

# **RIBBLE VALLEY BOROUGH COUNCIL**



Ribble Valley  
Borough Council

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## **APPEAL STATEMENT OF CASE**

### **TOWN & COUNTRY PLANNING ACT 1990**

|                                         |                        |
|-----------------------------------------|------------------------|
| <b>Planning Inspectorate Reference:</b> | APP/T2350/W/23/3325434 |
| <b>LPA Application Reference:</b>       | 3/2023/0226            |

Appeal by Mr Tom Procter  
Against the refusal by  
Ribble Valley Borough Council to refuse prior approval for:

**Prior notification application for the proposed conversion/redevelopment of two agricultural buildings into two dwellings**

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

**REPRESENTATIONS SUBMITTED ON BEHALF OF  
THE LOCAL PLANNING AUTHORITY**

## **1. Introduction**

1.1 This appeal is against the decision of Ribble Valley Borough Council to refuse a prior notification application for the proposed conversion/redevelopment of two agricultural buildings into two dwellinghouses at Land adjacent to Miles Hill, Moor Lane, Billington.

1.2 The application was refused under delegated powers on the 5<sup>th</sup> May 2023 for the following reasons:

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 had 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.

## **2. Appeal Site and Surrounding Context**

- 2.1 The appeal relates to a parcel of agricultural land accessed off Moor Lane within land designated as Green Belt.
- 2.2 The site lies more than a mile from the nearest settlement of Langho.
- 2.3 There is an existing vehicular access from Moor Lane into the site which is a single-track road. Public Footpath 3-6-FP 46 runs through the site from Moor Lane to the north to Shawcliffe Lane to the southeast.
- 2.4 The surrounding area is rural in character with agricultural buildings and associated farmhouse properties sporadically sited along Moor Lane. The access track is long and narrow and rising up a steep hillside with limited passing places and poor surfaces. The access to the site is over 1.2 miles from its junction with Whalley Road to Moor Lane to the northeast and over one mile from junction with Whalley Old Road to the west.

## **3. Proposed Development**

- 3.1 Prior Approval is sought under the Town and Country Planning Act General Permitted Development Order 2015 Schedule 2 Part 3 Class Q (as amended) for:
  - (a) change of use of two buildings and land within their curtilage from agricultural use to a use falling within Class C3 (dwellinghouses); and
  - (b) building operations reasonably necessary to convert the buildings referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

## **4. Relevant Planning History**

### **4.1 3/2022/0436:**

Prior notification application for the proposed conversion/redevelopment of two agricultural buildings into two dwellings – Refused - Appeal Dismissed.

**4.2 3/2007/0657:**

Proposed agricultural building – calf rearing unit – Approved.

**4.3 3/2006/0126:**

Proposed agricultural building to provide winter housing for cattle – resubmission- Approved.

**5. Relevant Planning Policy & Guidance**

- 5.1 The planning policy context for the appeal site is set out at a national level by the National Planning Policy Framework (NPPF) and at a local level by the Ribble Valley Core Strategy (Adopted 16th December 2014).

**6. National Policy Context**

- 6.1 The National Planning Policy Framework (July 2021) provides the most up to date national planning policy context for the determination of the appeal and is therefore a material consideration in planning decisions.
- 6.2 The NPPF (Para.2) reaffirms that the planning system is plan-led, and that Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be considered in preparing the development plan and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

**7 Case for the Local Planning Authority**

- 7.1 The main issues for this appeal relate to whether the building operations required to facilitate the change of use are reasonably necessary; whether the design and external appearance of the resultant buildings is acceptable; and impacts on ecology.
- 7.2 The existing site plan A1.1 submitted with the application indicates the access and areas of hardstanding and this is not disputed. However, the proposed site plan A1.2 and proposed floor plans A2.2 indicates that retaining walls along the southern edge of the two units would

be formed together with five wide steps leading down to the southern entrance of both buildings. Existing and proposed site plans (A1.5 and A1.6) have been submitted with the Appeal showing spot levels remaining the same. However, as mentioned the steps and retaining walls clearly shown indicate that the land form will be changed with the introduction of retaining walls and steps down to both units. This is also illustrated in the visuals submitted. These engineering works are considered to go beyond the realms of reasonably necessary.

- 7.3 Taking into account the proposed changes in design and materials Barn 1 would have ten regular sized and placed rooflights including one over the overhang to the south east. This together with regular doors and windows proposed to the south west, south east and north east elevations results in an overtly domestic appearance with the introduction of three large, glazed elements on the north west elevation has the appearance of 'retro-fitting' a residential use into buildings not designed for such a use.
- 7.4 Barn 2 would have eight regular sized and placed rooflights including one over the overhang to the south east this together with regular doors and windows proposed to the all four elevations results in an overtly domestic appearance with the introduction of two large, glazed elements on the north west and south west elevations has the appearance of 'retro-fitting' a residential use into buildings not designed for such a use.
- 7.5 The site area beyond the built form is limited and the distances between the two buildings is closer than would usually be acceptable, with limited curtilage for each dwelling the proposal would represent a cramped form of development.
- 7.6 The existing modern steel framed buildings have a functional agricultural purpose and do not represent high quality design. Whilst a modern design is not necessarily unacceptable in this case the proposed design would create an incongruous feature in this rural location. Therefore, the proposed development is not acceptable in terms of design and materials in this location.
- 7.7 Bats and badgers and other species are protected under the Wildlife and Countryside Act 1981 and the Conservation Habitats and Species Regulations 2010 and it essential that their presence or otherwise and extent to which they might be affected by the proposed development is established prior to any permission being granted in order that all potential impacts have been fully considered and any mitigation considered necessary is secured.

- 7.8 In this case whilst a bat survey was submitted the potential for other wildlife to be present on the site was not adequately assessed. A report into potential for badger setts near to the site has been submitted with the appeal documents. However a full Phase I habitat survey of the site and adjacent land has not been undertaken to rule out the presence or absence of all protected species and any impacts. Refusal reason 3 refers to badgers in particular, but is not exclusive to badgers.

## **8 Comments on Appellants Statement of Case**

- 8.1 The appellant within their supporting appeal statement has not addressed the three reasons for refusal. The agent submitted a design statement to support the submission which is titled architectural design statement and consists of four pages of text and six photos of the existing site. The section titled conversion has been expanded in light of the Inspectors comments in terms of limited architectural input and contextual consideration for the location. However, the end result is overtly domestication with timber cladding and regular domestic windows and patio doors.
- 8.2 The statement states that the resubmission was accompanied by a protected species survey to address all aspects and any mitigation measures as necessary. This was not the case as a bat and bird survey was submitted but not a full Phase I habitat survey of the site and adjacent land.
- 8.3 A Reasonable Avoidance Survey for Badgers has been submitted along with this Appeal. Although not a full habitat survey together with the bat and breeding birds survey it does assist in assessing the potential impacts and consider appropriate mitigation measures which can be conditioned. However as referred to above in the absence of a full Phase 1 habitat survey it cannot be reasonably concluded that no unacceptable impacts on all protected species and habitat would occur.

## **9. Conclusion**

- 9.1 Taking into account the above matters it is considered that the proposal does not meet the requirements of Class Q and prior approval should be refused.

9.2 As such, and for the reasons outlined above, whilst having regard to all material matters raised, that the Inspector is respectfully requested to dismiss the appeal.

## Conditions

If the Inspector is minded to allow the appeal then the following conditions are suggested:

- 1) The development must be begun before the expiration of three years from the date of this permission.

Reason: To confirm with Class q Part 2 of Schedule 2 of the Town and Country Planning (England) (General permitted Development) Order 2015.

- 2) Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Location Plan 1:1250  
Existing Site Plan PHA/680 100  
Proposed Site Plan PHA/680 200  
Proposed Plot 1 PHA/680 300  
Proposed Plot 2 PHA/680 400

Reason: For the avoidance of doubt and to clarify which plans are relevant to the consent.

- 3) Notwithstanding the submitted details, precise specifications or samples of external facing and roofing materials, windows and doors shall have been approved before their use in the proposed development. The materials shall be implemented within the development in strict accordance with the approved details submitted to and approved by the Local Planning Authority

Reason: In order that the Local Planning Authority may ensure that the materials to be used are appropriate to the locality.

- 4) The development hereby permitted shall not be commenced until details of the hard and soft landscaping of the site, including the retention of existing trees and hedges, have been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall indicate, as appropriate, the types and numbers of trees and shrubs, their distribution on site, those areas to be seeded, turfed, paved or hard landscaped, including details of any changes of level or landform and the types and details of all boundary fencing and screening.

All trees and hedgerows identified to be retained within influencing distance of the development will be adequately protected during construction, in accordance with BS5837; 2012 'Trees in relation to design, demolition and construction' equivalent unless otherwise agreed. The agreed protection measures shall be put in place and maintained during the construction period of the development.

The approved landscaping scheme shall be implemented in the first planting season following occupation or use of the development, whether in whole or part and shall be maintained thereafter for a period of not less than 10 years to the satisfaction of the Local Planning Authority. This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted.

Reason: To ensure the proposal is satisfactorily landscaped and appropriate to the locality.

- 5) No external lighting shall be installed on site unless details of such lighting has been submitted to and approved in writing by, the Local Planning Authority the details of which shall include the location, intensity of lighting, type of application and direction.

The details shall include the light mitigation measures designed to reduce the impact of artificial lighting on protected species/species of conservation concern identified and/or other named species.

Reason: In order to reduce the harmful impact of artificial lighting on the natural foraging/roosting/nesting behaviour of a protected/species of conservation concern and in the interests of the visual amenities of the area.

- 6) The car parking areas shown on the approved site plan PHA/680 200 shall be surfaces and made available for use before the first occupation for the building and shall thereafter be retained for that purpose thereafter.

Reason: To ensure adequate parking is available within the site.

- 7) The curtilage of each dwelling hereby approved shall be as indicated on approved site plan PHA/680 200 and must not be extended beyond that area.

Reason: To ensure the proposal accords with the provisions of the Town and Country Planning (England) (General Permitted Development) Order 2015 and to enable the Local Planning Authority to limit the extent of development within the Green Belt.

- 8) Any removal of vegetation including trees and hedges shall be undertaken outside the nesting bird season [March - August inclusive].

Any removal of vegetation out with the nesting bird season shall be preceded by a preclearance check by a licensed ecologist on the day of removal.

Reason: To ensure that there are no adverse effects on the favourable conservation status of birds.

- 9) Prior to any development on site a precautionary site walkover should be undertaken to confirm the lack of badger activity on the site. If an active sett is present and further reasonable avoidance measures (RAMs) can not mitigate risk then a license will be required from Natural England.

If no active setts are identified then development works can proceed subject to the following RAMs below:

- Toolbox talk to all contractors regarding the legal protection afforded to badgers in the UK and procedures to be in place to mitigate any potential impact;
- Attention to site hygiene and food and food wrappings disposed of appropriately;
- Any chemicals to be stored securely, in badger proof containers, in accordance with best practise guidelines;
- Avoid work between dusk and dawn as this is the period when badgers are most active;
- Avoid additional lighting to the northern and eastern site boundaries;
- Any excavations are closed over at night;
- Open pipework larger than 150mm outside diameter to be blocked off at the end of each day;
- All excavations to be inspected at the start of each day;
- An emergency procedure if badger/badger setts are unexpectedly encountered;
- In the event badgers are discovered then contact an Ecologist for further advice; and
- All work within 30m (100m for high noise/vibration activities) should cease until the ecologist has inspected the site and determined the appropriate course of action.

Reason: In the interests of biodiversity and to ensure protected species of conservation concern are not unduly impacted.

- 10) Prior to any development on site details of provisions to be made for species of conservation concern, artificial bird nesting boxes and artificial bat roosting sites as well as measures to prevent species from entering the site, have been submitted to, and approved in writing by the Local Planning Authority.

The details shall be submitted on a site plan and include details of the numbers of artificial bird nesting boxes and artificial bat roosting sites to be provided on trees within the site and measures to prevent conservation species entering the site once work has commenced.

The artificial bird/bat boxes shall be provided before the development is first brought into use and retained as such thereafter.

Reason: In the interests of biodiversity and to enhance nesting/roosting opportunities for species of conservation concern and protected species.