

Planning Appeal Statement of Case



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This statement of case is made in support of an appeal against the decision of Ribble Valley Borough Council, under section 78 of the Town and Country Planning Act 1990, to refuse 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].

1 Appeal Proposal

1.1 The appeal proposal comprises:

Proposed conversion/redevelopment of two agricultural buildings into two dwellings.

1.2 The appeal site is located on land adjacent to Whittle Hall Farm, Moor Lane, Langho. BB7 9JH

2 Material Planning History

2.1 It is respectfully submitted that the decision forthcoming in the appeal now before the Planning Inspectorate must be fully informed by the appeal decision APP/T2350/W/22/3304870 dated 6 February 2023

3 Background

Appeal Decision dated 6 February 2023-APP/T2350/W/22/3304870

3.1 In dismissing this appeal, The Inspector sets out the main issues for his consideration. He also sets out clearly the fact that it is “common ground” that the appeal scheme meets the requirements of paragraph Q.1 of Part 3, Schedule 2 of the GPDO such that it would constitute development permitted under Class Q, subject to the prior approval of certain matters.

3.2 The Inspector then sets down the main issues for his consideration as follows:

- Whether the location or siting of the buildings would make it impractical or undesirable for them to change from agricultural use to a use falling within Class C3;

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- Whether the proposed design would provide adequate living conditions for future occupants, with particular regard to privacy and outdoor amenity space;
 - The effect of the proposed design on the character and appearance of the buildings and the surrounding area;
 - The effect of the proposed development upon protected species.

3.3 The appeal was dismissed. However, in so dismissing the appeal the Inspector made it very clear [the first two bullet points above] that the proposal complied with the requirements of the GPDO [paragraphs 5-8 inclusive of the appeal letter-location and siting] and [paragraphs 9-12 inclusive-living conditions]. The proposal failed on two counts [final two bullet points above-Design-character/appearance; and Protected species]. As a direct consequence of the appeal decision and the Inspector's reasoning, a fresh planning application was submitted. It is this application, addressing as it does the latter two issues identified in the above appeal decision that is now the subject of this appeal.

4 Planning Application 3/2023/0226-The Appeal proposal

4.1 This is a prior approval application for the proposed conversion/redevelopment of two agricultural buildings into two dwellings. [resubmission of application 3/2022/0436]. The very specific details of this application, what was proposed and how the issues identified by the Inspector in the appeal decision have been addressed are set down clearly and precisely by Peter Hitchen Architects in their appeal statement. In having regard to that statement, it is important to understand the reasons for refusal now offered by the planning authority; they are as follows:

1. The development fails to satisfy Schedule 2 Part 3 Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in so far as the development consists of building operations that are not considered reasonably necessary to convert the buildings, namely the provision of retaining wall structures and change in land levels shown to the front of the buildings.

2. The design and external appearance of the development would adversely affect the character and appearance of the buildings and the surrounding countryside. The proposal would fail to comply with paragraph 130 of the National Planning Policy Framework and policy DMG1 of the Ribble Valley Core Strategy. It would therefore fail to satisfy Schedule 2 Part 3 Class Q 2 (1) (f) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

3. Insufficient evidence has been submitted to assess the potential impact of the development on protected species, in particular badgers. In the absence of such information, the likelihood that the proposed works would adversely impact on protected wildlife within or adjacent to the site cannot be determined. The development would therefore fail to satisfy the requirements of Schedule 2 Part 3 Paragraph W of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and paragraphs 174 and 180 of the National Planning Policy Framework.

5 The Development Plan

5.1 Ribble Valley Core Strategy

Development Strategy

Key Statement DMG1-General Considerations

National Planning Policy Framework (The Framework)

Paragraphs 130, 174, 180

6 The Planning Balance

It is respectfully submitted that there are three issues for consideration in the appeal and these are:

- Inappropriate building operations;
- Inappropriate design and external appearance;
- Impact upon protected species;

Inappropriate Building Operations

- 6.1 In the first reason for refusal set down by the planning authority, the specific concern and the reason why it is considered that the proposal fails the requirements of Schedule 2 Part 3 Class Q of the Town and Country Planning [General Permitted Development][England] Order 2015 [as amended] is because the development consists of ***“building operations that are not considered reasonably necessary to convert the buildings, namely the provision of retaining wall structures and change in land levels shown to the front of the buildings”***.
- 6.2 In the interests of clarity and in order that all parties to this appeal fully understand the full extent of development proposed, the following is a clear statement of fact. As referenced in this reason for refusal, there is no introduction, by way of provision, of any “retaining wall structures”, nor is there any ground works proposed relevant to land levels. Both these elements of the submission have been very clearly identified and highlighted in all the submitted plans/graphics for both applications and appeal submissions. The Inspector dealing with the first appeal did not raise the specific issue of the extent of concrete apron, the level of land around the structures or the “retaining wall structures”, all clearly evident on site, in his decision letter or his reasoning! There is clearly no necessity to remove these existing “retaining wall structures” or to alter the existing land contours around the buildings, there never has been. Neither formed any part of the original decision to refuse consent nor did they feature in the previous Inspector’s reasoning and decision. The planning authority appear, in the second application decision, to be looking for a reason to withhold consent where none exists.

Inappropriate Design and External Appearance

- 6.3 Peter Hitchen Architects deal very specifically with this reason for refusal in their statement of case. They are an extremely experienced Practice and have been involved in the proposals at the appeal site since original inception. They are familiar with the policy criteria set down in Core Strategy DMG1. They set down clearly what parameters they have looked at, alongside the reasoning put forward by the Inspector in the first appeal decision and have made significant alterations

and amendments to the design and external appearance of the proposed conversions. It is respectfully submitted that such amendments bring the conversion well within the overall requirements of Class Q, the Core Strategy policy requirements of DMG1 and paragraph 130 of the National Planning Policy Framework

Impact upon Protected Species

- 6.4 Following the first refusal and subsequent appeal decision, the appellant, in his resubmission, commissioned a protected species assessment which forms part of this appeal submission. The evidence is clear and unequivocal, no protected species will be compromised by the proposal and a planning condition can be imposed that requires mitigation measures to be implemented if necessary. At no time throughout the whole planning process from the very first planning submission have the planning authority made any request for a protected species assessment and most certainly, they have never sought a specific survey assessment with regard to badgers. If, as part of the application determination process, the LPA consulted with relevant environmental protection groups with regard to badgers, then they have a specific and moral duty to relay any concerns expressed to the applicant so that they have the opportunity to address any such issues raised. They did not do so. Indeed, in the online planning register, there is no reference to any consultation with a badger conservation group nor any response thereto!

7 Conclusions

- 7.1 It is submitted that the reasons for refusal put forward by the planning authority are spurious and without foundation. The proposal now complies fully with the requirements of Schedule 2, Part 3, Class Q of the Town and Country Planning [General Permitted Development][England] Order 2015.

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