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## Appeal Decision

Site visit made on 19 January 2022

**by Paul Martinson BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 March 2022**

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**Appeal Ref: APP/B2355/W/21/3284053**

**Reddish Hill Farm, Market Street, Shawforth, Whitworth OL12 8XD**

- The appeal is made under section 78 of The Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015.  
The appeal is made by Mr Heathcliff Howard against the decision of Rossendale Borough Council.
  - The application Ref 2021/0459, dated 26 July 2021, was refused by notice dated 29 September 2021.
  - The development proposed is described in the appeal form as: 'change of use and associated operational development of agricultural buildings to form 2 'larger' dwellinghouses'.
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### Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for change of use and associated operational development of agricultural buildings to form 2 'larger' dwellinghouses, at Reddish Hill Farm, Market Street, Shawforth, Whitworth OL12 8XD, in accordance with the terms of the application Ref 2021/0459, dated 26 July 2021, and subject to the conditions as set out in the attached schedule.

### Applications for costs

2. An application for costs was made by Mr Heathcliff Howard against Rossendale Borough Council. That is the subject of a separate Decision.

### Preliminary Matters

3. The relevant section of the application form has not been completed; I have therefore taken the description of development from the appeal form.
4. It is common ground between the main parties 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. For permitted development under Class Q, prior approval is required in respect of a number of matters, including the transportation and highways impacts of the proposal and whether the location or siting of the development make it impractical or undesirable for the use of the building to change.

## **Main Issues**

5. The main issues are:

- whether the location or siting of the building would make it impractical or undesirable for it to change from agricultural use to a use falling within Class C3, having regard to the living conditions of future occupiers with particular regard for the amount of private garden space proposed; and
- whether the level of vehicle parking proposed would be acceptable.

## **Reasons**

### *Location or Siting*

6. The appeal site is a stone barn with attached, interconnected, machinery store located in a predominantly rural setting (the building). The building sits within an existing yard to the rear of Reddish Hill Barn, a dwelling. Smaller buildings and structures alongside a small paddock adjoin the opposite edge of the yard, to the north of the building, beyond which is open fields. The site is accessed via a narrow road that is steeply sloping in places and serves other properties beyond the appeal site.
7. It is proposed to convert the buildings to two dwellings. A doorway in the west elevation of what is annotated on the plans as 'Barn 1' would provide access onto a strip of private outdoor space, forming a garden running for the full extent of this elevation. This garden would access a walkway to the north of the building which is proposed to be used for bin storage. The more rectangular garden which would be provided to the south of 'Barn 2' would be accessible from the kitchen proposed there and would extend for the width of the barn and the extent of the adjacent projection of Barn 1. A narrow space to the north of Barn 2 would be used for bin storage, alongside that of Barn 1.
8. Class Q permits the change of use of an agricultural building and any land within its curtilage to a C3 use. The size of the area of land within the curtilage that can be subject to this change of use is limited by paragraph X of Part 3 Schedule 2 of the GPDO. It states that this is (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.
9. Whilst the GPDO specifies an upper limit for the land within the curtilage that can be subject to a change of use through Class Q, it does not specify a lower limit. There is no dispute between the parties that the proposed curtilage lies within those permitted limits. I have not been provided with the difference in area between the maximum permitted curtilage and that of the appeal proposal, however it is clear that only gardens of limited size are permitted through this part of the GPDO.
10. Nonetheless, to my mind the garden space proposed to the west of Barn 1 and to the south of Barn 2 would allow reasonable space for domestic activities such as sitting out, drying clothes and planting. These spaces would also be reasonably open and, owing to their orientation, would likely benefit from direct sunlight at certain times in the day. They would also be well sited in terms of

access from the dwellings. Furthermore, the use of areas to the north of the building for the storage of bins would free up the areas to the west of Barn 1 and to the south of Barn 2 for domestic activities. As such, having regard to the provisions of paragraph 130 of the National Planning Policy Framework I am satisfied that whilst reasonably modest, the amount of private garden space for both properties would be adequate, and the proposal would ensure a high standard of amenity for future occupiers in that respect.

11. The Council is concerned that the farmyard siting of the dwellings and their lack of garden space would represent an unsafe and unsuitable living environment, particularly for children (and thus undesirable within the terms of the GPDO). However, based on the information before me, this does not appear to be a large-scale agricultural enterprise that is likely to generate regular movements of heavy machinery across the yard to the rear of the dwellings. In my experience, many individuals accept, or indeed value, working rural surroundings. I note the examples given in the Planning Practice Guidance<sup>1</sup> in relation to what may amount to 'undesirable' are far more potentially troublesome to future occupants than circumstances here. Notwithstanding this, the gardens are proposed to be enclosed with fencing which will offer some physical and visual enclosure. As such, in my view, they would not lead to an unsafe or unsuitable living environment. Individuals would, furthermore, make an informed choice as to whether to reside here.
12. The Council has also raised concerns that granting prior approval would lead to pressure to grant future applications for larger gardens in the fields beyond the yard, causing an urbanisation of the countryside. However, each application and appeal must be determined on its individual merits, and I am satisfied that granting prior approval would not make future proposals for garden extensions difficult to resist, if they were harmful to the landscape. That argument may be said to be true of the permitted development right in itself, as opposed to the specific circumstances in the appeal before me.
13. My attention has been drawn to Policy HS8 of the newly adopted Rossendale Local Plan (2019) (the RLP). This seeks to ensure all residential development is provided with adequate private useable outdoor amenity space, the extent of which should be related to the size and type of dwellings, the character of the development and the garden sizes in the immediate neighbourhood.
14. In this regard I note that whilst the proposed dwellings would be 3 and 4 bedroom semi detached properties, barn conversions generally have smaller gardens than other residential developments, due in part to avoid the harmful urbanising effect on the countryside reasoned above. Furthermore, the neighbouring Reddish Hill Barn has a reasonably small garden area which is predominantly located to one side of the dwelling. As such, and notwithstanding the provisions of the GPDO, the proposal would provide adequate private useable outdoor amenity space in line with Policy HS8. This supports my above reasoning.
15. In conclusion, the location or siting of the building would not make it impractical or undesirable for it to change from agricultural use to a use falling within Class C3. The proposal would provide acceptable living conditions for future occupiers in terms of private garden space.

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<sup>1</sup> Reference ID: 13-109-20150305

### *Parking Provision*

16. Based on the information before me, parking associated with the proposal is proposed for land adjacent to the northern edge of the farmyard opposite the proposed dwellings. This lies outside of the curtilage proposed referenced above.
17. I accept that it would have been beneficial to provide information as to how parking would have been provided at this stage (noting that the intended location is outside the red line on the plans and there is no present mechanism to secure its use as such). I also acknowledge, being inherently set in a rural location, that future occupants are likely to rely more or less on the use of private vehicles.
18. Nevertheless, there is no requirement in the GPDO for the curtilage of a proposed conversion to include dedicated parking provision. Moreover it appears to me that there is sufficient space at or near the building to enable the parking of vehicles, which is to some extent a private agreement. There is no indication, nor would it be rational for, individuals to park further afield obstructing the highway.
19. Moreover, access and curtilage are separate concepts within the GPDO (noting the provisions of Schedule 2, Part 2, Class B). And it would be open to the appellant to formalise any associated parking arrangements via securing planning permission as the case may be. As such, although I appreciate the Council's positions, within the terms of the GPDO and with reference to the nature of the site and its surroundings, I am not of the view that the proposal would be unacceptable in terms of parking or transport and highways impacts within the terms of the GPDO.

### **Conditions**

20. Paragraph Q.2.(3) of the GPDO stipulates that development under Class Q must be completed within a period of three years from the prior approval date. Paragraph W(12) requires the development to be carried out in accordance with the approved details. I have therefore imposed a condition specifying the approved plans, in the interests of certainty.
21. Paragraph W(13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. The Council's Environmental Health Officer has advised that there is potential for contamination from imported materials for surfacing/levelling/drainage; asbestos; fuels and oils (including heating oils) burning; storage of other items and substances that may not be compatible with a new residential development and has recommended conditions to address this. Whilst I note the comments from the appellant, I have not been provided with convincing evidence to the contrary. Therefore, in the interests of the protection of public health and safety, I have imposed a condition requiring submission of a risk assessment with regard to contaminated land. That in my view is a proportionate approach to the potential implications of any risks, having had regard to the provisions of the PPG<sup>2</sup> in that respect. I have edited and reduced this to a single condition which adequately meets the requirements of the two conditions that have been suggested.

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<sup>2</sup> Reference ID: 33-009-20190722.

22. Having sought the views of the main parties I have included an additional condition regarding unexpected contamination that the Council had suggested as an informative.
23. The appeal site is accessed via a steep and narrow road shared by other residential properties which is also a public right of way and is close to another dwelling. Therefore, a condition requiring a Construction Management Plan (CMP) to be agreed before the development is commenced is necessary, reasonable and fair with reference to the provisions of the GPDO in the interests of the health and safety of nearby residents and road users.
24. Due to the reasonably small scale nature and the type of development proposed I have not imposed conditions requiring the use of wheel washing facilities, whilst a condition relating to deliveries is not necessary as it repeats details necessary of the CMP. Similarly, reflecting on my reasoning above in paragraphs 16-19, conditions related to parking areas and charging points are neither necessary (nor is there sufficient information before me to draft precise conditions in that regard).

### **Conclusion**

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

*Paul Martinson*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Proposed Plans and Elevations (Drawing No HH-12-07-21-PROP).
- 2) No development shall take place until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority. The submitted report shall include: i) A Preliminary Risk Assessment report (phase 1), including a conceptual model and a site walk over survey; ii) Where potential risks are identified by the Preliminary Risk Assessment, a Phase 2 Site Investigation report shall also be submitted to and approved in writing by the local planning authority prior to commencement of development. The investigation shall address the nature, degree and distribution of land contamination on site and shall include an identification and assessment of the risk to receptors focusing primarily on risks to human health, groundwater and the wider environment; and iii) If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any of the dwellings hereby approved.
- 3) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported

immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

- 4) No development shall take place, including any works of demolition or site clearance, until a Construction Management Plan (CMP) has been submitted to, and approved in writing by the local planning authority. The approved plan shall include details of:
- a) 24 Hour emergency contact number;
  - b) Details of the parking of vehicles of site operatives and visitors;
  - c) Details of loading and unloading of plant and materials;
  - d) Arrangements for turning of vehicles within the site;
  - e) Measures to protect vulnerable road users (pedestrians and cyclists);
  - f) The erection and maintenance of security hoarding;
  - g) Measures to deal with dirt, debris, mud or loose material deposited on the highway as a result of construction;
  - h) Measures to control the emission of dust and dirt during construction;
  - i) Construction vehicle routing;
  - j) Delivery, demolition and construction working hours.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.