

Application No: 2010/204	Application Type: Full
Proposal: Construction of part garage/part agricultural building	Location: Hey Head Farm, Tong Lane, Bacup.
Report of: Planning Unit Manager	Status: For Publication
Report to: Development Control Committee	Date: 1 st June 2010
Applicant: Mr. Paul Harrison	Determination Expiry Date: 21 June 2010
Agent: Hartley Planning & Development Assoc	

REASON FOR REPORTING **Tick Box**

Outside Officer Scheme of Delegation **X**

Member Call-In

Name of Member : Cllr Peter Steen

Reason for Call-In:

If Officers are minded to refuse planning permission, I would request that the application be considered by the Development Control Committee enabling Members to consider the conclusion of the recent Enforcement Appeal and impact of the application on the jobs and the farm itself.

3 or more objections received

Other (please state)

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

APPLICATION DETAILS

1. SITE

Hey Head Farm is situated in the open countryside to the east of the settlement of Bacup. The Farm has an area of approx 35 hectares, its complex of buildings accessed from Tong Lane.

The principal building on the site is of traditional design and stone / slate construction, in use as 2 dwellings, with an attached barn. There are two large portal-frame agricultural buildings located to the west of the dwellings, one of which is currently being used for breeding-pigs and lambing of sheep and the other for storing baled-hay and straw/general agricultural storage.

2. RELEVANT PLANNING HISTORY

2006/20: Erection of 2 no. Agricultural buildings with associated silage clamp, yard and access
Approved.

Condition of 2 of the permission reads as follows:

“The yard hereby permitted shall not be used other than for the purposes of agriculture within the Unit or incidental residential purposes associated with the dwellings at Hey Head Farm.”

2008/82: Erection of a free range Egg Production Unit
Approved.

2008/813: Change of use of part of yard to parking of five HG Vehicles
Refused.

2009/159: Demolition of 1no. agricultural building and erection of 2no. Agricultural buildings
Approved.

2009/160: Change of use of part of yard to parking of five HGVs
Refused & Dismissed on Appeal.

Enforcement Notice:

Appeal Dismissed and deemed planning permission refused.

In dismissing the appeals against the Enforcement Notice and refusal of planning permission, the Inspector concluded that:

- *The appeal site is situated in open countryside outside the urban boundary of Bacup where development of this kind would be inconsistent, on the face of it, with saved policy DS5 of the Rossendale District Plan which seeks to limit development in such areas to that needed for the purposes of agriculture.*
- *The Regional Spatial Strategy (RSS) for the North West of England does nonetheless recognise that there will be instances where proposals outside these limits can be acceptable. RSS policy RDF2 for example states that, exceptionally, new development will be*

permitted in the countryside where it is needed to sustain existing businesses. Further, positive support is lent to the suitable diversification and development of the rural economy through, in part, the creation of new enterprises. Planning for Sustainable Economic Growth (PPS4) again, in general terms, supports farm diversification for business purposes.

- I would not therefore regard the appeal site, in principle, as an inappropriate location for a farm diversification project – which this plainly is. I do however consider the particular type of proposal an unsuitable diversification scheme owing to its nature and scale, and thus an unacceptable form of development because of its impact upon the character and appearance of the surrounding countryside.
- While one expects various pieces of farm equipment and plant to be located within the farm yard – as here - the nature and appearance of up to 5 HGVs and 3 trailers is such that it would look entirely incongruous in such surroundings and so materially detract from the area’s intrinsic character and beauty, at odds with the aims of Policy E6 of PPS4. As a result I consider the character and appearance of the use incompatible with its countryside setting.
- *It may be that these views would be somewhat reduced if the new farm building to the north of the yard were to be erected. But, not to a sufficient degree in my opinion to overcome the objection to the development. Furthermore, it would take many years for landscaping of the perimeter of the site to prove effective in this upland setting. And then, even in the fullness of time, not in my view to an extent which would satisfactorily mitigate the unsightly impact of the use.*
- On balance, and on the evidence available, I am not satisfied that the use has been detrimental to the living conditions of residents living within the locality. I have therefore concluded it does not offend Local Plan policy DC1 in this respect, and would not do so, subject to a condition linking the hours of operation to those permitted to the quarrying use. This is not therefore something that counts against the development.
- *I have no doubt that this element of the appellant’s activities help to sustain his agricultural business. Another positive attribute of the development is the number of jobs it has created. The use employs between 3-9 full time staff. Most of these jobs, I am told, are local to the area. The development draws support in this respect from the RSS and national policy advice. These are not factors to be set aside lightly.*
- Nevertheless, this is an instance where I place greater weight upon environment considerations. I have concluded the development would harm the character and appearance of the surrounding countryside in this rural location and thereby compromise the commitment in national policy to protect the countryside for its intrinsic character and beauty

3. THE PROPOSAL

This proposal entails the construction of an L-shaped multi-purpose building in the farm yard to Hey Head Farm to be used for the :

- a) garaging of up to 3 HGVs and 2 trailers associated with farm usage and a haulage business operated as a farm diversion scheme. This part of the building measures 20m long and 12m wide.
- b) housing for cattle. This part of the building measures 18m long and 12m wide.

The building would be located on the north-east corner of the farm yard, adjacent to the siting of an agricultural building approved in June 2009 (Planning Permission 2009/159) but not yet erected. Internally, the building would be partitioned to form two separate units to be used for the garaging of HGVs/trailers and housing cattle. The building would be 5.8m high to ridge and 4m high to eaves. It would be constructed with a pitched-roof of plastic-coated corrugated steel sheeting, the north and east facing elevations clad with corrugated steel sheeting and the other elevations clad in timber boarding.

Access to the farm is gained via Tong Lane and the track running along the southern side of the farm buildings (i.e. 2 dwellings and the attached barn). According to the details provided in the application, the farm comprises 100 acres of land, of which 90 acres are owned outright and the remainder rented by the applicant.

In support of the application the applicant states

- The proposal is for 3 HGVs and 2 trailers rather than the previous application for 5 HGVs and 3 trailers. The scale of the operation is therefore reduced.
- At least one HGV and one trailer is required for farming purposes and will be required even more when the free range egg plant is in operation.
- The farm has 170 head of beef cattle and will soon have 12,000 hens, which will need feed delivered by lorry.
- Upland farming is a marginally profitable activity at the best of times and if feed and other materials are delivered by suppliers the costs are in the region of 12 pounds per tonne, whereas if collected from suppliers with their own HGV the cost falls to approximately 3 pounds per tonne.
- The applicant is entitled to operate an HGV vehicle and trailer for the benefit of the farm. The extra vehicles and equipment will be used for the diversification business.
- Contrary to the previous application which sought permission for the outside storage of the vehicles, this application proposes to garage the vehicles within a building which will be set down with rising ground behind it and will have the appearance and height of an agricultural building.

4. POLICY CONTEXT

National

- PPS1 - Sustainable Development
- PPS4 - Economic Growth
- PPS7 - Rural Areas
- PPG13 - Transport
- PPG24 - Noise

Development Plan

Regional Spatial Strategy (2008)

- DP1-9 Spatial Principles
- RDF1 Spatial Priorities
- RDF2 Rural Areas
- RT2 Managing Travel Demand
- RT4 Management of the Highway Network
- EM1 Environmental Assets

Rossendale District Local Plan

- DS5 Development Outside the Urban Boundary & Green Belt
- DC1 Development Criteria

Other Material Planning Considerations

- 4NW Draft Partial Review of the RSS
- LCC Landscape Strategy for Lancashire

5. Consultation Responses

LCC (Highways)

No highway comments.

RBC (Drainage)

No objection subject to the submission of a surface water drainage scheme.

6. Notification Responses

To accord with the General Development Procedure Order a site notice was posted on 7 May 2010 and the relevant neighbours were notified by letter on 27 April 2010

One letter raising objection to the proposal has been received from the residents of 10 Pennine Road. The comments made are:

- The use of the site has been as a depot for heavy lorries and not for agricultural.
- The unrestricted use of heavy lorries 24 hours a day, 7 days a week, should not be allowed to travel through a heavily populated residential area.
- A primary school is located on Tong Lane (the access route for the lorries).
- Tong Lane has sustained major damage due to its use by heavy lorries.
- Other premises could and should be found close to main arteries for the proposed use.

7. Planning Issues

In dealing with this application the principal issues to consider are as follows:

- 1) Principle; 2) Landscape Impact; 3) Neighbour Amenity; & 4) Access.

Principle

In the adopted Local Plan the application site lies within a Countryside Area, wherein Policy DS5 would preclude development other than for the purposes of agriculture, forestry or other uses appropriate to a rural area, unless for the rehabilitation and re-use of buildings.

PPS7 recognises that diversification into non-agricultural activities is vital to the continuing viability of many farm enterprises. It is supportive of farm diversification scheme for business purposes that contribute to sustainable development objectives and help to sustain the agricultural enterprise. To that end, it seeks to ensure that farm diversification schemes are consistent in their scale with their rural locations and do not result in excessive expansion and encroachment of building development into the countryside.

PPS 4 supports farm diversification for business purposes and conversion and re-use of appropriately located existing buildings in the countryside for economic development. The policy seeks to ensure that such schemes are consistent in their scale and environmental impact with their rural location.

Since part of the proposed building would be used for garaging the HGVs/trailers to be used in connection with a haulage business; unconnected with agriculture (most particularly repair of motorways), it is considered that the proposal conflicts with Policy DS5 of the Local Plan and is therefore unacceptable in principle.

With regard to the farm diversification project, the Appeal Inspector pointed out:

“I would not therefore regard the appeal site, in principle, as an inappropriate location for a farm diversification project – which this plainly is. I do however consider the particular type of proposal an unsuitable diversification scheme owing to its nature and scale, and thus an unacceptable form of development because of its impact upon the character and appearance of the surrounding countryside.”

It is clear that the Appeal Inspector considered that the proposal involving the parking/storage of HGVs/trailers linked with a haulage business, most particularly repair of motorways, was an unsuitable diversification and therefore an unacceptable form of development in the countryside. Although the current proposal has been reduced in scale (from 5 HGVs to 3 & 3 trailers to 2, compared with the appeal proposal) and that the HGVs and trailers would be kept inside a building, it is considered that the proposed development, due to its nature and character, remains same as the appeal proposal and therefore is an unsuitable diversification scheme and should be resisted by reason of its need for additional building and the nature/ hours/scale of on-site activity/ traffic movements associated with it.

Whilst part of the building proposed is for housing cattle and is acceptable in principle in the countryside, the applicant has provided no information to show it is reasonably necessary for the purposes of agriculture within the unit. It should be pointed out that planning permission for the demolition of one agricultural building and erection of 2

agricultural buildings was granted in 2009. In the planning application it was stated that the building (12m x 18m x 5.2m) to be located on the north side of the farm yard would be used as a cattle shed to house 25-30 cattle and the other building (8m x 18m x 4.1m), replacing the existing building to the east of the two dwellings, would be utilised for lambing approximately 70 head of sheep. Whilst the later building has been constructed, to date no works have commenced in connection with the construction of the cattle shed then permitted. In view of this it is considered that the farm already enjoys the benefit of an extant consent for the construction of a building to house 25-30 cattle and that this proposal for a further cattle shed should not be permitted in the absence of a justification for it.

Neighbour amenity

Access to the site is gained via Pennine Road / Tong Lane and a track which runs along the southern side and in front of the two dwellings at the farm which are in the applicant's ownership/control.

In assessing the impact of the additional vehicular movements likely to be generated by the Appeal proposal on the local highway network and amenity of local residents, the Inspector concluded that "on balance, and on the evidence available, I am not satisfied that the use has been detrimental to the living condition of residents living within the locality. I have therefore concluded it does not offend Local Plan Policy DC1 in this respect, and would not do so, subject to a condition linking the hours of operation to those permitted to the quarrying use"

Condition 15 of Planning Permission ref 14/98/383 (Quarrying/Mining operations) reads:

"No development shall take place except between the hours of:

*0730 to 1830, Mondays to Fridays (except Public Holidays)
0730 to 1300 hours on Saturdays*

No development shall take place at any time on Saturdays or Public Holidays."

It is clear that the above planning permission restricts the hours at which lorry movements associated with the nearby quarry can take place in order to give residents of the houses they must pass respite from noise and disturbance in the evenings/night and at weekends.

No information has been provided in the application with regard to the frequency of vehicles visiting the site or the duration within which such visits are anticipated to take place. As suggested by the Planning Inspector, if the duration of haulage vehicle movements associated with Hey Head Farm is restricted to that permitted for quarry traffic it would not unduly add to traffic volumes/disturbance for local residents. Given the nature of the applicants haulage business (HGVs to be used in connection with motorway repair works), the applicant has not proposed any limitation by way of an hours condition and for the Council to impose such a condition is likely to be breached or would impinge greatly upon operation (and consequently viability/sustainability) of the business. On the other hand, if permission is granted without a matching hours limitation as the quarry this would be to the detriment of the amenities residents of Pennine Road/Tong Lane could reasonably expect to enjoy.

Landscape Impact

The proposed L-shaped building, measuring 30m in its east elevation and 20m in its north elevation, set against the rising land to the north and east. It would be 4m high to eaves and 5.9m high to ridge. The building would be constructed with a pitched roof finished in plastic coated corrugated steel sheeting and the north and east facing elevations would be clad with corrugated steel sheeting and the other elevations clad in timber boarding.

The site is situated in a Moorland Fringe landscape character tract which is a transitional rolling landscape of predominantly sheep grazed marginal pastures divided by stone walls. A number of public footpaths traverse the higher land to the north of the farm yard and to the east of the farmhouse. Although this landscape characteristic is marred to some extent with a number of landscape quality issues such as the presence of quarries, pylons etc, it is considered that the proposed building, due to its large size/scale and height, would be exposed to public view from the surrounding open land including the footpaths, and would detract unacceptably from the character of this essentially open and rural area. It is considered that the proposed building, due to its close proximity and affinity with the open land to the north and east, would have a detrimental impact on the open character of the surrounding area which is unacceptable.

Highway safety

The Highway Authority is satisfied with regard to the suitability of the access road and has therefore made no comments in this respect.

Conclusion

It is accepted that the number of HGVs and trailers likely to be used in connection with the haulage business has been reduced and that they would be kept inside a building. However, as pointed out by the Appeal Inspector, it is considered that the proposal relating to the use of HGVs is an unsuitable diversification scheme and the proposal seeks to address concerns about external storage/visual intrusion by erection of a building for a use which is inappropriate, contrary to PPS1/PPS7 and Policies DP7/RDF2/EM1 of the RSS for the NW of England (2008) and Policies DS5/DC1 of the Rossendale District Local Plan (1995). The arguments concerning loss of jobs/employment do not outweigh the presumption against the development by reason of inappropriateness and harm to visual and neighbour amenity based on national planning guidance and development plan policies.

The farm enjoys the benefit of an extant consent for the construction of an agricultural building to house 25-30 cattle. No justification has been advanced for a further such building

Recommendation

It is recommended that permission be refused for the following reasons:

1. The application site is located within the Countryside, wherein Policy RDF2 of the Regional Spatial Strategy and Policy DS5 of the Rossendale District Local Plan seek to constrain development to that appropriate in nature/scale to a rural

area. The proposed building is to house HGVs/trailers associated with a haulage business, which is not appropriate as a farm diversification in this location having regard to its impacts upon the character and appearance of the Countryside and local residents of Pennine Road/Tong Lane. The proposed building is also to house cattle. The farm enjoys the benefit of an extant permission for the construction of an agricultural building to house cattle. The applicant has not advanced the case to show the cattle housing for which permission is sought is reasonably necessary for agriculture within the unit. The proposed building, due to its siting/scale/materials would detract to an unacceptable and unnecessarily extent from the essentially open and rural character of the area, the haulage business detracting from the amenities residents could reasonably enjoy as its traffic movements cannot be limited to those of the nearby quarry. The proposed development is therefore considered to be contrary to PPS1/ PPS3 / PPS7 / PPG24, Policies DP7 / RDF2 / EM1 of the RSS for the NW of England (2008) and Policies DS5 / DC1 of the Rossendale District Local Plan (1995).

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