummery QC, accepted submissions that there were three elements to the fallback test:

"First whether there is a fallback use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly if the answer to the second question is "yes" a comparison must be made between the proposed development and the fallback use."

- 6.2.4. The LPA appears to agree that there is a lawful ability to undertake the class Q conversion and that there is a real prospect of the use occurring, in that they state,

'As such, the granting of the prior approval, under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q(a) and (b), of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), has established a consent for the creation of a residential planning unit on-site, albeit through conversion of an existing building. As such, this matter forms a material consideration in the determination of the current application.'

However, they seem to disagree that a comparison can be made under the fallback position due to the difference in local plan policies between conversion and new builds. Although, this does not align with the decision in the Court of Appeal case, *Mansell vs Tonbridge and Malling Borough Council [2017]*. The case concerned an appeal of a decision dismissing a claim for judicial review of a planning permission granted by Tonbridge and Malling Borough Council, the development being the demolition of a barn and bungalow and the construction of four detached dwellings. At the time of the decision, and prior to subsequent amendments, Class Q of Schedule 2, Part 3 of the General Permitted Development Order authorised the barn to be converted to three



residential units with a combined floorspace of up to 450m². The class Q approval possibility was a material consideration, even though the conversion policies were different to the new build policies. The principle of new dwellings on the site had been established, albeit through conversion. That was the outcome of the judgement. It is accepted that the proposal would not normally comply with policy, however the appellant intends to construct a new dwelling on the site, whether that be through conversion or new build. There are significant planning and sustainability advantages to constructing the current proposal for the reasons expanded on below.

- 6.2.5. The LPA also seem to disagree that the current proposal will provide significant improvements to the approved class Q scheme as they state:

‘Whilst a fall-back position exists, this relates to a conversion of an existing building and is considered to result in less harm than the development proposal.’

- 6.2.6. The officer’s report also states:

‘the fall-back position offers a sustainability benefit of re-use of an existing building, which does not apply to this proposal.’

- 6.2.7. The visual aspects of the proposal compared to the class Q fallback are discussed in Proposition 2 below, however other than the visual comparison, the LPA do not seem to have commented or assessed the other elements of the proposal that are considered to be significant advantages to the current proposal. This should be part of the final comparison test as set out in the *R v Secretary of State for the Environment and Havering BC (1998) EnvLR189* case.

- 6.2.8. The advantages and aspects of the proposal scheme in comparison with the class Q approval are given below:

6.2.8.1. There is a reduction in the hardstanding area within the yard area. The class Q did not propose to remove it (although not all is residential curtilage), however the appeal proposal does propose to remove the excess hardstanding (it will be used in ground works for the new build) and revert back to grass.

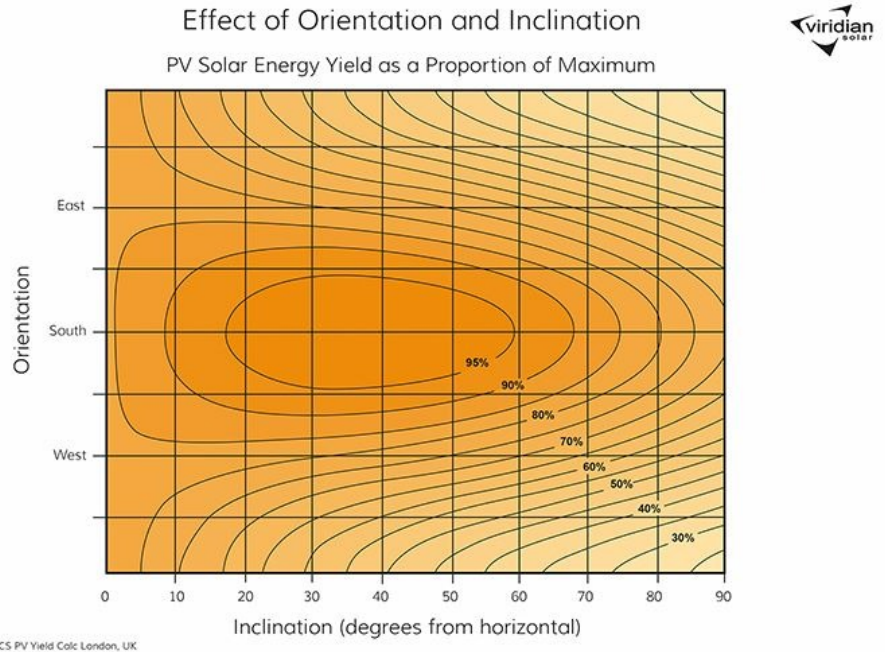
6.2.8.2. There is a reduction in the volume, built area and floor area, accordingly, there is an overall improvement in the openness and visual impact of the proposed full application dwelling compared to the existing site buildings and yard area. The area of the approved class Q curtilage, parking and access road is 907m² and the area of the proposed curtilage with garden, parking and access is 878m². Therefore, overall there is a reduction of 29m² in respect of the area to be developed. The class Q change of use produces a floor area of 300m² with a



volume of 745.38m² and the proposed new dwelling has a reduced floor area of 220m² with a reduced volume of 736m².

6.2.8.3. Significant energy efficiency improvements have been made to the latest proposal, providing a distinct improvement on the approved class Q design. They are listed below:

6.2.8.3.1. The building has been reorientated to face the south west to maximise the energy efficiency of the build in order for the proposed seamless solar roof system to be installed and for the new dwelling to be self sufficient. The position that maximises the energy collected by a solar panel in the UK is facing south and tilted at an angle of 35 degrees from the horizontal. As the direction the panel faces moves away from due south, the annual incident energy will fall off. Similarly, as the angle of tilt increases towards vertical or decreases towards horizontal the incident energy will also drop (www.viridiansolar.co.uk). This is shown in the graph below. The Appellant and designer received feedback advising them not to install solar panels on the class Q dwelling due to the orientation of the building and the 15 degree roof pitch. They would not be sufficient. The class Q roof pitch and orientation cannot be changed due to the class Q criteria. Therefore, the current design allows for efficient solar technology to be utilised on the building roof without installing (subject to planning) ground mounted ones that have a greater visual impact. The roof pitch of the current proposal is 21 degrees and although this is still less than the most efficient 35 degree roof, it will still ensure enough electricity is generated throughout the year to power the dwelling.



6.2.8.3.2. A GB SOL Seamless infinity Solar Roof system is proposed to be installed- an example of which is shown below. Again, this is not provided in the Class Q conversion. It is described as,

‘The Infinity solar roof is an almost seamless glass roof with exceptional power generation capacity. Solar panels are mounted within a structural framing system and the roof is then finished with high quality welded aluminium flashings that are powder coated for colour matching. The result is a sleek glass and aluminium roof covering from ridge to gutter and side to side, with huge solar power output and a 25 year warranty.’

This design has been used in AONBs (although the appeal site is not AONB) as it is in keeping with cladding used for agricultural buildings, whilst providing solar electricity. Combined with the ground source heat pump, it will ensure the dwelling is not reliant on grid electricity.



- 6.2.8.3.3. A ground source heat pump with adjoining pipework in the field (using PD rights) is proposed for the current proposal. These are described as:

‘A ground source heat pump, sometimes referred to as a ground-to-water heat pump, transfers heat from the ground outside your home to heat your radiators or underfloor heating. It can also heat water stored in a hot water cylinder for your hot taps and showers.

Thermal transfer fluid (TTF), a mixture of water and antifreeze (sometimes known as ‘brine’) flows around a loop of pipe, buried in your garden or outdoor space. This loop could either be a long or coiled pipe buried in trenches, or a long loop (called a ‘probe’) inserted into a borehole with a diameter of around 180mm.

Heat from the ground is absorbed into the fluid, which then passes through a heat exchanger into the heat pump. This raises the temperature of the fluid and then transfers that heat to water.’

They will reduce the household carbon footprint and heat the dwelling as well as the water.

- 6.2.8.3.4. In addition, the proposed dwelling will have Mechanical Ventilation with Heat Recovery (MVHR). This is described as,

‘a whole house ventilation system that both supplies and extracts air throughout a property. Heat recovery is an option used in domestic



dwellings, and helps to reduce the heating and cooling demands of buildings.'

6.2.8.4. The planning officer's report states that,

'Even so, the fall-back position offers a sustainability benefit of re-use of an existing building, which does not apply to this proposal.'

This is not correct as all the cladding from the walls and roof are to be replaced in the class Q conversion. Although the steel structure will be removed with this appeal proposal, the steel and cladding would be removed from site and sold or erected on the agricultural unit (subject to planning permission). The Appellant's neighbour, Geoff Harrison, Lords Farm approached the Appellant when he learned he was exploring a new build to ask if he could have the building on his own unit (subject to consents). This would include him doing the dismantle and re-erect. A print out from ebay in Appendix 2 also shows a number of steel structures and second hand buildings for sale. It is common practice to buy and sell second hand steel due to the high cost of steel at present. Other materials from the building will be sold and used elsewhere wherever possible. Therefore, both the class Q and current proposal will recycle and reuse many of the materials taken down from site.

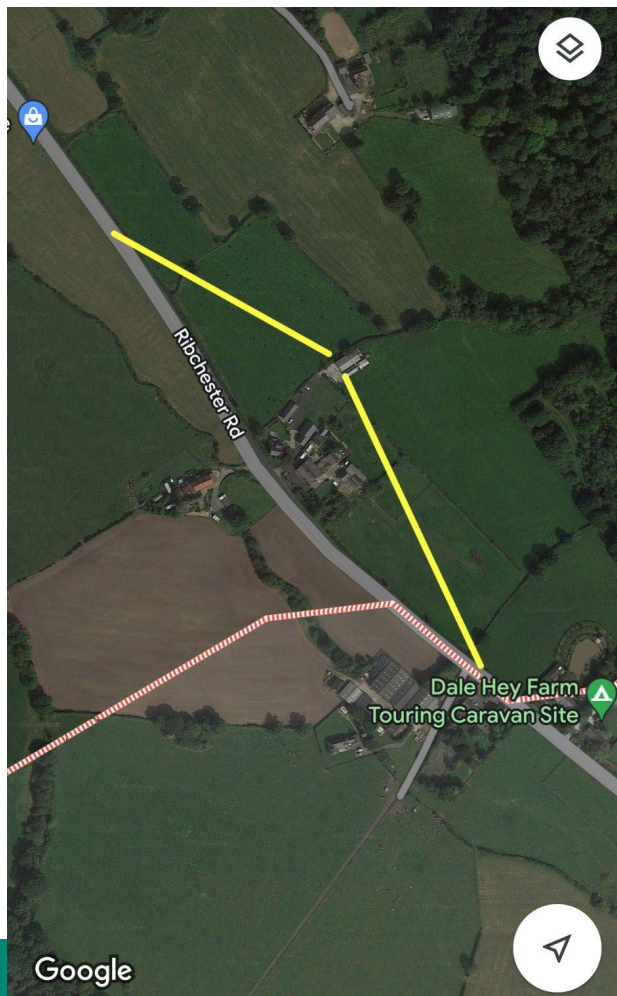
6.2.9. The LPA now recognise (they did not at pre application stage or the previous application) that there is a bus stop at Pinfold, but state it is limited. However the two regular buses (number 5 Clitheroe-Chipping and 45 Preston and Blackburn) are also the buses that service the local villages. Ribchester is one of these villages which is within a defined settlement boundary, but only has the same bus service. If it is considered to be a sufficient service for Ribchester and other areas where significant numbers of houses have been constructed then we believe it should be for Pinfold too. These buses cover a number of towns that are hubs for other bus services i.e. the Appellant can travel by bus from his dwelling adjoining the site to Manchester, Lake district and North Yorkshire. The occupants at two of the other properties at Pinfold use the bus on a regular basis, one does not own a car and is dependent on the bus service. It is therefore considered to be well connected by public transport to local service centres.

6.3. Proposition 2 - The proposal's external appearance, its repositioning , driveway/parking area and visual impact are considered to be an improvement against the fall-back class Q proposal for which significant weight should be applied in the planning balance.

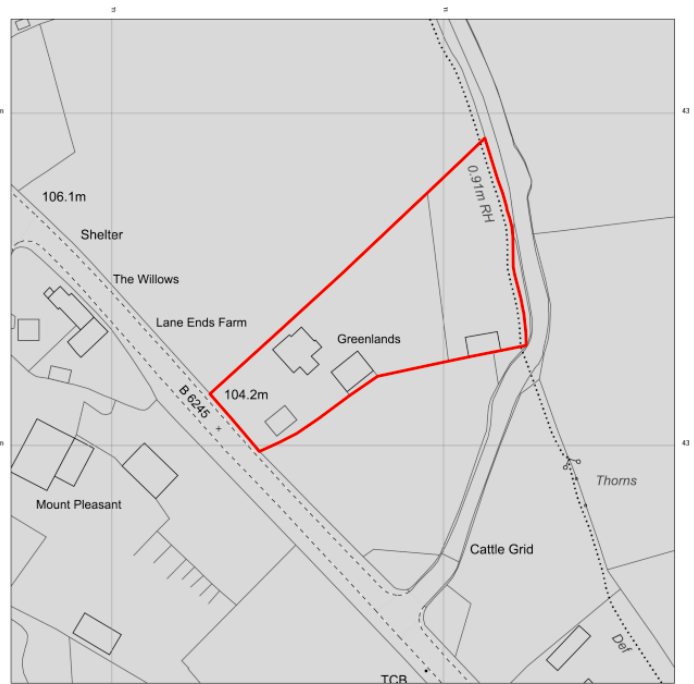
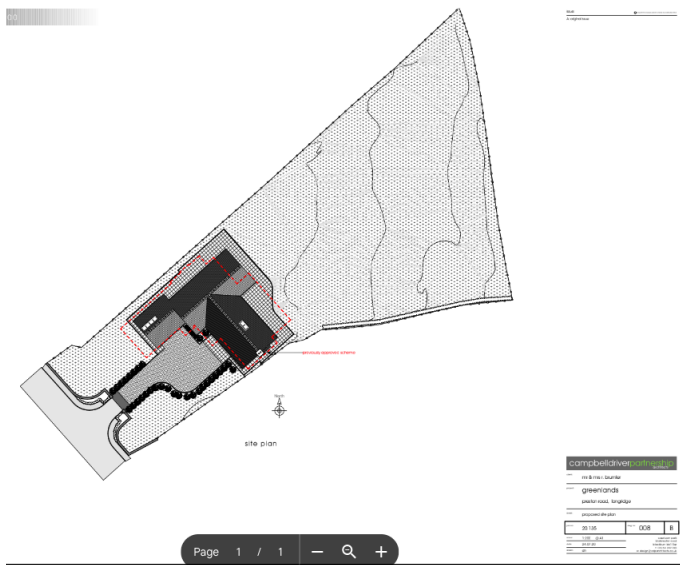
6.3.1. The parking and driveway areas are the same for the class Q and the current proposal. There is already an area of hardstanding adjoining the access for parking and this would be used irrespective of the scheme. Although the two adjoining sheds would be

demolished as part of the class Q scheme, there were no proposals to remove the yard hardstanding (albeit it would not have a residential use). However, with the appeal proposal the excess hardstanding will be removed and go back to agricultural grassland. There is curtilage with the class Q, therefore domestic paraphernalia will be present with whichever scheme. Both will be to the rear of the site. However, the appeal scheme curtilage is closer to the built areas within the hamlet and is less visible from the public road. A planning condition removing residential permitted development rights would also be acceptable to the Appellant. This would enable the LPA to control further development within the curtilage. It should also be noted that the vast majority of the proposed dwelling will be sited on the existing hardstanding/yard area that is proposed to be retained with the class Q proposal.

- 6.3.2. The main public visual receptor points are along Ribchester Road as shown by the yellow lines on the aerial google screenshot below. The class Q building lengths can be mainly seen from the road, however with the current proposal, the gable ends would mostly be seen, lessening the visual impact. It also brings the whole built area closer to the hamlet of houses, leaving the area to the rear to revert to open agricultural grassland. Most of the larger areas of glazing are shown to the rear of property, not facing the road, whereas the class Q gable end glazed areas are to the front and rear.



- 6.3.3. The LPA had concerns over the design of the class Q conversion and considered that the use of louvres is a modern addition to the building and would not be a typical feature of a barn. They believed the end gable glazing arrangements did not respect the character of the agricultural building. They also commented on the roof lights and sporadic openings and said they would not be typically associated with that type of building. They stated the proposed features creates a more urban type of development and conflict with the rural character of the area. However, at appeal, the Inspector disagreed with these opinions, as contained within the decision notice (Appendix 1). Similar comments have been made by the LPA in respect of the current proposal. Pre-application discussions did take place with an alternative design (see original submissions), however the LPA did not approve of any of the proposed designs. No guidance was given on the LPA's preferred design features. The Appellant did write to the LPA expressing concerns with the LPAs lack of responses and engagement on the fallback position proposal. This is contained within Appendix 2.
- 6.3.4. Although there are no planning precedents, LPAs have a duty to be consistent with decision making. Design aspects of approved proposals in the locality were considered. The LPA approved an amended design on a scheme that was previously granted consent for the demolition of a detached dwelling house and outbuildings, and the construction of one replacement dwelling. The application reference is 3/2020/0752 - *Variation of Condition - Variation of condition 2 (approved plans) from planning permission 3/2019/0218 to allow changes in appearance and layout of the proposed dwelling*. The subject property for that application was rural with a more traditional frontage and large areas of glazing to the rear of the dwelling. It was approved 22/10/2020. Extracts of the plans and aerials (not to scale) are shown below to show the extent of the approved glazing and the rural location of the property (see red edge showing the extent of the property). The LPA considered this to be in keeping with the character of the area. They agreed the larger glazed areas were on the rear of the dwelling away from public vantage points, comparable with the appeal proposal, with reduced openings to the front elevation. The large glazed elements of the example consent are to the North East elevations. This property is on the same road as the appeal site about a 10 minute walk away.





rear perspective

6.3.5. Another property close to the appeal site has large glazed elements and balconies (Application number 3/2015/0593) and is on Greenmoor Lane (about 2 minutes walk away). Approved extracts of the elevations are shown below:



North Elevation

West Elevation

DO NOT SCALE FROM THIS DRAWING.
Use written dimensions only, if in doubt ASK

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Materials

Natural Slate Roof

Timber or Aluminium Doors & Windows

Dressed stone window surrounds and details

Natural stone walling

Rev	Description	Date

Project: **Higher Cage Farm
PR3 2YR**

Status: **Planning Application**

Client: **Mr & Mrs Layton-Hill**

Drawing Title: **Elevations Sheet 1 of 2**

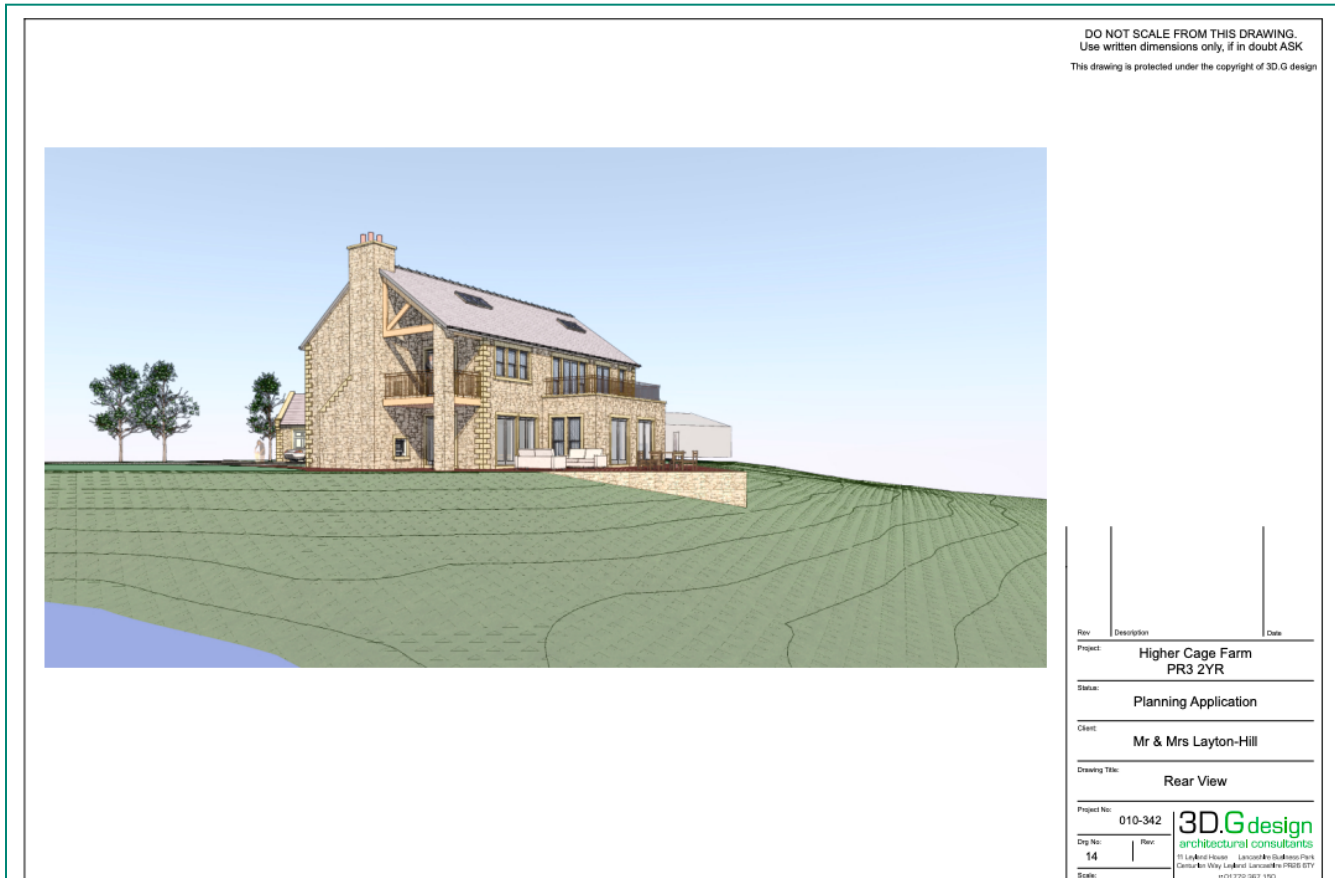
Project No: **010-342**

Disc No: **05** | Rev:

Scale: **1:100 @ A3**

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6.3.6. There are errors in the officer’s report in respect of the referenced elevations, this may have caused some issues with the assessment. Under "Proposed Development" on the third paragraph "with large glazed elements on the south and east elevations". The glazed elements are on the north and east which are not visible from the road. In the last paragraph in this section the LPA correctly states the large windows are North and East facing.

6.3.7. Again under "Visual Amenity"/External Appearance the LPA states large glazed elements on the South elevation, which is incorrect and should read North elevation not seen from the Road.

6.4. Proposition 3 - The further submitted bat survey confirms that the Appellant’s ecologist thinks it remains acceptable for this development to go ahead without further bat survey work.



7. CONCLUSION

7.1. The Appeal should be allowed for the following reasons:

7.1.1. The applicant considers that the fallback position created by the approval of a Class Q dwelling is a material consideration to the outcome of this application and represents a 'real prospect'. Therefore where there is demonstrably a realistic prospect of a permitted development scheme being implemented, and where an alternative proposal would normally conflict with the development plan, insofar as it being an unsuitable location for housing, the potential for the fallback position to outweigh that conflict must be considered by the local authority. This was not sufficiently addressed by the LPA in the current application. It stands to reason that, where the alternative new-build proposal offers an enhancement to the setting, enhanced design and significant environmental benefits when compared to the fallback, the development should be allowed to proceed.

7.1.2. In light of the above and previous submissions, it is concluded that, for the reasons stated, the proposed development would provide a significant improvement to the environment and the appearance of the site and the wider rural landscape compared to the previously approved dwelling.

7.2. For the reasons set out in this Statement of Case we respectfully request the Planning Inspector to allow this appeal.

8. LIST OF APPENDED DOCUMENTS

Appendix 1 Approved Class Q plans and decision

Appendix 2 Appellants complaints and LPA response

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Ref: C175/5 Statement of Case V1 issued 04.54.23

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