

Eatoughs Barn
Fleet Street Lane
Ribchester
Lancashire
PR3 3XE
Date: 23rd October 2018

Ref: Planning Application 3/2018/0447 – Removal of Permitted Development Rights.

Under Condition 6 of the approval of 3/2017/0765, the general Permitted Development Rights for Eatoughs Barn were effectively removed. The Ribble Valley Planning Authority apparently did not follow due process for this during the consideration of 3/2017/0765 and so this application 3/2018/0447 requested a removal of Condition 6 as it appears not to have been properly justified under the existing rules and planning guidance.

While we are aware that an Article 4 direction may be in force to withdraw Permitted Development rights for properties within the Forest of Bowland Area of Outstanding Natural Beauty and that this would be a normal restriction for many property developments being presented to the Ribble Valley Planning Authority, Eatoughs Barn does not fall within the AONB and is not subject to an Article 4 restriction.

Salient Facts

The property

- Is **not** of historic Interest
- Is **not** within Greenbelt, an Area of Outstanding Natural Beauty or National Park
- Photographic evidence shows that, in addition to the barn and shippon, historically five permanent structures were constructed within the curtilage, all of which have been since demolished.
- The property is at the end of an un-adopted lane, with no through traffic.
- The property is surrounded by private land and is not immediately overlooked by other properties.
- The property is immediately adjacent to at least three other properties which, all of which appear to enjoy unrestricted permitted development rights.
- Since the removal of permitted development rights for Eatoughs Barn, one of these adjacent property owners has had this PD right confirmed by the LPA and this owner intends to build a large barn in the adjacent field under Permitted Development rights (see application 3/2018/0012). In addition, the same applicant has had planning permission granted to construct a second large barn adjacent to the first within the same field (application 3/2018/0224). These buildings are both larger than the existing Eatoughs Barn structure, far greater in extent to any development that would be applicable under PB rights for Eatoughs Barn and all within 20-80m of Eatoughs Barn. This freedom offered to other adjacent landowners, especially when one of the buildings approved by the LPA is within the

recommended separation of 400m separation guidance given within the Town and Country Planning (General Permitted Development) (England) Order 2015, Part 6, Section A1 (i). This apparent approval from the LPA to allow a significant increase in the density of other buildings in this location in itself brings into question the stated reason for rejection of this application as being a potential material harm, the character and visual amenity of the surrounding landscape.

However, beyond simply a difference of opinion, in removing the permitted development rights of Eatoughs Barn, the Local Planning Authority has failed to follow the requirements that are imposed upon it by the Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2.

The Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 covers Permitted Development Rights and Schedule 2, Part 1, Class A covers the enlargement, improvement or other alteration of a dwelling house. Within this document are the circumstances where permitted development rights are not permitted.

Accepting the general rules of size and positioning of additional structures, the general Class A rights are withdrawn when permission to use the dwelling house has been granted by virtue of Class Q of Part 3 of the Schedule (permitted development for the conversion of agricultural buildings). In the case of Eatoughs Barn, the development has been approved through the granting of a normal planning application. This application has neither attempted to invoke, enjoyed the conditions of, nor been granted under the conditions of Class Q permitted development; therefore, the withdrawal of further permitted development under Schedule 2, Part 1, Section A1(a) is not applicable in this case.

The use of Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 generally applies to protect areas, such as Areas of Outstanding Natural Beauty, rather than specific property developments, although in exceptional circumstances it may be applied to a property. There has not been an application for powers under Article 4 which affect the property in question.

As there is no proposed Article 4 withdrawal of rights, then withdrawal of permitted development would then need to pass the 6 tests given in the National Planning Policy Framework.

We recognise that withdrawal of permitted development rights can also be made through the use of planning conditions permitted by the Town and Country Planning Act 1990, and Section 70(1)(a). This enables the planning authority, in granting planning permission, to impose 'such conditions as they think fit' and, while this appears wide ranging, guidance within the National Planning Policy Framework states that 'Planning conditions should only be imposed where they are:

- 1) Necessary
- 2) Relevant to planning and;
- 3) Enforceable
- 4) Precise and
- 5) Reasonable in all other respects

On the subject of the use of conditions to restrict the future use of permitted development rights, the Government Guidance on the Use of Planning Conditions (March 2014) Guidance also states the following (my italics):

Conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015, so that it is clear exactly which rights have been limited or withdrawn. Area wide or ***blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.*** The local planning authority also has powers under article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to enable them to withdraw permitted development rights across a defined area.

Paragraph: 017 Reference ID: 21a-017-20140306

Revision date: 06 03

Should this route be followed, it is a requirement from Government Guidance on the Use of Planning Conditions (March 2014) that clear and precise reasons must be given by the local planning authority for the imposition of every condition.

Paragraph: 023 Reference ID: 21a-023-20140306

Revision date: 06 03 2014

Currently the only stated reason on the planning application decision notice is so that future development will comply with the Ribble Valley Core Strategy Policy DMG1, DMH3 and DMH4 and key statement EN2 of the Ribble Valley Core Strategy.

Taking these in turn:

Ribble Valley Core Strategy Policy DMG1 addresses General Considerations to be followed when determining the outcomes of planning applications. Contrary to the statement in the decision notice to 3/2018/0447, Permitted Development rights are not counter to this policy.

Ribble Valley Core Strategy Policy DHM3 covers policies within AONB and Open Countryside. For Open Countryside, this invokes Ribble Valley Policy DS1 and DMG2. DS1 covers geographically within the Ribble Valley planning area most of the new housing shall be concentrated (and is therefore unrelated to PB rights).

DMG2 relates to strategic considerations when considering planning applications which for properties in open countryside means they should be in keeping with the character of the landscape. As permitted development is the agreed flexibility offered to an owner where no planning permission is required, then the guidance policies for the LPA when considering planning applications is not relevant to PD as, by definition, it is development that does not require planning consideration or approval. Again, this is not a valid justification.

Ribble Valley Core Strategy Policy DHM4 covers the approval considerations for barns and other dwellings. This policy has been followed fully in the request and granting of application 3/2017/0765 and the policy does not refer to permitted development rights. Again, this policy does not require and does not justify the removal of PD rights.

Key Statement EN2 of the Core Strategy relates to protecting the Forest of Bowland Area of Outstanding Natural Beauty and as Eatoughs Barn is not within this area it is out of scope of this Key Statement and reference to this document has no relevance to this case.

The only somewhat relevant reference within the LPA's response is the implied reference to Ribble Valley Core Strategy Policy DMG2. However, this policy refers to the considerations required when assessing those developments that require planning approval, but as permitted development does not require such approvals, it appears that even this is out of scope. Furthermore, on the subject of whether it is acceptable to use references to the Local Plan to impose conditions, Government Guidance on the Use of Planning Conditions (March 2014) also states that:

"... it is still necessary to consider whether conditions would be justified in the particular circumstances of each proposed development, as a Local Plan policy cannot be used to justify a condition that does not meet the 6 tests."

Paragraph: 020 Reference ID: 21a-020-20140306

Revision date: 06 03 2014

Therefore we would request and require a clear and precise reason for the withdrawal of each aspect of permitted development as outlined by Government Guidance on the Use of Planning Conditions (March 2014) Paragraph 17 (cited earlier) and with reference to the Town and Country Planning (General Permitted Development) (England) Order 2015. We requested this of the LPA as part of the application 3/2018/0447 but they have failed to respond to this as they are required to if they are to follow Government Guidance.

The total removal of general permitted development as an approval condition does not seem to have been warranted in this case. I would like to highlight two aspects which are relevant to the consideration of removal of general permitted development rights:

- 1) The withdrawal of permitted development pertaining to openings would seem unjustified given that there is clearly no great sensitivity to the number or location of openings in this property, given that five very different appearances have been either historically present, or accepted by the planning authority as being acceptable; these are the openings currently present, those shown in a photograph taken in 1976 (and included in the planning submission), as well as those approved in planning applications 3/2014/0899, 3/2017/0021 and 3/2017/0765.
- 2) The stated aspiration to control and preserve the visual amenities would seem to be at odds with the history of this location, given that a greater number of buildings and a greater building area than those given on application 3/2017/0765 have apparently been an enduring feature of this site for at least many decades. Several aerial photographs show a

further return to the shippon (which is now deleted) and existence of at least a total of four other permanent structures on the site in addition to the main building (see accompanying images).

I can appreciate the concern of the LPA to control the character of the area, and we have hitherto worked hard (and at some considerable expense) to address the concerns of the LPA to improve of the appearance of the existing approved barn structure, but this additional restriction seems unwarranted.

The concern raised refers to Eatoughs Barn, which is some 20m or less from a 27m x 12m, 6.7m high structure, which the LPA has allowed for an adjacent land owner under Permitted Development rights (see 3/2018/0012). In addition, Eatoughs Barn is immediately adjacent to another building, Eatoughs Farm, for which the LPA has not withdrawn permitted development rights (see 2/2014/0902), so if the LPA has a concern about the site characteristics and landscape setting, then the PD rules appear to be, at best, inconsistently applied at this location.

The large barn structure currently permitted under PDR following application 3/2018/0012 is quite clearly a structure which will have a far greater visual impact upon the site characteristics and landscape than any permitted development that could be otherwise enjoyed by Eatoughs Barn. In fact, the historic building density on Eatoughs Barn's own curtilage has been far higher for at least many decades (see attached images) and so the site characteristics have historically been much denser than currently permitted under 3/2017/0765.

In summary, I would appeal the decision on 3/2018/0447 not to reinstate the permitted development rights as we feel the original removal, and subsequent justifications, have not followed the required due process and the removal of PD rights are unwarranted for this property due to the following reasons:

- 1) Withdrawal of permitted development rights as a condition for approval of application 3/2017/0765 does not appear to meet the 6 tests of the National Planning Policy Framework
- 2) The property does not seem to fall into a category of 'exceptional' given
 - a. It is a private site that is not overlooked.
 - b. its location outside of an AONB and surrounded by private land.
 - c. the plot history prior and planning approvals appear to show significant flexibility in the external appearance.
 - d. prior site history is one of being more visually dense than present.
- 3) There is no withdrawal of permitted development under Article 4.
- 4) The adjacent properties have retained, and even recently enjoyed, the freedoms of permitted development rights, limiting the rationale to restrict permitted development rights as part of on the grounds of visual amenity.
- 5) The references to local planning policy as justification for the removal of permitted development guidance appear not to be directly pertinent and therefore does not meet the test that clear and precise reasoning is given for that condition. The use of this as a justification also appears to be directly in conflict with Government Planning Guidance.
- 6) The blanket withdrawal of permitted development rights for this dwelling house does not appear to meet the spirit, nor the letter of the guidance as defined in Government Guidance on the Use of Planning Conditions (March 2014).

We would therefore respectfully like to appeal the decision to deny the application of 3/2018/0447 which relates entirely to the the general withdrawal of permitted development rights for Eatoughs Barn.

If the authority still feels they are unable to rescind Condition 6 relating to application 3/2017/0765, then it would appear that the authority has an outstanding obligation to give clear and precise reasons for the withdrawal of each individual aspect of permitted development as outlined by Government Guidance on the Use of Planning Conditions (March 2014) Paragraph 17 (cited earlier) and with reference to the Town and Country Planning (General Permitted Development) (England) Order 2015. I regret to say that referral to the current stated reason does not only seem insufficient in this regard, but also appears the citing of Local Plan Policy as a justification is direct conflict with the Government Guidance on the Use of Planning Conditions (March 2014), paragraph 020.

Please feel free to contact me by post, email or phone should you wish to discuss this.

Yours sincerely,



Rob Midgley



Buildings Historic Record of Structures within Eatoughs Barn's Curtilage

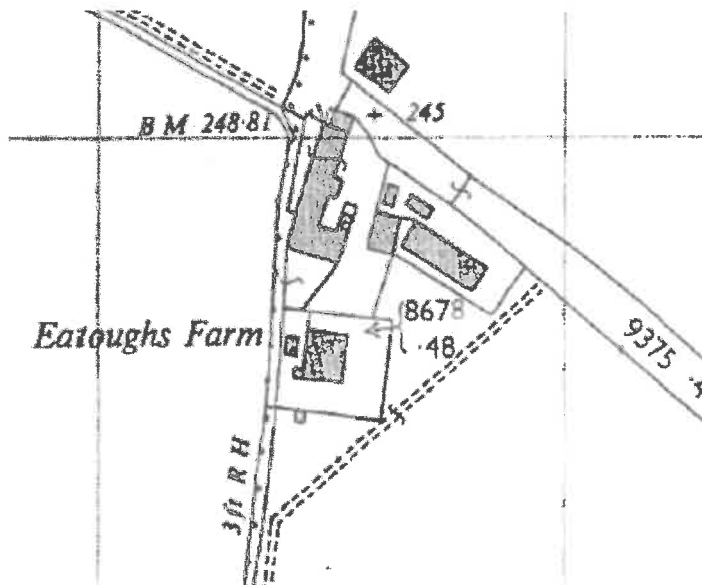


Figure 1 Extract of 1967 OS map showing outbuildings

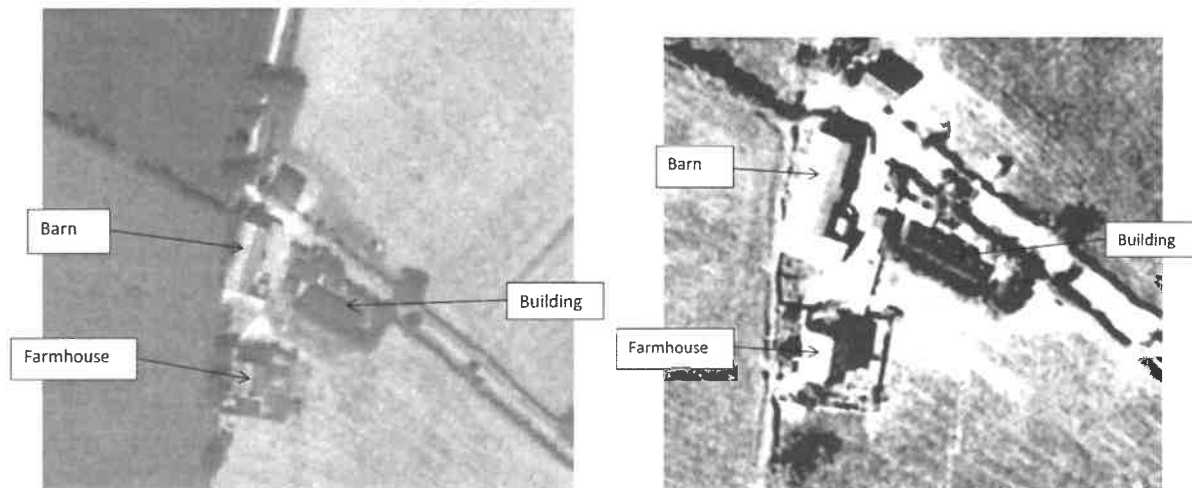


Figure 2 1940's and 1960's Aerial Images Showing Substantial Pre-Existing Outbuildings. Note the historic record for additional building area which is similar to, if not greater than, the primary barn in extent.



Figure 3 Images of Most Recent Outbuildings (now demolished)