Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Our Ref: RG/RG/G267/L001
Date: 29th April 2025

Dear Sir / Madam

APPEAL STATEMENT ON BEHALF OF THE APPELLANT
LPA APPLICATION REF : 3/2025/0093
1, 2 & 3 SKIRDEN LODGE, WIGGLESWORTH ROAD, SLAIDBURN, BD23 4SX

We are instructed by Andrea Waddington to submit this appeal against the refusal by Ribble Valley Council of application 3/2025/0093, which promoted the following development :

Alterations to existing building with nil use to form a 2 bedroom dwelling with car parking, garden curtilage and hard and soft landscaping.

The application was confirmed as valid by the LPA on 26/02/2025, and refused on 22 April 2025 for the following reason:

'The proposed development would amount to the introduction of a new residential dwelling in the defined National Landscape outside of a settlement boundary without sufficient justification, insofar that it has not been adequately demonstrated that the proposal would meet any of the exception criteria which allow for such forms of development. Furthermore the rural location of the application site means that future occupants would be reliant on a private motor vehicle to access services and facilities. Therefore the proposal fails to comply with Key Statements DS1, DS2 and DMI2 and Policies DMG2, DMH3 and DMG3 of the Ribble Valley Core Strategy 2008 – 2028 as well as the National Planning Policy Framework where it seeks to promote sustainable transport.'

Aside from discussion about the wording of the description of development at validation stage, correcting the site address and altering a drainage-related question (see below), there was no substantive dialogue with the LPA about the specifics of the application during its course. That said, no changes occurred to the scheme details and no additional information was requested or submitted (beyond the adjustments made at validation stage). The application documentation is listed towards the end of this letter.

The refusal notice and officer's delegated report are enclosed for the Inspector's information.

Invalid Communications and change of description of development and site address

Following the original submission, the LPA indicated that the application had been validated, but shortly afterwards – on 13th February 2025 – emailed the Appellant to state that it had been invalidated, principally on the basis of the development description.

The original description stated:

CONVERSION / ADAPTATION OF BUILDING TO FORM A 2 BEDROOM DWELLING WITH ASSOCIATED EXTERNAL ALTERATIONS, CAR PARKING, GARDEN CURTILAGE AND HARD AND SOFT LANDSCAPING

We considered at the time, and continue to consider that that was a perfectly appropriate / correct description, but the LPA queried the use of the building, suggesting that – if it has not been used for the approved holiday let function – it possessed a 'nil use' and accordingly suggested a change to the description to make reference to that.

Whilst we considered that to be an unnecessary request, the change in the description was agreed in the interests of moving matters along and avoiding a perfunctory and frustrating discussion that would in all probability have caused delays. We accordingly agreed to the following suggested revised description by email of 17th February 2025 (that email has been provided for the Inspector):

ALTERATIONS TO EXISTING BUILDING WITH NIL USE TO FORM A 2 BEDROOM DWELLING WITH CAR PARKING, GARDEN CURTILAGE AND HARD AND SOFT LANDSCAPING

At the same time (as had been requested by the LPA), we adjusted one drawing to remove reference to 'holiday lets' and submitted the following revised drawing to replace the original version:

- A1.3_Rev1 ' Existing Plans'

On 13th March 2025, we emailed the LPA, attaching a revised application form, noting that we had inadvertently / incorrectly stated the site address to be Skirden Hall Barn. The correct address is 1, 2 3 Skirden Lodge (as registered by the Post Office), and as such the revised application form reflected that. At the same time, we altered one of the drainage-related questions on the form.

Beyond the above, no further changes were made and no requests for any further information were made.

The Appellant's Case

The substance of the Appellant's Case is set out in the covering letter of 28th January 2025 that supported the planning application. That letter comprehensively explained the Appellant's position and considered the proposal against policy. We do not deviate from its contents. That said, rather than repeating the contents of that letter, we request the Inspector to treat it as forming a key component of the appeal case.

This appeal letter supplements the application letter and focuses on the specifics of the reason for refusal, and particularly the contents of the officer's delegated report which articulates the LPA's concerns in more detail. We accordingly comment below on that delegated report taking the points in the same order as raised in the report.

The key thrust of the LPA's case is that:

'… upon subsequent review of the supporting information provided, the building subject to this application is not considered to have been substantially completed with respect to its existing state of construction … In light of this, the principle of development proposed under this application has been assessed on the basis of the proposal constituting the introduction of a new build dwelling to the application site.'

Later in the delegated report, it is suggested that the previous:

'… permission relates to 3 holiday lets which the supporting information states there is no longer any intention to pursue. Therefore the Council does not consider the building in question can be considered that which was approved 2009.'

The Appellant disagrees with those sentiments on two grounds:

- First, the building is clearly substantially constructed (and lawfully so); and

- Second, it is illogical and perverse to have assessed the application as a new-build proposal, given that the building clearly exists and (we maintain) is substantially complete, and indeed could be completed at any stage in accordance with the holiday lets planning permission that remains firmly in place.

It is illogical that the LPA suggests that it does not consider the building to be the same as that approved in 2009, as it clearly is that building. The fact that it has not been used as holiday lets (for reasons articulated in the application paperwork) is, we suggest, largely irrelevant. The fact of the matter is that the building exists, and it is the same building that was approved in 2009. Its use or non-use is, we suggest, something of an irrelevance to its future use.

The officer report then appears to set aside the existence of what is inarguably a lawfully built building and pose the question whether:

'a building without planning permission has been in situ on the land for more than four years.'

The Appellant is confused by this stance. It is self evident that the building has not been in situ for over 4 years, but that is not the test in this case. The fact of the matter is that it has been built perfectly lawfully and it exists, and it will continue to exist (assuming it is maintained and kept watertight) for the next century and longer. In short, the building is going nowhere, and it calls to be put to a sustainable / optimum use.

To reinforce its position, the LPA leans on *Sage v Secretary of State for the Environment Transport and the Regions (2003)*. That case concerned the interpretation of the term 'substantially completed' in the context of section 171B (1) of the *Town and Country Planning Act* 1990, concluding that enforcement action cannot be taken after the expiry of 4 years beginning with the date when the operations were *'substantially completed'*.

However, this appeal case is very considerably different. This is not an enforcement case, and the subject building has been constructed correctly in accordance with the planning permission, including the correct discharge of conditions and sign off from the Council's Building Control department. Whilst an attempt appears to be made in the delegated report to 'fudge' the issue, there is no dispute that planning permission is in place for the as-built building or that it has not been built in accordance with that permission. The building is clearly lawful and that cannot sensibly be questioned.

It is therefore inconceivable that the LPA has suggested that the application was:

'assessed on the basis of the proposal constituting the introduction of a ***<u>new build</u>*** *dwelling'*

The Appellant considers that an absurd approach in the circumstances.

Even in the event that the Sage case is relevant, it is disappointing that the LPA chose not to visit the site or inspect the building properly, and instead has adopted a speculative, and by virtue of that, a largely incorrect position.

The delegated report asserts that is in *'in a state of partial construction'*. That is based in part on its outer skin being incomplete. The Appellant acknowledges this. While she is at liberty to complete that outer skin at any time, there seemed little point in doing so yet, given that the proposal is to change and improve the external appearance of the building. That said, to complete the outer skin now would be a complete waste of time and expense, and hardly a sustainable scenario.

It is also worth highlighting that that outer skin has no bearing whatsoever on the structural integrity of the building. The structure as built comprises internal blockwork, an insulated

cavity, and external blockwork. From a construction perspective, this is a fully built structural wall, with the stonework being a final finish required purely for aesthetic compliance (and for no structural purpose).

The delegated report then relies on a photograph of the building's interior in the submitted preliminary ecological appraisal and points to absence of:

- plastered walls
- insulation
- heating
- electrics
- plumbing
- *'any rooms with a defined use and three physically separate units'*.

On that basis, the report concludes that:

'it is not considered that the application building, in its current state of construction, comprises the necessary integral components that would allow it to be capable of functioning for the residential use proposed under this application. Accordingly, the application building is not considered to be substantially complete in terms of its current state of construction and therefore it cannot be considered a lawful building if the intention is for it to be used as a dwellinghouse.'

Had the LPA taken the trouble to inspect the building, or ask simple questions, it would have established that, not only is the exterior of the building complete (aside from part of its outer 'decorative' skin), with a fully intact roof, double-skinned, fully insulated walls and windows, and it is also insulated at roof level; it contains electrical connections, including lighting and plug sockets; it is provided with water / plumbing; and it is also provided with a satellite dish. Certain partition walls have also been put in place. All of that is evidenced by the photographs at *Annex A*.

It is inconceivable to the Appellant that any objective party could sensibly conclude that the building has not been substantially completed, and it could of course be fully completed to accord with the approved holiday let schemes at any stage. However, as noted elsewhere, what purpose would that serve in the event that this appeal is allowed, as it would constitute redundant work that would need to be re-worked to reflect the proposed design improvements? That would not be a good or efficient use of resources, and would not be a sustainable outcome.

Having regard to the above, it is the Appellant's case that:

1. The building as built is perfectly lawful and in accordance with planning permission that remains in place;

2. The Sage judgement is of little relevance as that related to an enforcement matter with no planning permission in place;
3. The building is overwhelmingly complete, fully insulated and provided with all services.
4. The fact that it has not yet been plastered or that part of its outer 'decorative' skin has not yet been completed does not alter the fact that it is lawful and overwhelmingly complete.

The delegated report then notes that, even if the building is deemed to be substantially complete / lawful, the LPA is of the view that the proposal cannot be treated as a *'conversion'*, because that would require the building to have an established lawful use. This stance appears to be an attempt to argue that Policy DMH3 does not apply.

Again, the Appellant is confused, and we invite the LPA to point out where it is set out that a building without an active use cannot be converted. That is a nonsensical position. There are many buildings that do not have an active use – for example, redundant buildings whose former use has long since been abandoned. It would be absurd to suggest that such buildings cannot be subject to *'conversion'* / change of use planning applications. By way of one proxy, please refer to the allowed appeal decision at *Annex B* in which that Inspector approved the conversion of a building with 'nil use'.

On the basis of its position – and having very conveniently set aside Policy DMH3 - the LPA then considers the proposal against Policy DMH2 and concludes that it does not accord with that policy.

We dealt with this (and other policies) in our application covering letter. In that, we acknowledged that the proposal does not meet with criteria 1, 2 or 4 of the policy, but we suggested that it does reflect criteria 3 and 5, in that the proposal will cater for an *'identified need'* and will be a *'small scale use appropriate to a rural area'*. We also acknowledged that that *'identified need'* (the Appellant's parents) might not have arisen from a detailed assessment of wider local needs, but is nevertheless a specific local need of our client's aging parents who have lived on the land (in caravans) for close to 5 years, are coping with old age, poor health and infirmity, and have a perfectly reasonable / understandable desire to live close to their daughter and young grandchildren. Crucially – contrary to what the LPA appears to be suggesting - this is not an application proposing a new-build house, but rather to make good, sustainable and sensible use of an existing / lawfully built building which currently serves no purpose whatsoever.

It is also worth pointing out that the Appellant's parents have in fact lived on the land for 35 years. They bought Skirden Hall Barn in 1990. The Appellant's famer owns 15 acres of adjacent land and – with the assistance of the Appellant's brother in view of the poor health of his father – keeps 30 sheep on it.

Policy DMH2 makes it clear that, within the open countryside:

*'Where possible new development should be accommodated through **<u>the re-use of existing buildings</u>**, which in most cases is more appropriate than new build.'*

It makes exactly the same point in respect of the AONB, <u>repeating</u> that:

*'Where possible new development should be accommodated through **<u>the re-use of existing buildings</u>**, which in most cases is more appropriate than new build.'*

We therefore contend that the proposal is consistent with Policy DMH2, and (for reasons explained) we disagree with the LPA's suggestion that Policy DMH3 is not relevant. That policy makes it clear that - within areas defined as open countryside or AONB – residential development will be limited to, *inter alia*:

*'The appropriate **<u>conversion of buildings to dwellings</u>** providing they are suitably located and their form and general design are in keeping with their surroundings.'*

This proposal seeks the 'conversion' of an existing building to a dwelling, and in that respect it is consistent with the policy.

We have also argued that the site is *'suitably located'*, close to houses and Tosside as a small, but sustainable settlement, served by a church, community hall and public transport (see bus timetable at *Annex C*). The LPA seems to accept that position, stating in the delegated report that the site:

'is not considered to be physically remote (isolated) from a settlement … within walking distance of Tosside'

Crucially, Policy DMH3 is concerned with dwellings **<u>in the open countryside</u>** and – by definition – most proposals falling within the jurisdiction of this policy will inevitably be in the open countryside and not forming part of settlements. The policy therefore accepts that there will be occasions when housing is appropriate **<u>in the open countryside.</u>**

We therefore contend that the proposal is consistent with Policy DMH3, and – having regard to that and our wider assessment above of the relevant policies of the development plan – we suggest that the application is consistent with the Plan as a whole.

The delegated report then seeks to argue that occupiers of the proposed dwelling would largely be dependent upon private motor vehicles in order to access the services and facilities necessary to meet their day to day needs. It acknowledges that planning application 3/2009/0440 approved holiday lets, but suggests that those would *'not have the same day to day needs'* as permanent residents in accessing services and facilities, and as a result the

proposal would amount to an unsustainable development by virtue of the application site being in an unsuitable location.

That is disingenuous and not correct. The residents of holiday lets would in fact require very similar day to day needs as residents of a private home. They would admittedly not require school places, but they need to eat and buy the same amount of food and drink, and have access to medical facilities in exactly the same manner as private residents. Holiday visitors would not require access to employment, but they will be making comparable car journeys to and from the attractions of the local area.

Three sets of holiday makers will generate materially more car journeys than the residents of one private dwelling, and as such we disagree with the sustainability 'card' the LPA has attempted to play. The reality is that three holiday lets, with three sets of traffic and comings and goings, plus their travel to and from their normal places of residents, are considerably <u>less</u> sustainable in respect of use of 'resources' than one private dwelling.

The delegated report then seeks to undermine the relevance of the Caldecote appeal decision that we cited in our covering letter, inferring that one house is not really important when comparing it to 58 houses, and will not deliver the same extent of benefits. That is a given, but one house will still deliver benefits (even if those happen to be small scale). If the LPA's logic is followed, no small developments ought to be permitted on the basis of their limited benefits, and only large developments would acceptable. That is flawed logic.

Our purpose in referring to that Caldecote decision was not of course to suggest that a scheme of 58 new build houses is directly comparable to a conversion of a building to create one house. Rather, it was to highlight the ***'realistic approach'*** in rural areas as advocated by Inspector Nunn, who wrote:

'There is also a limited range of other essential shops and services. As a consequence, any residents of the new development are likely to travel further afield for shops, services and employment which will very likely necessitate trips by private vehicles. However, and importantly, the Framework, although seeking to promote sustainable transport, recognises that different policies and measures will be required in different communities, and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. It seems to me that South Cambridgeshire is primarily a rural district, which means many areas within it have restricted access to public transport, and limited facilities. <u>This requires a realistic approach</u> to the general travel method of its residents.'

The LPA also seems critical that – when compared to Caldecote's 58 houses - *'the primary benefactors of the proposed development being the applicant and their parents'*. The obvious retort to that is the applicant for the Caldecote appeal was hardly acting in philanthropic fashion. Each and every one of those 58 houses would be occupied by a single household (*'the primary benefactors'*), in exactly the same manner that this appeal proposal will.

Matters of agreement as raised by the LPA

The LPA confirms – and we agree – that *'the proposed development would [not] be harmful to the amenity of any neighbouring residents or future users of the site.'*

The LPA confirms – and we agree – that *'the proposed development would conserve the surrounding National Landscape without any harm to the visual amenities of the immediate or wider area.'* It is, however, disappointing that the LPA has not commented on / embraced the material design, landscaping and biodiversity enhancements that the appeal scheme will deliver over and above the bland and uninspiring development that it approved in 2009. Those will all deliver important betterments that ought to carry weight.

The LPA confirms – and we agree – that the proposed development would not have any undue impacts upon highway safety.

The LPA confirms – and we agree – that is *'not anticipated that the proposed development would have any undue impacts upon protected species.'*

The LPA raises no concern about BNG, noting that the necessary off site provision constitutes a post-permission matter that would be subject to further assessment through the imposition of the mandatory biodiversity net gain condition. Here we would again highlight the concerted attempt to provide landscape enhancements that will deliver considerably more / better quality on-site biodiversity than the approved scheme, which will be in addition to the mandatory 10% off site provision which it is not permissible to provide in a private garden.

Consultee / Third Party Comments

We note that no party has raised any objection to the proposal.

We also note that a number of local residents support the proposal, making it clear that – for their amenity and security reasons - they would much prefer the building to be occupied as a single dwelling as opposed to holiday lets.

We suggest that the extent of support from the immediate community, and the absence of any objection / concern from any party (aside from the LPA itself) ought to carry weight, as it is that community who will have to live with and be affected by the outcome of the appeal.

Concluding Comments

The LPA's principal argument appears to relate to what it suggests to be the un-lawfulness of the building. The Appellant cannot accept that position, given that there is no question that the building has been built pursuant to planning permission. Indeed, the LPA itself has not even questioned that.

That being the case, the building exists as a perfectly lawful building of substantial and permanent construction, which – irrespective of the outcome of this appeal – will sit on the land for the next century or so. In short, this building is going nowhere.

The Appellant also disagrees with the LPA's suggestion that it is not substantially completed. It is overwhelmingly complete, with double-skinned, insulated walls, a roof, doors and windows. Had the LPA taken the trouble to inspect the property rather than speculate on the basis of a photograph in the ecology report, it would have observed that it has been installed with electrics, plumbing, insulation, an extent of partitioning and a satellite dish. The fact that part of the external 'decorative' skin has not yet been completed (that work has sensibly been paused awaiting the outcome of this application / appeal rather than 're-do' that work) and has not been plastered internally does not render the building unlawful, and especially given that such works could be completed at any stage without reference to the LPA.

The application paperwork explained that (for very sound reasons) there is no longer an intention to utilise the building as holiday lets, and as such – rather than leaving it empty and festering (which would serve no sustainable purpose whatsoever or benefit any party) - it is perfectly appropriate to consider the repurposing of the building. There is an eminently sensible and sustainable use it can be put to - in the midst of a national housing crisis and a Government imploring us to *"get Britain building"* and an associated aspiration to build 1.5 million new homes in the next five years - which is to convert the building to create a suitable home for an elderly and increasingly infirm / poor health couple who have been residing on the land (in caravans) and paying Council Tax for approaching 5 years.

It is also of note that the immediate community has expressed overwhelming support for the proposal, and all have made it abundantly clear that they have concerns about the approved holiday lets in respect of their amenity and security. Given that the planning system exists to serve the community, we suggest that weight ought to be attached to the views of those most affected by the proposal.

We have given due consideration to the development plan and NPPF, and have drawn a different conclusion to the LPA, which has set out its stall - peculiarly given that the building clearly exists and is perfectly lawful - to base its assessment:

'on the basis of the proposal constituting the introduction of a new build dwelling'

Policy DMG2: Strategic Considerations makes it clear that, within both the open countryside and AONB:

*'Where possible new development should be accommodated through **the re-use of existing buildings**, which in most cases is more appropriate than new build.'*

Policy DMH3: Dwellings in the Open Countryside and AONB states that - within areas defined as open countryside or AONB – residential development will be limited to, *inter alia*:

*'The appropriate **conversion of buildings to dwellings** providing they are suitably located and their form and general design are in keeping with their surroundings.'*

As its title reinforces, Policy DMH3 is concerned with dwellings **in the open countryside**. By definition, most proposals falling within the jurisdiction of this policy will inevitably be in the open countryside and not forming part of settlements. The policy therefore accepts that there will be occasions when housing is appropriate in the open countryside. It states that buildings must be structurally sound and capable of conversion. In this case, there can be no question that the building is structurally sound and perfectly capable of being converted to a home.

The above is the Appellant's case when it is read alongside the assessment set out in the application covering letter / statement.

Having regard to all of that, we respectfully invite the Inspector to allow this appeal.

Appeal / Application Papers

The appeal paperwork (at this stage) comprises :

- Appeal form
- This letter as the Appellant's Appeal Statement [to be read alongside the application covering letter / statement]

The planning application paperwork comprised :

- Application form (as amended during validation stage)
- Roman Summer covering letter / statement dated 28th January 2025
- Design and Access Statement (Habitat Architects)
- Planting and Landscaping Statement (Habitat Architects)
- Preliminary Ecological Appraisal (Pennine Ecological)
- Biodiversity Net Gain Assessment (Pennine Ecological)
- Biodiversity Gain Plan (Pennine Ecological)
- Statutory Biodiversity Metric Calculation Tool (Pennine Ecological)

- The following drawings (Habitat Architects)

    - A0.0 – Location Plan
    - A1.0 – Existing Site Plan
    - A1.1 – Previously Approved Site Plan (holiday lets permission)
    - A1.2 – Proposed Site Plan
    - A1.3_Rev1 – Existing Plans [nb this drawing was amended at validation stage]
    - A1.4 – Previously Approved Plans (holiday lets)
    - A1.5 – Proposed Plans

The above / enclosed is the Appellant's case as it stands at the point of lodging the appeal.

If the Inspector or PINS require any further information from the Appellant, please do not hesitate to contact Richard Gee at the above offices.

Yours faithfully
for Roman Summer Associates Ltd

Richard Gee
Director

ANNEX A

Photographs of subject building

Drainage junction box linked to septic tank installed for the appeal building:

Electrics as installed

Electrics as installed

Plumbing as installed (blue pipe provides water connection)

Insulation, doors, electrics and lighting as installed

Roof insulation, partitioning and electrics as installed

Partitioning and electrics as installed.

Double-skinned external walls with cavity insulation as installed.

Electrics as installed

Doors and electrics as installed

Electrics as installed

Drainage as installed

Satellite dish as installed

Insulation and lighting as installed

ANNEX B

Allowed appeal Decision APP/D3505/A/10/2120904 in respect of the conversion / change of use of a 'nil use' building

Appeal Decision

Site visit made on 9 August 2010

by A J Davison BA(Hons) LLB(Hons) MSc MBA Dip LD RIBA FRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
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Decision date:
9 September 2010

Appeal Reference: APP/D3505/A/10/2120904/WF
129 High Street, Bildeston IP7 7EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Richard Gomersall against the decision of Babergh District Council.
- The application Reference B/09/01005/FUL/LM, dated 24 August 2009, was refused by notice dated 16 December 2009.
- The development proposed is the change of use of premises to dwelling.

Application for costs

1. An application for costs has been made by Mr Richard Gomersall against Babergh District Council. That application is the subject of a separate Decision.

Decision

2. I allow the appeal, and grant planning permission for the change of use of premises to dwelling at 129 High Street, Bildeston IP7 7EL in accordance with the terms of the application, Reference B/09/01005/FUL/LM, dated 24 August 2009, and the plans submitted with it, subject to the following conditions:

   1) The development hereby permitted shall begin not later than three years from the date of this decision.

   2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan (unnumbered), B001 (Plans/Elevations as Existing) and B002 (Plans/Elevations as Proposed).

Main issues

3. The appeal proposals relate to a Grade II Listed Building in a Conservation Area. The Council accepts that the proposed change of use would not directly affect the architectural or historic interest of the building and would preserve the character and appearance of the Conservation Area. I see no reason to disagree with that assessment. It is likely that the proposed change of use would involve some physical changes to the building but these would need to be the subject of a separate application for listed building consent.

4. Bearing that in mind along with the Council's reason for refusal, I consider the main issue in the appeal to be the effect of the proposed change of use on the economic and social well being of the village.

Reasons

5. The appeal building is towards the northern end of High Street, which is mainly residential although it does contain a number of commercial properties. The building has two ground floor rooms, with another room upstairs from which a staircase leads to a further attic room. It is in the same ownership as the adjoining house, 131 High Street, and the two are connected by internal doors on both ground and upper floors. They are also physically interlocked with some parts of the accommodation in 129 being above parts of 131 and vice versa. Indeed they are described in the statutory list as a single building.

6. The facts relating to the planning status of the building are not in dispute. The property was last used a shop in 1998. It was then vacant for several years. An application for a change of use to an office was submitted to the Council in 2000 but was never determined. Nevertheless the office use commenced and operated until July 2009, since when the building has been empty. As the office use did not have the benefit of planning permission and did not operate continuously for ten years, it was unlawful.

7. It is clear that the retail use of the building has been abandoned not only because of the length of time that has elapsed since it was last used for that purpose but also because it has been used for another, albeit unlawful, purpose for a number of years since then. I see no reason to disagree with the view expressed by the Council's legal officer that, since the unlawful use has also ceased, the building now has a "nil" use.

8. That being the case, the two Policies in the 2006 *Babergh Local Plan Alteration No 2*, upon which the Council relies, can not be relevant to the appeal proposal. Policy EM24 relates to applications to redevelop or use existing or vacant employment premises. The appeal building does not, as a matter of fact, have an employment use. Policy CR20 refers to changes of use resulting in the loss of a village facility. The appeal building can not, as a matter of fact, be regarded as a village facility because it does not have a use at all at present.

9. I can see nothing in the Local Plan policies to suggest that they should be used to promote unlawful uses. I do not, therefore, accept the Council's argument that the unlawful office use should be taken as having perpetuated the commercial status of the building in planning terms. Had the office use continued for longer and become lawful, the situation would have been very different and the policies would have applied. The fact is that it did not do so. The Council's desire to retain employment opportunities within settlements and to protect village facilities is entirely understandable. However, I can only base my decision on an objective view of the facts as they are.

10. Furthermore, even if the building did have a commercial use it is questionable whether the loss of that use would have an unduly harmful impact on the local economy. Local Plan Policy HS03 identifies Bildeston as a "sustainable village". The Local Plan was published six years or so after the lawful commercial use of 129 High Street had been abandoned. On that basis it would appear that the village would continue to be sustainable without the appeal property making any contribution to local employment.

11. For the above reasons I consider that the use of the property as a house would not harm the economic or social well being of the village.

Other Matters

12. Local Plan Policy HS32 requires developers to make a financial contribution towards the provision of public open space and play equipment elsewhere in circumstances where they can not be provided on site. The parties have each submitted a draft version of a Section 106 Agreement to that effect with their appeal documents but there is there is no signed and completed version before me. However, neither the officers' report nor the decision notice make any reference at all to the need for such an agreement. I consider that it would be unreasonable under those circumstances to attach weight to the absence of a completed agreement.

Conclusions

13. For the reasons given above I conclude that the appeal should be allowed.

Conditions

14. The Council has not suggested that any conditions other than the statutory time limit for starting development should be imposed if the appeal is allowed. In accordance with current policy I have also imposed the standard condition requiring development to be carried out in accordance with specified plans.

Anthony J Davison

Inspector

ANNEX C

Bus Timetable

HORTON - SETTLE - SLAIDBURN - DUNSOP BRIDGE - CLITHEROE 11

Monday to Saturday (excluding Bank Holidays) **from 2nd September 2024**

	BA							Sch	NSch		
Horton In Ribblesdale	..	..	0955	..	1155	..	1355	..	..	1555	..
Stainforth Village	..	..	1002	..	1202	..	1402	..	..	1602	..
Langcliffe Village	..	..	1007	..	1207	..	1407	..	..	1607	..
Settle Market Place	..	0857	1010	1057	1210	1257	1410	1457	1457	1610	1657
Giggleswick Raines Road	..	0859	..	1059	..	1259	..	1459	1459	..	1659
Rathmell Memorial	..	0904	..	1104	..	1304	..	1504	1504	..	1704
Wigglesworth Plough Inn	..	0909	..	1109	..	1309	..	1509	1509	..	1709
Tosside Bowland Fell Park	..	0916	..	1116	..	1316	..	1516	1516	..	1716
Tosside Community Hall	..	0920	..	1120	..	1320	..	1520	1520	..	1720
Slaidburn Car Park	0730	0930	..	1130	..	1330	..	1530	1530	..	1730
Newton War Memorial	0735	0935	..	1135	..	1335	..	..	1535	..	1735
Dunsop Bridge Post Office	0743	0943	..	1143	..	1343	..	..	1543	..	1743
Whitewell Whitewell Inn	0750	0950	..	1150	..	1350	..	..	1550	..	1750
Bashall Eaves School	0803	1003	..	1203	..	1403	..	..	1603	..	1803
Low Moor Leisure Centre	0808	1008	..	1208	..	1408	..	..	1608	..	1808
Clitheroe Interchange	0813	1013	..	1213	..	1413	..	..	1613	..	1813
Train dep. towards Blackburn	*0823*	*1022*	..	*1223*	..	*1423*	..	..	*1625*	..	*1823*

BA = on schooldays continues to Bowland Academy (0828)

Sch = Schooldays only
NSch = Not schooldays

	NSch	Sch								BA	
Train arr. from Blackburn	*0756*	*0756*	..	*1001*	..	*1201*	..	*1401*	..	*1601*	*1801*
Clitheroe Interchange	0820	0840	..	1020	..	1220	..	1420	..	1620	1820
Low Moor Leisure Centre	0826	..	..	1026	..	1226	..	1426	..	1626	1826
Bashall Eaves School	0831	..	..	1031	..	1231	..	1431	..	1631	1831
Whitewell Whitewell Inn	0845	..	..	1045	..	1245	..	1445	..	1645	1845
Dunsop Bridge Post Office	0852	..	..	1052	..	1252	..	1452	..	1652	1852
Newton War Memorial	0900	0900	..	1100	..	1300	..	1500	..	1700	1900
Slaidburn Car Park	0905	0905	..	1105	..	1305	..	1505	..	1705	1905
Tosside Community Hall	0915	0915	..	1115	..	1315	..	1515	..	1715	1915
Tosside Bowland Fell Park	0918	0918	..	1118	..	1318	..	1518	..	1718	1918
Wigglesworth Plough Inn	0925	0925	..	1125	..	1325	..	1525	..	1725	1925
Rathmell Memorial	0930	0930	..	1130	..	1330	..	1530	..	1730	1930
Giggleswick Raines Road	0935	0935	..	1135	..	1335	..	1535	..	1735	1935
Settle Naked Man Cafe	0937	0937	0940	1137	1140	1337	1340	1537	1540	1737	1937
Langcliffe Village	-----	..	0943	..	1143	..	1343	..	1543	..	..
Stainforth Village	-----	..	0948	..	1148	..	1348	..	1548	..	..
Horton In Ribblesdale	-----	..	0955	..	1155	..	1355	..	1555	..	..

NSch = Not schooldays **Sch** = Schooldays only
BA = on schooldays starts at Bowland Academy (1600)

This service is usually operated by a 15-seater minibus with a wheelchair space.
Operated by North Yorkshire Council, with support from Lancashire County Council