



Appeal Decision

Hearing held on 10 October 2023

Site visit made on 10 October 2023

by Sarah Manchester BSc MSc PhD MIEnvSc

an Inspector appointed by the Secretary of State

Decision date: 01 November 2023

Appeal Ref: APP/T2350/W/23/3325434

Land adjacent to Miles Hill, Moor Lane, Billington BB7 9JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
- The appeal is made by Mr Tom Procter against the decision of Ribble Valley Borough Council.
- The application Ref 3/2023/0226, dated 15 March 2023, was refused by notice dated 5 May 2023.
- The development proposed is conversion/redevelopment of two agricultural buildings into 2 dwellings.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Tom Procter against Ribble Valley Borough Council. That application is the subject of a separate Decision.

Preliminary Matters and Background

3. The appeal site address in the application form is "Land adjacent to Whittle Hall Farm". However, the appellant has confirmed that the correct address is "Land adjacent to Miles Hill". Accordingly, I have adopted the amended site address in the banner heading above.
4. The appeal scheme relates to the change of use of 2 agricultural buildings to dwelling houses (Class Use C3). Schedule 2, Part 3, Class Q of the GPDO permits development consisting of Q(a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule of the Use Classes Order¹, and Q(b) building operations reasonably necessary to convert the building.
5. The proposal is the resubmission of an earlier scheme (ref 3/2022/0436) that was refused and dismissed on appeal (ref APP/T2350/W/22/3304870). In the appeal, the Inspector acknowledged that it was common ground between the parties that the scheme would constitute development permitted under Class Q, subject to the prior approval of certain matters. The scheme has been amended to address the previous reasons for dismissal on appeal relating to visual amenity and protected species.

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

6. The Council again agrees that the proposed works to the agricultural buildings are reasonably necessary for their conversion to residential use and they fall within the scope of building operations allowed by paragraph Q.1 of the GPDO, and I see no reason to disagree. However, it now considers that the proposed external ground works, which did form part of the previous scheme, are not within the scope of building operations reasonably necessary to convert the buildings. As such, the Council considers that the proposal would not meet the requirements of Class Q(b) and it would also fail to meet the requirements of the GPDO in relation to certain prior approval matters.
7. The Council's decision notice refers to conflict with the development plan and the National Planning Policy Framework (the Framework). In accordance with the GPDO, I have had regard to the Framework only in so far as it is relevant to the prior approval matters.

Main Issues

8. Therefore, the main issues in the appeal are:
 - i) whether the proposal would be permitted development under Schedule 2, Part 3, Class Q(b) of the GPDO, with regard to the extent of operations required to convert the agricultural buildings to dwellinghouses;
 - ii) the effect of the proposal on the character and appearance of the area; and
 - iii) the effect of the proposal on protected species.

Reasons

Building operations reasonably necessary

9. Paragraph Q.1(i) of the GPDO states that development under Class Q(b) is not permitted if it would consist of building operations other than (i) the installation or replacement of windows, doors, roofs or external walls or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The permitted development rights also extend to Q.1(i)(ii) partial demolition to the extent reasonably necessary to carry out such building operations.
10. The Planning Practice Guidance (the PPG) states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. In this respect, building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission, would be permitted. However, it is only where the existing building is already suitable for conversion that it would be considered to have the permitted development right.
11. The buildings are parallel to one another. They occupy a sloping site and their south east gable ends are set below the surrounding hardstanding, resulting in an abrupt change between the external and internal floor levels. In addition to the works to convert the buildings, there would also be extensive lowering of ground levels around the south east elevations of both barns and across the intervening land. The higher lying land along the south east boundary would then be separated from the lower lying land immediately around the buildings by a long retaining wall with steps leading down to the front of both buildings.

12. From a strict reading of the GPDO, the external ground works are not building operations of a type listed in paragraph Q.1(i)(i) nor do they appear to be partial demolition for the purposes of paragraph Q.1(i)(ii). Nevertheless, I am mindful that the intention of the legislation is to increase the supply of housing, including through the conversion of agricultural buildings in rural locations. In this context, it may be pragmatic to allow minor or de minimis operations that might strictly fall outside of the building operations allowed but which are reasonably necessary for the building to function as a dwelling house. However, taking into account the scale of the proposed excavation and the length of the retaining wall and the steps, the external alterations would not be de minimis. I will now consider whether the external works are reasonably necessary.
13. The main access into the easternmost barn, Barn 1, would be via a door into a hall part way along its north east side elevation and beyond the end of the retaining wall. As such, the external ground works are not necessary to provide access into Barn 1. There would be a further door serving a utility room in the recessed part of Barn 1 beneath the south east gable end canopy. In the absence of the external ground works, this door would not be easily accessible from the south east due to the abrupt change in ground levels at the edge of the existing building envelope. However, it would not be the main or visitor entrance from the parking area and it would be accessible from the already lower lying land to the south west of the building.
14. The main access to Barn 2 would be via a door in its recessed canopied south east gable end. Taking into account the size of the proposed canopied area and that the existing access is provided by an internal ramp, the change in levels could be similarly managed by a small scale internal intervention within the building envelope which could include raising of internal levels, steps or ramp. This could be secured through the imposition of a planning condition. The section of retaining wall between the buildings would appear to serve little functional purpose in terms of the residential use of the buildings, notwithstanding it may be a more aesthetically pleasing solution than the existing agricultural hardstanding. For these reasons, I find that the buildings could be converted and function as dwelling houses without the external groundworks proposed. The ground works and the retaining wall are not demonstrably reasonably necessary for the buildings to be converted.
15. In summary, the external ground works do not appear to be a type of building operation specifically permitted under paragraph Q.1, nor would they be partial demolition or de minimis engineering operations. To the extent proposed, the lowering of land and the retaining walls and steps do not appear reasonably necessary to convert the buildings for the purposes of paragraph Q(b).
16. Nevertheless, Paragraph W(13) of the GPDO makes provision for the local planning authority to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. In this regard, I am mindful that in so far as it affects the buildings, the proposal would meet the requirements of Class Q(b). Moreover, the works to convert the building to residential use would be severable from the proposed external ground works. As such, it would be possible to impose a condition requiring the development to be carried out in accordance with the approved plans but excluding the retaining wall with steps shown on the proposed site plan.

17. The appellant considers that the previous appeal decision establishes that the proposal would meet the requirements of the GPDO in this regard. However, the Inspector simply stated the common ground between the parties and then focussed on the matters in dispute. In the absence of any commentary in relation to the acceptability of the external ground works, the previous dismissed appeal decision does not provide a justification for the proposal.
18. Therefore, I conclude that the proposal would be permitted development under Schedule 2, Part 3, Class Q(b) of the GPDO, with regard to the extent of operations required to convert the agricultural buildings to dwellinghouses, subject to a condition excluding the external ground works.

Character and appearance

19. Both appeal buildings are substantially large portal framed buildings and they sit alongside one another in an exposed hillside location in the open countryside. They are set down from Moor Lane and separated from the narrow rural road by banked wooded land and roadside boundary walls. The appeal site is widely separated from other built development in an area of sparsely developed undulating countryside characterised by enclosed grassland with boundary walls and fences, patches of woodland and scattered trees.
20. While the buildings are not traditional vernacular barns, they are typical modern rural agricultural buildings, taking into account their location, design including large gable end openings, and materials. Consequently, while they are not high quality design or of any particular merit, they are characteristic agricultural buildings in keeping with the surrounding farmed landscape.
21. Compared to the earlier scheme, the size of some of the elevation openings has been reduced. However, irrespective that the rooflights and openings may reflect the proposed internal layout, there would still be a large number of new domestic openings and extensive repositioning of openings. While the existing large gable end openings may not be historic or traditional cart door openings, they do contribute to the agricultural character and the interpretation of the buildings. In contrast, the proposed domestic openings in the gable end elevations would not reflect or respect the scale, number or position of the existing relatively simple agricultural openings. I note the appellant's concerns in relation to the potentially greater adverse visual impact if large openings were to be retained. Irrespective, the large number of domestic openings, and that are poorly-related to the existing arrangement, would contribute to the erosion of the functional appearance of the buildings.
22. The proposed rooflights would be more regularly arranged, but they would be increased in number. While there are a large number of existing rooflights, these appear to be corrugated plastic flush with the corrugated roof of the agricultural buildings. In contrast to these existing relatively unobtrusive rooflights, and by virtue of their number, domestic proportions and style, the proposed rooflights would be conspicuous to the detriment of the utilitarian appearance of the buildings. The appellant would be amenable to the imposition of a planning condition to control the design and appearance of the rooflights. However, I am not satisfied that this would be sufficient to mitigate the visual harm arising from the totality of the proposal.
23. The conversion of non-domestic buildings to residential use will often require alterations, including windows to serve habitable rooms. However, the

- wholesale domestication of the buildings, at the expense of their functional agricultural appearance, is neither demonstrably necessary nor desirable in the open countryside. Furthermore, there is little evidence that alternative potential design solutions have been explored and reasonably discounted.
24. The agricultural buildings are visible from around the highway access and from locations along the road. The nearby public right of way (the FP) affords clear views of the north east side elevation of Barn 1. Barn 2 is partly screened from the FP by Barn 1, but it is also partly visible and there are views of the north west gable ends of both barns from the FP. Therefore, notwithstanding local topographical variation and the distance to settlements, the proposal would be visible from locations in the surrounding area. The buildings would also be conspicuous overnight due to light spill from the numerous glazed openings including rooflights and at times of year when trees and hedges are not in leaf.
25. I concur with the Council in that the proposal would be substantially similar to the previous dismissed scheme. It would similarly diminish and erode the rural agricultural character and appearance of the buildings. There would be a significant visual impact due to the size of the 2 buildings and their unavoidably close relationship to one another. Neither dwelling would be typical of the traditional rural dwellings that characterise the countryside. Moreover, by virtue of their extensive domestication, the dwellings would not be easily read as converted agricultural buildings. Taking into account the cumulative scale of the proposal, it would be a prominent and incongruous form of development that would be out of keeping in the surrounding traditional farmed landscape context. The proposal would have an urbanising effect that would be detrimental to and it would diminish local distinctiveness and sense of place.
26. Therefore, I conclude that the design and external appearance of the proposal would harm the rural agricultural character and appearance of the buildings and the countryside. The proposal would conflict with the relevant aims of the Framework, including that development should add to the overall quality of the area, being sympathetic to local character including the surrounding built environment and landscape setting and maintaining a strong sense of place.

Protected species

27. According to the Preliminary Bat Roost Assessment Report, the buildings have negligible potential to support roosting bats and they are not used by barn owls. However, it does not address potential impacts on other protected species including badgers, which are known to be present in the wider area.
28. Additional information with the appeal includes a scheme of Reasonable Avoidance Measures for Badgers, which could be secured by the imposition of a planning condition. An Ecology Supplementary Statement has also been provided to demonstrate that the appeal site and its environs are of limited biodiversity value such that no other protected species is reasonably likely to be present or affected by the proposal.
29. The Council confirmed at the hearing that the additional information is sufficient to conclude that protected species are reasonably unlikely to be present and affected by the proposal. I see no reason to disagree.
30. Therefore, I conclude that the proposal would not harm biodiversity or protected species, with particular reference to bats, nesting birds and badgers,

subject to the imposition of a planning condition. Consequently, it would not conflict with the biodiversity protection aims of the Framework or the relevant requirements of the GPDO.

Other Matters

31. There were no neighbour representations objecting to or supporting the application or the appeal, although there was verbal support for the scheme at the hearing, including its appearance, from a local resident. However, this does not alter or outweigh my findings on the proposal.
32. The appellant would explore sustainable forms of heating, such as ground or air source heat pumps, and electric vehicle charging points would be provided for each dwelling. This would be in accordance with the aims of the Framework, but it carries little weight in favour of the proposal

Conclusion

33. For the reasons set out above, I conclude that prior approval should not be granted and the appeal should be dismissed.

Sarah Manchester

INSPECTOR

APPEARANCES

For the appellant:

Mr Tom Procter	Appellant
Mr Trevor Hobday	Trevor Hobday Associates
Mr Peter Hitchen	Peter Hitchen Architects Ltd
Ms Caroline Potts	Appellant's partner

For the Council:

Mr Stephen Kilmartin	Principal Planning Officer
Ms Kathryn Hughes	Principal Planning Officer

Interested parties:

Councillor Tony Austin	Borough councillor for Billington and Langho Ward
Mr Philip Roberts	Local resident
Mr Ben Hill	Working with the appellant