

Reasonable Avoidance Measures – Badgers.

**Outbuildings at land adjacent to Miles Hill,
Moor Lane,
Billington,
BB7 9JH**

Report prepared by:
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Summary

In February 2023 Batworker consultancy was commissioned to undertake a survey of outbuildings at land adjacent to Miles Hill, Moor Lane, Billington, BB7 9JH to assess the potential for use by bats and breeding birds.

A daytime survey was carried out on 8th March 2023 to support development plans. The site for proposed residential dwellings consists of an area of hardstanding unsuitable for the location of badger setts. No evidence to suggest use of the site by badgers was recorded.

In May 2023 Batworker consultancy was made aware of a request from Lancashire Badger Group:

"Lancashire Badger Group holds the most comprehensive database of badger setts within Lancashire and I write to inform you that there are 14 setts within a 2km radius of this site, the nearest being 0.41km.

We would respectfully request therefore that RAMS be implemented to protect any inquisitive badgers that may wander across the site, should this development receive approval."

The wider site was resurveyed for evidence to suggest use by badgers on 23rd of May. A search was made for field signs present such as paths, hairs, footprints, latrines etc. No evidence was recorded.

This method statement is designed to minimise or remove any potential disturbance to badgers as a result of development works.

By following the Reasonable Avoidance Measures and mitigation included in this document the work can take place, ensuring the Continued Ecological Functionality of the site.

Legislation

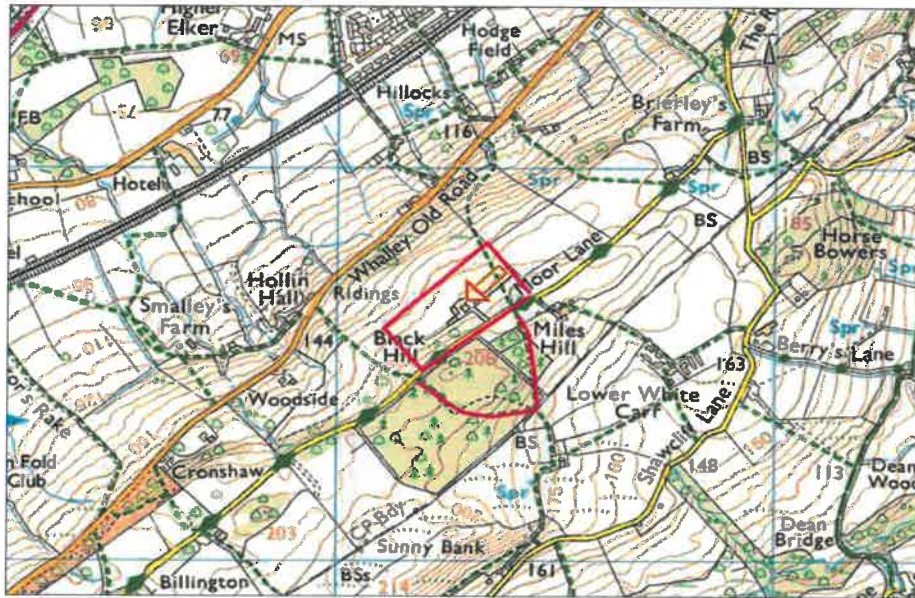
Badgers and their setts are protected under the protection of Badgers Act 1992. This means that it is unlawful to knowingly kill, capture, disturb or injure an individual or intentionally damage, destroy or obstruct an area used for breeding, resting or sheltering by badgers.

The Protection of Badgers Act is essentially animal welfare law as opposed to conservation legislation, specifically badgers are generally too common to be included under Schedule 5 of the Wildlife and Countryside Act.

The Protection of Badgers Act is not therefore intended to prevent development work when badger setts are present, but rather ensure that the animal's welfare is preserved.

To allow for derogation of the protections afforded to badger under this legislation Natural England can issue licences to allow for the disturbance of badger setts and their destruction subject to a number of conditions.

Walkover survey - 23rd May 2023.



Survey area and line of rights of way to the south

On the 23rd of May a walkover of the wider site surrounding the proposed development was made to search for evidence of use by badgers including field signs such as paths, hairs, footprints, and latrines.

Special attention was made to wire fencing along the field boundary along Moor Lane separating the site from semi natural deciduous woodland to the south where badger may be expected to cross to forage.

Evidence in the form of stands of hair trapped in wire fencing and worn paths through or under fencing in particular was searched for.

A search along rights of way that pass through Billington Moor Plantation, an area of semi natural deciduous woodland to the south of the site supplemented survey effort.

While animal paths were recorded crossing the rights of way within the woodland to the south of the site, no evidence to suggest use of the site by badgers was recorded.



Fencing along Moor Lane to south west of site



Fencing to immediate south of site.

Method Statement – Reasonable Avoidance Measures.

A precautionary site walkover should be carried out following grant of planning permission, but prior to commencement of development works to confirm continuing lack of badger activity on site.

If an active sett is present, which will be affected by development works and further reasonable avoidance measures (RAMs) cannot mitigate risk, a license will be required from Natural England.

If this is required development works which may disturb the sett must cease until a licence is obtained.

If no active setts are identified then development works should proceed following the RAMs below:

No work should commence without contractors receiving a toolbox talk.

All contractors will be made aware of the legal protection afforded to badgers in the UK and the procedures to be in place to mitigate for the potential impact before any building work is undertaken.

Attention will be paid to site hygiene and food and food wrappings disposed of appropriately

Any chemicals will be stored securely, in badger proof containers, in accordance with the best practise guidelines.

Avoid works between dusk and dawn as this is the period when badgers are most active.

Avoid additional lighting of the northern and eastern site boundaries.

Ensure any excavations i.e., footings for property, trenches and drainage are closed over at night with heavyweight boards/plywood sheet or an egress ramp such as a scaffold board at a shallow angle is installed to allow any badgers that enter the excavation to escape.

Open pipe-work larger than 150mm outside diameter should be blocked off at the end of each day.

All excavations to be inspected at start of each day and if badger found additional means of egress to be provided and no works to begin until badger has vacated excavation.

An emergency procedure should be implemented by site workers if badger / badger setts are unexpectedly encountered.

In the event badgers are discovered during works, contact Batworker Consultancy for further advice.

All work within 30 m (100 m for high noise/vibration activities) should cease the ecologist has inspected the site and determined the appropriate course of action.

Planning Appeal-Whittle Hall Farm, Moor Lane, Langho. BB7 9JH

Request for a Hearing

The appellant has previously been refused planning consent [application 3/2022/0436] and lodged an appeal [APP/T/2350/W/22/3304870]

The Appeal decision was dated 6th February 2023 and was dismissed. However, in reaching his decision the Inspector identified 4 issues as follows:

- 1 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;
- 2 Whether the proposed design would provide adequate living conditions for future occupants, with particular regard to privacy and outdoor amenity space;
- 3 The effect of the proposed design on the character and appearance of the of the buildings and the surrounding area; and
- 4 The effect upon proposed development upon protected species.

In his reasoning, the Inspector rightly concluded, with regard to both identified **issues 1 and 2** that the proposal would accord with the principles of the GPDO [class Q].

In dealing with **issue 3**, he concluded that the proposal would not meet the requirements of the GPDO in this regard.

In dealing with **issue 4**, he concluded that in the absence of evidence, the proposal would fail to meet the requirements of the GPDO in this regard.

The appellant resubmitted the application to Ribble Valley Council specifically addressing the issues 3 and 4 as highlighted by the Inspector in the appeal decision [APP/T/2350/W/22/3304870]. The application was refused and is the subject of this latest appeal.

It is noted that the planning authority, [more specifically the case officer] have now, in the reasons for refusal, introduced two new issues that never formed a part of the response to the first application and subsequent appeal decision.

As a matter of fact, the concrete hardstanding together with what can best be described as a slight change in ground level identified by a nominal concrete wall that identifies the change in level, has always been in situ, it was included in the first application and thus the subsequent appeal decision. Clearly, the previous Inspector did not consider that to be an issue as identified in 1 and 2 above. It cannot suddenly become an issue now. In all other respects, the case officer in her delegated report considers the proposed changes made to the scheme in direct response to issue 3 have been satisfactorily addressed.

Turning to the final issue [4] the previous appeal inspector had no protected species report before him. The resubmitted application did. At no stage in the previous application or the appeal decision was any specific issue raised with regard to badgers, indeed there is no reference to badgers in any correspondence on the application file and the LPA did not raise such an issue in their written submissions when responding to the first appeal. Notwithstanding this, the appellant instructed a consultant to address this issue and it has been considered.

The appellant considers that the LPA have now introduced planning issues that have never been previously raised or considered in both the first application determination and subsequent appeal decision. It appears to the appellant that the planning authority is simply looking at ways to withhold confirmation that the proposal meets the requirements of the GPDO class Q in its entirety. It is further considered that the appellant will be placed at a disadvantage if he cannot now have the opportunity of questioning the integrity of the planning authority through the Hearing procedure.

It is formally requested that the Inspectorate accedes to this request.

Planning Appeal Statement of Case



Trevor Hobday Associates
Author: Trevor Hobday MRTPI

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;

- 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.

Trevor Hobday MRTPI

July 2023

Peter Hitchen Architects

Peter Hitchen Architects Ltd
Marathon House
The Sidings Business Park
Whalley
Lancashire
BB7 9SE
10 March 2023

**ARCHITECTURAL DESIGN STATEMENT TO SUPPORT THE RE-SUBMISSION FOR
PRIOR APPROVAL (SCHEDULE 2, PART 3, CLASS Q)**

**PROPOSED CONVERSION OF TWO AGRICULTURAL BUILDINGS INTO
TWO DWELLINGS
LAND OFF WHITTLE HALL FARM, MOOR LANE, LANGHO**



View of the agricultural buildings from Moor Lane

Introduction

This statement is written to support the resubmission for prior approval following the refusal of the original application (ref 3/2023/0436) and the appeal decision (ref APP/T2350/W/22/3304870) to convert the two existing agricultural buildings into habitable use.

This resubmission is accompanied by the planning statement, location plan, existing and proposed site plans, floor plans, elevations and visuals.

A structural report and bat survey are also included within the documentation. In addition we include the letter from the land owner to provide supporting information regarding the land use and ownership particulars.

Existing site and buildings

The site is located off Moor Lane with direct access via an established track. There is a clearly defined existing curtilage to the site as defined on site by virtue of an existing timber post and rail fence.

Within the site area are three agricultural buildings (two former cattle sheds and a sheep shelter).

The proposal is to demolish the sheep shelter and retain the two cattle barns for their conversion into habitable use. For the purposes of this application the buildings have been titled as plot 1 and plot 2.

The site has a large expanse of concrete hardstanding. The two sheds are steel framed with the walls clad with vertical timber boarding and the roof finished with a cement fibre roof sheeting (plot 1) and metal sheeting (plot 2).

Both buildings are dual pitched with existing large openings to the gable ends and roof lights. They are low rise structures, adjacent to each other with their gables on a north west / south east axis.

The site is partially screened from the road by the existing woodland between Moor Lane and the site area. There is pasture land surrounding the site and it has far reaching views across the Ribble Valley.

A structural appraisal accompanies this statement which confirms the suitability and integrity of the primary structure of the buildings for conversion into two dwellings. The site is within flood zone 1 as it is located on raised ground off Moor Lane.

Plot 1

This building has a total floor area of 270 m2 (existing) – 230 m2 (proposed)

Plot 2

This building has a total floor area of 260 m2 (existing) – 230 m2 (proposed)

Conversion

The proposal is to create two single storey dwellings within the volume of the existing buildings. Both plots will require some partial demolition and removal of claddings. The plan arrangement ensures that the cumulative habitable floor area does not exceed 465 sqm. In order to achieve this the design demonstrates a reduced footprint to both plots within the shell of the buildings. Canopied areas enclose an external area within the footprint of the existing buildings. This will ensure the roof profile remains as existing to retain the simple profile.

Following the removal of the claddings the existing steel frame is to be fully exposed and cleaned. A coating of zinc primer will be applied to retain all of the primary structure.

The principle of the design is to retain the architectural simplicity of the buildings in order to ensure that they blend into the setting and have an agricultural aesthetic which reflects the rectangular arrangement of both buildings.

The mass of the buildings will remain the same and the elevational alterations are kept to a minimum with new and retained openings following the internal function of the spaces which have now been amended to address the inspectors comments (see later paragraphs)

The internal underground drainage and any services will be installed and the ground floor areas prepared to receive a damp proof membrane, new insulated floor screed.

The internal linings will consist of non structural insulated timber panels and metal framed suspended ceilings hung from the existing purlins. The linings will connect to the existing frame and a cavity will be retained between the linings and the proposed new external timber boarded cladding will be fixed to a plywood sheeting with membrane and counter battens.

The new windows will be aluminium powder coated frames and sit within recessed reveals within the external cladding.

The proposal includes a residential curtilage to demonstrate that the areas will not be larger than the floor areas of the individual plots (notwithstanding the shared access) and therefore conforms with the limits defined in Paragraph X of Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

It is the intention of the applicant to explore green solutions for the heating of the internal environment with ground source or air source to be considered.

The layouts demonstrate areas for plant of a sufficient size to accommodate the final solution. Site drainage will be taken to a soakaway installation for the surface water and a package treatment plant suitably sized for the accommodation.

Electric charging points will be located within the site for each plot.

Refer to the planning statement which highlights relevant matters from the appeal decision relating to the site location and existing building arrangement.

This statement summarises the design amendments which address the Planning Inspectorate comments with regard to the external appearance.

Three paragraphs from the inspectors report under the heading 'Design-Character and Appearance' relate to the fenestration and general external appearance as follows :-

13. The buildings are located alongside one another in a cluster that also includes a sheep shelter which is proposed to be demolished. Whilst there is a small wooded area between the building group and the road, the site is located on a hillside and is a highly exposed and conspicuous feature within the landscape. The buildings themselves are typical of modern agricultural design, comprising of vertically boarded walls and modern sheeted roofs with rooflights positioned centrally within each bay. Both have openings at either end with no openings in their side elevations. I saw several groupings of similar buildings nearby. Their utilitarian appearance is a characteristic feature of the surrounding landscape.

14. Whilst it is proposed to glaze the main openings on the north west elevation of the building at plot 1, the south east elevation would be completely reconfigured with a large open canopied section to one side as well as domestic proportioned openings. This elevation faces the road and is visible from the public right of way to the east. The proposed north east elevation facing the public right of way would feature three new openings of domestic proportions. The rooflights proposed would take a haphazard appearance and would not reflect the regimented positions of the existing rooflights.

15. Similarly, the building at plot 2 also features extensive reconfiguration of openings, with six new openings to the south west elevation. Neither gable would reflect the scale and position of their existing openings. There would be new openings to the north west gable and the provision of another canopied section to the opposing gable. As with plot 1, the rooflights would be haphazardly arranged on the roof and would not reflect the existing regular arrangement.

16. The extensive repositioning of openings, haphazard positioning of rooflights and the extent of new openings on elevations that are highly visible within the open countryside would erode the buildings' regimented and functional appearance. The development would therefore appear incongruous, which, given the highly exposed location, would adversely affect the landscape character. I accept that a degree of change would inevitably occur as part of the conversion works and this is reflected in the scope of building operations permitted by the GPDO. However, I am not convinced that the interventions need be as extensive as those proposed, particularly when having regard to the sensitive location of the buildings.

The proposal now demonstrates a reduction in glazing to the elevations to both the north west and south east elevations in order to assist with addressing the concern raised by the Inspector regarding the 'interventions' and will now reflect the existing rectangular arrangement.

We have also revised the roof window numbers and locations in order to eliminate any 'haphazard' configuration.

Protected species

The original application did not include a protected species survey and the inspectors report contained the following paragraphs regarding matters relating to protected species as follows :-

19. Bats and wild birds are protected by law² and their presence is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. There is a statutory duty on me to have regard to the conservation of biodiversity³. Paragraph 174 (d) of the Framework seeks to minimise impacts on, and provide net gains for, biodiversity.

20. The appellant has not provided a protected species survey. Furthermore, I have not been provided with any distribution records of bats in the locality. However, whilst the appeal site is exposed, it is very close to woodland and surrounded by open farmland. The adjacent trees could provide habitat for bats or nesting birds. The building at plot 1 is relatively open which could limit its potential for bats, however that at plot 2 is more enclosed and could provide nesting opportunities for birds or roosting opportunities for bats. Both buildings have exterior fascia boards, which could present crevice roosting opportunities.

21. In the absence of any survey information or bat records, I cannot be certain as to the extent to which protected species may be affected by the proposed development. Furthermore, if protected species were affected, I cannot be certain as to what mitigation, if appropriate, may be required.

22. In this regard, paragraph 180 of the Framework states that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

23. For the above reasons, I cannot conclude that the proposal would not adversely affect protected species, specifically bats and nesting birds. The proposal would therefore conflict with paragraph 174 of the Framework described above and would fail to accord with the requirements of the GPDO in this regard.

This resubmission is accompanied by a protected species survey which will address all the aspects and any mitigation measures as necessary. The surveyor has thoroughly taken into account the inspectors comments.



View of the buildings from the north west (plot 1 to the left of the picture)



Plot 1



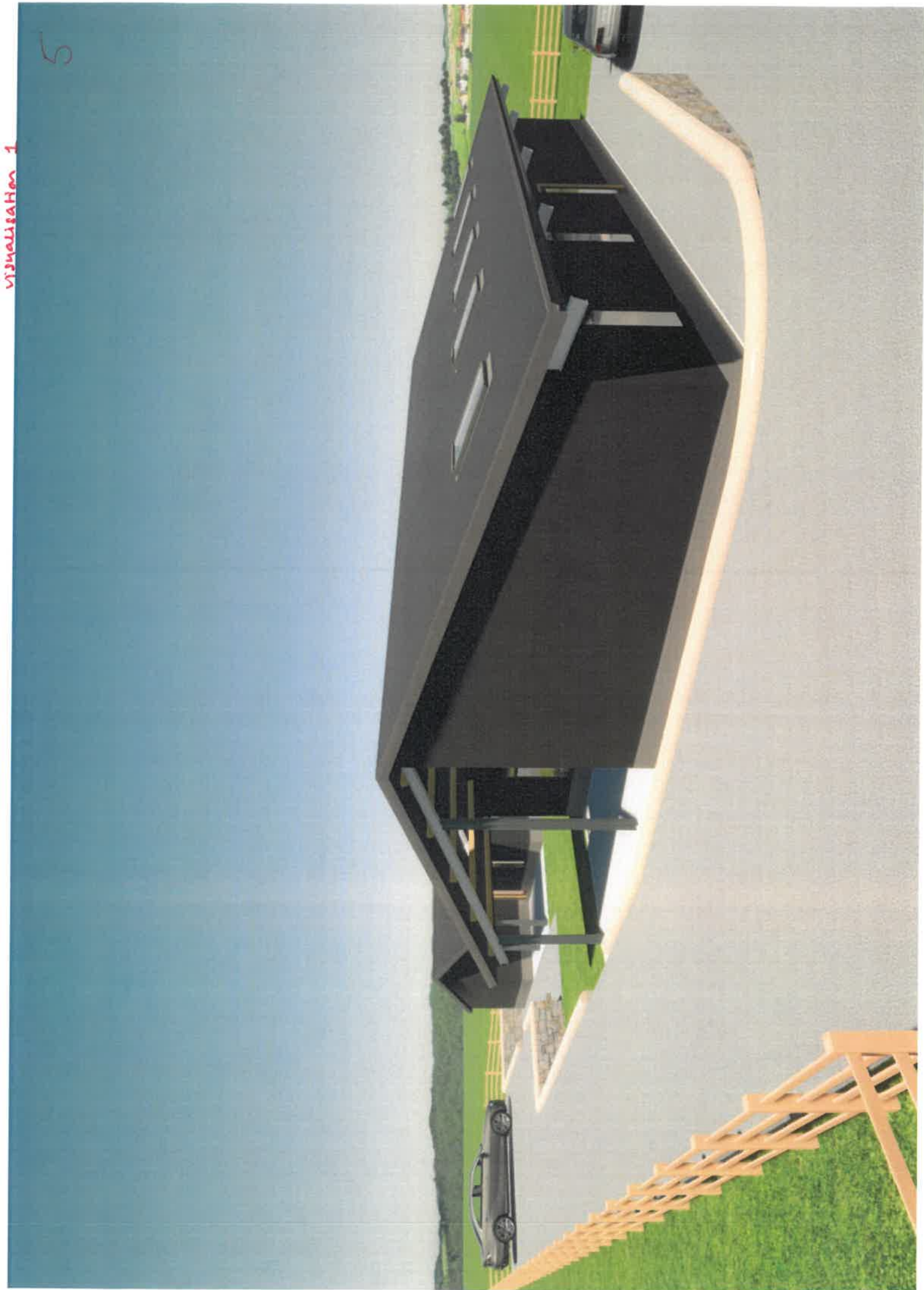
Plot 2



View looking down Moor Lane across the access

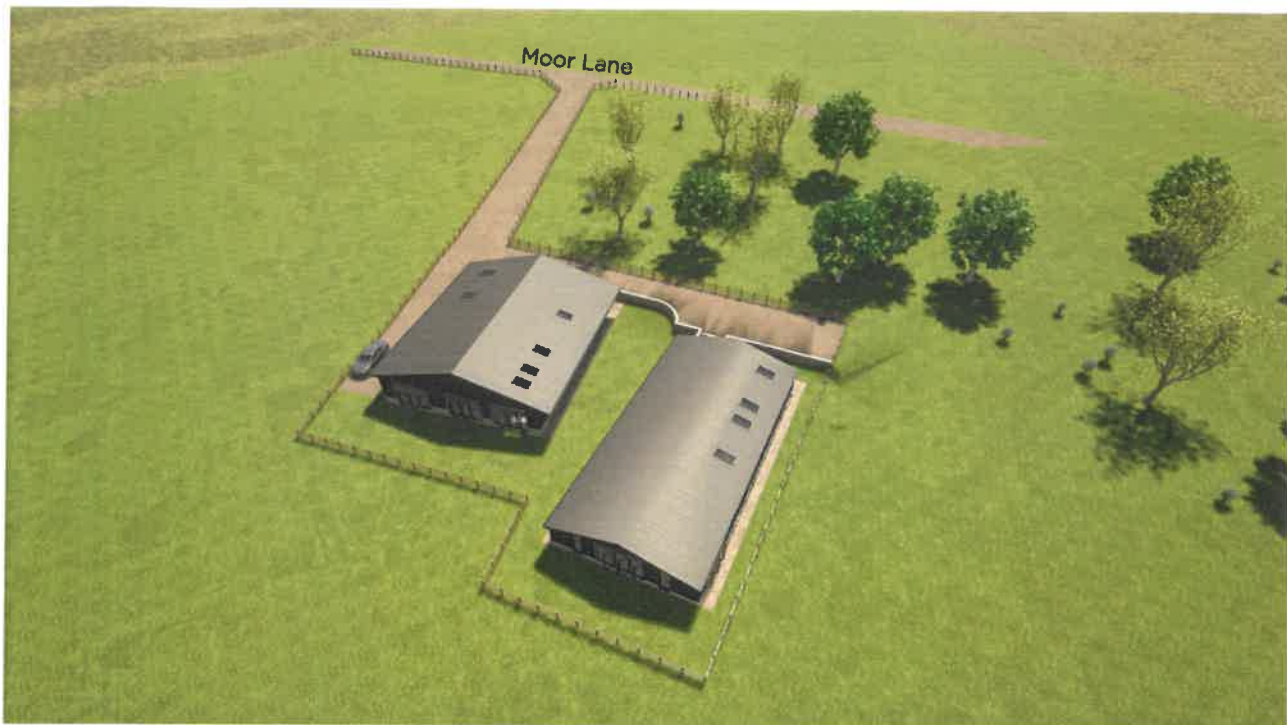


View looking up the access track towards Moor Lane



6





Planning appeal for planning application 3/2023/0226

Submitted to the Planning Inspectorate on 06 July 2023

Before you start

Local planning department	Ribble Valley
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Planning application type	Prior approval
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Planning decision	Refused
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Decision date	05 May 2023
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Your contact details

Was the planning application made in your name?	No, I'm acting on behalf of the appellant
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Appeal made on behalf of	MR TOM PROCTER
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Your contact details	PETER HITCHEN PETER HITCHEN ARCHITECTS peter@peterhitchenarchitects.co.uk
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The appeal site

Appeal site address	LAND ADJACENT TO WHITTLE HALL FARM MOOR LANE BILLINGTON LANCASHIRE BB7 9JH
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Do you own the land involved in the appeal?	You own all the land involved in the appeal
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Is the appeal site part of	Yes
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an agricultural holding?

Are you a tenant of the agricultural holding? Yes

Are there any other tenants? No

Visible from a public road Yes

Health and safety issues Yes
LIVESTOCK

Deciding your appeal

How would you prefer us to decide your appeal? Hearing

Why would you prefer a hearing? Please see attached the formal statement. A costs application is also included. The list of documentation is also attached. The appellant considers that the LPA have now introduced planning issues that have never been previously raised or considered in both the first application determination and subsequent appeal decision. It appears to the appellant that the planning authority is simply looking at ways to withhold confirmation that the proposal meets the requirements of the GPDO class Q in its entirety. It is further considered that the appellant will be placed at a disadvantage if he cannot now have the opportunity of questioning the integrity of the planning authority through the Hearing procedure.

Draft statement of common ground Statement of case.docx

Your planning application

Planning application form APPLICATION FORM.pdf

Did you submit a separate ownership certificate and agricultural land declaration with your application? No

Planning application number	3/2023/0226
Is the description of development on your application form still correct?	Yes
Plans, drawings and supporting documents	BARN 1 PROPOSAL.pdf BARN 2 PROPOSAL.pdf LOCATION PLAN.pdf VISUAL 1 RESUBMISSION 2023.png VISUAL FOR ORIGINAL APPLICATION.pdf VISUAL 2 RESUBMISSION 2023.png Architects statement appeal.doc List of documentation.doc OFFICER REPORT RESUBMISSION.docx PROPOSED SITE PLAN ORIGINAL SUBMISSION.pdf EXISTING AND PROPOSED SITE PLANS WITH LEVELS Small.pdf Application for award of costs.docx PROPOSED SITE PLAN RESUBMISISON 2023.pdf
Design and access statement submitted with application	Yes
Design and access statement	RESUBMISSION DESIGN STATEMENT.pdf
Decision letter	DECISION NOTICE.pdf

Your appeal

Appeal statement	Statement of case.docx
Any plans or drawings to support your appeal	Yes
Do you plan to submit a planning obligation to support your appeal?	No
Plans and drawings	APPELLANT POST DECISION BADGER CORRESPONDENCE.pdf

Badger group email 2022.png
RAMS for Badgers.pdf
VISUAL 1 RESUBMISSION 2023.png
VISUAL 2 RESUBMISSION 2023.png
EXISTING AND PROPOSED SITE PLANS WITH LEVELS
Small.pdf

**Any documents to
support your appeal**

Yes

Supporting documents

APPELLANT POST DECISION BADGER
CORRESPONDENCE.pdf
Badger group email 2022.png
RAMS for Badgers.pdf

Peter Hitchen
Architects

Peter Hitchen
<peter@peterhitchenarchitects.co.uk>

FW: Badger mitigation

Ben Hill <benhill@live.co.uk>

Mon, Jun 5, 2023 at 10:43
AM

To: Peter Hitchen <peter@peterhitchenarchitects.co.uk>,
TREVOR HOBDAY <yadboh@btinternet.com>
Cc: daniel mcdermott <danielmac87@hotmail.co.uk>

Gents,

Please see below in relation to badgers. This statement further confirms the response to the initial consultation – and I would like to ensure that we reference both in the appeal.

The argument from my perspective is:

1. RVBC Accepted the response from this organisation on the first application
2. RVBC chose to 'ignore' this on the second application (despite confirming in email to Peter that 'we' had the original application and appeal to refer to
3. There are no concerns from the group
4. The response to the initial consultation has been deleted from the RVBC website.

Ben

From: Andy Hardman
<Andy@lancashirebadgergroup.org.uk>
Date: Monday, 5 June 2023 at 10:21
To: Ben Hill <benhill@live.co.uk>
Subject: Re: Badger mitigation

Good morning Ben, I have checked our database to check for badger setts in the location of the proposed development.

The nearest sett we have records for is approximately 400m away with a number of setts further away. Clearly there are badgers active in the area but this development will have no impact on them. We would recommend the following actions as good practice when badgers are known to be in the area.

All personal working on site are made aware before commencing any work, that should they encounter a badger on site all work should cease and expert advice sought. No work to continue until the situation has been resolved.

No trenches to be left open overnight, if this is unavoidable a means of escape to be in place, this can be a scaffold plank at end of trench, provided it is not too steep, ideally 30 degrees or less.

No trenches to be filled with wet concrete and left open over night.

No open fires.

No open or unbanded chemicals

We hope this clarifies the situation, should you need any further help please do not hesitate to contact us.

We are happy for you to forward this email to the Council or to share our details.

Regards

Andy Hardman

Vice Chair Lancashire Badger Group

On Wed, 31 May 2023, 20:48 Ben Hill, <benhill@live.co.uk> wrote:

Andy,

Firstly, thank you very much for taking the time to get in touch, and I hope you pick this up after your holiday!

In terms of the reason for my query, you (LBG) gave an opinion on our first application whilst it was open for consultation. Your response to the consultation was perfectly logical to us; you referenced the nearest known sett(s) and made a request that methods were put in place should the permission be granted. The first application was:

Planning Application - Ribble Valley
Borough Council

webportal.ribblevalley.gov.uk



As a result of the response to the consultation, no further action was deemed necessary by us, our Planning Consultant or Architect in relation to badgers.

This application was refused, as was the subsequent appeal. One of the comments made by the Inspectorate was regarding the lack of a bat survey.

Fast-forward almost a year, we made a second application which we believe addressed the Inspectorate

and RVBC's comments and concerns. This is the latest application:

Planning Application - Ribble Valley
Borough Council



webportal.ribblevalley.gov.uk

On this application, the Local Authority cited the potential danger posed to badgers.

I would welcome your opinion regarding any changes in the known presence of badgers, along with any practical advice that you have regarding measures which should be put in place to protect any badgers which may be living in the area. To be clear, both families who are seeking permission to convert these properties are animal-loving, pet owners who do not want to put any animals / birds or other ecology at risk.

The lady who I met earlier this week from LBG explained the great work that you do. I was particularly interested in how 'orphaned' badgers are re-homed. Should we achieve our aim of securing permission to convert the agricultural buildings, we would be more than happy to discuss how we could assist in offering a man-made sett to assist with re-homing badgers which are returned to the wild.

Thank you again.

Ben Hill

On 31 May 2023, at 11:16, Andy Hardman
<Andy@lancashirebadgergroup.org.uk>
wrote:

Good morning Ben, not sure how we can help with this, but willing to give it a try.

Have you got a planning application number so I can have a look on the Council's planning portal, I presume that you had an Ecology survey done, although that will depend on the size of the development. If you can supply a number and any details on the refusal from the Council I will have a look.

I am away on holiday till Friday so the response may be delayed slightly.

Regards

Andy Hardman



apple-touch-icon@2x.png
30K

Application for award of costs

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].

Application for award of costs

A Information about the claimant

Mr Tom Procter

Agent: Peter Hitchen Architects Ltd,

Case reference: Land adjacent to Whittle Hall Farm, Moor Lane, Langho. BB7 9JH

B Information about the party being claimed against

Ribble Valley Borough Council, Development Department, Council Offices, Church Walk, Clitheroe. BB7 2RA

Status: Local Planning Authority

C Information about the appeal

LPA; Ribble Valley Borough Council;

Description of development: Prior approval application for the proposed conversion/redevelopment of two agricultural buildings into two dwellings [resubmission of application 3/2022/0436]

Site address: Land adjacent to Whittle Hill Farm, Moor Lane, Langho. BB7 9JH

Costs Application

Unreasonable behaviour

The planning authority has acted in an unreasonable manner in dealing with the application and refusing it for the reasons stated in the decision notice dated 5 May 2023. Whilst it is accepted that this application for costs relates only to the application the subject of this appeal [3/2023/0226] the cumulative impact of the planning history and the previous decision made by the Planning Inspectorate [APP/T2350/W/22/3304870 dated 6 February 2023] is a material consideration. In this regard, a complete timeframe of correspondence between the applicant's agent, Peter Hitchen Architects Ltd [PHA] and the local planning authority case officer [LPA] forms part of the submitted appeal statement of case; it is also a material consideration in this application for costs.

This appeal proposal is a prior approval application for the conversion/redevelopment of two agricultural buildings into two dwellings. [resubmission of application 3/2022/0436]. The very specific details of this application, what is proposed and how the issues identified by the Inspector in the previous 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 and the planning appeal statement of case presented by Trevor Hobday MRTPI, it is important to understand the reasons for refusal now put forward by the planning authority; these 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

Application for award of costs

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.

Inappropriate Building Operations

In the first reason for refusal, 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”.

The appellant, through his agent, very clearly and demonstrably, addresses this issue. Peter Hitchen Architects set out in great detail what is proposed. The case officer has made no attempt whatsoever, to familiarise herself with the proposal, to relate what is shown on the submitted plans which confirms exactly to what is on site in terms of “retaining wall structures” and “changing land levels” shown to the front of the buildings. There is no change whatsoever. These remain as they have always been; these “structures and levels” appeared on the first application and subsequent appeal. Neither was raised as an issue by the previous Inspector in the appeal decision.

Inappropriate Design and External Appearance

In the second reason for refusal, the specific concern is that the elevational detail is inappropriate and adversely impacts upon the character and appearance of the area. 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

Application for award of costs

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

In the third reason for refusal, the planning authority assert that insufficient information is provided in order to assess the potential impact of the development upon protected species. 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.**

In specific regard to the issue of Badgers, referenced in the third reason for refusal, the Inspector's attention is drawn to the following:

- During determination of the first planning application and subsequent appeal, there is no reference whatsoever to the issue of badgers; there is no evidence available in the on-line planning application [as of 1 July 2023] that the LPA formally consulted with and received a response from any statutory badger consultee. The appellant does however possess a copy of an email issued to the LPA [by the Lancashire Badger Group] which has previously been submitted in relation to the first application. This document is appended for reference. This document was downloaded by the appellant from the on-line planning application in June 2022. As the LPA case officer for both the initial and second application was the same individual, it is assumed that they would have had access to all information associated with the initial application.
- In dealing with the second application [the resubmission] again, there is no reference in the online planning register that the LPA consulted with and received a formal response from any badger protection group. The first and only time that badgers are referenced is in the third reason for refusal.
- The appellant, upon receipt of the decision notice [application 3/2023/0226] and reading the third reason for refusal, immediately engaged, yet again, a specialist consultant who prepared a RAM's assessment. This report is included in the appeal documentation. The conclusions in the report are explicit and concise.

Unnecessary and wasted expense

As has been stated elsewhere in this submission, the reasons for refusal put forward by the planning authority in the decision are issues that could very easily have been negotiated and the outcome could well have been that an amended set of plans were prepared that met the concerns so expressed in the reasons for refusal. At no time during the determination period did the planning case officer [or any other designated person] make any attempt to contact the appellant's agent in order to discuss or request further information with regard to any

Application for award of costs

aspect of the proposal that now appears as an issue in the three stated reasons for refusal. As a direct consequence of this wholly unjustified action, the appellant has not been given any opportunity to address these issues and his recourse is to challenge the decision by way of an appeal.

For the reasons expressed above, it is wholly unreasonable for the planning authority to refuse consent for reasons set down in the decision notice having regard to the fact that the appeal is a resubmission of a previous application and subsequent appeal decision. It is submitted that, following the first appeal decision, the appellant has prepared a resubmission that deals very specifically with the two issues of concern highlighted by the previous inspector. Frankly, the Planning Authority has failed to correctly interpret the clear reasoning set out in the first appeal decision and have raised 3 new issues as reasons to refuse the this appeal proposal. As a consequence of this unjustified and unreasonable action by the planning authority, the appellant has no other alternative but to retain his professional consultants and to instruct Peter Hitchen Architects Ltd to pursue a second appeal. This appeal has been lodged with the Planning Inspectorate and includes this application for a full award of costs against the Planning Authority.

I understand that:

- A the Planning Inspectorate may use the information I have given for official purposes in connection with the processing of the application for an award of costs
- B the costs decision resulting from processing this application will be published on the planning portal and will include relevant names but not addresses

By signing this form I am agreeing to the above use of the information I have provided.

I have completed all sections of the form and confirm that the details are correct to the best of my knowledge.

Signed

On behalf of the appellant.

July 2023



**RIBBLE VALLEY
BOROUGH COUNCIL**

For office use only

Application No.

Date received

Fee paid £

Receipt No:

Council Offices, Church Walk, Clitheroe, Lancashire. BB7 2RA Tel: 01200 425111 www.ribblevalley.gov.uk

Application to determine if prior approval is required for a proposed: Change of Use of Agricultural Buildings to Dwellinghouses (Use Class C3), and for building operations reasonably necessary for the conversion

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class Q

Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Site Location

Disclaimer: We can only make recommendations based on the answers given in the questions.

If you cannot provide a postcode, the description of site location must be completed. Please provide the most accurate site description you can, to help locate the site - for example "field to the North of the Post Office".

Number

Suffix

Property Name

Address Line 1

Address Line 2

Address Line 3

Town/city

Postcode

Description of site location must be completed if postcode is not known:

Easting (x)

Northing (y)

377284

434643

Description

TWO AGRICULTURAL BUILDINGS ON LAND ADJACENT TO MOOR LANE, LANGHO

Applicant Details

Name/Company

Title

MR

First name

TOM

Surname

PROCTER

Company Name

Address

Address line 1

MOOR END HEAD FARM

Address line 2

MOOR LANE

Address line 3

Town/City

LANGHO

County

LANCASHIRE

Country

United Kingdom

Postcode

Are you an agent acting on behalf of the applicant?

☒ Yes

☐ No

Contact Details

Primary number

***** REDACTED *****

Secondary number

Fax number

Email address

***** REDACTED *****

Agent Details

Name/Company

Title

MR

First name

PETER

Surname

HITCHEN

Company Name

Peter Hitchen Architects

Address

Address line 1

Peter Hitchen Architects

Address line 2

Marathon House

Address line 3

The Sidings Business Park

Town/City

Whalley

County

Country

United Kingdom

Postcode

BB7 9SE

Contact Details

Primary number

***** REDACTED *****

Secondary number

Fax number

Email address

***** REDACTED *****

Eligibility

Permitted development rights are subject to conditions set by legislation to ensure that only appropriate proposals are eligible. The need to apply to the Local Planning Authority to see if prior approval is required is one such condition.

The questions below will help determine if the proposals are eligible for this permitted development right.

Please note, there are further eligibility criteria that will be covered in subsequent questions.

Please note: Any new dwellinghouse will only be eligible for permitted development rights if it has a gross internal floor area of at least 37 square metres, and complies with the nationally described space standard.

Was the use of the site on 20 March 2013 (or the last use before that date) solely for an agricultural use as part of an established agricultural unit?

- ☒ Yes
☐ No

Has any work under the permitted development rights for the erection, extension or alteration of a building reasonably necessary for the purposes of agriculture been carried out on the agricultural unit since 20 March 2013?

- ☐ Yes
☒ No

Will the external dimensions of the resulting building(s) extend beyond the existing building(s) at any point?

- ☐ Yes
☒ No

Is any part of the land, site or building:

- in a conservation area;
- in an area of outstanding natural beauty;
- in an area specified by the Secretary of State for the purposes of enhancement and protection of the natural beauty and amenity of the countryside;
- in the Broads;
- in a National Park;
- in a World Heritage Site;
- in a site of special scientific interest;
- in a safety hazard area;
- in a military explosives storage area;
- a scheduled monument (or the site contains one);
- a listed building (or within the curtilage of a listed building)

☐ Yes

☒ No

Agricultural tenants

To be eligible for this permitted development right, all parties to any agricultural tenancy agreements that are currently in place, or that have been terminated in the year before development is proposed to begin, need to provide consent.

This is to help ensure that agricultural tenants are not displaced to allow a change of use to be carried out.

Is the site currently occupied under any agricultural tenancy agreements?

☐ Yes

☒ No

Have any agricultural tenancy agreements been terminated in the year before development is proposed to begin for the purpose of carrying out the proposed change of use?

☐ Yes

☒ No

Dwellinghouses and floor space

To be eligible for this permitted development right, the number and size of dwellinghouses developed has to be within the limits set by legislation. This includes any dwellinghouses that were previously developed under this permitted development right.

- No more than a total of 5 dwellinghouses (including no more than 3 larger dwellinghouses) can be developed;
- No single dwellinghouse can exceed 465 square metres of floor space; and
- The total combined floor space of all the larger dwellinghouses developed cannot exceed 465 square metres.

For the purposes of this permitted development right:

- 'Smaller dwellinghouse' means a dwellinghouse (Use Class C3) which has a floor space of no more than 100 square metres
- 'Larger dwellinghouse' means a dwellinghouse (Use Class C3) which has a floor space of more than 100 square metres but no more than 465 square metres.

Please note: For prior approval applications submitted from 6 April 2021 onwards - Any new dwellinghouse will only be eligible for permitted development rights if it has a gross internal floor area of at least 37 square metres, and complies with the [nationally described space standard](#).

How many smaller dwellinghouses will be created by this proposal?

0

How many larger dwellinghouses will be created by this proposal?

2

What will be the net increase in dwellinghouses?

This figure should be the number of dwellinghouses proposed by the development that is additional to the number of dwellinghouses on the site immediately prior to the development.

2

Previous development

How many smaller dwellinghouses have previously been created under this permitted development right on this established agricultural unit?

0

How many larger dwellinghouses have previously been created under this permitted development right on this established agricultural unit?

0

Floor space of larger dwellinghouse(s)

Will the total combined floor space (previously and in this proposal) changed to Larger Dwellinghouses under this permitted development right on this established agricultural unit exceed 465 square metres?

(Select 'No' if no larger dwellinghouses have been or will be created).

☐ Yes

☒ No

Description of Proposed Works, Impacts and Risks

Please describe the proposed development, including:

- The siting and location of the building(s); and
- From 1 August 2020, details on the provision of adequate natural light in all habitable rooms of the dwellinghouses

PROPOSED CONVERSION/REDEVELOPMENT OF TWO AGRICULTURAL BUILDINGS INTO 2 DWELLINGS

Are any associated building works or other operations required to make this change?

Note that such works are restricted to those listed below that are reasonably necessary to convert the building(s) for use as a dwellinghouse:

- the installation or replacement of windows, doors, roofs, or exterior walls;
- the installation or replacement of water, drainage, electricity, gas or other services;
- partial demolition to the extent reasonably necessary to carry out the works listed above.

☒ Yes

☐ No

If yes, please provide details of the design and external appearance of the building(s) in regard to these building works or other operations:

REFER TO THE DRAWINGS

PHA/680 existing and proposed plans/elevations (plot 1 and 2)

PHA/680 existing and proposed site plans (plot 1 and 2)

Please provide details of any transport and highways impacts and how these will be mitigated:

N/A

Please provide details of any noise impacts and how these will be mitigated:

N/A

Please provide details of any contamination risks and how these will be mitigated:

N/A

Please provide details of any flooding risks and how these will be mitigated.

A flood risk assessment should accompany the application where the site:

- is in Flood Zones 2 or 3; or
- is in an area with critical drainage problems (such areas will have been notified to the Local Planning Authority by the Environment Agency).

Check if your site location is in Flood Zone 2 or 3 online.

Check with your Local Planning Authority to see if your site is in an area with critical drainage problems.

FLOOD ZONE 1

Declaration

I / We hereby apply for Prior Approval: Change of use - agriculture to dwellinghouses as described in this form and accompanying plans/drawings and additional information. I / We confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine options of the persons giving them. I / We also accept that: Once submitted, this information will be transmitted to the Local Planning Authority and, once validated by them, be made available as part of a public register and on the authority's website; our system will automatically generate and send you emails in regard to the submission of this application.

☒ I / We agree to the outlined declaration

Signed

PETER HITCHEN

Date

15/03/2023

Peter Hitchen Architects

Peter Hitchen Architects Ltd
Marathon House
The Sidings Business Park
Whalley
Lancashire
BB7 9SE
6 July 2023

**PROPOSED CONVERSION OF TWO AGRICULTURAL BUILDINGS INTO
TWO DWELLINGS
LAND OFF WHITTLE HALL FARM, MOOR LANE, LANGHO
ARCHITECTS STATEMENT TO SUPPORT THE PLANNING APPEAL**



View of the site on arrival down the access track

This statement is written to support the planning appeal (hearing request) following the refusal of the prior notification application to Ribble Valley Borough Council (ref 3/2023/0226) and with specific reference to the 3 reasons for the refusal.

This statement should be read with full knowledge of the previous submission in 2022, the appeal decision in February 2023, the site plans ref PHA/680/A1.5 & A1.6 (auxiliary drawings), the planning appeal statement of case and the ecologists report. This will provide the Inspector with all the information necessary in order to address the reasons for refusal.

We initially highlight the fact that the appellant has engaged our architectural consultancy services since early 2022 and we have carefully evolved the proposal following the initial refusal in June 2022 and respecting the key paragraphs from within the appeal decision in February 2023.

It is important to point out that the latest application was prepared having regard to the Inspectors' comments and the fact that RVBC planning department accepted the decision and offered no challenge to it.

It is therefore very concerning that the latest refusal notice contains reasons for refusal which have not been raised before by RVBC. This is the focus of this statement.

The first reason stated within the decision notice is as follows :-

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.

The proposal demonstrates external works relating to the creation of low retaining walls which are clearly shown on the initial application in 2022 (included with this statement) and replicated on the resubmission details (also included with this statement) following the appeal decision. The architectural visuals and site plans show how the existing site levels are respected and adapted to ensure access to the two buildings is adequately provided.

The site currently has a change in level to the concrete hardstanding to both the south and east elevations and the proposal respects this and only demonstrates improved access to the two buildings. The site photos included in this statement show the existing condition of the site and the extent of hardstanding etc. We fail to accept the reason that the works proposed are not considered to be 'reasonably necessary to convert the buildings'.

The second reason stated within the decision is as follows :-

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).

It is clear from the case officer's delegated report that the suitability of the two agricultural buildings to be converted as demonstrated on the details are acceptable by virtue of the comment '*The proposed works to the barns are considered reasonably*

necessary to the buildings to be inhabited as a dwelling. The works to the barns are not considered a re-build'.

We ensured that the external appearance of the two buildings (windows and rooflight revisions) were amended in line with the Inspectors' comments and it is apparent that the case officer has no concern regarding this matter.

The only issue has now been made clear and this is as summarised above and one which has not been raised before which is of course one which we fail to accept and contest within this appeal.

The third reason stated within the decision is as follows :-

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.

The resubmitted application included the ecologist report on protected species addressing the Inspectors' comments in the decision. At no stage in the previous application or the appeal decision was any specific issue raised with regard to badgers, indeed there is no reference to badgers in any correspondence on the application file and the LPA did not raise such an issue in their written submissions when responding to the first appeal. At no time did the case officer contact ourselves and request information relating to badger habitat.

As a direct response to this reason for refusal the appellant has engaged the ecologist a second time to produce a RAM's report (Reasonable avoidance measures) specifically relating to badgers.

This document is included with this appeal, and it is concluded that there is no evidence to support the presence of badgers within the site. It does, however, contain recommendations relating to actions to be taken which can regularly be dealt with under planning conditions.

We conclude by including our post decision communications with the case officer on 9 May 2023. The application was registered on 22 March 2023 and the decision notice released 44 days later on 5 May 2023:

'Kathryn

We have seen the decision not to grant prior approval for the two barns. Obviously we are very disappointed, particularly as we believe that we had addressed all the key aspects from the appeal decision.

We are meeting the applicant later this week and on the agenda for our client is the matter of our communications during the determination period with regard to the reasons you have outlined for the refusal, however, I am struggling to formulate any meaningful reason why we could not have resolved the issues during the process of the application. I am convinced that we could have addressed everything if we had been given the opportunity to realise that you had concerns. I have sent previous emails during the assessment period to enquire about the progress and your thoughts of course.

Please can we have a discussion asap

I can be contacted on 07850405126 anytime

*Regards
Peter'*

The case officer offered the following response on the same day (9/5/23) and It is worth highlighting the fact that the decision notice was released (12 days in advance of the 56 day time limit)

'Hi Peter

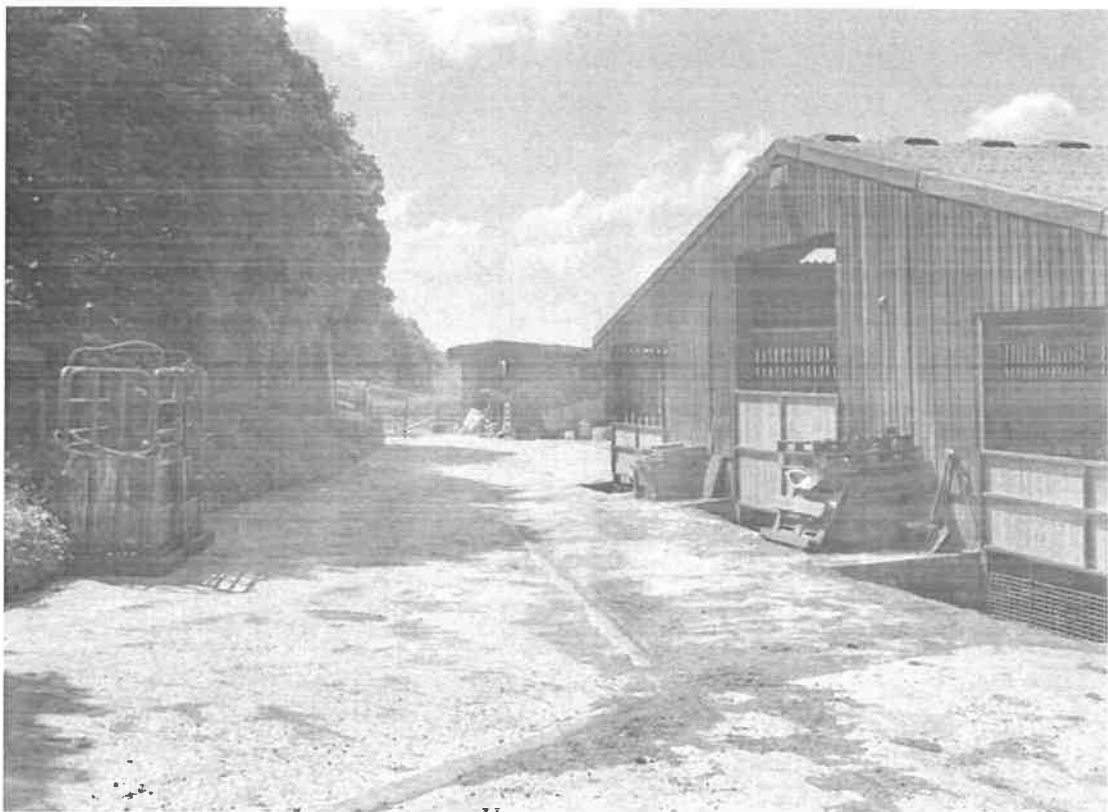
As you are aware we have limited time to determine these types of application. We assess them based on the information submitted at that time. In this instance you had the previous decision notice/report and the Planning Inspectors decision on which to base your submission and therefore the issues that have arisen have already been made quite clear.'

We do not disagree with the comment that we had enough information to prepare a resubmission as we are able to agree that all the issues had been made quite clear, but we still strongly refute this statement as by virtue of all the evidence provided here.

The appellant considers that the LPA have now introduced planning issues that have never been previously raised or considered in both the first application determination and subsequent appeal decision. It appears to ourselves and the appellant that the planning authority is creating reasons in order to refuse the application under GPDO class Q in its entirety and their failure to communicate with ourselves during the application period is proof of unreasonable behaviour and provides sufficient information for the inspector to allow this second appeal.



Level change photographs to the south east elevations



Nicola Gunn

From: Planning
Subject: FW: Planning Application 3/2022/0436 - Land adjacent to Miles Hill Moor Lane, BB7 9JHillington BB7

From: Jean Baxter <jean.baxter@lancashire-badger-group.co.uk>
Sent: 05 June 2022 12:06
To: Planning <planning@ribblevalley.gov.uk>
Subject: Planning Application 3/2022/0436 - Land adjacent to Miles Hill Moor Lane, BB7 9JHillington BB7

 External Email

This email originated from outside Ribble Valley Borough Council. Do NOT click links or open attachments unless you recognize the sender and are sure the content within this email is safe.

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

FAO: Kathryn Hughes, Planning Officer

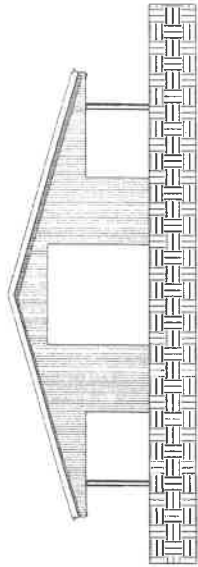
Dear Sirs

I write on behalf of Lancashire Badger Group in relation to the above proposed development.

Lancashire Badger Group holds the most comprehensive database of badger setts within Lancashire and I write to advise you that there are 14 setts recorded within a 2 km radius of this site, the nearest is 0.41 km. We would respectfully request therefore that RAMS be implemented to protect any inquisitive badgers that may wander across the site, should this proposed development receive approval.

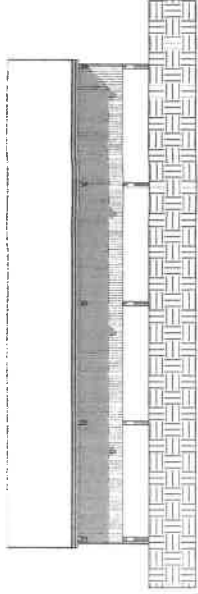
Kind regards

Jean Baxter
Lancashire Badger Group



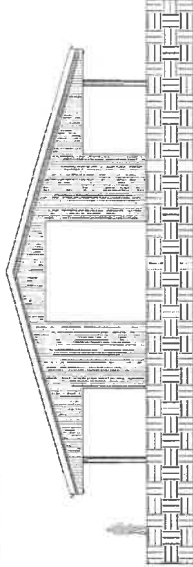
EXISTING NORTH WEST

3 1 : 100



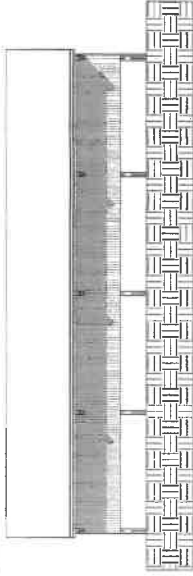
EXISTING NORTH EAST

2 1 : 100



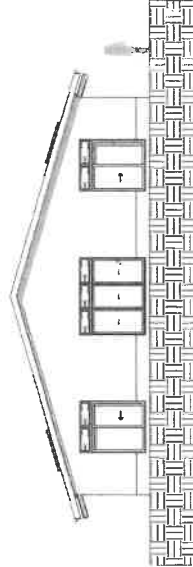
EXISTING SOUTH WEST

4 1 : 100



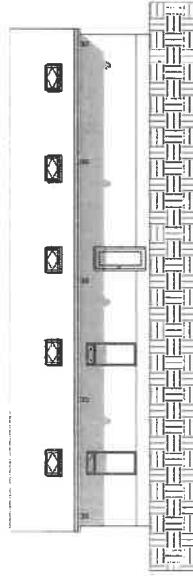
EXISTING SOUTH EAST

5 1 : 100



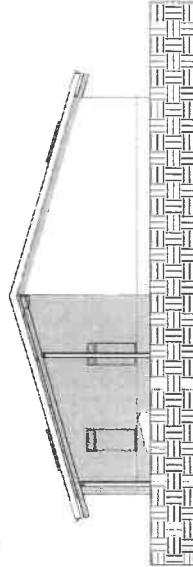
PROPOSED NORTH WEST

7 1 : 100



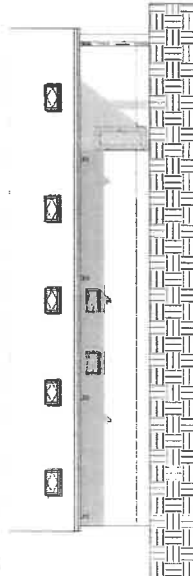
PROPOSED NORTH EAST

6 1 : 100



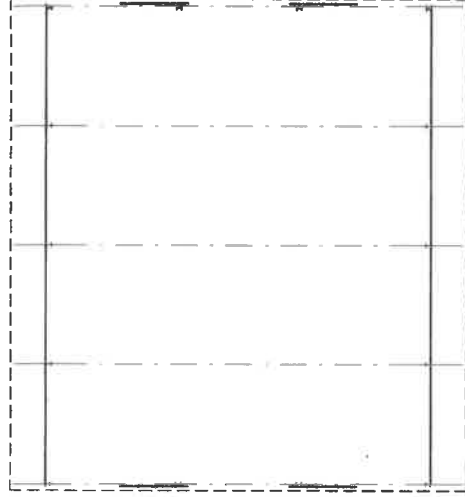
PROPOSED SOUTH WEST

8 1 : 100



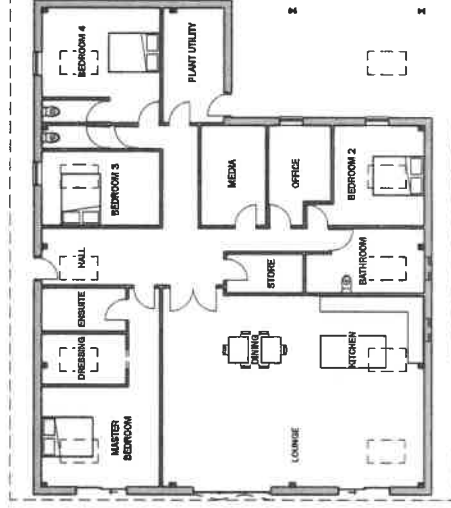
PROPOSED SOUTH EAST

9 1 : 100



0 GROUND FLOOR

1 1 : 100



0 PROPOSED GROUND FLOOR

10 1 : 100

Peter Hitchchen Architects

Marathon House
The Sidings Business Park
Whalley, BB7 9SE

01254 823 885

www.peterhitchchenarchitects.co.uk

NOTES:

Proposed materiality
Walls: Block build up followed by external
timber cladding
Windows: Powder coated aluminium
Roof: Zinc

No.	Description	Date

CLIENT: Mr T R Procter
Moor End Head Farm
Moor Lane
Whalley
BB7 9SE

PROJECT: PROPOSED
CONVERSION/REDEVELOPMENT
OF TWO AGRICULTURAL
BUILDINGS INTO TWO
DWELLINGS

SHEET: BARN 1 EXISTING AND
PROPOSED PLANS AND
ELEVATIONS

Project number PHA/680

Date 09/03/23

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**Marathon House
The Sidings Business Park
Whalley, BB7 9SE**

01254 823 885

www.peterhitchenarchitects.co.uk

NOTES:

Proposed materiality
Walls: Block build up followed by external
timber cladding
Windows: Powder coated aluminium
Roof: Zinc

[illegible]

CLIENT: Mr T R Procter
Moore End Head Farm
Moore Lane
Whalley
BB7 9SE

**PROJECT: PROPOSED
CONVERSION/REDEVELOPMENT
OF TWO AGRICULTURAL
BUILDINGS INTO TWO
DWELLINGS**

SHEET: BARN 2 EXISTING AND PROPOSED PLANS AND ELEVATIONS

Project number	PHA/680
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Date	09/03/23
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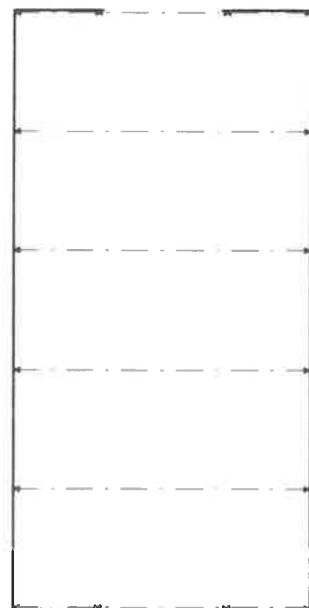
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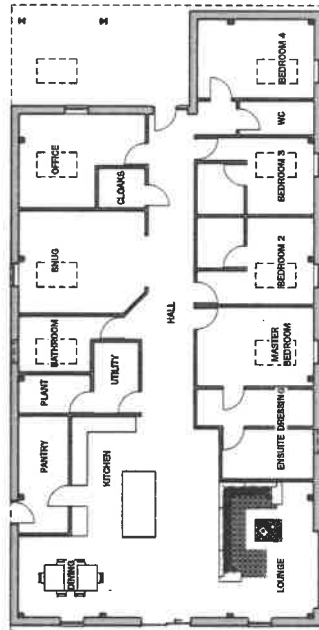
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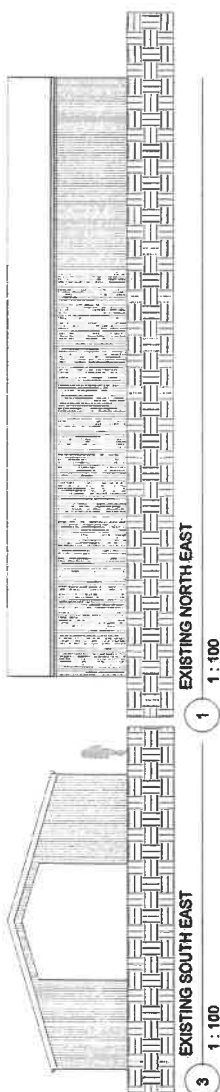
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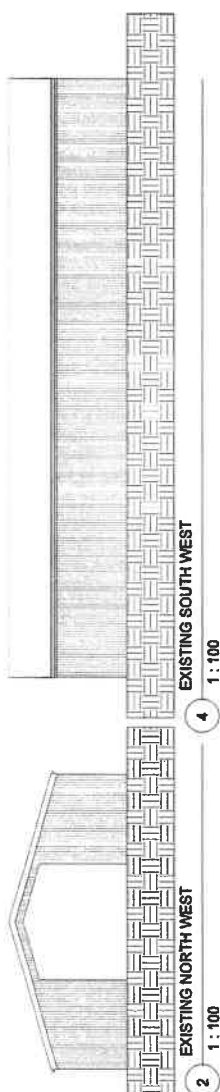
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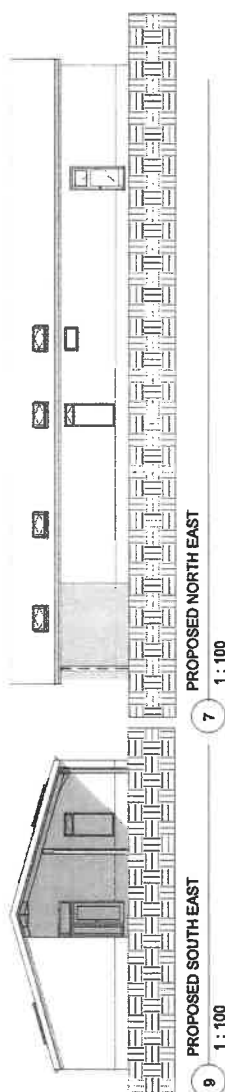
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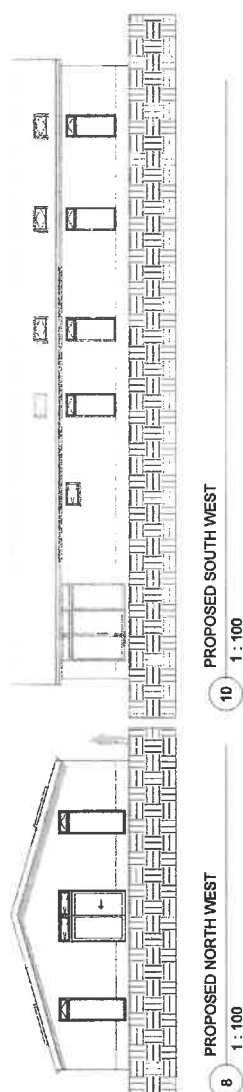
EXISTING NORTH EAST



EXISTING SOUTH WEST



PROPOSED NORTH EAST



ROPOSED SOUTH WEST

RIBBLE VALLEY BOROUGH COUNCIL

Development Department

Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA

Telephone: 01200 425111

Town and Country Planning Act 1990



Ribble Valley
Borough Council

www.ribblevalley.gov.uk

Class Q (Agricultural Buildings to Class C3 Dwellinghouses) of Part 3 of Schedule 2 of the Town and Country Planning (England) (General Permitted Development) Order 2015

APPLICATION NO: 3/2023/0226

DECISION DATE: 05 May 2023

DATE RECEIVED: 15/03/2023

APPLICANT:

AGENT:

Mr Tom Procter
Moor End Head Farm
Moor Lane
Whalley
BB7 9SE

PARTICULARS OF DEVELOPMENT: Prior approval application for the proposed conversion/redevelopment of two agricultural buildings into two dwellings.(Resubmission of 3/2022/0436)

AT: Land adjacent to Miles Hill Moor Lane Billington BB7 9JH

Ribble Valley Borough Council hereby give notice the prior approval of the authority is **REFUSED** for the carrying out of the above proposal for the following reason(s):

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.

Nicola Hopkins

**NICOLA HOPKINS
DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING**

Note(s)

- 1 / For rights of appeal in respect of any condition(s)/or reason(s) attached to the consent see the attached notes.

Right of Appeal

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
- If this is a decision to refuse planning permission, or approve with conditions, a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision to refuse planning permission, or approve with conditions, a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

Appeals can be made online at: <https://www.gov.uk/appeal-planning-decision>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000. The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 114 of the Town and Country Planning Act 1990.

Purchase Notices

If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, they may serve on the Council of the county borough or county district in which the land is situated a purchase notice requiring that Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Marathon House
The Sidings Business Park
Whalley, BB7 9SE

01254 823 885

www.peterhitchenarchitects.co.uk

NOTES:

This site plan demonstrates the proposal to adapt the existing site levels for the conversions and the extent of the hard surfaced area

[illegible]

CLIENT:
Mr T R Procter
Moor End Head Farm
Moor Lane
Whalley
BB7 9SE

**PROPOSED
PROJECT:
REDEVELOPMENT OF
EXISTING AGRICULTURAL
UNITS INTO TWO DWELLINGS
LAND OFF WHITTLE HALL
FARM MOOR LANE LANGHO**

SHEET:

PROPOSED SITE PLAN

Project number

PHA/680

Date	13/06/2023
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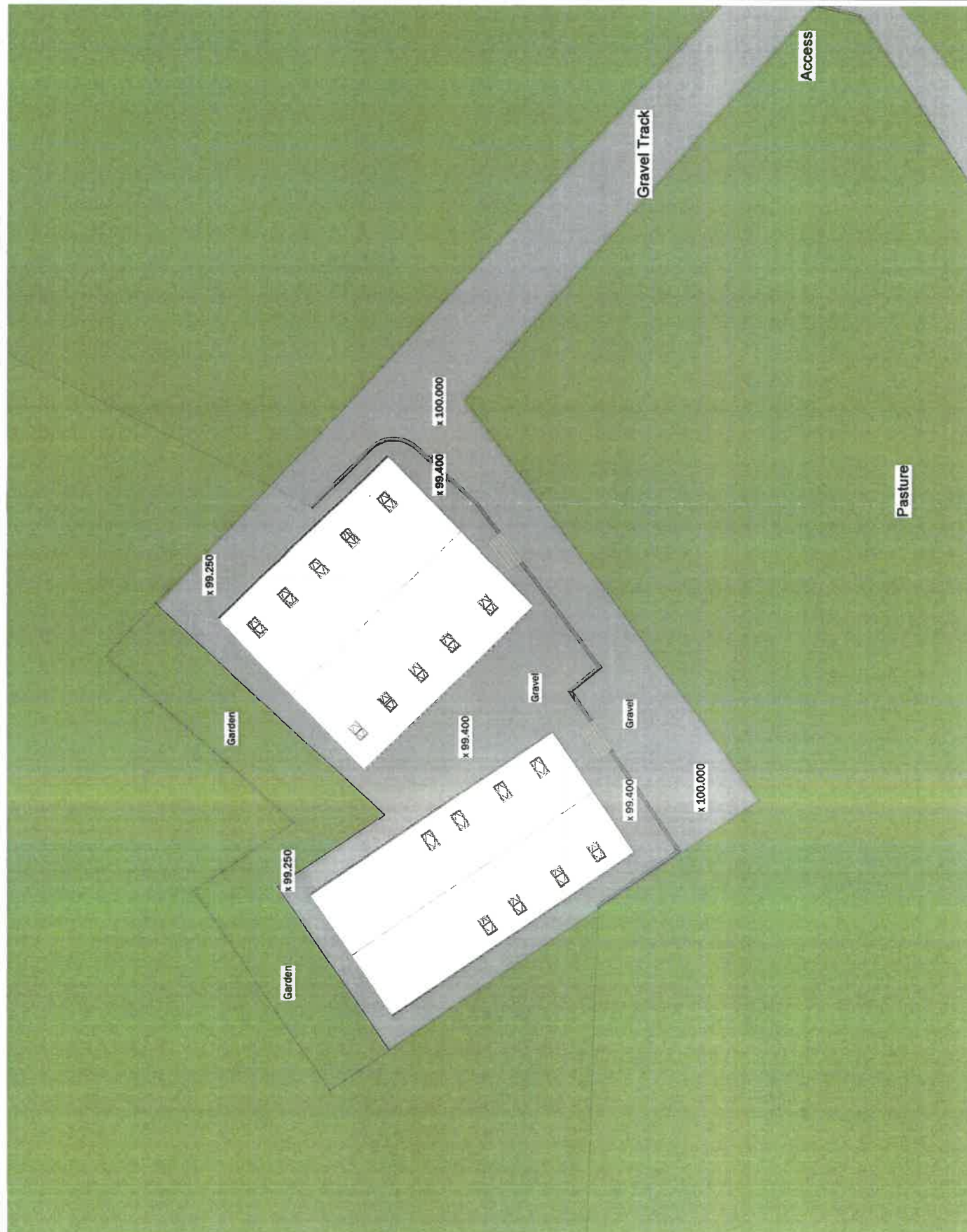
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Peter Hitchchen Architects

Marathon House
The Sidings Business Park
Whalley, BB7 9SE
01254 823 885
www.peterhitchchenarchitects.co.uk

NOTES:

This site plan demonstrates the proposal to adapt the existing site levels for the conversions and the extent of the hard surfaced area

Darker grey areas next to the barns are concrete hardstanding which is set down towards the barns to get from the higher level of the outside to the lower level of inside.

No.	Description	Date

CLIENT:

Mr T R Procter
Moor End Head Farm
Moor Lane
Whalley
BB7 9SE

PROJECT:

PROPOSED
REDEVELOPMENT OF
EXISTING AGRICULTURAL
UNITS INTO TWO DWELLINGS
LAND OFF WHITTLE HALL
FARM MOOR LANE LANGHO

SHEET:

EXISTING SITE PLAN

Project number

PHA/680

Date

13/06/2023

Drawn by

JS

Checked by

PH

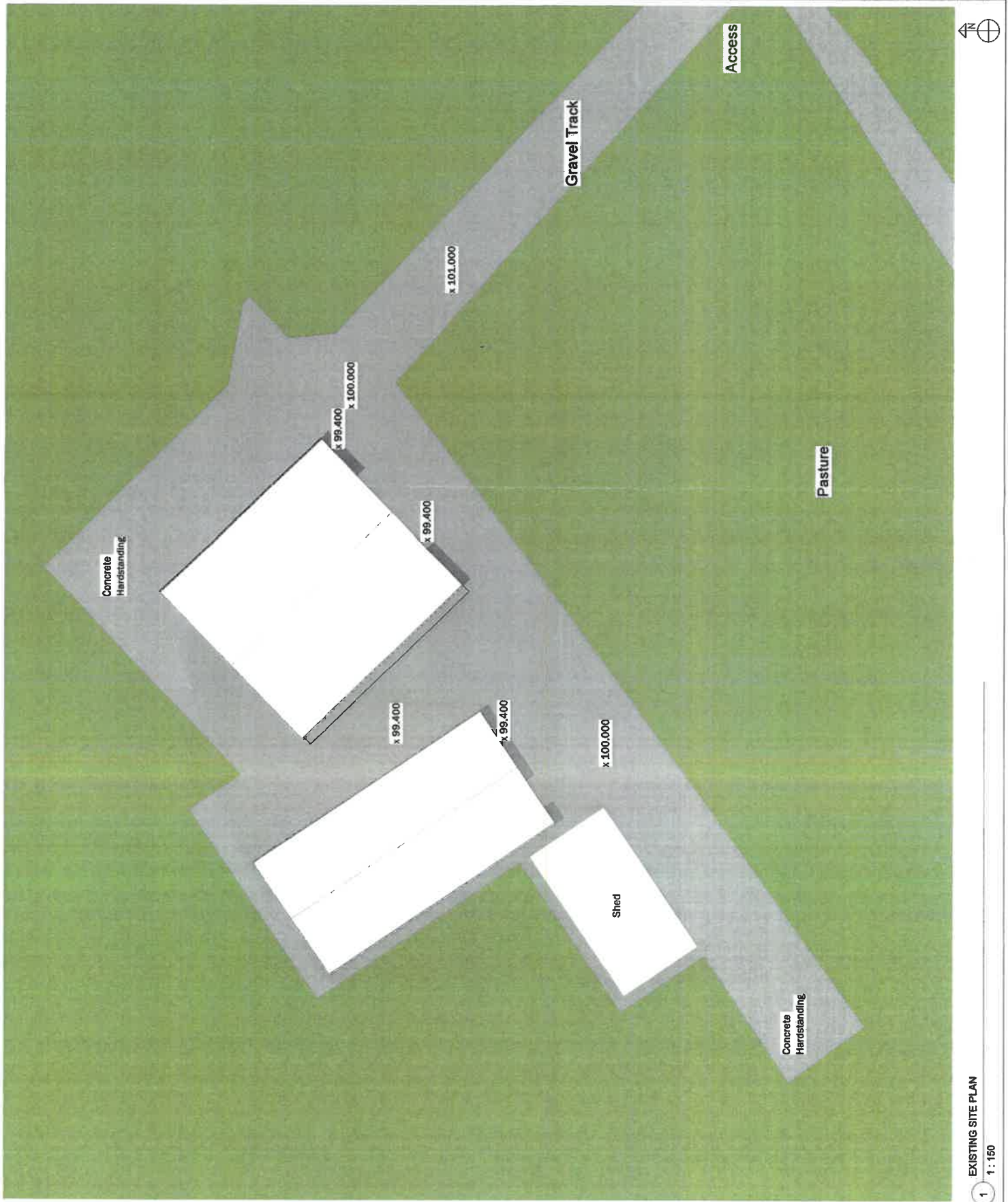
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Peter Hitchen Architects

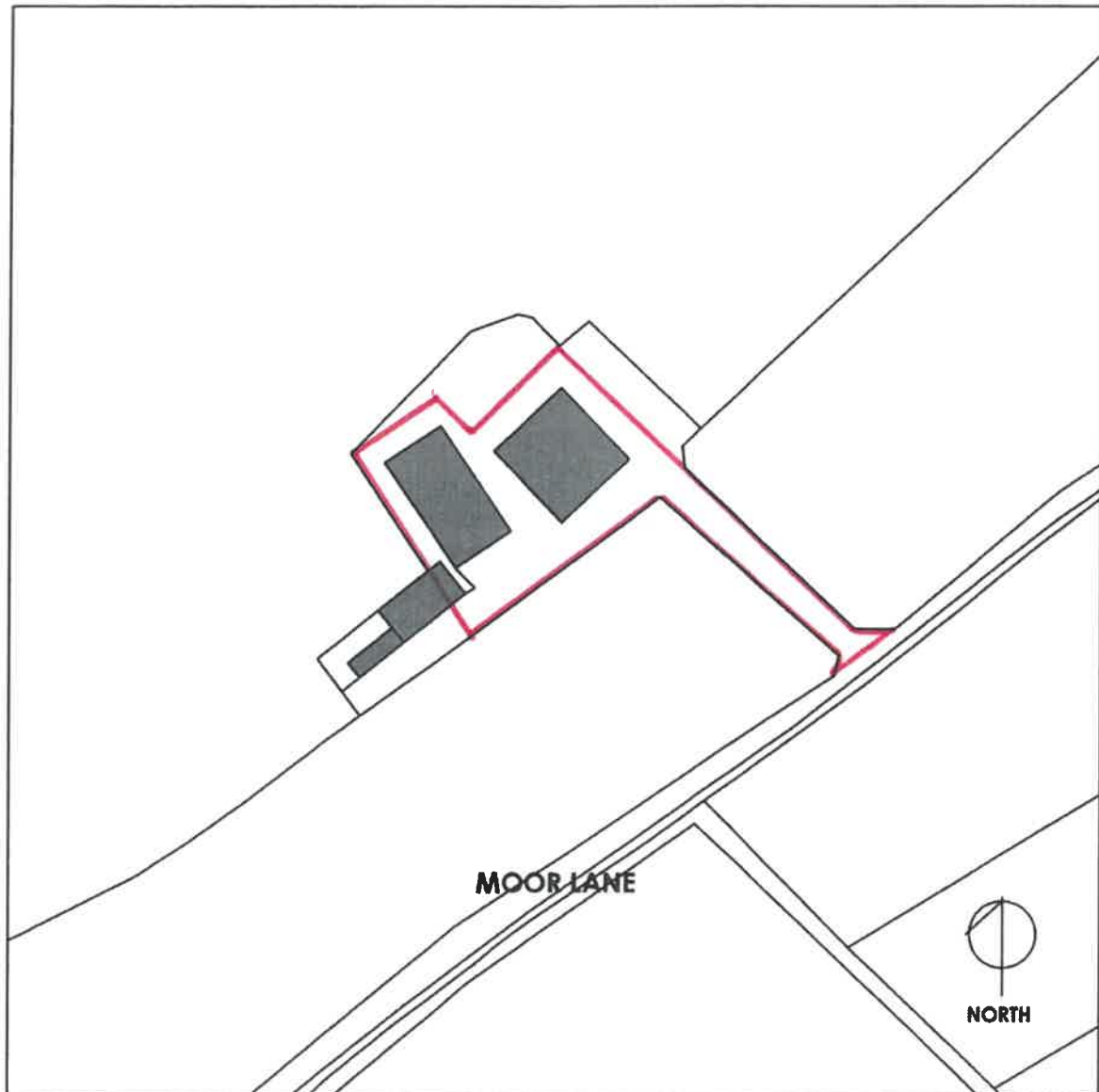
Peter Hitchen Architects Ltd
Marathon House
The Sidings Business Park
Whalley
Lancashire
BB7 9SE
6 July 2023

PROPOSED CONVERSION OF TWO AGRICULTURAL BUILDINGS INTO TWO DWELLINGS LAND OFF WHITTLE HALL FARM, MOOR LANE, LANGHO

Planning Appeal-Whittle Hill Farm July 2023

List of all documents submitted with this Appeal

- Application Form
- Submitted plans for barn 1 and barn 2
- Submitted site plans
- Submitted location plan
- Submitted Protected Species survey
- LPA decision Notice
- LPA delegated report
- Visuals of the original application
- Visuals for the resubmission
- Architects statement of case
- Existing and proposed site plans for the appeal with levels
- Planning appeal statement of case
- Application for Costs
- Request for Hearing
- Badger assessment post decision (RAMS)
- Badger group email from June 22 submitted to the authority
- Post decision 2023 badger group correspondence



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LOCATION PLAN I.1250

Report to be read in conjunction with the Decision Notice.

Signed:	Officer:	KH	Date:	03.05.22	Manager:	LH	Date:	5/5/23
Site Notice displayed	Y	Photos uploaded	N					

Application Ref:	3/2023/0226	 Ribble Valley Borough Council www.ribblevalley.gov.uk
Date Inspected & site notice posted	22/03/23	
Publicity Exp:	12/04/23	
Officer:	KH	
DELEGATED ITEM FILE REPORT:		Decision Refused

Development Description:	Prior notification application for the proposed conversion/ redevelopment of two agricultural buildings into two dwellings (resubmission of 3/2022/0436).
Site Address/Location:	Land adjacent to Miles Hill, Moor Lane, Billington BB7 9JH

CONSULTATIONS:	Parish/Town Council
No response.	

CONSULTATIONS:	Highways/Water Authority/Other Bodies
n/a	

CONSULTATIONS:	Additional Representations.
n/a	

RELEVANT POLICIES AND SITE PLANNING HISTORY:

Class Q of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Ribble Valley Core Strategy:

Policy DS1: Development Strategy
 Policy DS2: Sustainable Development
 Policy EN1: Green Belt
 Policy EN3: Sustainable Development and Climate Change
 Policy DMG1: General Considerations

Relevant Planning History:

3/2022/0436 – Prior notification application for the proposed conversion/ redevelopment of two agricultural buildings into two dwellings – Refused and Appeal Dismissed.

3/2007/0657 - Proposed agricultural building – Calf rearing unit – Approved.

3/2006/0126 – Proposed agricultural building to provide winter housing for cattle – resubmission – Approved.

ASSESSMENT OF PROPOSED DEVELOPMENT:

Site Description and Surrounding Area:

The site is located within land designated as Green Belt.

The site is clearly visible from road and public footpath network as it is sited prominently on the downslope of the hillside above Whalley Old Road with a substantially change in levels.

The site is accessed from Moor Lane adjacent to the agricultural buildings. The immediate site consists of three buildings. The site is relatively isolated with some agricultural buildings and farmsteads in the area but some distance away. Vehicular access from both Whalley and Billington to the site is over a mile distant up a steep hillside on a narrow track with limited passing points.

Public footpath 3-6-FP-46 runs through the site from Moor Lane to the north to Shawcliffe Lane to the south east.

The immediate site consists of agricultural buildings with the surrounding area comprises agricultural fields and associated farm buildings within Green Belt.

Proposed Development for which consent is sought:

The application seeks prior notification for the proposed conversion of two buildings into two dwellings under the GPDO (Part 3 Class Q).

Assessment:

1. Compliance with Article 3

In terms of the proposal being considered permitted development it must comply with the provisions of Paragraphs (4), (5), 9(A) and 9(B) of Article 3 'Permitted Development' of the GPDO.

Paragraph (4) states that:

Nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order:

No restrictive conditions found

Paragraph (5) states that:

The permission granted by Schedule 2 does not apply if—

- (a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful;
- (b) in the case of permission granted in connection with an existing use, that use is unlawful:

No unlawful works or uses found

Paragraph 9(A) states that:

Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—

- (a) where the gross internal floor area is less than 37 square metres in size; or
- (b) that does not comply with the nationally described space standard issued by the Department

for Communities and Local Government on 27th March 2015.

Paragraph 9(B) clarifies that:

The reference in paragraph (9A) to the nationally described space standard is to that standard read together with the notes dated 19th May 2016 which apply to it:

With regards to compliance with the above spacing standards the proposal complies with the technical requirements and spacing guidance set out within table 1 of the document.

2. Compliance with Part 3 Class Q (permitted development)

This proposal must comply with the following criteria;

(a) the site was not used solely for an agricultural use as part of an established agricultural unit (i) on 20th March 2013, or (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;

It is stated within the application form that this is the case

(b) in the case of—

(i) a larger dwellinghouse, within an established agricultural unit—

(aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or

(bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;

The proposal relates to 2no. larger dwelling house. The total floor area of the building to be converted is less than 465 square metres. The proposal therefore complies with this part of the legislation.

(c) in the case of—

(i) a smaller dwellinghouse, within an established agricultural unit—

(aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or

(bb) the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;

As the development is for one larger dwelling house this part is not relevant.

Not applicable

(d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following—

(i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

(ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;

This Application is for two dwelling houses which would be under 465 square meters with no previous Class Q works undertaken so this criterion is satisfied.

(e) the site is occupied under an agricultural tenancy, unless express consent of both landlord and tenant have been obtained

The application form states that the site is not under an agricultural tenancy so this part is satisfied.

(f) if any permitted works under Classes A and B of Part 6 of the GDPO have been carried out since 20th March 2013 (or within 10 years of 20th March 2023, if work begins after that date)

There does not appear to have been any other development under the relevant parts of the GPDO within the unit in the past 10 years at this site although there has been permission obtained from Hyndburn LPA for the erection of two agricultural buildings on a site within the same ownership at Moor Head Farm in 2021.

(g) the development would result in an increase in the external dimensions of the existing building, at any given point

The proposed plans demonstrate that the conversion would not result in any increase or projection beyond the existing external dimensions of the building.

(h) would include building operations other than (i)-the installation or replacement of—
(aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and
(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.

The proposed works to the barns are considered reasonably necessary to the buildings to be inhabited as a dwelling. The works to the barns are not considered a re-build. However externally there also appear to be retaining structures proposed to accommodate changes in land levels and the introduction of large expanses of hard surfacing for access and car parking. No details of level changes have been submitted but the submitted visuals clearly show the buildings at a lower level to the surrounding access and car parking areas with retaining walls installed on the south east side of the buildings. This is considered to go beyond the scope of works reasonable necessary.

(j) is on Article 2(3) land

(k) the site is, or forms part of—
(i) a site of special scientific interest;
(ii) a safety hazard area;
(iii) a military explosives storage area;

(l) the site is, or contains, a scheduled monument; or (m) the building is a listed building.

The site does not form part of any of the above exceptions

Overall the proposals fail to comply with the permitted development criteria by virtue of works not being reasonably necessary.

3. Compliance with Part 3 Class Q (Prior Approval Matters)

As part of the prior notification process, the Council must consider the following matters;

Transport and Highways impacts

Moor Lane is a single track road and the access track to the site is long and narrow up a hillside with limited passing places and poor surfacing in places. Nonetheless the installation of passing points and improvement of access material cannot be addressed within the application as provision for these elements falls outside the remit of a Class Q. As the access is existing and only two dwellings would be created the access arrangements are considered acceptable. There is adequate space within the site to provide an adequate level of parking,

Noise impacts

There would be no unacceptable noise impacts to or from the residents of the proposed dwelling.

Contamination risks

There is no indication that the site contains any specific contamination.

Flood Risk

The site does not fall within any designated flood zones and there are no known flood risks associated with the development.

Location or Siting

The National Planning Practice Guidance document contains specific advice on applications of this nature. It states that such applications should not be subject to a sustainability assessment in terms of location, nor should they be refused solely on the basis that the location is not one in which the LPA would normally grant permission for a dwelling. Tests from the Framework should therefore not be applied, except where relevant to the subject matter of prior approval.

It also defines the meaning of 'impractical or undesirable' for the purposes of this Order. These are described as issues such as; no available vehicular access; lack of any available power source or other infrastructure services; incompatible neighbouring uses such as intensive farming, silage storage or use of dangerous machinery/chemicals.

There is an existing vehicular access track to the site which is distant to facilities and services which are over a mile away along a narrow steep track with limited passing places which would therefore place a reliance on the use of private transport modes and excludes sustainable methods such as cycling and public transport.

Whilst the site is isolated from day-to-day services, the Inspector on the previous decision stated that this in itself did not make the location undesirable or impractical. That Inspector also commented that whilst the access track is steep it is relatively short and the surface track could be improved through general maintenance. Therefore on that basis this criterion is satisfied.

Design – External Appearance

Prior approval on this matter was refused on the previous scheme by virtue of the extensive repositioning of openings, haphazard positioning of rooflights and the extent of new openings on elevations that are highly visible within the open countryside which would erode the buildings' regimented and functional appearance. This resubmission is not dissimilar from the previous scheme and fails to address those concerns.

This revised scheme still proposes a number of additional domestic openings, including large scaled glazed windows to the north west elevation as well as a total of ten rooflights to the roof slope for plot 1 and the addition of large, glazed windows and doors particularly on the north west and south west elevations together with a total of eight rooflights to the roof slope for plot 2.

Being on an exposed hillside location they would appear incongruous and adversely affect the landscape character. The degree of change is considered excessive and extensive.

There also appears to be retaining structures shown to accommodate changes in land levels and the introduction of large expanses of hard surfacing for access and car parking surrounding each unit which

also introduces suburban aspects which are not appropriate in this rural location and could result in additional surface water drainage issues.

No details of level changes have been submitted with the proposal but the submitted visuals clearly show the buildings at a lower level to the surrounding access and car parking areas with retaining walls installed on the south east side of the buildings.

The resultant design and external appearance would adversely affect the character of the buildings and the surrounding countryside location. As such the proposal would not satisfy the requirements of the GDPO on this matter.

Design – Living conditions

Whilst there is a lack of private amenity space and close proximity of the buildings to each other, the Inspector on the previous decision was nevertheless satisfied that the design would be acceptable with regard to living conditions. Therefore no objections on this matter are raised.

Ecology

Bats are a protected species under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. It is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development is established before permission is granted in order that all material considerations have been addressed.

A bat/breeding birds report has been submitted which concluded that no evidence was recorded to suggest bats were roosting in the buildings and no bats were observed or recorded using the buildings for roosting as such there was negligible potential for roosting bats. No evidence of use by barn owls was recorded. However, local records indicate a presence of badgers in close proximity to the site. No ecology report has been submitted which assesses this, and potential impacts on this protected species.

The Inspector on the previous decision was clear that in the absence of appropriate survey information the extent to which protected species may be affected by the proposed development cannot be certain.

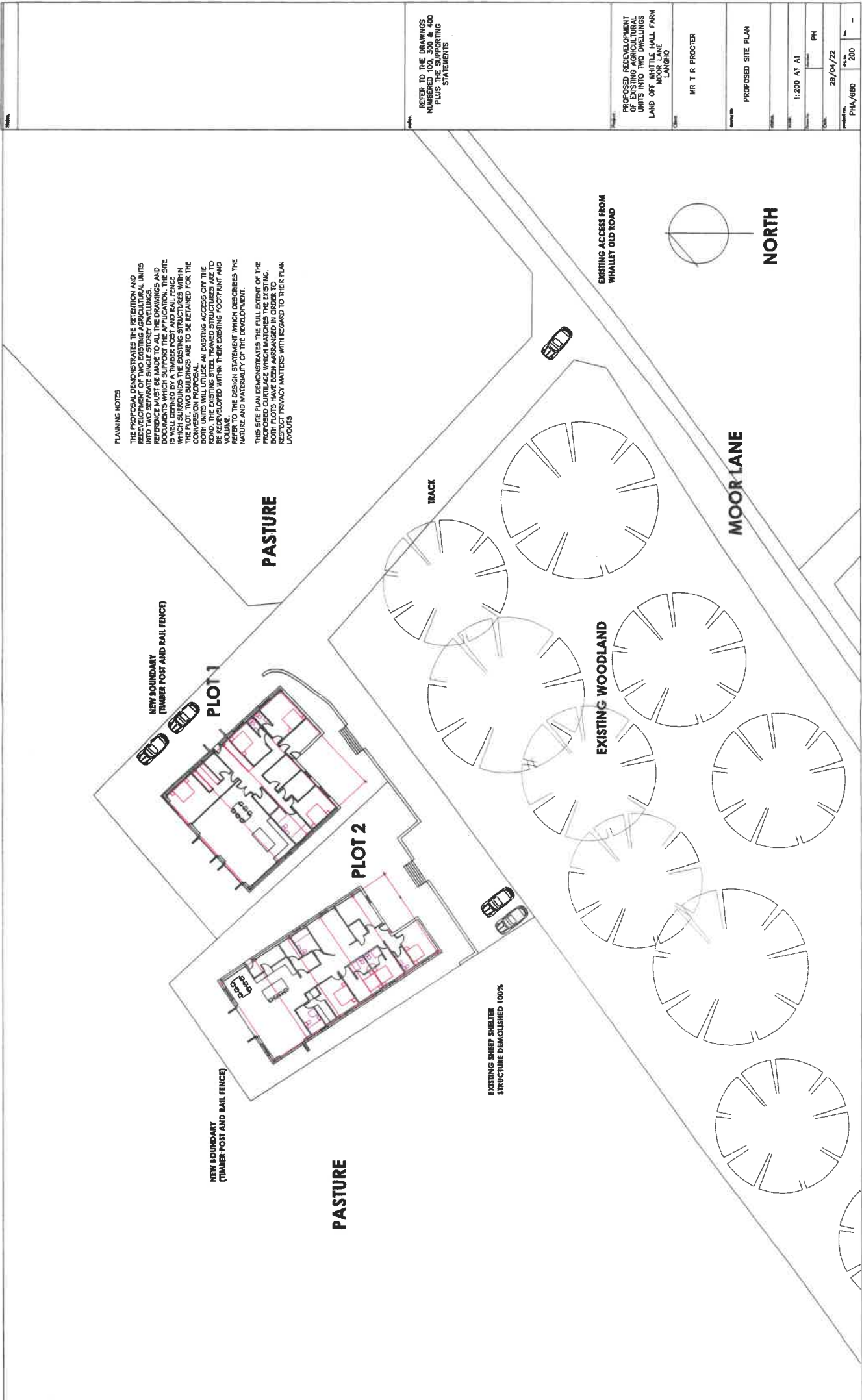
Paragraph W of the GPDO makes it clear that the onus is on the developer to provide sufficient information to enable the LPA to make a decision taking all material considerations into account. The lack of an adequate ecology report means that it cannot be concluded that the proposal would not adversely affect protected species, specifically badgers.

Observations/Consideration of Matters Raised/Conclusion:

For the reasons given above the proposed works go beyond that of a conversion in so far as the changes in levels and retaining structures shown; and prior approval is refused in terms of design (character and appearance). Finally the application has failed to fully consider the potential impacts on ecology and therefore Paragraph W of the GDPO has not been addressed.

RECOMMENDATION:

Prior approval refused



PLANNING NOTES

THE PROPOSAL DEMONSTRATES THE RETENTION AND REUSE OF EXISTING CURTAGE AND BUILDINGS INTO TWO SEPARATE SINGLE STOREY DWELLINGS. REFERENCE MUST BE MADE TO ALL THE DRAWINGS AND DOCUMENTS WHICH SUPPORT THE APPLICATION. THE SITE PLAN IS SUPPORTED BY A DETAILED AND ACCURATE LAYOUT WHICH SURROUNDS THE EXISTING STRUCTURES WITHIN THE PLOT. TWO BUILDINGS ARE TO BE RETAINED FOR THE CONVERSION PROPOSAL.

EXISTING CURTAGE WILL BE REDEVELOPED WITHIN THEIR EXISTING FOOTPRINT AND BE REDEVELOPED WITHIN THEIR EXISTING FOOTPRINT AND VOLUME. REFER TO THE DESIGN STATEMENT WHICH DESCRIBES THE NATURE AND MATERIALITY OF THE DEVELOPMENT.

THIS SITE PLAN DEMONSTRATES THE FULL EXTENT OF THE PROPOSED CURTAGE WHICH MATCHES THE EXISTING. PROPOSED CURTAGE WILL BE REDEVELOPED WITHIN THEIR EXISTING FOOTPRINT AND BE REDEVELOPED WITHIN THEIR EXISTING FOOTPRINT AND VOLUME. REFER TO THE DESIGN STATEMENT WHICH DESCRIBES THE NATURE AND MATERIALITY OF THE DEVELOPMENT.

REFER TO THE DRAWINGS NUMBERED 001 TO 400 PLUS THE SUPPORTING STATEMENTS

PROPOSED REDEVELOPMENT OF EXISTING AGRICULTURAL UNITS INTO TWO DWELLINGS LAND OFF WHITTLE HALL FARM MOOR LANE LAUGHO

MR T R PROCTER

PROPOSED SITE PLAN

1:200 AT A1

PH

28/04/22

Scale 200

PH14/660

Marathon House
The Sidings Business Park
Whalley, BB7 9SE

01254 823 885

www.peterhitchenarchitects.co.uk

NOTES:

[illegible]

CLIENT: Mr T R Procter
Moor End Head Farm
Moor Lane
Whalley
BB7 9SE

PROJECT: PROPOSED REDEVELOPMENT OF EXISTING AGRICULTURAL UNITS INTO TWO DWELLINGS LAND OFF WHITTLE HALL FARM MOOR LANE LANGHO

SHEET:

PROPOSED SITE PLAN

Project number	PHA/680
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09/03/2023

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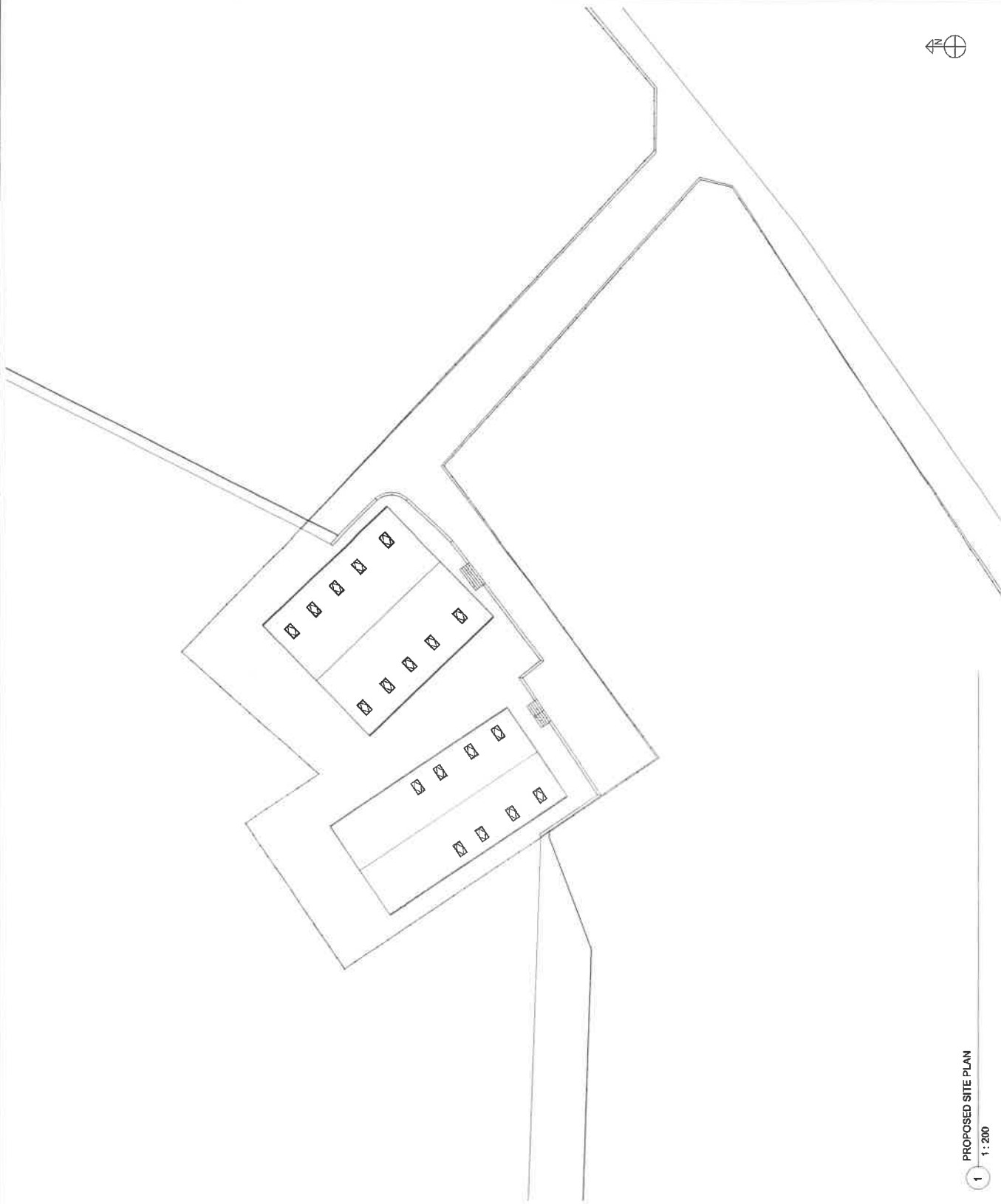
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Preliminary Bat Roost Assessment Report

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

13.03.2023



Report prepared by:



Summary

In February 2023 Batworker consultancy was commissioned to undertake a survey of outbuildings at land adjacent to Miles Hill, Moor Lane, Billington, BB7 9JH to assess the potential for use by bats and breeding birds.

A daytime survey was carried out on 8th March 2023 to support development plans.

No evidence was recorded to suggest bats were roosting within the buildings.

No bats were observed or recorded using the buildings for roosting.

The property is considered to be of negligible potential for roosting bats.

The surveyor considers survey effort to be reasonable to assess the roost potential of the buildings and no further survey work is deemed appropriate.

No evidence to suggest use by barn owls was recorded.

The surveyor does not consider the proposed development and change of use is likely to result in a breach of the Conservation (Natural Habitats &c.) Regulations 1994 (as amended) therefore the proposed development does not require an EPS Licence (EPSL) to proceed lawfully.

Introduction

In February 2023 Batworker consultancy was commissioned to undertake a survey of outbuildings at land adjacent to Miles Hill, Moor Lane, Billington, BB7 9JH to assess the potential for use by bats and breeding birds.

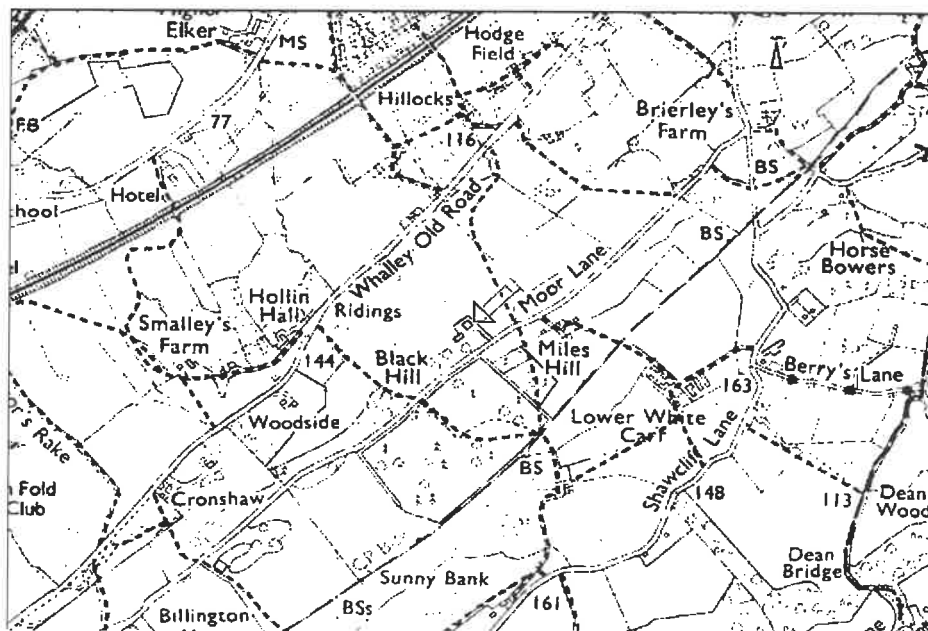
A daytime survey was carried out on 8th March 2023 to support development plans.

Survey and Site Assessment

Objectives of the survey

The survey was carried out to determine roost potential of the building, current usage by bats, and other protected species, of the site and to establish status of the bat species using the site prior to development work being carried out.

Survey site location



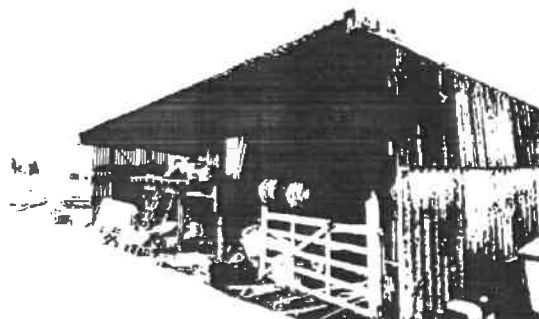
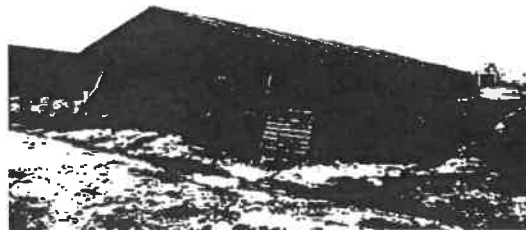
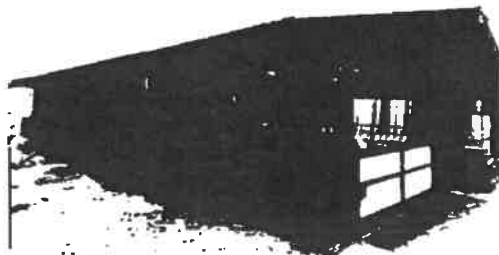
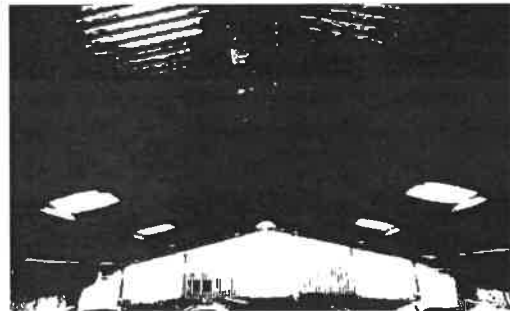
A central grid reference for the site is SD7229934650

Site Description

The property consists of three portal style agricultural outbuildings, two with double pitched corrugated fibreboard roof, and an open fronted outbuilding with single pitched corrugated fibreboard roof.

The buildings have single skin timber sides and roof panels are unlined with ridge panels exposed to the interior.

The outbuildings can be considered to offer negligible bat roost potential.



Pre Existing data on local bat species

A search of the MAGIC (www.magic.gov.uk) website revealed no bat EPS licence applications within a 1km radius.

From personal experience of surveying for and researching bats in Lancashire, Yorkshire and Cumbria, the following species were considered.

Common Pipistrelle – known to roost on sites where suitable foraging habitat is available.

Soprano Pipistrelle – known to roost on sites where suitable foraging habitat is available.

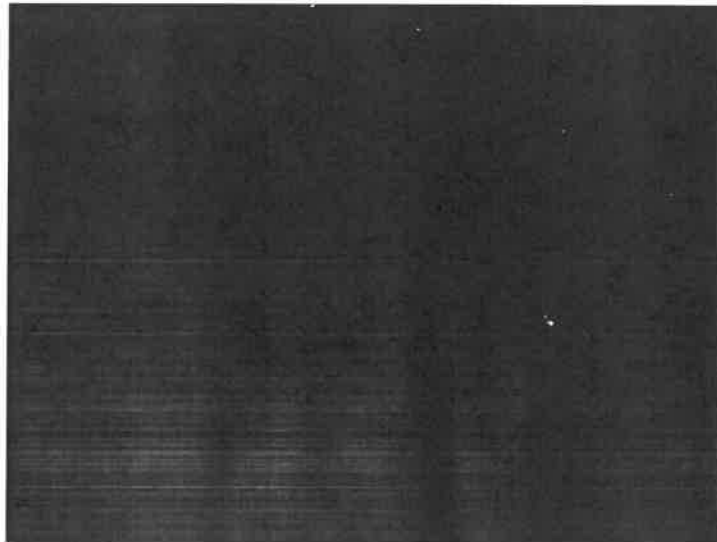
Whiskered/Brandt's – species often found roosting in buildings close to woodland.

Natterer's – a typical upland bat, often associated with lowland woodland, but with foraging bats being recorded high on heather moorland. Often roosting in barns.

Daubenton's – a species commonly associated with aquatic habitats.

Long Eared bat – a typically woodland species which has been recorded foraging over in by meadows and rough grassland sites. Often roosting in barns.

Habitat



The property is located in a rural position with surrounding habitat a mosaic of improved and semi improved grassland with some scattered deciduous tree cover present on field boundaries, semi natural deciduous woodland and rough grassland.

Connectivity to the wider landscape is good.

Overall foraging potential for bats can be considered moderate.

Field Survey Methodology

Visual inspection

An inspection was carried out to search for and identify potential feeding perches, roosting opportunities and signs of bat use both internally and externally. The visual inspection focussed on searching for feeding remains and bat droppings both within the building and on external walls. Crevices and other potential roost sites were investigated for smear/grease marks, lack of cobwebs, urine staining.

Equipment used included:

- ! Exposure Diablo 1300 lumen LED torch
- ! SeeSnake CA 300 video endoscope
- ! Opticron close focusing binoculars

Personnel

All surveys were conducted by Dave Anderson MSc, Natural England Science, Education and Conservation bat licence holder (2015-15784-CLS-CLS) a bat surveyor and ecologist with over 20 years experience.

Survey Summary

Survey	Date	Timings
Visual	08.03.2023	1 Hour

Survey constraints

Access to all areas of the exterior of the buildings was possible and good visual inspection at ground level and aerial inspection was possible. Evidence of bat activity such as bat droppings or staining on external walls and surfaces is frequently removed by the action of wind and rain; apparent absence of evidence is therefore evaluated with caution.

In many situations it is not possible to inspect every locations where bats are present therefore it should be assumed that an absence of bat evidence does not necessarily equate to evidence that bats are absent.

Some species such as pipistrelle sp bats are opportunistic and it is possible for individuals to be found during works, even where surveys have had negative results during preliminary and activity surveys.

Survey Results

Visual Inspection - Bats

The buildings are single skin construction with no cracks, gaps, cavities or crevices suitable for roosting bats and were assessed as offering negligible roosting potential.

No evidence (in the form of scattered droppings, urine splashing, feeding remains or grease marking) to suggest use by bats was recorded.

Visual Inspection – Nesting birds

No evidence to suggest use of the buildings by nesting birds was recorded.

Evaluation of the results

No evidence of use by bats was recorded during the survey and the buildings were assessed as offering negligible roosting potential.

Given the lack of roosting potential it is considered that the development proposals do not risk negative impacts on roosting bats.

Conclusion

No evidence was recorded to suggest bats were roosting within the buildings.

No bats were observed or recorded using the buildings for roosting.

The property is considered to be of negligible potential for roosting bats.

The surveyor considers survey effort to be reasonable to assess the roost potential of the buildings and no further survey work is deemed appropriate.

No evidence to suggest use by barn owls was recorded.

The surveyor does not consider the proposed development and change of use is likely to result in a breach of the Conservation (Natural Habitats &c.) Regulations 1994 (as amended) therefore the proposed development does not require an EPS Licence (EPSL) to proceed lawfully.

Proposed Biodiversity Net Gain

The installation of a Greenwoods Ecohabitats Two Chamber Bat Box or Kent Bat Box within the site would provide roosting potential for the local bat population.

Accidental exposure of bats - EMERGENCY ADVICE

In the unlikely event of bats or their roosts being exposed or vulnerable to harm, suspend further work in that area. Cover the exposed bats to reduce any further risk of harm and seek advice immediately.

Call Dave Anderson (Batworker) on 07894 338290 (mobile); a site visit will be arranged to assess the situation, contact Natural England where necessary, and recover any bats / safely remove them from site.

E Bibliography

Barn Owls and Rural Planning Applications Barn Owl Trust 2009

Barn Owl Survey Methodology and Techniques for use in Ecological Assessments
Shawyer, C. August 2011

Bat Mitigation Guidelines Natural England 2006

Bat Survey Guidelines 3rd Edition Bat Conservation Trust 2016

Bat Workers Manual 3rd Edition JNCC 2004

Bats and the Law

Wildlife and Countryside Act 1981, principally those relating to powers and penalties, have been amended by the Countryside and Rights of Way Act 2000 (CRoW Act). The CRoW Act only applies to England and Wales.

Section 9(1)

It is an offence for any person to intentionally kill, injure or take any wild bat.

Section 9(4)(a)

It is an offence to intentionally or recklessly* damage, destroy or obstruct access to any place that a wild bat uses for shelter or protection.

(*Added by the CRoW Act in England and Wales only)

This is taken to mean all bat roosts whether bats are present or not.

Section 9(4)(b)

It is an offence to intentionally or recklessly* disturb any wild bat while it is occupying a structure or place that it uses for shelter or protection.

(*Added by the CRoW Act in England and Wales only)

The Conservation (Natural Habitats, &c.) Regulations 1994

Section 39(1)

It is an offence

- (a) deliberately to capture or kill any bat
- (b) deliberately to disturb any bat
- (d) to damage or destroy a breeding site or resting place of any bat.

The difference between this legislation and the Wildlife and Countryside Act 1981 is the use of the word 'deliberately' rather than 'intentionally'. Also disturbance of bats can be anywhere, not just at a roost. Damage or destruction of a bat roost does not require the offence to be intentional or deliberate.

Countryside and Rights of Way (CROW) Act (2000)

Part III Nature conservation and wildlife protection

74 Conservation of biological diversity

- (1) It is the duty of (a) any Minister of the Crown (within the meaning of the Ministers of the [1975 c. 26.] Crown Act 1975), (b) any Government department, and (c) the National Assembly for Wales, in carrying out his or its functions, to have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biological diversity in accordance with the Convention.

SCHEDULE 12 AMENDMENTS RELATING TO PART I OF WILDLIFE AND COUNTRYSIDE ACT 1981

1. In section 1(5) of the 1981 Act (offence of intentional disturbance of wild birds) after "intentionally" there is inserted "or recklessly".

The Natural Environment and Rural Communities Act (2006)

PART 3, (40): Duty to conserve biodiversity

(1) Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

(3) Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat.

