

# RIBBLE VALLEY BOROUGH COUNCIL

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Dear Councillor

The next meeting of the **PLANNING AND DEVELOPMENT COMMITTEE** will be held **on line at 5pm on THURSDAY, 25 JUNE 2020 by Zoom.**

I do hope you can be there.

Yours sincerely

CHIEF EXECUTIVE

To: Committee Members (copy for information to all other Members of the Council)  
Directors  
Press  
Parish Councils (copy for information)

## AGENDA

### Part I – items of business to be discussed in public

1. Apologies for absence.
- ✓ 2. To approve the minutes of the meetings held on 12 March 2020 – copy enclosed.
3. Declarations of Pecuniary and Non-Pecuniary Interests (if any).
4. Public Participation (if any).

### DECISION ITEMS

- ✓ 5. Planning Applications – report of Director of Economic Development and Planning – copy enclosed.

- ✓ 6. Non-Determination Appeal in Relation to Full Planning Consent for the Erection of 39 Dwellings with Landscaping, Associated Works and Access from Adjacent Development Site. Land at Chatburn Road Clitheroe – report of Director of Economic Development and Planning – copy enclosed.
- ✓ 7. Tree Preservation Order 7/19/3216 – Carr Hall, Woodlands, Wilpshire – report of Director of Development and Planning – copy enclosed.

#### INFORMATION ITEMS

- ✓ 8. Appeals:
  - i) 3/2019/0497 – refurbishment of existing shop front at 1 – 3 King Lane, Clitheroe – appeal dismissed.
  - ii) Appeal against Enforcement Notice at land at 12 Poplar Drive, Longridge – appeal dismissed and Enforcement Notice upheld with a variation in the terms.
  - iii) Costs decision – land at 12 Poplar Drive, Longridge – refused.
  - iv) 3/2019/0698 – erection of a double garage structure with a first-floor home office at Wilkinson’s Farmhouse, Simonstone Lane, Simonstone – appeal dismissed.
  - v) 3/2019/1021 – attached double garage, patio and external balcony at Birley Fold Farm, Saccary Lane, Mellor – appeal allowed with conditions.
- 9. Reports from Representatives on Outside Bodies (if any).

#### Part II - items of business **not** to be discussed in public

#### DECISION ITEMS

None.

#### INFORMATION ITEMS

None.

**INDEX OF APPLICATIONS BEING CONSIDERED**  
**MEETING DATE: 25 JUNE 2020**

<u>Application No:</u>	<u>Page:</u>	<u>Officer:</u>	<u>Recommendation:</u>	<u>Site:</u>
<b>A APPLICATIONS REFERRED BACK TO COMMITTEE FOR APPROPRIATE CONDITIONS:</b>				
			NONE	
<b>B APPLICATIONS WHICH THE DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING RECOMMENDS FOR APPROVAL:</b>				
<a href="#">3/2019/1119</a>	1	HM	AC	Holden Clough Nursery Bolton by Bowland
<a href="#">3/2020/0013</a>	11	AB	AC	Dewhurst Farm Longsight Road, Langho
<a href="#">3/2020/0143</a>	19	LE	AC	Unit 39 Shay Lane Longridge
<a href="#">3/2020/0266</a>	23	LE	AC	Land off Henthorn Road Clitheroe
<b>C APPLICATIONS WHICH THE DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING RECOMMENDS FOR REFUSAL:</b>				
<a href="#">3/2020/0219</a>	36	AB	R	Duke of York Grindleton
<b>D APPLICATIONS UPON WHICH COMMITTEE DEFER THEIR APPROVAL SUBJECT TO WORK DELEGATED TO DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING BEING SATISFACTORILY COMPLETED</b>				
			NONE	
<b>E APPLICATIONS IN 'OTHER' CATEGORIES:</b>				
			NONE	

**LEGEND**

AC Approved Conditionally  
R Refused  
M/A Minded to Approve

AB Adam Birkett  
AD Adrian Dowd  
HM Harriet McCartney  
JM John Macholc

LE Laura Eastwood  
RB Rebecca Bowers  
SK Stephen Kilmartin

# RIBBLE VALLEY BOROUGH COUNCIL REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

Agenda Item No 5

meeting date: THURSDAY, 25 JUNE 2020  
 title: PLANNING APPLICATIONS  
 submitted by: DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING

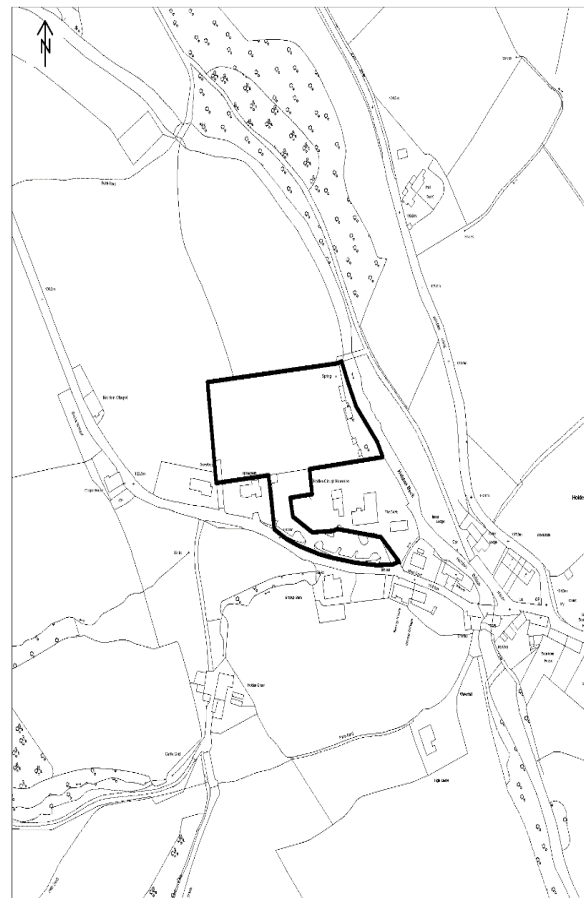
## PLANNING APPLICATIONS UNDER THE TOWN AND COUNTRY PLANNING ACT 1990:

**APPLICATION REF: 3/2019/1119**

GRID REF: SD 377329 449543

### DEVELOPMENT DESCRIPTION:

CHANGE OF USE OF AGRICULTURAL/HORTICULTURAL LAND TO OVERFLOW CAR PARK AND ASSOCIATED LANDSCAPING (RESUBMISSION OF APPLICATION 3/2019/0588). RETROSPECTIVE CONSENT FOR TWO SUBTERRANEAN LPG TANKS AND STONE GRAVEL SURFACE SERVICE AREA TO THE REAR (NORTH) OF THE EXISTING POTTING SHED. RETENTION OF PLANT GROWING AREA IN ASSOCIATION WITH EXISTING NURSERY



3/2019/0588 Holden Clough Nursery Bowland Road Bolton by Bowland BB7 4PF

Scale 1:2500

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## **CONSULTEE RESPONSES/ REPRESENTATIONS MADE:**

### **PARISH COUNCIL:**

Bolton by Bowland, Gisburn Forest and Sawley Parish Council have raised concerns that the works have already started and that the revised proposal does not mitigate the previous reasons for refusal, still having a negative impact on the AONB, character of the local area, adverse visual impact on the landscape and locality, major impact on the residential amenity of nearby neighbouring properties and highway concerns.

### **LCC HIGHWAYS:**

Following a site visit the county surveyor has raised no objection subject to the imposition of suitable conditions on any consent granted.

### **ENVIRONMENT AGENCY:**

While a small portion of the development site lies within flood zones 2 and 3, the works for the development itself lie outside of the flood zones and as such the EA has raised no objections to the proposed development.

### **LCC AONB:**

The application is considered to have responded to the previous comments in relation to the previous objection to the original application 3/2019/0588; namely the reduction in the additional car spaces and enhanced informal native tree planting along the northern and western perimeters of the site. As such the AONB partnership has raised no objections to the proposed development.

### **LLFA:**

No objections have been received in respect of the proposed development.

### **ADDITIONAL REPRESENTATIONS:**

16 Objections have been received including a further 5 representations following the receipt of amended plans, the material comments are as follows:

- Discrepancy in requirement and provision of parking space
- Concerns with regards to hours of operation
- Unauthorised development on site
- Inaccuracy within plans
- Negative impact on residential amenity- noise, light disturbance, loss of light to kitchen window, overlooking, loss of privacy.
- Negative impact on the AONB
- Negative impact on the heritage asset, listed building Holden Chapel
- Proposal does not mitigate previous reason for refusal
- Amended layout even more unacceptable in respect of impact on the AONB, heritage assets and residential amenity.

## 1. **Site Description and Surrounding Area**

- 1.1 The application relates to agricultural land to the north of Holden Clough Nursery. The nursery is partly within the linear roadside hamlet of Holden (near Bolton-by-Bowland) which is within the Forest of Bowland Area of Outstanding Natural Beauty. Part of the existing nursery and all of the proposed site extension is outside of the settlement boundary of Holden and thereby located within the defined open countryside.
- 1.2 The nursery consists of numerous buildings in relation to the current enterprises on site including the café known as the Garden Kitchen, and the recently constructed greenhouse and potting shed.
- 1.3 To the east of the site is Holden Beck (a County Biological Heritage Site). The application site lies within Flood Zones 2 and 3.
- 1.4 The site is considered to be within the setting of two listed buildings. 'Holden Chapel and house adjoining to north' is a Grade II listed "Independent chapel. Probably early C19th" (list description) approximately 90m to the north west of the site on elevated ground alongside Barrett Hill Brow. Broxup House and Cottage (Grade II listed) is to the south of the nursery, approximately 112m from the development site.

## 2. **Proposed Development for which consent is sought**

- 2.1 Planning permission is sought for a number of alterations to the application site as follows:
  - the change of use of the agricultural/horticultural land to the north of the nursery's site to form an overflow car park measuring approximately 52m by 19m to be constructed using Grasscrete and post and wire stock fencing.
  - Retrospective consent for 2 subterranean LPG tanks to the north east of the potting shed
  - Retrospective consent for the stone gravel surface service area to the rear (north) of the potting shed.
  - Retention of the stone covered geo-textile membrane plant growing area measuring approximately 20m by 50m located to the north of the potting shed and existing nursery.

## 3. **Relevant Planning History**

3/2019/0588 - Change of use of agricultural land to parking and landscaping. Two poly tunnels and stone service area (Refused)

3/2019/0016 - Variation of condition 2 from planning permission 3/2018/0396. (Approved with Conditions)

3/2018/1069 - Application for a non-material amendment to planning permission 3/2018/0396 consisting of change of roof materials and rooflight arrangement on the demonstration barn, change of glasshouse roof to single ridge system, and addition of two rooflights on each ridge of the roof of the connecting building (Approved with Conditions)

3/2018/0396 - Demolition of an existing potting shed and covered sales area, to be replaced with a glasshouse and linking access to the existing Garden Kitchen. Construction of a two storey demonstration unit with offices and toilets. The construction

of a covered terrace area adjacent to the Kitchen Garden. Construction of a training/classroom. Covered walkways (Approved with Conditions)

3/2017/0517 - Proposed two storey extension to existing cafe kitchen (Approved with Conditions)

3/2016/0078 - Application to vary condition (s) 3 (cafe opening hours) and 4 (lecture room opening hours) of planning permission 3/2011/0838 to allow the business to operate until 23:00 hours on one occasion per week (Withdrawn).

3/2014/0257 - Proposed single storey extension to the kitchen with additional ancillary accommodation in the roof space, and relocation of "means of escape" steps – approved 3/2013/0733 - Proposed single storey extension to the kitchen with additional accommodation in the roof space and relocation of 'means of escape' step (Withdrawn)

3/2013/0091 - Proposed extended car park area (Approved with conditions).

3/2011/0838 - Proposed creation of a new cafe, training room and nursery shop at the existing Holden Clough Nursery. The building will be constructed of traditional materials including stone walls and slate roof. The South facing roof will incorporate six solar panels. The aim is to produce a sustainable building with minimal visual impact (Approved with Conditions).

#### 4. **Relevant Policies**

Ribble Valley Core Strategy:

Key Statement DS1 – Development Strategy

Key Statement DS2 – Sustainable Development

Key Statement EN3 – Sustainable Development and Climate Change

Key Statement EN4 – Biodiversity and Geodiversity

Key Statement EC1 – Business and Employment Development

Key Statement EN5 – Heritage Assets

Key Statement EC3 – Visitor Economy

Key Statement DMI2 – Transport Considerations

Key Statement EN2 – Landscape

Policy DMB1 – Supporting Business Growth and the Local Economy

Policy DMG1 – General Considerations

Policy DMG2 - Strategic Considerations

Policy DME4 – Protecting Heritage Assets

Policy DME2 – Landscape and Townscape Protection

Policy DMG2 – Strategic Considerations

Policy DMG3 – Transport & Mobility

Policy DME3 – Site and Species Protection and Conservation

Policy DMB3 – Recreation and Tourism Development

Policy DMR3 – Retail Outside the Main Settlements

Planning (Listed Buildings and Conservation Areas) Act 1990.

National Planning Policy Framework (NPPF)

## 5. **Assessment of Proposed Development**

### 5.1 **Proposal and Previous Planning Application:**

- 5.1.1 This is a resubmission of a previous planning application 3/2019/0588 in which consent was sought for the change of use of agricultural land to provide additional parking facility for the existing business resulting in approximately 80 car parking spaces in a “horizontal” layout within the area to the north of the existing nursery and the dwelling Springfield, constructed using permeable stone and gravel. This application was considered to be significantly detrimental to the visual amenity and character of the AONB, harmful to the heritage assets specifically the listed building of Holden Chapel and significantly detrimental to the residential amenities of the neighbouring residents at Springfield and Browfoot.
- 5.1.2 The current application proposes to site approximately 40 car parking spaces within the land to the north of Holden Clough Nursery and to the rear of the property known as Springfield. The proposal intends to use a Grasscrete surface with post and wire stock fencing. The proposal also includes the installation of a wildflower bank and significant planting of native trees to the northern and western boundary of the field, as well as a Portuguese laurel hedge row to be banked and planted at the shared boundary of the field and the residential dwelling Springfield.
- 5.1.3 The proposal is a reconfiguration of the existing parking layout currently onsite and would facilitate deliveries etc. to be unloaded within the Nursery’s grounds and not on Bolton By Bowland Road which would result in a loss of approximately 16 parking spaces. As such the proposal will result in a total increase of 24 parking spaces. The proposal seeks to create a total of 76 parking spaces, including 5 disabled spaces, 3 motorcycle spaces and 6 bicycle spaces.

### 5.2 **Principle of Development:**

- 5.2.1 Key Statement EC1 ‘Business and Employment Development’ states that developments that contribute to strengthening of the wider rural and village economies will be supported in principle and this needs to be considered in the light of its location in the AONB.
- 5.2.2 Holden Clough Nursery itself is located within the defined settlement of Holden, however the application site is located towards the northern boundary of the aforementioned settlement and therefore located within the defined open countryside. Policy DMG2 of the Ribble valley Core Strategy allows for development outside the defined settlement area where it is required for the purposes of forestry or agriculture. Section 336 of the Town and Country Planning Act 1990 defines “agriculture” as including: horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land). As such the works required for the business purposes of the nursery would be considered to meet the requirements of Policy DMG2 within the definition of agriculture.
- 5.2.3 The application site is located within the Forest of Bowland Area of Outstanding Natural Beauty and therefore the impact of the proposal on the AONB’s landscape character and scenic beauty must be considered. Key Statement EN2 (Landscape) seeks to ensure that the landscape and character of the Forest of Bowland AONB



is protected, conserved and enhanced, and any development will need to contribute to the conservation of the natural beauty of the area. As a principle the Council will expect development to be in keeping with the character of the landscape, reflecting local distinctiveness, vernacular style, features and building materials. This is reiterated in paragraph 172 of the NPPF which states *“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues”*.

- 5.2.4 Policy DMG1 also requires development to be of a high standard of design and be sympathetic to existing and proposed land uses in terms of size, intensity and nature.

### 5.3 Impact upon the setting of the listed building:

- 5.3.1 The duty at Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

*“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority ... shall have special regard to the desirability of preserving the building or its setting”*.

- 5.3.2 Core Strategy Policy DME4 identifies that development proposals on sites within the setting of listed buildings which cause harm to their significance will not be supported. NPPF paragraph 194 identifies *“any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification”*. NPPF paragraph 193 identifies *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation”*.

- 5.3.3 Identified within the NPPG paragraph 13 states:

*“Although views of or from an asset will play an important part in the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust, smell and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each”*.

This makes note of the non-visual elements in relation of the setting of a historical asset (e.g. tranquillity).

- 5.3.4 The proposed car park development is to be located approximately 166m to the east of the grade 2 listed Holden Chapel and House. The Chapel has an elevated view of the application site and wider AONB. The proposal has been amended from its previous design to utilise a vertical orientation, grasscrete, post and wire fencing, minimal lighting, and substantial native planting.

- 5.3.5 While the use of this area of land for the parking of cars will result in some increased disturbance to the “tranquillity” of the area the proposal by virtue of the use of grasscrete, the aforementioned distance, and in comparison to agricultural

activities which could take place on this land without the requirement of planning permission; is not, on balance, considered to result in significant harm to the setting of the grade 2 listed building Holden Chapel and House that would warrant a refusal of the planning application.

#### 5.4 Residential Amenity:

- 5.4.1 The proposed development specifically with regards to the car park has received objection from local residents with specific concern with the impact of noise, from car doors shutting and engines starting, lights, and overlooking/ loss of privacy.
- 5.4.2 The proposed overflow car park, should consent be granted, will be restricted to the hours of 8:30AM to 17:30PM daily, as well as the proposed lighting scheme to be restricted to low level 4.5 Watt LED. This would to mitigate any impact that could be caused in relation noise and light during evening hours.
- 5.4.3 The concern with regards to overlooking/ loss of privacy was in reference to the neighbouring property, Springfield, to the south of the proposed car park. In order to mitigate any fears of overlooking, and resultant loss of privacy, caused by guests to Holden Clough Nursery, the applicant has proposed to plant Portuguese laurel to be at a height of 2m or a height preferred by the aforementioned neighbour, as well as the planting of some native species trees along the southern edge of the proposed car park. This planting is considered to appropriately mitigate the possible overlooking.
- 5.4.4 The application also seeks retrospective consent including the construction of a stone covered plant growing area, and stone service area to the rear of the potting shed and subterranean LPG tanks. These elements are not considered to result in any negative impact on the residential amenity of neighbouring dwellings as their use is considered to be horticultural and well related to the existing horticultural enterprise at Holden Clough Nurseries.
- 5.4.5 The proposed development is considered to result in some impact on the residential amenity of the neighbouring dwellings, however the mitigation put in place, namely restricted opening hours and natural planting are considered to be sufficient and as such, the proposal is not considered to result in any significant harm on the residential amenity of dwellings within the immediate area.

#### 5.5 Visual Amenity and the AONB:

- 5.5.1 The proposal is sited within the Forest of Bowland AONB, Landscape Character Area Appraisal, character type, *Undulating Lowland Farmland with Wooded Brooks, F2 Bolton by Bowland to Waddington*. This character type has an overall moderate sensitivity and guidelines for managing landscape change identify the need to: conserve the distinctive settings to rural settlements; ensure development on the edges of villages reflects the characteristic clustered form and ensure development is sited to retain views to landscape features and landmarks, such as church towers on the approaches to villages.
- 5.5.2 The amended car parking layout means that minimal levelling works will be required to facilitate the proposed overflow car park, maintaining the natural lay of the land. This combined with the proposed use of grasscrete, post and wire fencing and minimal low level lighting, results in a development that with the added native

tree planting on the north and eastern hedge rows and wildflower bank is not considered to result in any significant harm to the Forest of Bowland AONB

- 5.5.3 The proposal includes the retention of a plant growing area to the immediate north of the existing potting shed. This surface is not concrete. The plant growing area has been constructed by laying a layer of stone/gravel over the area of land then covering this with a geotextile membrane, this allows for the horticultural enterprise to grow potted garden crops and ornamental plants, this is considered by the definition within Section 336 of the Town and Country Planning Act 1990 to be agricultural development.
- 5.5.4 There is some debate that this plant growing area could be considered permitted development within schedule 2 Part 6 Class B (B.4) which allows agricultural development to cover an area of 1000 sqm without requiring planning consent. The proposed plant growing area could be considered to meet the requirements of Class B and measures 50m by 20m (1000sqm) and as such may not be considered to require planning consent. Notwithstanding whether this area would not require planning permission, the plant growing area has been constructed using materials and at a scale typical of this type of development as well as commensurate to the existing horticultural enterprise. As such this development within the defined open countryside is considered to be reasonably required for agriculture and therefore meets the requirements of policy DMG2, and is not considered to result in any significant negative impact on the character or visual amenity of the wider AONB and surrounding agricultural landscape.
- 5.5.5 The subterranean LPG tanks are not considered to result in any significant negative impact on the visual amenity or character of the area due to them being located beneath the ground.
- 5.5.6 The stone service area to the rear of the potting shed is considered to be of a commensurate scale to the existing development on the site and will enable a more streamline process of potting. As such this area is considered to be reasonably required for the purposes of horticulture and constructed using materials common within agricultural areas such as this, therefore is not considered to result in any significant negative impact on the visual amenity or character of the AONB and wider surrounding agricultural landscape.
- 5.5.7 In light of the use of grasscrete as well as mitigation planting and agricultural justifications in line with Ribble Valley Policy, it is not considered that the cumulative proposal will result in any significant negative impact on the visual amenity or character of the surrounding AONB.

## 5.6 Highway Safety and Accessibility:

- 5.6.1 No objection has been raised by the local highway authority.

## 5.7 Ecology:

- 5.7.1 It was noted within the last application 3/2019/0588 that there is potential for some impact on the adjacent Clough Wood/Holden Beck Biological Heritage Site from chemical spray drift from horticultural chemicals. However horticultural activities fall within the definition of agriculture and as such consent would not be required for the use of these chemicals.

5.7.2 Open agricultural fields such as the existing site are not considered to be of a particularly high biodiversity value. The introduction of a wildflower bank as well as native tree planting along the hedgerows will greatly increase the biodiversity value of the site.

## 6. **Observations/Consideration of Matters Raised/Conclusion**

- 6.1 The proposed development at its base is required to improve and allow for the expansion of an existing rural horticultural business within the borough. While some impact on the tranquillity of the setting of the listed building of Holden Chapel and House may occur, when compared to existing agricultural practices that could take place as well as the mitigation measures proposed, this impact is not considered to be significantly detrimental to the setting of the listed building.
- 6.2 With regards to the impact of the proposal on the residential amenity of neighbouring dwellings, the alteration of the alignment of the carpark as per the amended plans as well as the mitigation measures proposed are considered acceptable and as such the proposal is not considered to result in any significant negative impact on the residential amenity of any neighbouring dwellings.
- 6.3 The proposal is not considered to significantly impact the character or visual amenity of the AONB due to the agricultural nature of the development and the use of mitigation measures as well as enhancing the biodiversity of the area.
- 6.4 Having regard to all relevant policies and whilst noting the concerns expressed by the objectors it is considered that the proposal would facilitate the opportunity of limited business growth and have a limited impact on residential amenity and other material considerations and so is compliant to Policies within the Core Strategy.

**RECOMMENDATION:** That planning permission be APPROVED subject to the imposition of the following conditions:

### *Time*

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

REASON: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchasing Act 2004.

### *Plans*

2. Unless explicitly required by this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

- Location Plan
- Proposed Site Plan (Amended Plans Received 19/02/2020)

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

### *Materials*

3. The materials to be used on the external surfaces of the development as indicated within the application form 3/2019/1119 and approved drawings shall be implemented as indicated. For the avoidance of doubt this specifically relates to the use of Grasscrete surfacing and post and wire fencing.

REASON: In order that the Local Planning Authority may ensure that the materials to be used are appropriate to the locality.

### *Lighting*

4. The proposed car park hereby approved shall have low level lighting in accordance with the submitted approved details. For the avoidance of doubt the lighting bollards hereby approved shall be The Eco City 700 LED Bollard with a maximum Lumens of Approx. 700Lm. These lights must be switched off and not illuminated from 5.30pm every day.

REASON: To protect nearby residential amenity.

### *Ecology*

5. The approved landscaping scheme as shown on drawing (Proposed Site Plan Amended Plan Received 19/02/2020) shall be implemented in the first planting season following use of the overflow car Park hereby approved and shall be maintained thereafter for a period of not less than 10 years to the satisfaction of the Local Planning Authority. This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted.

REASON: To ensure the proposal is satisfactorily landscaped and appropriate to the locality.

### *Opening hours*

6. The overflow car park hereby approved shall only be used between the hours of 8:30AM to 17:30PM on any day.

REASON: To protect nearby residential amenity.

### BACKGROUND PAPERS

[https://www.ribblevalley.gov.uk/site/scripts/planx\\_details.php?appNumber=3%2F2019%2F1119](https://www.ribblevalley.gov.uk/site/scripts/planx_details.php?appNumber=3%2F2019%2F1119)

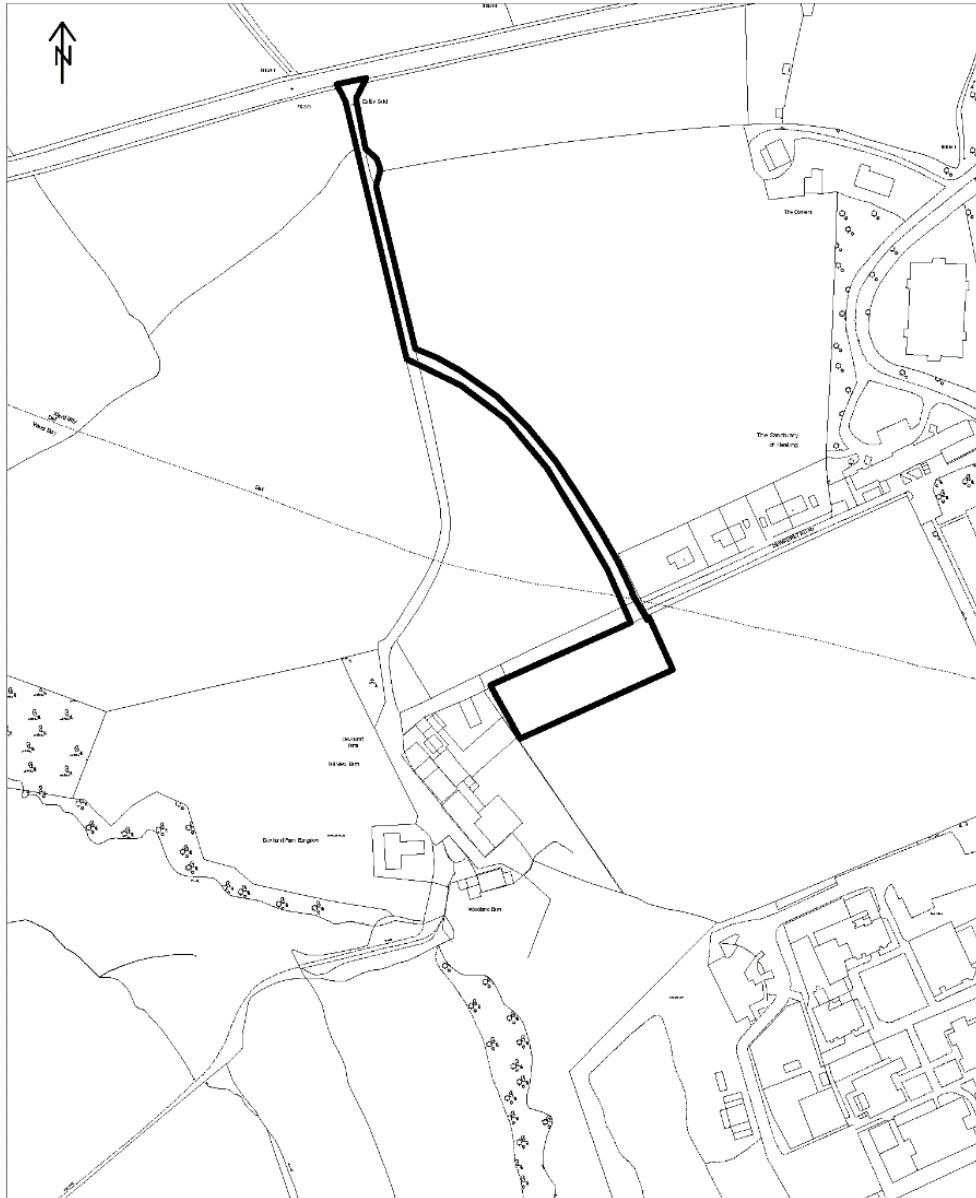
RECOMMENDATION FOR PLANNING AND DEVELOPMENT COMMITTEE

**APPLICATION REF: 3/2020/0013**

GRID REF: SD 368832 434044

**DEVELOPMENT DESCRIPTION:**

CONSTRUCTION OF FOUR TWO-STOREY HOLIDAY COTTAGES AND FORMATION OF SHORT LENGTH OF ACCESS ROAD (RESUBMISSION OF 3/2019/0671) AT DEWHURST FARM, LONGSIGHT ROAD, LANGHO BB6 8AD



3/2020/0013 Dewhurst Farm, Longsight Road, Langho BB6 8AD

Scale 1:2500

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Ribble Valley Borough Council. Licence No.100018641 Wednesday, 10 June 2020

## **CONSULTEE RESPONSES/ REPRESENTATIONS MADE:**

### **PARISH COUNCIL:**

Wilpshire Parish Council (WPC) objects to this proposal regarding the situation of the new access track and hopes that the decision will be based on the actual existing as opposed to the submitted plans.

Billington and Langho Parish Council object on the following grounds:

- The development is creating a community in the countryside, and was felt to be creep development.
- The development looks to be for residential homes not holiday homes.
- The application is on a greenfield site.

### **ENVIRONMENT DIRECTORATE (COUNTY SURVEYOR):**

No objections subject to planning conditions.

### **ADDITIONAL REPRESENTATIONS:**

A total of 13 representations have been received and object to the proposals for the following reasons:

- The four holiday homes are unreasonable in size for the demand of the area.
- The access road is far too close to Dewhurst Road.
- Child safety issues.
- The access road is likely to be for future development.
- The new road could be used as a cut through from The Rydings.
- The post & rail fence now proposed at the end of Dewhurst Road is not sufficient enough – a solid wall would be safer.

#### **1. Site Description and Surrounding Area**

1.1 This is a re-submission of a recently approved planning application for the erection of four two-storey holiday cottages at Dewhurst Farm, Longsight Road, Langho. The previous application was approved with conditions by the Planning and Development Committee on 31 October 2019.

1.2 Dewhurst Farm is located at the end of an approximately 320m access track off the south side of the A59 Longsight Road within the Parish of Billington and Langho and in the open countryside between Copster Green and Langho. The group of buildings is immediately adjoined on all sides by agricultural land. Further east of Dewhurst Farm is The Rydings residential development and Langho FC and to the south east Kemple View hospital. Dewhurst Road, a short row of semi-detached properties, extends from the western edge of this cluster of development towards Dewhurst Farm.

#### **2. Proposed Development for which consent is sought**

2.1 Since consent was granted in October 2019 the applicant has realised that the approved position of the four holiday cottages would obstruct the access that he needs for agricultural reasons to the land at the rear (south) of the cottages. This application

proposes to amend the siting of two of the cottages (Units 3 and 4) which would be re-positioned approximately 7 metres further west.

- 2.2 A separate application for prior approval of an agricultural track was submitted to the Council and refused on 12 February 2020 under delegated powers as it was not considered to be 'reasonably necessary' for agriculture. As such, in agreement with the Planning Officer the route of the new track to serve the four units of holiday accommodation has been amended so that it could serve a dual-purpose, for access to the holiday units and, if necessary, for agricultural purposes.
- 2.3 In addition, the applicant has provided a signed Unilateral Undertaking that ensures that, should consent be granted, planning approval 3/2019/0671 would be relinquished so as to avoid part-implementation of both schemes which could conceivably result in two separate access tracks to the holiday cottage development.

### 3. **Relevant Planning History**

3/2020/0062 - Construction of proposed agricultural road comprising hard core base with road planings on the surface. Refused.

3/2019/0671 - Construction of four two-storey holiday cottages and formation of short length of access road. Approved with conditions.

3/2019/0076 - Proposed erection of a two-storey holiday cottage following the demolition of the existing Dutch barn. Approved with conditions.

3/2018/0704 - Variation of conditions 2 (approved plans), 8 (sight lines) and 9 (implementation of access road improvements) from planning permission 3/2018/0082 to allow an amended design relating to alterations to the access road. Approved with conditions.

3/2018/0082 - Proposed erection of a two storey holiday cottage following demolition of an existing dutch barn (Resubmission of application 3/2017/0644). Approved with conditions.

3/2017/0644 - Proposed erection of a two storey holiday cottage following demolition of an existing dutch barn. Refused.

3/2016/0023 - Prior approval of proposed change of use of agricultural building to a dwellinghouse (Class Q(b) only). Refused.

3/2015/0632 - Prior approval of proposed change of use of agricultural building to a dwellinghouse (Class Q(a) only). Approved.

### 4. **Relevant Policies**

#### **Ribble Valley Core Strategy:**

Key Statement DS1 – Development Strategy

Key Statement DS2 –Sustainable Development

Key Statement EN2 – Landscape

Key Statement EC1 – Business and Employment Development

Key Statement EC3 – Visitor Economy

Policy DMG1 – General Considerations



Policy DMG2 – Strategic Considerations  
Policy DMG3 – Transport and Mobility  
Policy DME2 – Landscape and Townscape Protection  
Policy DME3 – Site and Species Protection and Conservation  
Policy DMB1 – Supporting Business Growth and the Local Economy  
Policy DMB3 – Recreation and Tourism Development

## **National Planning Policy Framework**

### **5. Assessment of Proposed Development**

5.1 This is a re-submission for full planning permission for the erection of four two-storey holiday cottages. The size, scale and design of the holiday cottages remain as previously consented. The proposed development differs only in relation to the siting of units 3 and 4 and the route of the proposed new track to serve the development – all other aspects of the proposals remain as previously approved under application 3/2019/0671. The matters of principle, visual and landscape impact and ecology have already been considered acceptable and given there is no material change in relation to these matters there is no requirement to reconsider them as part this application. Therefore the main considerations are the impact of the development on residential amenity and highway safety.

#### **5.2 Amenity of Neighbouring Residents:**

5.2.1 In relation to the impact of the development on neighbouring residents, the proposed amendments would result in a greater distance between unit 4 and the nearest residential property, 5 Dewhurst Road.

5.2.2 The main issue to consider is whether the re-routed access track would result in undue harm to residential amenity through noise and disturbance from vehicle movements. The proposed track would pass close to the garden boundary of 5 Dewhurst Road which adjoins agricultural fields to the north and west. It is important to note that at present there would be nothing to prevent agricultural vehicles or machinery being driven immediately adjoining the boundary.

5.2.3 It is considered that the provision of an access track to serve four holiday cottages in the location proposed would generate a relatively small number of vehicle movements. It is also noted that the dwelling, 5 Dewhurst Road, is set back from the garden boundary adjacent to which the proposed access track would be located by around 15 metres. Furthermore, it is the side (west) elevation of 5 Dewhurst Road that would face the proposed access track with an associated garage building, now converted to holiday accommodation, intervening.

5.2.4 It is not deemed that traffic generated by the development proposals would lead to undue noise and disturbance for the occupants of 5 Dewhurst Road. It is noted that the former garage building associated with 5 Dewhurst Road has recently been converted so a holiday let and is positioned close to the field boundary along which the proposed track would follow. However, short-term holiday accommodation is not afforded protection in the same way as permanent residential homes and refusal of the application on the basis that traffic generated by four holiday cottages would be detrimental to the amenity of guests could not be justified.

### 5.3 Highway Safety:

5.3.1 Concerning the matter of highway safety, neighbour objection letters refer to the danger posed to children by traffic travelling along the new track. At present there is no boundary treatment the end of Dewhurst Road where it joins the applicant's land. Although there is no public right of way through the application site – it is private land and therefore there should be no reason for Dewhurst Road residents to access the site regardless of the fact that no physical boundary exists – it is considered reasonable in this case to expect the erection of fencing at this juncture to deter pedestrian access so as to avoid conflict between pedestrians and vehicles.

5.3.2 There is also considered to be justification to require the erection of a post and rail fence in this location given that it could feasibly be used as a vehicular through-route between The Rydings and the A59 by traffic unrelated to the proposed development. This would pose highway safety concerns at the junction between the access track to Dewhurst Farm and the A59. Accordingly, it is recommended that a planning condition be imposed which would require the construction and maintenance of a post and rail fence at the western end of Dewhurst Road.

### 6. Conclusion

6.1 Having regard to the above, it is recommended that the application be approved subject to planning conditions.

**RECOMMENDATION:** That the application be APPROVED subject to the following conditions:

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

REASON: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Units 1 & 2 Proposed Floor Plans, Roof Plan & Elevations, Proposed Cross Section (Tur/155/2672/01A)

Units 3 & 4 Proposed Floor Plans, Roof Plan & Elevations, Proposed Cross Section (Tur/155/2672/02 A)

Existing and Proposed Site Plans (Tur/155/2672/03 C) (amended 09.03.2020)

Location Plan (Tur/155/2672/04 C) (amended 09.03.2020)

Proposed Bin Storage Areas. Plan and Elevations of Bin Store. Swept Path Analysis for Refuse Wagon (Tur/155/2672/05 C) (amended 09.03.2020)

Highway Plan (Tur/155/2672/06 C) (amended 09.03.2020)

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

3. For the avoidance of doubt this planning approval does not incorporate the erection of external lighting on any structure hereby approved, or elsewhere within the site.

REASON: In order to ensure a satisfactory appearance in the interests of visual amenity and to prevent nuisance arising.

4. No unit of holiday accommodation hereby approved shall be brought into use until 1.2 metre high natural stone walls to bound its plot, have been erected.

REASON: In order that the Local Planning Authority may ensure that the detailed design of the proposal is appropriate to the locality.

5. External refuse recycling/bin stores shall be made available for use in accordance with drawing no. Tur/155/2672/05 before the development hereby approved is first brought into use and retained thereafter.

REASON: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and in the interest of visual amenity.

6. The proposed new length of track between the application site and the existing access track from the A59 to Dewhurst Farm shall be constructed from two strips of dark coloured gravel, with a central grass strip (as per the email from Colin Sharpe (GHA) dated 16.09.2019).

REASON: To ensure that the materials used are visually appropriate to the locality.

7. Notwithstanding the submitted details, precise specifications or samples of external facing and roofing materials shall have been approved in writing before their use in the proposed development. The materials shall be implemented within the development in strict accordance with the approved details submitted to and approved in writing by the Local Planning Authority.

REASON: In order that the Local Planning Authority may ensure that the materials to be used are appropriate to the locality.

8. A dedicated electric vehicle charging point shall be provided for each unit of holiday accommodation prior to first use of the development hereby approved. Thereafter, the electric vehicle charging points shall be permanently maintained.

REASON: To promote sustainable modes of transport.

9. Notwithstanding the provisions of The Town and Country Planning (Use Classes) (Amendment) (England) Order 2015, or any equivalent Order following the revocation and re-enactment thereof (with or without modification), the holiday units hereby approved shall only be used as short-term holiday accommodation and for no other purpose.

REASON: For the avoidance of doubt, and to avoid an over-intensive use and to ensure that the development remains compatible with the character of the area and the intensity and frequency of usage remains proportionate to the use hereby approved.

10. Each holiday unit hereby approved shall not be let to or occupied by the owner, any one person or group of persons for a combined total period exceeding 28 days in any one calendar year and in any event shall not be used as a unit of permanent accommodation or any individual(s) sole place of residence.

The owner shall maintain a register of all guests of each unit of accommodation hereby approved at all times and shall be made available for inspection by the Local Planning Authority on request. For the avoidance of doubt the register shall contain the name and address of the owner and the main guest who made the booking together with dates of occupation.

REASON: The permission relates to the provision of holiday accommodation. The condition is necessary to define the scope of the permission hereby approved and to ensure that the development promotes sustainable tourism and contributes to the area's economy.

11. Prior to the first use of the development hereby permitted, sight lines of 200m in both directions from a point 2.4m south of the edge of the carriageway of the A59 shall be provided as shown on drawing no. Tur/155/2672/06.

The land within these splays shall be maintained thereafter, free from obstructions such as walls, fences, trees, hedges, shrubs, ground growth or other structures within the splays in excess of 1.0 metre in height above the height at the centre line of the adjacent carriageway.

REASON: To enable vehicles to enter and leave the premises in a safe manner without causing a hazard to other road users.

12. The access road improvements shown on submitted drawing Tur/155/2672/06 shall have been fully completed prior to any unit of holiday accommodation hereby permitted being brought into use. For the avoidance of doubt this shall include the provision of a post and rail fence between the application site and Dewhurst Road as denoted on drawing Tur/155/2672/06 which shall thereafter be retained and maintained at all times.

REASON: In the interests of highway safety.

13. The car parking and manoeuvring areas shall be laid out in accordance with the approved plans before the holiday accommodation hereby approved is first brought into use and shall be permanently maintained as such thereafter.

REASON: To allow for the effective use of the parking areas

14. Any removal of vegetation including trees and hedges shall be undertaken outside the nesting bird season [March - August inclusive] unless preceded by a pre-clearance check by a licensed ecologist on the day of removal which confirms the absence of nesting birds.

REASON: To ensure that there are no adverse effects on the favourable conservation status of birds.

15. No above ground development shall take place until details of the provisions to be made for building dependent species of conservation concern, artificial bird nesting boxes and artificial bat roosting sites have been submitted to, and approved in writing by the Local Planning Authority. The details shall be submitted on a building dependent bird and bat species development site plan and include details of the numbers of artificial bird nesting boxes and artificial bat roosting sites. The details shall also identify the actual wall and roof elevations into which the above provisions shall be incorporated. The artificial bird/bat boxes shall be incorporated into the building during the construction works before the development is first brought into use and shall be retained and maintained thereafter.

REASON: In the interests of biodiversity and to enhance nesting/roosting opportunities for species of conservation concern and protected species.

16. Prior to first rental period of each holiday unit hereby approved a Management Plan shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall provide details of the following:
- i) Measures to ensure that the behaviour of the guests is reasonable and not detrimental to the amenities of nearby residents.
  - ii) Details of the person or persons who would be responsible for assisting the guests of the cottage(s) with any queries/problems; and would also be responsible for ensuring that the behaviour of guests is reasonable and not detrimental to the amenities of nearby residents.
  - iii) The addresses of the person or persons responsible for the operation of the holiday unit(s).

Thereafter, the development shall be operated in strict accordance with the approved details.

REASON: To ensure the satisfactory management of the site in the interests of general amenity of the area, to safeguard where appropriate neighbouring residential amenity.

17. No building or engineering operations within the site or deliveries to and from the site shall take place other than between 07:30 hours and 18:00 hours Monday to Friday and between 08:30 hours and 14:00 hours on Saturdays, and not at all on Sundays or Bank Holidays.

REASON: In order to protect the amenities of existing residents.

18. Foul and surface water shall be drained on separate systems.

REASON: To secure proper drainage and to manage the risk of flooding and pollution.

NOTE: This permission should be read in conjunction with the Unilateral Undertaking signed and dated 26 April 2020.

#### BACKGROUND PAPERS

[https://www.ribblevalley.gov.uk/site/scripts/planx\\_details.php?appNumber=3%2F2020%2F0013](https://www.ribblevalley.gov.uk/site/scripts/planx_details.php?appNumber=3%2F2020%2F0013)

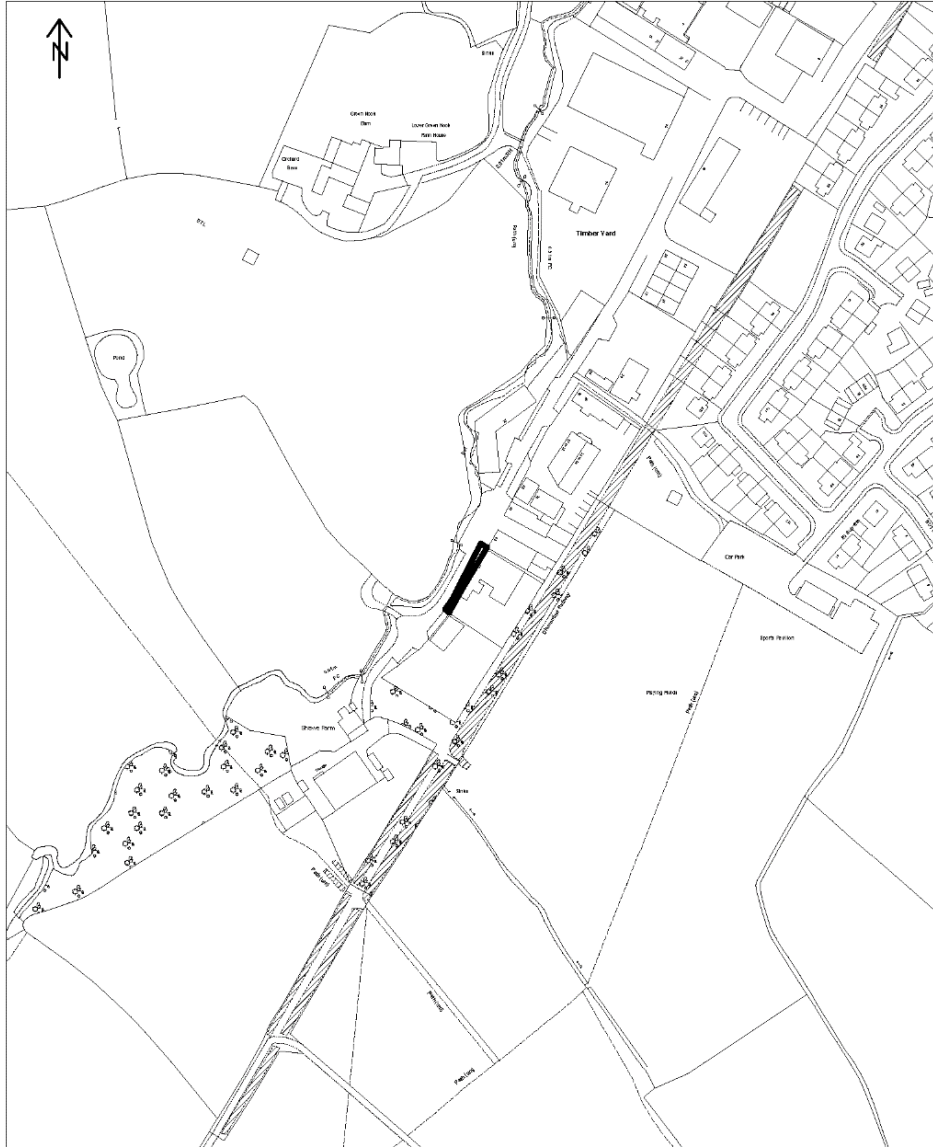
RECOMMENDATION FOR PLANNING AND DEVELOPMENT COMMITTEE

**APPLICATION REF: 3/2020/0143**

GRID REF: SD 359504 436070

**DEVELOPMENT DESCRIPTION:**

CREATION OF 4 PARKING SPACES OFF SHAY LANE, LONGRIDGE



3/2020/0143 Unit 39 Shay Lane, Longridge PR3 3BT

Scale 1:2500

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## **CONSULTEE RESPONSES/ REPRESENTATIONS MADE:**

### **PARISH COUNCIL:**

No objection

### **ADDITIONAL REPRESENTATIONS:**

None

#### **1. Site Description and Surrounding Area**

- 1.1 The application site comprises an industrial unit located adjacent to Shay Lane Longridge with a strip of grass verge between the building and the highway boundary. The area is predominantly industrial in character.

#### **2. Proposed Development for which consent is sought**

- 2.1 The application seeks consent for removal of a grass verge and formation of a hardstanding to form 4 tandem parking spaces to the front of an industrial building.

#### **3. Relevant Planning History**

None

#### **4. Relevant Policies**

##### **Ribble Valley Core Strategy**

Key Statement DS1 – Development Strategy

Key Statement DS2 – Presumption in Favour of Sustainable Development

Key Statement DMI2 – Transport Considerations

Policy DMG1 – General Considerations

Policy DMG2 – Strategic Considerations

Policy DMG3 – Transport and Mobility

Policy DME2 – Landscape and Townscape Protection

Policy DME3 – Site and Species Protection and Conservation

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Technical Guidance to National Planning Policy Framework

#### **5. Assessment of Proposed Development**

##### **5.1 Principle of Development:**

- 5.1.1 The site lies within the settlement boundary of Longridge, the proposal will provide additional parking ancillary to the existing use of the site and is considered acceptable in principle subject to an assessment against the relevant Core Strategy policies and material considerations.

##### **5.2 Impact upon Residential Amenity:**

- 5.2.1 There are no residential properties in close proximity and the proposal will not have any adverse impacts on any surrounding occupants.

5.3 Visual Amenity/External Appearance:

5.3.1 The proposed hardstanding will remove an area of grass but will not have an unacceptable impact on the appearance of the locality.

5.4 Highway Safety and Accessibility:

5.4.1 Shay Lane terminates in a dead end with turning head shortly after the site and the proposed verge will create 4 spaces in tandem parallel to the highway. There are several access points along the road serving yards associated with the units. The width of the parking area is 2 metres which is slightly less than a standard parking space however it is considered that most vehicles could be easily accommodated and it would not obstruct the free or safe flow of traffic on this road. There are two street lighting columns at either end of the parking area which will be unaffected by the proposal. There are no envisaged highway safety issues and the proposal would provide additional formal parking which is of benefit to the area.

5.5 Landscape/Ecology:

5.5.1 There are no issues raised in respect of this.

5.6 Infrastructure, Services and Developer Contributions:

5.6.1 N/A

5.7 Other Matters:

5.7.1 None

6. **Observations/Consideration of Matters Raised/Conclusion**

6.1 The proposal will provide additional parking to support an existing business. It accords with the relevant core strategy policies and other material considerations, therefore it is recommended accordingly.

**RECOMMENDATION:** That the application be APPROVED subject to the following conditions:

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

REASON: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

3151/001

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.



3. Prior to the development hereby approved being first brought into use, the parking spaces shall be laid out hard surfaced sealed and drained in accordance with the details shown on drawing number 3151 001 and thereafter retained as such.

REASON: In the interests of visual amenity, highway safety and to ensure the proper drainage of the site in accordance with policy DMG1 of the Core Strategy for the Ribble Valley.

#### BACKGROUND PAPERS

[https://www.ribblevalley.gov.uk/site/scripts/planx\\_details.php?appNumber=3%2F2020%2F0143](https://www.ribblevalley.gov.uk/site/scripts/planx_details.php?appNumber=3%2F2020%2F0143)

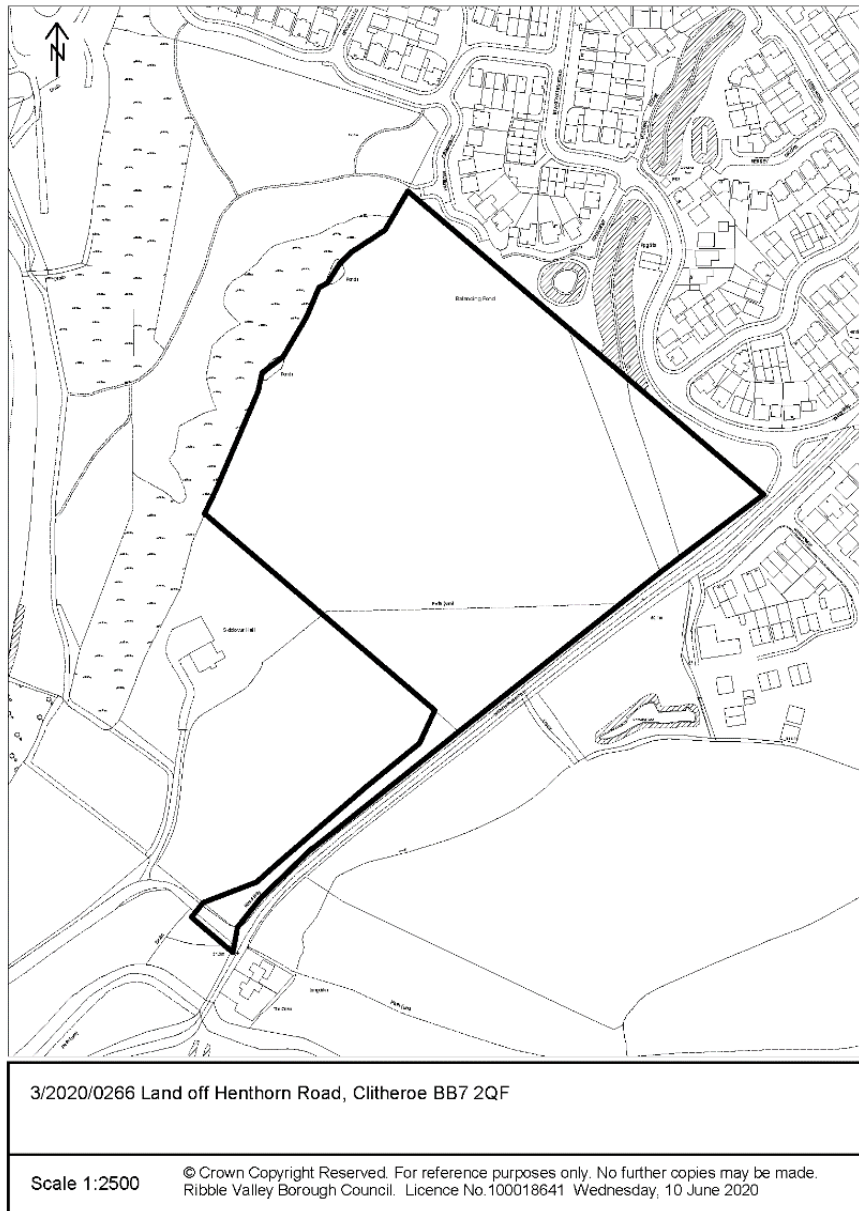
RECOMMENDATION FOR PLANNING AND DEVELOPMENT COMMITTEE

**APPLICATION REF: 3/2020/0266**

GRID REF: SD 373006 440751

**DEVELOPMENT DESCRIPTION:**

RESERVED MATTERS APPLICATION FOR THE ERECTION OF 110 DWELLINGS WITH PUBLIC OPEN SPACE, LANDSCAPING, SUSTAINABLE DRAINAGE SYSTEM (SUDS) AND INTERNAL LAYOUT, FOLLOWING OUTLINE PLANNING PERMISSION 3/2018/0688. LAND OFF HENTHORN ROAD, CLITHEROE BB7 2QF



**CONSULTEE RESPONSES/ REPRESENTATIONS MADE:**

**PARISH COUNCIL:**

*Clitheroe Town Council:* No comments received

**ENVIRONMENT DIRECTORATE (COUNTY SURVEYOR):**

No objection subject to some minor alterations to the internal layout.

**ENVIRONMENT DIRECTORATE (PUBLIC RIGHTS OF WAY):**

No comments received.

**LCC EDUCATION:**

As per the s106 for outline 3/2018/0688, the final primary and secondary education contribution will be calculated once the owners inform LCC on the approval of the RM within 20 days of the decision.

**LCC ARCHAEOLOGY:**

The WSI that accompanies this reserved matters application (Wardell Armstrong, Dec 2019) is the same as that submitted as part of discharge of condition application 3/2020/0255, and which the Historic Environment Team confirmed as being considered appropriate but the formal discharge of the condition should await the submission of a final report detailing all the works undertaken on site.

**ENVIRONMENT AGENCY:**

No comments received

**WASTE SERVICES:**

Access and turning within the site appear to be suitable for refuse vehicles. Bin storage positions appear to be reasonable. Collection points appear to be good but only adjacent to the main roads in the development that I would expect to be adopted. Where there are shared driveways that are not to be adopted I expect there to be collection points adjacent to the adopted highway. The bins to these properties will not be collected from the individual houses.

**UNITED UTILITIES:**

No objection subject to attachment of a condition that the development is carried out in accordance with the principles set out the submitted Flood Risk Assessment and that the LLFA is consulted for comment on the Sustainable drainage system

**LOCAL LEAD FLOOD OFFICER:**

No objection to the application subject to conditions.

**ADDITIONAL REPRESENTATIONS:**

Letters of representation have been received from 14 individual households/addresses, as well as a letter from Ribble Meadows Residents Association who represent the residents of the recently built houses adjacent to the development site, objecting to the application on the following grounds:

- Increase in traffic / congestion / speeding on Henthorn Road
- Wear and tear on surrounding road network
- Heavy traffic during construction
- Loss of green space
- Loss of open areas for exercise / walking dogs etc
- Harm to the market town's character and rural charm
- Harm to wildlife habitat, breeding bird survey dated after the breeding season and no mitigation proposed for loss of bat and bird habitat
- Loss of hedgerows, too close to the water course
- Increased demand on already stretched infrastructure (emergency services / schools / medical services)
- The site is outside the settlement boundary and there is no need for further housing as the council has a five year supply
- Some of the communal areas indicated lead into the Ribble Meadows site for which maintenance is paid for by residents.
- Noise disturbance / loss of privacy and light
- Devaluation of property
- The applicant (Gladman) have not done a full consultation
- Lack of notices and consultation from LPA

## 1. **Site Description and Surrounding Area**

- 1.1 The application relates to an agricultural field measuring 5.2 hectares off Henthorn Road in Clitheroe. The site located on the edge of, but outside, the settlement boundary of Clitheroe and is situated adjacent to a residential development for 270 dwellings on land to the north of Henthorn Road (approved under permission 3/2013/0035) which is nearing completion. On the opposite side of the road a further 130 dwellings are being constructed by Story Homes Ltd (planning ref: 3/2015/0446). A current outline application 3/2019/0999 is also under consideration on another adjoining site for the erection of up to 160 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Henthorn Road. All matters reserved except for means of access.
- 1.2 The boundaries of the application site are clearly defined by field hedging and some mature trees with two small ponds located along the north western boundary. Two sets of overhead powerlines currently run through a section of the site and along the eastern side the land levels drop down to a ditch which passes through a small portion of the site. The land adjacent to this ditch is overgrown and contains a number of shrubs/bushes and it would appear that this part of the site is not currently farmed. The remainder of the site is however clear from vegetation, with the exception of the boundary hedging and trees. There is an existing field gate access from Henthorn Road into the application site.
- 1.3 As detailed above the application site is located outside of the settlement boundary of Clitheroe and is by definition identified as open countryside in accordance with the Ribble Valley Core Strategy. To the north east and south east of the site are the aforementioned residential development for 270 and 130 dwellings respectively. To the south west the boundary is shared with a detached residential property known as Siddows Hall, located within substantial grounds, and a field. To the north west, is a field and a community park associated with adjoining development and beyond this is the River Ribble. The river and part of this adjoining field are designated as a Biological Heritage Site (BHS), but the BHS does not directly adjoin any part of application site.

## 2. **Proposed Development for which consent is sought**

- 2.1 The application seeks approval of the reserved matters for the erection of 110 dwellings with public open space, landscaping, sustainable drainage system (SuDS) and internal layout.
- 2.2 This is following outline planning application being granted on appeal under application 3/2018/0688; for the erection of up to 110 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Henthorn Road. All matters reserved except for means of access.
- 2.3 This application also seeks to discharge conditions imposed on the outline consent as follows:
- Condition 1: Access
  - Condition 3: Vehicle Site Access Construction
  - Condition 5: Levels plans
  - Condition 6: Play area
  - Condition 7: Drainage
  - Condition 8: Flood Risk
  - Condition 9: Archaeological (submitted under a separate discharge of condition application 3/2020/0255 and granted 23<sup>rd</sup> April 2020)
  - Condition 11: Arboricultural
  - Condition 12, 13: Landscape/ Ecology (Condition 15)
  - Condition 14: Lighting
  - Condition 17: Highways
  - Condition 18: Travel

## 3. **Relevant Planning History**

3/2018/0688 - erection of up to 110 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Henthorn Road. All matters reserved except for means of access – refused; allowed at appeal

3/2020/0255 - Discharge of condition 9 (Written Scheme of Investigation) from planning permission 3/2018/0688. - approved

### Applications on adjacent land as per below:

3/2010/0719 – Proposed development of up to 270 residential dwellings, doctor's surgery, landscape, open space, highways and associated works – refused but allowed at appeal

3/2013/0035 – Reserved Matters application for up to 270 residential dwellings, a doctor's surgery, landscape, open space, highways and associated works – approved with conditions

3/2013/0711 – Outline application for residential development of up to 140 units with primary access off Henthorn Road with all other matters reserved – approved with conditions

3/2015/0446 – Reserved matters for residential development of 130 dwellings, including associated infrastructure, open space provision and landscaping - approved with conditions

3/2017/0433 - Application for outline planning permission for up to 24 new dwellings and associated infrastructure on land behind 115 Kemple View, Clitheroe including access via Henthorn Road –approved with conditions

3/2019/0999 - Outline planning application for the erection of up to 160 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Henthorn Road. All matters reserved except for means of access. – Registered (Currently under consideration)

#### 4. **Relevant Policies**

Ribble Valley Core Strategy

Key Statement DS1 – Development Strategy

Key Statement DS2 – Presumption in Favour of Sustainable Development

Key Statement EN2 – Landscape

Key Statement EN3 – Sustainable Development and Climate Change

Key Statement H1 – Housing Provision

Key Statement H2 – Housing Balance

Key Statement H3 – Affordable Housing

Key Statement DMI1 – Planning Obligations

Key Statement DMI2 – Transport Considerations

Policy DMG1 – General Considerations

Policy DMG2 – Strategic Considerations

Policy DMH1 – Affordable Housing Criteria

Policy DMG3 – Transport and Mobility

Policy DME2 – Landscape and Townscape Protection

Policy DMB4 – Open Space Provision

Policy DME3 – Site and Species Protection and Conservation

Policy DME6 – Water Management

Policy DMB5 – Footpaths and Bridleways

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

#### 5. **Assessment of Proposed Development**

##### 5.1 **Principle of Development:**

5.1.2 Whilst it is accepted that the site lies outside the settlement boundary, this site now benefits from outline planning consent for up to 110 houses. The principle of development has been established by this approval at appeal and this application can only assess the details of the reserved matters namely appearance, landscaping, layout and scale.

##### 5.2 **Impact upon Residential Amenity:**

5.2.1 The proposal is for a new development on a greenfield site adjacent to another recent housing development. The new dwellings will have an acceptable relationship with each other and surrounding developments and there are no significant issues raised with regards to residential amenity. However,

notwithstanding the details submitted on the plans, screen fences should be erected between adjacent gardens to ensure privacy for the occupants.

### 5.3 Density/Visual Amenity/External Appearance:

5.3.1 The scheme is for a development of 110 dwellings, 4 no. one bedroom dwellings; 24 no. two bedroom dwellings; 39 no. three bedroom dwellings; and 43 no. four bedroom dwellings. 16 of the two bedroom properties are bungalows. The proposal is within the parameters of the outline consent and provides a good mixture of house types. There is a variety of materials proposed to include stone, brick and render and the undulating land will give a variation in heights to add visual interest. There is a green buffer around the perimeter as well as open space and wetland area. The appearance of the development is considered acceptable and in keeping with the surrounding area.

### 5.4 Highway Safety and Accessibility:

5.4.1 The access to the site was approved at outline stage however a number of conditions were imposed to ensure that details of the access and internal layout as well as a transport statement were submitted as part of the reserved matters application.

5.4.2 The highway officer has no objections to the details submitted in principle, but has asked for some amendments to the internal layout. Amended plans were received on 15.6.2020 which address these comments.

5.4.3 There is sufficient parking provision for the development, however this includes garages and to ensure that these remain available for parking, a condition will be added to this effect.

5.4.4 The site is located on the just beyond the existing settlement boundary of Clitheroe. It has previously been accepted that it is within walking distance of the town centre and transport interchange as well as other local services. There are regular day time bus services within easy access.

5.4.5 This layout offers connectivity both within the site and to the wider area with a local area for play as a central focal point.

5.4.6 The Council's engineering section has no objections to the layout in terms of accessibility for refuse collection.

### 5.5 Landscape/Ecology/Trees:

5.5.1 Conditions were imposed on the outline planning permission regarding details relating to landscaping, ecology and trees.

5.5.2 A landscaping layout accompanied by a landscape and habitat management plan has been submitted. This shows retention of hedgerows around the perimeter of the site as well as an area of open space in the corner of the site, native trees and flowers and wetland habitat. This will provide biodiversity across the site and is considered acceptable. The management plan outlines how these areas are proposed to be managed and maintained long term. The arboricultural report

assesses the existing tree cover and proposes replacements, the retained trees must be suitably protected during construction.

5.5.3 Bat and bird boxes will be installed in a number of properties spread across the site at construction stage which will provide additional habitat for these species.

5.5.4 Details of the proposed lighting have been submitted but the report recommends that a plan which shows luminance levels is submitted and this has not yet been received. This is important to assess the impact of the lighting scheme on the landscape and wildlife habitat, this can be dealt with by condition in respect of a positive recommendation.

#### 5.6 Flood Risk and Drainage:

5.6.1 Whilst the site is relatively close to the River Ribble it is in flood zone 1 and is therefore at very low risk of flooding from rivers. The flood risk assessment submitted with the outline application confirmed that the development would not increase flood risk elsewhere.

5.6.2 A drainage strategy to deal with foul and surface water has been submitted, including the use of sustainable drainage systems, which are the preferred method of dealing with surface water. United Utilities have confirmed that they have no objections to the proposals. UU have asked that the LLFA are consulted on the SUDS but to date no response has been received to the consultation. UU have suggested a condition to ensure that the SUDS is submitted for approval which shall be imposed on this decision but the information submitted is acceptable in terms of conditions 7 and 8 of the outline approval.

#### 5.7 Developer Contributions:

5.7.1 Developer contributions have been secured through a section 106 agreement that was made as part of the outline consent.

#### 5.8 Education:

5.8.1 Lancashire County Council have confirmed that as per the s106 for outline 3/2018/0688, the final primary and secondary education contribution will be calculated once the owners inform LCC on the approval of the reserved matters within 20 days of the decision.

#### 5.9 Affordable Housing:

5.9.1 This will be provided and is fully compliant with Core Strategy policies H3 and DMG1. Whilst there is a demand for larger affordable properties and the possibility of providing this has recently been discussed with the developer, they have advised that they are unable to accede to this request at this stage in the process, given their contractual obligations with the landowner, the already agreed S106 and basis of pre-application discussions. No formal objection to the proposal on policy grounds has been received.



## 5.10 Off Site Recreation:

5.10.1 A contribution to offsite recreation of 216.90 per person based on the following occupancy ratios:

- 1 bed unit – 1.3 people
- 2 bed unit – 1.8 people
- 3 bed unit – 2.5 people
- 4 bed unit – 3.1 people
- 5+ bed unit – 3.5 people

To be calculated at the grant of reserved matters is included within the Section 106 agreement. The total amount will equate to £60,558.48

## 5.11 Other Issues:

5.11.1 Objections to the principle of development are noted but as aforementioned this site already benefits from outline planning consent, so the principle has been established.

5.11.2 Objections have been received with regard to potential use of privately maintained areas on adjacent sites by residents of this development. This is a private matter but the developer has been made aware of these concerns.

5.11.3 Other material planning issues, some of which have been raised by the objectors are discussed in the appraisal above.

5.11.4 The council have publicised the application with letters to adjoining neighbours as well as a site and press notice which accords with statutory requirements for this type of application

## 5.12 Discharge of conditions from outline consent:

5.12.1 The application includes details to discharge the following conditions from the outline consent.

- Condition 1: Access – This is acceptable to the LCC highways engineer
- Condition 3: Vehicle Site Access Construction - This is acceptable to the LCC highways engineer
- Condition 5: Levels plans – A topographical survey, levels and street scenes have been submitted which are acceptable and satisfy the requirements of this condition.
- Condition 6: Play Area – Details of the Local Area for play are included on the submitted plans and are in a central location which is considered acceptable therefore the requirements of this condition have been met.
- Condition 7: Drainage – Details have been submitted in accordance with the condition acceptable to UU but additional condition suggested.
- Condition 8: Flood Risk – Details have been submitted in accordance with the condition and acceptable to UU. If development is constructed in accordance with FRA then this condition will be satisfied.
- Condition 9: Archaeological - submitted under a separate discharge of condition application 3/2020/0255 and granted 23<sup>rd</sup> April 2020

- Condition 11: Arboricultural - A tree report has been submitted and the development shall be carried out in strict accordance with this.
- Condition 12, 13: Landscape/ Ecology – A landscape / habitat management plan has been submitted and is acceptable providing the development is carried out in accordance with this. Details and location of the proposed bat and bird boxes have been submitted and are acceptable these shall be incorporated in accordance with the approved drawing number 80-256-001
- Condition 14: Lighting - A lighting strategy has been submitted but it is noted that “Stage 5” recommended by the report, which involves a plan showing lux levels, has not been submitted. Therefore, this condition cannot be fully discharged.
- Condition 17: Highways - This is acceptable to the LCC highways engineer
- Condition 18: Travel - This is acceptable to the LCC highways engineer

Therefore, conditions imposed on this application shall ensure that the works are carried out in accordance with the details submitted in respect of the above.

Other conditions imposed on the outline consent do not need to be repeated as follows:

- Condition 2 – Time limit
- Condition 4 – Max 110 dwellings
- Condition 10 – contaminated land – a phase two report has been submitted with this application and concludes that no significant contamination was found and no mitigations measures are considered necessary. A condition to deal with any unexpected contamination is recommended.
- Condition 15 – Removal of vegetation outside nesting season
- Condition 16 – Electric vehicle charging point
- Condition 19 – Construction management plan

## 6. **Conclusion**

- 6.1 The proposals submitted are acceptable and comply with the relevant core strategy policies. Therefore, it is recommended accordingly that approval of the reserved matters is granted subject to conditions.

**RECOMMENDATION:** That the application be APPROVED subject to the following conditions:

### *Approved plans and house types*

1. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Affordable Housing Plan - CLITH/AFF/01  
 Amended Materials Plan - CLITH/MAT/01  
 Bat and Bird Boxes Detail and Location - 80-256-001  
 Close Boarded Screen Fence - SD/SF1  
 Drainage Plan 10-01  
 Engineering Planning Levels 10-02  
 Entrance Details  
 Estate Road Specification  
 House types

Layout - CLITH/001  
Kerb Construction Plan - D003 Rev A  
Landscape Layout - 101 A  
Larch Lap Fence - SD/SF 24  
Location Plan - CLITH/LOC/01  
Planting Plan (1-5)  
Section 78 Plan (1-5)  
Screen Wall - SD/ED/SW1  
Single Garage 090/SG1/001  
Site Plan - CLITH/01 Rev J  
Stone Wall SD/SW8  
Street Scene 2017/04  
Swept Path 2922/SP01  
Topographical Survey Topo 01/02 / 20

House Types:

Windsor Bungalow  
Overton  
Maplewood  
Kingston  
Hazelwood  
Eaton  
Blackwood  
Ashwood  
Marchmont  
Bede Bungalow

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

*Materials*

2. The materials to be used on the external surfaces of the development as indicated on Proposed Plan: CLITH/MAT/01 shall be implemented as indicated.

REASON: In order that the Local Planning Authority may ensure that the materials to be used are appropriate to the locality.

*Contaminated Land - Contamination Found During Works*

3. Once works commence on the site, should site operatives discover any adverse ground conditions and suspect it to be contaminated, they should report this to the Site Manager and the Contaminated Land Officer at Ribble Valley Borough Council. Works in that location should cease and the problem area roped off. A Competent Person shall be employed to undertake sampling and analysis of the suspected contaminated materials. A Report which contains details of sampling methodologies and analysis results, together with remedial methodologies shall be submitted to the Local Planning Authority for approval in writing. The approved remediation scheme shall be implemented prior to further development works taking place and prior to occupation of the development.

Should no adverse ground conditions be encountered during site works and/or development, a Verification Statement shall be forwarded in writing to the Local Planning

Authority prior to occupation of the building(s), which confirms that no adverse ground conditions were found.

REASON: To ensure that the site investigation and remediation strategy will not cause pollution of ground and surface waters both on and off site.

### *Landscaping*

4. The approved landscaping scheme shall be implemented in the first planting season following occupation or use of the development and shall be maintained in accordance with the landscape / habitat management and maintenance report by TPM Ref: 3550/50, dated March 2020 to the satisfaction of the Local Planning Authority. This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted.

REASON: To comply with Policy DMG1 of the Ribble Valley Core Strategy Adopted Version.

### *Tree protection*

5. Prior to commencement of any site works including delivery of building materials and excavations for foundations or services all trees identified in the arboricultural/tree survey dated March 2020 shall be protected in accordance with the BS5837 2012 [Trees in Relation to Demolition, Design & Construction]

The details of which shall be implemented in full under the supervision of a qualified arboriculturalist and in liaison with the Countryside/Tree Officer. A tree protection monitoring schedule shall be agreed and tree protection measures inspected by the local planning authority before any site works are begun.

The root protection/exclusion zone shall remain in place until all building work has been completed and all excess materials have been removed from site including soil/spoil and rubble. During the building works no excavations or changes in ground levels shall take place and no building materials/spoil/soil/rubble shall be stored or redistributed within the protection/exclusion zone, in addition no impermeable surfacing shall be constructed within the protection zone.

No tree felling or pruning shall be implemented without prior written consent, which will only be granted when the local authority is satisfied that it is necessary is in accordance with BS3998 for tree work and carried out by an approved arboricultural contractor.

REASON: In order to ensure that any trees affected by development and included in a Tree Preservation Order/ Conservation area/considered to be of visual, historic or botanical value are afforded maximum physical protection from the potential adverse effects of development.

REASON: In order to ensure that trees of visual amenity/botanical/historical value are protected against adverse effects of the development.

REASON: for pre-commencement condition: To ensure that the trees are adequately protected before works commence on site.

### *Artificial Lighting*

7. No part of the development hereby granted consent shall be occupied until details of all artificial lighting has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include the location, intensity of lighting, type of application and direction in accordance with the recommendations within the lighting assessment dated 18th March 2020.

The details shall include the light mitigation measures designed to reduce the impact of artificial lighting on protected species/species of conservation concern identified and/or other named species.

The lighting shall be installed in accordance with the approved details prior to the occupation of the dwellings.

REASON: In the interests of amenity and in order to reduce the harmful impact of artificial lighting on the natural foraging/roosting/nesting behaviour of a protected/species of conservation concern. To comply with Policies DMG1 and DME3 of the Ribble Valley Core Strategy Adopted Version.

### *Sustainable Drainage Systems*

8. Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the Local Planning Authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:
  - a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
  - b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

REASON: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.

### *Permitted development rights removed garages*

9. The proposed garage shall not be used for any purpose (including any purpose ordinarily incidental to the enjoyment of the dwelling house as such) which would preclude its use for the parking of a private motor vehicle.

REASON: To facilitate adequate vehicle parking and/or turning facilities to serve the dwelling in accordance with Policy DMG1 of the Ribble Valley Core Strategy Adopted Version.

### *Screen fences*

10. Notwithstanding any details shown on the approved plans; details of screen fencing to a height of 1.8 metres above ground level on the boundaries between adjacent private rear

gardens shall be submitted to and approved in writing by the Local Planning Authority. These fences shall then be erected in accordance with the approved details prior to the first occupation of the development and thereafter retained as such.

REASON: In order to protect nearby residential amenity in accordance with Policies DMG1 and DMH5 of the Ribble Valley Core Strategy Adopted Version.

#### BACKGROUND PAPERS

[https://www.ribblevalley.gov.uk/site/scripts/planx\\_details.php?appNumber=3%2F2020%2F0266](https://www.ribblevalley.gov.uk/site/scripts/planx_details.php?appNumber=3%2F2020%2F0266)

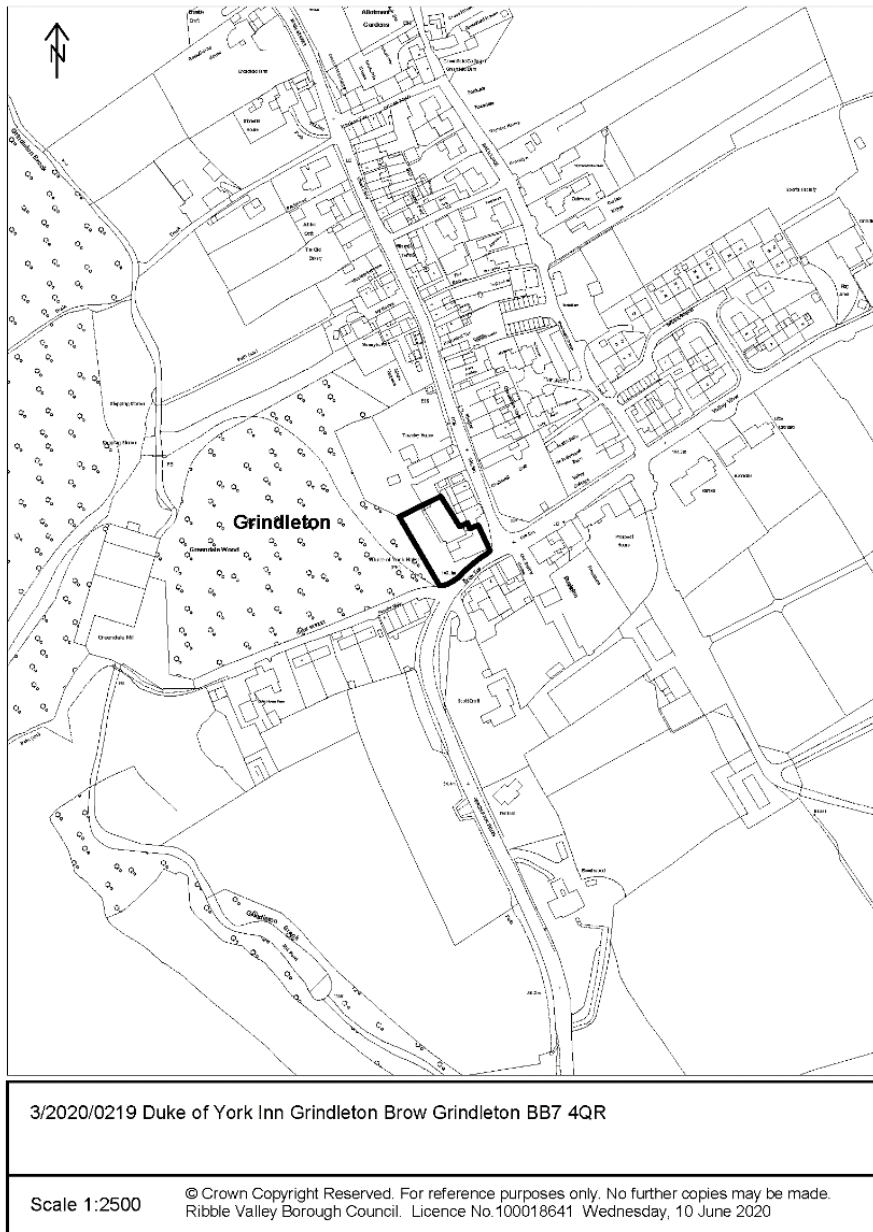
**APPLICATIONS WHICH THE DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING  
RECOMMENDS FOR REFUSAL**

**APPLICATION REF: 3/2020/0219**

GRID REF: SD 375906 445495

**DEVELOPMENT DESCRIPTION:**

CHANGE OF USE FROM PUBLIC HOUSE WITH LIVING ACCOMMODATION (A4 DRINKING ESTABLISHMENT) TO RESIDENTIAL USE (C3 DWELLING) (RESUBMISSION OF APPLICATION 3/2019/0049 AT DUKE OF YORK INN GRINDLETON BROW GRINDLETON BB7 4QR



## **CONSULTEE RESPONSES/ REPRESENTATIONS MADE:**

### **PARISH COUNCIL:**

Grindleton Parish Council strongly objects to the above planning application on several grounds as detailed below.

- RVBC core strategy EC2 states: Proposals that have an adverse impact on existing community facilities would only be permitted as an exception where the proposed development would bring defined and demonstrable benefits (what benefit would the loss of a pub bring).
- National Planning Policy Framework – local planning policies and decisions in rural areas should enable the retention and development of community facilities such as pubs.
- The public house is a vital part of rural life
- When facilities like this disappear we then have more social problems in terms of loneliness and depression.
- A public house is vital to keeping the village alive.
- The current owner has allowed the building to deteriorate since the building has been in his possession
- The Grindleton Community Pub Ltd. (GCPL) has funds available to repair the building and bring it back into beneficial use.
- EC1 states: *'Proposals that result in the loss of existing employment sites to other forms of development will need to demonstrate that there will be no adverse impact upon the local economy'*. The pub used to employ numerous local people to run the pub
- EC2 states: *'Proposals that have an adverse impact on existing community facilities would only be permitted as an exception where the proposed development would bring defined and demonstrable benefits.'* The pub is a place where people can meet, talk, interact socially in games i.e. darts, pool etc.; all essential activities in a small community.
- DMB1: 5. *'Any attempts that have been made to secure an alternative employment generating use for the site, must be supported by evidence such as property agents' details, including periods of marketing and response that the Property/Business has been marketed for Business use for a minimum period of six months, or information that demonstrates to the Council's satisfaction, that the current use is not viable for employment purposes'*. GCPL has obtained a professional assessment that shows the building is a viable business as a pub.
- The loss of the Duke of York HAS been a considerable loss to the community and could become an even greater benefit than before by being allowed to be a Community Pub/Café/hub.
- As the owner is NOT selling both pubs the Buck is irrelevant to the considerations.
- In the past, both The Buck and Duke of York mutually benefited each other.
- Prospective buyers have not been put off by the Grade 2 listing. The reasons buyers are put off because it is marketed at £325,000 but the owner is stating that he wants £400,000 minimum.
- The question around these valuations is; was it valued as a pub or residential building?
- Grindleton Community Pub Ltd. has made an offer in excess of what the current owner paid. The owner claims that the building is deteriorating so why would the value be increasing?
- When the last planning approval was refused it was based on the fact the property had not been properly marketed. In this case the Parish Council feel nothing has changed.
- The owner did not make the contact with Grindleton Parish Council and has never contacted the Parish Council.
- The loss of The Duke of York HAS seriously harmed the social facilities of the village.



- It is clear in this application that the owner is suggesting that if others in the village i.e. the Buck Inn and the Pavilion alter the way they do things, this would make up for the loss of the Duke of York. This is very presumptive and highly speculative.
- The Pavilion did NOT inevitably take some focus of village life away from the village pubs. The Pavilion has a very limited kitchen facility and is a function hall run by volunteers. It still has a policy not to compete with any village pub.
- The Council needs to consider the long-term plans for the site as the original plans for the site were resoundingly rejected in 2019.
- Public benefits could be achieved by it remaining as a pub. A domestic dwelling would not be a way of securing its optimal viable use.
- Grindleton (population 723 - census 2001) is not unique in being a small village able to support a pub. Pendleton (nr Clitheroe) has a population of 203 (2001 Census), Bolton by Bowland (population 499 - Census 2001) and Slaidburn (population 351 - census 2001) all support a thriving pub.
- The Heritage statement assumes, incorrectly, that the proposal is favourable as the listed building is no longer viable as a public house.

#### **LCC ARCHAEOLOGY:**

- The lack of proposed changes to the building, both internally and externally, would appear to avoid any impact on the importance of the standing building itself.
- It would also appear to avoid impacts on its setting or its visual contribution to the village.
- The absence of any new building works as part of the present proposals would also avoid any potential impacts on buried archaeological remains.
- Despite the lack of physical impacts we would suggest that, if the Council do consider granting consent to the application, that they also consider requiring a Historic Building Record to be created for the building.

#### **CLITHEROE CIVIC SOCIETY:**

- The significant difference with this application is the omission of all previous development proposals other than the change of use from Public House with living accommodation to solely residential use.
- Having reviewed this revised application, it is considered that all of the reasons for the 2019 Refusal of Planning Permission, in relation to the Local Heritage Asset and Grade II Listed 'DoY' Public House, remain unchanged in the present application.
- None of the concerns set out in great detail by the Planning Officer in relation to the Grade II Listed building appear to have been addressed
- The Local Planning Authority (LPA) must now consider something akin to one or other of the following recommendation to the Planning Committee:
  - a. to support and encourage the maintenance of the existing historic use of the site and Listed Building by refusal of this latest application and in accordance with the LPA's established Core Strategy Policies and those of the National Planning Policy Framework, as set out in the relevant sections of the previous Refusal of Planning Permission or;
  - b. to recommending approval of the application and, in doing so, confine the Duke of York's history to the written word, the archaeologist's photos and local anecdote.
- On the one hand, the present owners seeking approval for a dramatic change of use to realise a profit on their investment and, on the other, the community's desire to retain a

significant community asset. As this is one which has been at the heart of the village for almost 170 years, these different perspectives will not be easily resolved.

- However, that a single Public House could be viable post CV-19, based on the increasing development of 'community spirit' and the need for economic and employment regeneration in this rural area should equally not be discounted.
- Of the two pubs, the DoY is Listed Grade II and thus 'a building of special national historic and/or architectural interest, warranting every effort to preserve it'. It was also designated as an 'Asset of Community Value' on September 3rd 2019, along with the BI.
- From the personal view of someone 'looking in from the outside' one approach to resolve the present dilemma would be as follows:
  1. The BI - in comparison with the DoY being less historically, architecturally, and visually significant than the DoY - to be granted Planning Permission for conversion to residential use.
  2. The DoY retained as a Public House.
  3. The DoY to be purchased from the present owners by the GPC. and run as a Public House, augmented by whatever appropriate alterations and additional uses, be approved and developed within the curtilage of the site and its listed building.
  4. The BI, with the benefit of Private Residential Use, be purchased by the present owners of the Duke of York at the same/similar time as the sale of the DoY to the GPC. If the relevant parties could consider and implement such an approach, or similar, benefits for all concerned could ensue.

#### **ADDITIONAL REPRESENTATIONS:**

Objections have been received from 68 residential properties and raise the following concerns:

- Wording of the Whiteacre's sales brochure misleading – implies planning permission for conversion to a dwelling only has already be refused.
- Loss of the pub will cause irrevocable damage to the social fabric of the village.
- Grindleton Community Pub Ltd (GCPL) have offered to buy the pub above the asking price to bring the building back into use. This offer was turned down and the building is being allowed to deteriorate.
- Developer is unreasonably blocking a viable future and reinstatement of the pub.
- There are at present no pubs in Grindleton.
- The proposal to make no changes to the building is a plot for subsequent redevelopment.
- Suggestion that Grindleton Pavilion is a suitable substitute is fantasy – there is no intention for it to become a bar. It is a village hall.
- Inaccuracies in the Planning Statement.
- If approved, it would made further re-development harder to resist.
- The situation has not changed since the previous refusal.
- The statement that no acceptable bid was received is incorrect given the community group made an offer higher than professional valuation and also the price the applicant originally paid for the building.
- Statement that the pub/restaurant business has never been a long-term success is incorrect.
- Community pub ventures have been extremely successful elsewhere.
- The developer is only interested in profits and his own needs.
- The conversion would harm the character of the village.
- Building is only deteriorating as the owner is taking no steps to maintain it when he is clearly in a position to do so.

- A pub is central to village life and heart of the village – its loss would contribute to social isolation, loneliness and loss of community spirit.
- Conversion would eradicate the buildings historic significance causing substantial harm.
- Loss to Grindleton Conservation Area.
- GCPL are a funded, capable and ready purchaser.
- Recent poor performance of the pub should not have significant bearing – if properly run it can be successful.
- Offer was received by the Bowland Trust, a local charity, in July 2019 but refused.
- A business plan has been prepared and tested by GCPL.
- The submitted marketing report is meaningless.
- The developer has a clear agenda.
- Expecting a return of a least 30% in 2019/20 on the sale of a public house acquired in 2018 is fantasy.
- Highway safety concerns.
- The comparison to Eagle and Child is concerning as factors are quite different.
- The property was marketed at 'offers over £325,000 and then owner said he was looking for a minimum of £400,000.
- No details of the works to convert the building have been provided – another application would have to be made.
- Has the building been valued as a pub or private dwelling?

One letter of support has been received. It notes that regeneration of the building would require significant investment and that sympathetic conversion would be preferable to continuing decay.

An objection has also been received on behalf of Grindleton Community Pub Ltd, a Community Benefit Society established to raise funds necessary to purchase the Duke of York, undertake refurbishment work and appoint a tenant to run the business. Their representations include an independent valuation of the Duke of York and review of the case by an independent planning consultancy. Concerns raised in this submission shall be included within the body of the report below.

## 1. **Site Description and Surrounding Area**

- 1.1 The Duke of York is a Grade II Listed building. The building was listed in 1984 and has the following listing description:

*Public house, early C19th. Squared sandstone with diagonal tooling. Stone slate roof. Double-pile plan with end stacks and chamfered quoins. 2 storeys with attic, 2 bays. Windows sashed with no glazing bars and with plain stone surrounds. To the left of the door is a double window with central square mullion. The door, between the bays, has a plain stone surround and moulded open pediment on console brackets. The gables have copings and footstones. To the left is a further bay having a double window on the ground floor and a single window above, and with quoins having diagonal tooling. The right-hand return wall (facing east) has 3 windows on the ground floor and 4 on the 1st floor, similar to those of the main facade. Above is an attic window with plain stone surround and semi-circular head.*

- 1.2 The application site is located within the village boundary of Grindleton, identified as a tier 2 settlement in the adopted Core Strategy, and within Grindleton Conservation Area and the AONB. On entrance to the village from Grindleton Brow, the Duke of York is a prominent building, located on the corner of Grindleton Brow and Main Street at the brow of the hill. To the north, the building adjoins 1-4 Kayley Terrace and the site bounds the

garden area of Townley House, a Grade II Listed building. To the west of the public house is the associated car park and beyond that is Greendale Woods. Townley House and Cromwell Cottage, both farmhouses, are listed buildings within vicinity of the application site.

- 1.3 The Duke of York is now closed and has been vacant since at least July 2017. The ground floor comprises public bar areas, dining room, toilets and catering kitchen. There are internal stairs to a cellar which has an external beer drop from the pavement in Main Street. At first floor the proprietors flat contains a lounge, kitchen, bathroom and three bedrooms.
- 1.4 This application follows refusal of planning permission for the change of use of the public house to one dwelling with business use, demolition of the existing single-storey extensions and construction of new single-storey extension, construction of a new, two-storey, three-car garage with business storage above and construction of three new two-storey holiday lets in April 2019.

## 2. **Proposed Development for which consent is sought**

- 2.1 This planning application seeks consent for a change of use of the Duke of York from a public house to residential use. Alterations to the building and new build elements proposed as part of the previously refused planning application (ref. 3/2019/0049) have been removed. The proposal is to convert the public house into one dwelling. There would be no alterations to the external fabric of the building or the building internally. The proposal is to convert the building to a six-bed private residence.
- 2.2 Part of the existing pub car park to the west of the building would become residential garden and would be delineated from the remainder of car parking area to the front of the site which would be retained for private off-street parking associated with the proposed dwellinghouse.
- 2.3 The main considerations in the determination of this planning application are the principle of development, the impact of the development on the significance of designated heritage assets, its design and visual appearance, its impact of residential amenity and highway safety.

## 3. **Relevant Planning History**

3/2019/0050 - Change of use from public house with living accommodation to one dwelling with business use. Demolition of existing single-storey extensions and construction of new single-storey extension (Listed Building Consent). Refused.

3/2019/0049 - Change of use from public house with living accommodation to one dwelling with business use. Demolition of existing single-storey extensions and construction of new single-storey extension. Construction of new, two-storey, three-car garage with business storage above. Construction of three new two-storey holiday lets. Refused.

3/2009/0289 - Proposed level standing/seating area (Listed Building Consent) (Resubmission). Approved with Conditions.

3/2009/0288 - Proposed level standing/seating area (Resubmission). Approved with Conditions.

3/2008/0447 - Retrospective application for decking to front of building (Listed Building Consent). Refused.

3/2008/0448 - Retrospective application for decking to front of building. Refused.

3/1997/0842 - Extension to rear of premises to form link to toilets and store (Listed Building Consent). Approved with Conditions.

3/1997/0841 - Extension to rear of premises to form link to toilets and store. Approved with Conditions.

#### 4. **Relevant Policies**

##### **Ribble Valley Core Strategy**

Key Statement DS1 – Development Strategy

Key Statement DS2 – Sustainable Development

Key Statement EN2 – Landscape

Key Statement EN5 – Heritage Assets

Key Statement H1 – Housing Provision

Key Statement EC1 – Business and Employment Development

Key Statement EC2 – Development of retail, shops and community facilities and services

Policy DMG1 – General Considerations

Policy DMG2 – Strategic Considerations

Policy DMG3 – Transport and Mobility

Policy DME3 – Site and Species Protection & Conservation

Policy DME4 – Protecting Heritage Assets

Policy DMH3 – Dwellings in the Open Countryside and AONB

Policy DMH4 – The Conversion of Barns and Other Buildings to Dwellings

Policy DMB1 – Supporting Business Growth and the Local Economy

Policy DMR3 – Retail Outside the Main Settlements

##### **National Planning Policy Framework**

##### **Planning (Listed Buildings and Conservation Areas) Act 1990**

#### 5. **Assessment of Proposed Development**

##### 5.1 **Principle of Development**

5.1.1 The village of Grindleton is identified as a tier 2 settlement in the adopted Core Strategy; as such, it is considered as one of the less sustainable settlements in the borough. Policy DMG2 sets out that within tier 2 villages and outside the defined settlement areas development must meet at least one of the following considerations:

1. The development should be essential to the local economy or social wellbeing of the area.
2. The development is needed for the purposes of forestry or agriculture.
3. The development is for local needs housing which meets an identified need and is secured as such.
4. The development is for small scale tourism or recreational developments appropriate to a rural area.

5. The development is for small-scale uses appropriate to a rural area where a local need or benefit can be demonstrated.
  6. The development is compatible with the enterprise zone designation.
- 5.1.2 Key Statement DS1 says that development that has recognised regeneration benefits will be considered in all of the borough's settlements.
  - 5.1.3 In considering the proposal to change the use of the Duke of York to a single dwellinghouse, Core Strategy Policy DMH3 restricts residential development in the open countryside or AONB to, amongst other scenarios, the appropriate conversion of buildings to dwellings provided they are suitably located and their form and general design are in keeping with their surroundings. Regarding the term "suitably located", the site falls within the settlement boundary for Grindleton, would not be isolated from the village and thus is considered to be "suitably located" for the purposes of this policy.
  - 5.1.4 Community facilities, such as public houses, are afforded protection through Key Statement EC2, Policies DMB1 and DMR3, and paragraphs 83 and 92 of the Framework. Paragraph 83 of the Framework makes clear that, in order to support a prosperous rural economy, local planning authorities should, amongst other things, promote the retention and development of local services and community facilities in villages, including public houses. In addition, Paragraph 92 (c) states that, amongst other things, planning policies and decisions should guard against the unnecessary loss of valued facilities and services.
  - 5.1.5 Key Statement EC2 of the Ribble Valley Core Strategy states that proposals that have an adverse impact on existing community facilities will only be permitted as an exception where the proposed development would bring defined and demonstrable benefits and states that the Council will require robust evidence that much needed smaller retail and other facilities in the more rural parts of the area are no longer viable before considering other forms of use. Policy DMR3 requires ground floor commercial premises (including community related commercial premises) within village boundaries to have been offered for sale on the open market for a period of at least 12 months before change of use to residential accommodation and demonstration that change of use will not lead to adverse effects of the local economy. Policy DMB1 requires an assessment to be made of the potential economic and social impact caused by the loss of employment opportunities
  - 5.1.6 The village of Grindleton has a limited number of facilities but this is not unexpected for a settlement of its size; nearby villages of West Bradford and Chatburn each have only one public house. There are two public houses located within Grindleton; the Duke of York and the Buck Inn on the opposite site of Sawley Road around 30-40 metres from the application site; both are currently closed. In addition, Grindleton Pavilion is an important community facility providing meeting rooms, a kitchen and bar and there are numerous community groups that operate classes/meetings from this building. Resident's objections note that the Buck Inn closed in November 2018 and therefore there is no public house open in the village at this time. In terms of the wording of Key Statement EC2, it is not possible to conclude that there would be no adverse impact on community facilities as any loss in the range and choice would cause some harm.

- 5.1.7 It is noted that the Buck Inn was successfully nominated as an Asset of Community Value (ACV) in January 2019 which provides opportunity for a community interest group a right to bid for the asset in the event that the existing owner seeks to dispose of it. An ACV is defined as, "A building or other land is an asset of community value if its main use has recently been or is presently used to further the social wellbeing or social interests of the local community and could do so in the future."
- 5.1.8 On 3rd September 2019, the Duke of York was also included on the list of Assets of Community Value. The community benefits of a public house in a rural community such as Grindleton are noted; they can contribute to social cohesion and community spirit and are a facility where local people can meet and convene. It is apparent from the level of public objection to the proposed change of use that the Duke of York is an asset that is valued by the community.
- 5.1.9 It is noted however that, should consent be granted, there would remain a public house within the settlement a short distance from the application site. The Buck Inn has been closed since late 2018 and is currently being marketed for sale. Whilst at present there is no public house open in the village of Grindleton, the conversion of the Duke of York to a private dwelling would place greater importance of The Buck Inn as a valued community facility.
- 5.1.10 Taking into account that the planning application has generated considerable local public objection and has been listed as an ACV, the Duke of York must be deemed to be a valued local facility. However, whilst the benefits of a public house in a small village such as Grindleton are noted, it is deemed that any harm to the local economy and social well-being of the residents of Grindleton that would arise from the loss of the Duke of York public house is not so severe as to warrant refusal of this application given that there is another public house in the village, albeit closed at this time.
- 5.1.11 Nonetheless, the proposals would lead to the loss of a valued community facility that would be harmful to the local community and would weigh against the proposals in the overall planning balance. Undoubtedly the building's retention as a public house (or other community facility/employment generating use) would be more socially and economically beneficial to the community than its conversion to a private dwellinghouse. Further, the building's status as a Listed Building in the Conservation Area is a fundamental consideration that will be discussed in detail below.

## 5.2 Marketing

- 5.2.1 Policy DMB1 of the Core Strategy relates to supporting the local economy and requires proposals for non-employment generating uses, such as the current proposals, to seek to secure an employment generating use in the first instance. Such attempts need to be:
- supported by evidence that the property/ business has been marketed for business use for a minimum period of six months; or
  - information that demonstrates to the council's satisfaction that the current use is not viable for employment purposes.

- 5.2.2 Following the refusal of planning application 3/2019/0049 in April 2019, the applicant immediately commenced marketing of the premises with commercial estate agents, Whiteacres. Following the inclusion of the Duke of York on the list of Assets of Community Value in September 2019, Grindleton Community Pub Ltd (GCPL), a Community Benefit Society established to raise funds necessary to purchase the Duke of York, undertake refurbishment work and appoint a tenant to run the business, asked RVBC to be treated as potential bidders for the property. As required by the Localism Act 2011, this triggered a six-month exclusivity period during which the owner may continue to market and negotiate sales, but may not exchange contracts (or enter into a binding contract to do so later) with potential buyers with the exception of a community interest group during the moratorium period.
- 5.2.3 Whiteacre estate agents have provided a brief summary report of the marketing period April 2019 to February 2020. The sales brochure advertised the Duke of York as a stone-built restaurant/public house requiring full refurbishment with a purchase price at offers of over £325,000 on 250-year lease. Whiteacres report that they received a number of enquires but state that prospective buyers seemed deterred due to the fact the building was Grade II listed, there was another empty pub in the village and the building had been run as a pub/restaurant in the past but had 'never made a long-term success'.
- 5.2.4 In accordance with the requirements of Policy DMB1 the property has been marketed for at least 6 months.

### 5.3 Retention of commercial premises in villages

- 5.3.1 The Core Strategy acknowledges the loss of retail uses or other community related commercial premises in villages can have a serious detrimental effect on the economic and social well-being of the locality
- 5.3.2 In accordance with Policy DMR3 any proposal that involves the change of use of ground floor commercial premises to residential accommodation within the village boundaries requires the applicant to provide information to demonstrate there is no demand to retain the premises in commercial use. The property will be expected to have been offered for sale on the open market for a period of at least 12 months at a realistic price (confirmed by independent verification).
- 5.3.3 The applicant has provided two valuation reports for the premises. The first, by JPA Surveyors (dated February 2020), when deducting the cost of purchase and refurbishment, provides a market value of £325,000 for the Duke of York. The second report, by MSW Hewetsons Chartered Surveyors (February 2020), provides an identical valuation.
- 5.3.4 These are independent valuations undertaken by External Valuers who are members of the Valuer's Registration Scheme. As such the two valuations meet the requirements of the second part of Policy DMR3.
- 5.3.5 It is however noted that Grindleton Community Pub Ltd (GCPL) have submitted representations which challenge the valuations. A Business Buyer & Market Appraisal Valuation Report by MJD Hughes Chartered Surveyor on behalf of GCPL indicates a market value of £225,000 (June 2019), taking into account the cost of repair and refitting. It is noted that this report is an expansion of a valuation



report. The report is prepared for the community group and includes many features that would not ordinarily be included in a valuation report. It is understood that this was to enable the community group to make a reasoned decision as to progressing their interest in the property.

- 5.3.6 It is understood that several offers have been made to the owner from both GCPL and the Bowland Charitable Trust over the last 12 months none of which were considered acceptable by the owner.
- 5.3.7 It is also noted that GCPL have produced and published a Business Plan setting out a financial outline for buying and refurbishing the Duke of York and profit and loss assumptions. The Business Buyer & Market Appraisal Valuation Report by MJD Hughes indicates that the Duke of York has the potential to achieve a sustainable level of trade as a public house hence why GCPL are keen to proceed with the purchase.
- 5.3.8 Whilst the premises have been marketed for sale for the period specified within Policy DMR3 in this case it is not considered that the lack of an agreed sale indicates that there is no demand given that there is a Community Benefit Society established purely to raise funds necessary to purchase the Duke of York. As such it has not been demonstrated that there is no demand to retain the premises in commercial use contrary to Policy DMR3.

#### 5.4 Impact on heritage assets (including design and visual appearance)

- 5.4.1 It is acknowledged that the application site lies within the Forest of Bowland AONB and Key Statement EN2 of the Core Strategy is relevant. However, the site is well-related to existing built development and it is considered that there is no harm to landscape character that would arise from the development proposals. Moreover, it is not considered that the proposed development would result in any adverse impact on the setting of nearby listed buildings, Townley House and Cromwell Cottage.
- 5.4.2 Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that 'when considering applications for listed building consent, special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'. NPPF paragraphs 193-194 state: "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification".
- 5.4.3 Core Strategy Key Statement EN5 applies a presumption in favour of the conservation and enhancement of the significance of heritage assets and their settings. Policy DME4 states that 'alterations or extensions to listed buildings or buildings of local heritage interest, or development proposals on sites within their setting which cause harm to the significance of the heritage asset will not be supported. Any proposals involving the demolition or loss of important historic fabric from listed buildings will be refused unless it can be demonstrated that

exceptional circumstances exist.’ In relation to conservation areas it says that ‘proposals within, or affecting views into and out of, or affecting the setting of a conservation area will be required to conserve and where appropriate enhance its character and appearance and those elements which contribute towards its significance’.

- 5.4.4 Submitted with the application is a Heritage Statement (HS) by Garry Miller. The summary of significance contained at Section 7 of the document remains unchanged from the HS document submitted with the previous planning application. It recognises that the Duke of York is of “national importance ... occupies a prominent location and is itself a distinctive building of the conservation area” (Section 7.3). It is also recognised that prime significance resides in its “external qualities and streetscene presence” (Section 7.2). This is reflected in the Grindleton Conservation Area Appraisal identification of the building as a Focal Building (corner site; elevated building at gateway and approach to village from the west; ‘polite’ architecture) whereas “the historic buildings of Grindleton are relatively modest and conservative” (pg12). The use of the building is also distinct; “Grindleton is primarily a residential village, with little employment within the village except for two pubs” (pg12).
- 5.4.5 The HS considers the heritage issues raised by the proposal to be its impact on the significance (i.e. heritage interest and value) of the Duke of York and the conservation area and the setting of nearby listed buildings. It is said that the proposal is favourable as the listed building is no longer viable as a public house and therefore its future will be ensured by securing its alternative use as a single dwelling.
- 5.4.6 The HS says that historical evidence implies that the property may have originated as a private dwelling in circa 1800 but by the mid-1850s it had become an inn. However, it is noted that the building is located at a main road junction at the centre of the village facing the main thoroughfare and this would appear indicative of its primary use as an inn. Evidence submitted in representations refers to an advertisement for an auction or sale of a farm in the Lancaster Gazette in 1817 as the earliest record of the Duke of York as a public house.
- 5.4.7 The views expressed in the HS are based on an understanding that a) the marketing exercise undertaken by the applicant demonstrates that the previous business as a public house is not viable and b) the building is vacant and beginning to deteriorate with concern that the building will fall into a state of disrepair. It is further concluded within the report that there would be *“no adverse impact whatsoever upon the significance of the listed building itself, no impact on its contribution to the conservation area and no impact on the setting of nearby listed buildings”*. This conclusion is reached due to the fact that there are no physical changes proposed to the building itself. However, this approach ignores the range of inter-related heritage values that may be attached to a place
- 5.4.8 The historic use as a pub gives the building high evidential, historic and communal value, and the loss of this use is scarcely considered in the HS, if at all. The historic (and communally important) use as a public house, which has been the building’s continuous use for at least 150 years and is an essential part of its significance, is to be lost in its entirety as a result of the proposals. The listing description notes the use as a public house and so this is an aspect that contributes to the building’s significance. The building provides evidence of the siting of public houses along

the main road on travel routes and would have been used by travellers and traders as well as the local community. The Duke of York is an attractive roadside building faced with stone and slate in harmony with the rest of the conservation area and has been a prominent feature of the village.

- 5.4.9 Whilst the building's aesthetic value appears unaffected at this stage the proposed layout does not appear conducive to residential use as a single dwelling. It is reasonable to assume that there would be alterations required to the building in order for it to be fit for modern living that would result in domestication of its appearance in the future.
- 5.4.10 It follows, therefore, that a permanent change of use away from a public house would inevitably result in some harm to its significance and special interest. Moreover, changing the use to a private dwelling would permanently restrict public access to the spaces that justified the building's historic interest, which are of national significance. There would therefore be harm in undermining the evidential role the asset currently plays in a wider public understanding of our past.
- 5.4.11 Consideration must also be given to the impact of the proposals on the character and appearance of Grindleton Conservation Area as an area of special architectural and historic interest. The change of use would result in a more domestic appearance and the loss of a clear character reflecting its function as a public house and impact conservation area historic character from the loss of a use which has been central to the community since at least the 1850s.
- 5.4.12 Due to its prominent location, marking the start of the Grindleton Conservation Area designation on approach along Grindleton Brow, the building makes a positive contribution to the character and appearance of the Conservation Area as an important part of its historic built development. As such, the building contributes aesthetically and historically to the character and appearance of the Conservation Area as a whole, and thereby to its significance as a designated heritage asset.
- 5.4.13 Similar matters were considered recently in appeals relating to the Grade II listed Dog and Partridge at Tosside (application refs. 3/2016/0708 and 3/2016/0709) where proposals to change the public house, owner's living accommodation and bed and breakfast facility to two dwellings was dismissed. In assessing the significance of the Dog and Partridge the appeal Inspector stated,

*“The prominent location of the building, at the historic centre of the hamlet, and its largely intact front elevation and gable end make a significant contribution to local character through its understated, vernacular architectural features and uncluttered frontage. Its position on the main route through the hamlet and established use, as a public house, gives rise to a significant depth of historic continuity, as indicated on the earliest maps of the area. Unsustained periods when it may have served other functions also indicates its role as a building strongly associated with the day to day life of the hamlet and surrounding farmsteads. Given the above, I find that the special interest of the listed building, insofar as it relates to this appeal, to be primarily associated with the historic legibility of the form and function of the building with special regard to its communal and historic value.”*

- 5.4.14 It is considered that much of the same logic can be applied equally to the Duke of York, identified as a Focal Building in the Grindleton Conservation Area Appraisal, and located in a prominent corner plot within the village.
- 5.4.15 In refusing the previous planning application at this site, which sought change of use of the public house to a residential dwelling including alterations to the fabric of the building and new build development comprising three holiday cottages and two storey detached garage/store, it was deemed that the proposals would result in *substantial harm* to heritage assets. The scheme now before the Council proposes change of use only and thus the level of harm when compared with the previously refused scheme has been reduced.
- 5.4.16 Having regard to the above, it is thought that the proposals would result in *less than substantial harm* to the historic interest of the listed building (see section 16 and 66 of the Act; NPPF paragraph 195) and less than substantial harm to the character and appearance of Grindleton Conservation Area.
- 5.4.17 NPPG [Paragraph: 018 Reference ID: 18a-018-20190723] states that “*in general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset’s significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.*” The development would result in complete loss of the building’s historic use which contributes significantly to its historic interest as a Listed Building. There would however be no physical harm to the fabric of the building and it is not deemed that the level of harm would be substantial.
- 5.4.18 Under such circumstances, paragraph 196 of the Framework advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including where appropriate, securing its optimal viable use.
- 5.4.19 The Planning Statement refers to the proposed conversion as the ‘optimal viable alternative use’. However, potential alternatives (with less harm to the designated heritage assets) are not examined or discounted. NPPG [Paragraph: 015 Reference ID: 18a-015-20190723] sets out that if there is a range of alternative economically viable uses, the optimum viable use is the one likely to cause the least harm to the significance of the asset. Given that it has not been demonstrated that use of the Duke of York as a public house is unviable, its repair and use as a public house is the optimal viable use.
- 5.4.20 Whilst the Duke of York is currently vacant there is no risk to the building in the short term as it is not in a significantly deteriorated state and its potential use as a public house would remain, even when closed, although it is noted there would be a requirement for significant investment to bring it back to commercial use. Despite statements within the planning application documents referring to the decline of the building’s condition there is no evidence of this provided with the application, for example in the form of a condition survey.

5.4.21 The valuation reports submitted with the planning application confirm the overall structure of the premises is reasonable although the reports do identify some leakage to the roof at first and second floor and the central chimney stack. These matters could be rectified by the owner of the property. Based on the information submitted it is not considered that the building is at risk in the short to medium term and any perceived benefit that would arise from safeguarding the structure by converting it to a dwellinghouse would attract limited weight.

5.4.22 The proposed development would not generate wider public benefits sufficient to outweigh the identified harm to designated heritage assets.

## 5.5 Residential Amenity

5.5.1 The Duke of York adjoins 1 Kayley Terrace to the north. The rear gardens/yards of 1-4 Kayley Terrace bound the site to the east. The first-floor windows in the proposed new dwelling would not result in any undue harm to the amenity of neighbouring residents through loss of privacy or overlooking. The existing situation within the garden to the rear of the Duke of York does result in a notable lack of privacy for the occupants of 1 Kayley Terrace due to a difference in ground levels and it is considered that use of the building as a private residence would generate less noise and disturbance than the public house.

## 5.6 Highways

5.6.1 The proposal seeks to utilise part of the existing pub car park for off-street parking. The northern section of the existing car park would be grassed over to create a domestic garden area. The existing vehicular entrance into the pub car park would remain as existing and space retained for at least three vehicles to allow entrance and egress in forward gear. As such, it is not considered that the proposals would have any adverse highway safety impact given the proposed use would generate notably less vehicle movements than a public house.

## 5.7 Observations/Consideration of Other Matters Raised

5.7.1 The previous applications at the site were supported by a protected species survey. Given the changes to the proposed development it is not considered that a protected species survey is required as part of this application.

5.7.2 Planning application 3/2019/0049 was refused for four reasons, one of which was the failure to identify the impact of the development on trees. The public house car park is sited directly adjacent to a Woodland Trust-owned site, Greendale Wood. The Woodland Trust objected to the previous planning application on the basis that the close proximity of the development could have numerous adverse impacts on the woodland. The new-build elements previously proposed no longer form part of this amended scheme which is for change of use of the public house to a residential dwellinghouse only. The issues raised by The Woodland Trust such as shading, leaf fall, overhanging branches and health and safety concerns are no longer relevant and it is not considered that the proposed development would adversely affect trees.

## 6. Conclusion

- 6.1 Having regard to all of the above, the proposed development would result in less than substantial harm to the special historic interest of the Grade II listed building and be of detriment to the character of Grindleton Conservation Area contrary to Core Strategy Key Statement EN5 and Policy DME4. Paragraph 193 of the Framework attaches great weight to the conservation of designated heritage assets and the proposal would not meet the requirements of paragraph 196 as the development would not generate wider public benefits sufficient to outweigh the identified harm nor has it been evidenced that it would secure the optimal viable use for the building.
- 6.2 The proposals would also conflict with Key Statement EC2 and Policy DMR3 of the Core Strategy insofar that it would also result in the unnecessary loss of a valued community facility.

**RECOMMENDATION:** That the application be REFUSED for the following reasons:

1. The proposed change of use of the Grade II listed building, the Duke of York Hotel, would result in less than substantial harm to its special historic interest and would harm the character of Grindleton Conservation Area. The proposals would fail to meet the requirements of paragraph 196 of the Framework and the optimal viable use of the premises have not been adequately examined to support the proposed alternative use. The proposals would be in conflict with Key Statement EN5 and Policy DME4 of the Core Strategy.
2. The proposed development would lead to a loss of commercial premises and a valued community facility in a village without sufficient justification as explicitly required by Core Strategy Key Statement EC2 and Policy DMR3.

#### BACKGROUND PAPERS

[https://www.ribblevalley.gov.uk/site/scripts/planx\\_details.php?appNumber=3%2F2020%2F0219](https://www.ribblevalley.gov.uk/site/scripts/planx_details.php?appNumber=3%2F2020%2F0219)

INFORMATION
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APPEALS UPDATE

<u>Application No and reason for appeal</u>	<u>Date Received/ Appeal Start Date</u>	<u>Site Address</u>	<u>Type of Appeal Procedure</u>	<u>Costs app received</u>	<u>Date of Inquiry or Hearing if applicable</u>	<u>Progress</u>
3/2019/0497 R	29/10/2019	DJP Domestic Appliances Ltd 1-3 King Lane Clitheroe	CAS			Appeal Dismissed 28/04/2020
3/2019/0698 R	02/01/2020	Wilkinsons Farmhouse Simonstone Lane Simonstone	HH			Appeal Dismissed 06/05/2020
3/2019/0262 R	22/01/2020	land at Hawthorne Place, Clitheroe	WR			Awaiting Decision
3/2018/0246 R (Enforcement appeal)	05/12/2019	12 Poplar Drive Longridge	WR	Appellant costs application refused		Appeal Dismissed 06/05/2020
3/2018/0932 R (Enforcement appeal)	20/02/2020	Bolton Peel Farm Bolton by Bowland Rd Bolton by Bowland	WR			Awaiting Decision
3/2018/1105 R	09/01/2020	Higher College Farm Lower Road Longridge	Hearing		17/03/20 Council Chamber	Hearing opened, then adjourned until after lockdown – no new date given yet.
3/2019/0561 R	27/02/2020	Pewter House Farm Carr Lane Balderstone	WR			Turned Away 26/05/2020
3/2019/0777 R	24/03/2020	8 Back Lane Rimington	HH			Awaiting Decision
3/2019/0822 R of tree work application	13/12/2019	Crafnant 14 Whinney Lane Langho	Environmental Procedure			Awaiting Decision
3/2019/0556 R	06/03/2020	Oakhaven Showley Road Clayton le Dale	WR			Awaiting Decision
3/2019/0622 R	09/03/2020	3 Old Road Chatburn	HH			Awaiting Decision
3/2019/0448 R	28/04/2020	land at Wiswell Lane Whalley	Hearing		Waiting for PINS	Statement due 22/06/2020

<u>Application No and reason for appeal</u>	<u>Date Received/ Appeal Start Date</u>	<u>Site Address</u>	<u>Type of Appeal Procedure</u>	<u>Costs app received</u>	<u>Date of Inquiry or Hearing if applicable</u>	<u>Progress</u>
3/2019/1021 R	15/04/2020	Birley Fold Farm Saccary Lane Mellor	HH			Appeal Allowed 26/05/2020
3/2019/0510 R	24/04/2020	Land SW of Clitheroe Golf Club Whalley Road Barrow	Hearing		Waiting for PINS	Awaiting Hearing
3/2019/0975 R	22/05/2020	The White House Sawley Road Sawley	HH			Awaiting Decision
3/2020/0039 R	08/06/2020	90 Mitton Road Whalley	HH			Awaiting Decision
3/2020/0649 R	18/05/2020	land to the south of 5 Chapel Brow Longridge	WR			Statement due 22/06/2020
3/2020/0037 R	18/05/2020	Fairclough Barn Loud Bridge, Chipping	HH			Awaiting Decision
3/2020/0036 R	18/05/2020	28 Calfcote Lane Longridge	WR			Statement due 22/06/2020
3/2020/0167 R	02/06/2020	2 Moorend Cottages Ribchester Road Langho	WR			Statement due 07/07/2020
3/2019/0877 U	Awaiting start date from PINS	Land at the junction of Chatburn Road and Pimlico Link Road Clitheroe	WR (to be confirmed by PINS)			



# RIBBLE VALLEY BOROUGH COUNCIL REPORT TO PLANNING & DEVELOPMENT COMMITTEE

Agenda Item No. 6

meeting date: THURSDAY, 25 JUNE 2020  
 title: NON-DETERMINATION APPEAL IN RELATION TO FULL PLANNING CONSENT FOR THE ERECTION OF 39 DWELLINGS WITH LANDSCAPING, ASSOCIATED WORKS AND ACCESS FROM ADJACENT DEVELOPMENT SITE. LAND AT CHATBURN ROAD CLITHEROE.  
 submitted by: NICOLA HOPKINS, DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING  
 principal author: STEPHEN KILMARTIN, PRINCIPAL PLANNING OFFICER

## 1 PURPOSE

1.1 To advise and inform Committee in relation to a recently received non-determination appeal and to request support and agreement for the reasons for refusal to be presented to the Planning Inspectorate.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives      }
  - Corporate Priorities        }
- To be a well managed Council providing efficient services based on identified customer need.
- Other Considerations – None.

## 2 BACKGROUND

2.1 The application (3/2019/0877) was submitted to the Local Authority on the 20 September 2019 and made valid on the 8 October 2019 with the thirteen-week timeframe for determination ending on the 7 January 2020. To allow for the resolving of highways matters and to enable internal discussions regarding the policy implications of the proposal to be resolved extensions of time were sought and agreed that extended the determination period to the 31 March.

2.2 Upon the expiration of the extend determination timeframe applicants can exercise the right to appeal for non-determination. Whilst the authority endeavours to determine applications within the requisite timeframe or agreed extended determination time period, in this case this was not achieved, with the applicant failing to agree to a further extension of time to allow for internal discussions to be finalised and agreed in respect of the stance to be undertaken in relation to the proposed development.

2.3 Members will note that an appeal decision (APP/T2350/W/19/3221189), received prior to the submission of the application (known as the 'Henthorn Decision'), reached conclusions in respect of how the authority should interpret, engage and apply a number of adopted local development plan policies, namely the application of Policies DMG2 and DMH3. The inspector, in reaching their decision, determined that development outside the settlement limits of Clitheroe would not necessarily conflict with the provisions of Policy DMG2 and that, in the case of the Henthorn appeal, such a proposal would constitute expansion of the settlement as allowed by Policy DMG2.

2.4 This Inspector's findings have had significant ramifications for the determination of a number of applications, particularly those that are adjacent but outside the settlement

boundaries of principal and tier 1 settlements. In this respect, the authority considers, if it were to concede that DMG2 allows for such outward expansion, in the absence of any other over-riding material considerations, this would result in significant consequences for the Borough insofar that it would compromise the ability of the authority to appropriately apportion growth to those settlements whereby housing need is evident and would undermine the relevance, to some degree, of the operation and effectiveness of the planned system adopted by the authority.

- 2.5 Internal discussion in relation to as to how Policies DMG2 and DMH3 should be interpreted, engaged and applied were concluded informally prior to the non-determination appeal being received. However, at this stage the applicant had not agreed an extension of time for the determination of the application with the non-determination appeal having been received on the 28 May 2020 with the Inspectorate finding the appeal as valid on the 9 June 2020.
- 2.6 The appellant has requested that the appeal be considered under the written representations' procedure. Having regard to the nature of the application it is the opinion of the authority that such a procedure is considered appropriate.
- 2.7 Members will note that objectors, those that have made representations and statutory consultees will be given the opportunity to give further representations to the Inspectorate, with any material matters raised informing the Inspectors decision.

### 3 ISSUES

- 3.1 In the case of non-determination appeals, it is important that Planning and Development Committee are given the opportunity to consider the planning merits of the proposal to allow for members to form a view as to whether they are satisfied with the recommendation that will be presented to the Inspectorate in response to the appeal.
- 3.2 In this respect a copy of the officer's report is appended for Members' consideration and information (Appendix A).
- 3.3 On the basis of the merits of the case and having regard to all material considerations and matters raised it is considered that should a formal recommendation have been made, the application would have been recommended for refusal for the following reason:

#### **Planning Application 3/2019/0877**

The proposal is considered contrary to Key Statement DS1 and Policies DMG2 and DMH3 of the Ribble Valley Core Strategy in that approval would lead to the creation of new residential dwellings in the defined open countryside, located outside of a defined settlement boundary, without sufficient justification insofar that it has not been adequately demonstrated that the proposal is for that of local needs housing that meets a current identified and evidenced outstanding need. It is further considered that the proposal fails to meet the requirements Key Statement DS1 insofar there are no identified regeneration benefits associated with the proposal.

### 4 RECOMMENDED THAT COMMITTEE

- 4.1 Advise that they would have been minded to agree with the officer recommendation and refuse the application for the reasons above.

4.2 Advise that they would agree to the written representations procedure as being the most appropriate procedure for the appeal and that the Planning Inspectorate should be informed as such.

STEPHEN KILMARTIN  
PRINCIPAL PLANNING OFFICER

NICOLA HOPKINS  
DIRECTOR OF ECONOMIC  
DEVELOPMENT AND PLANNING

BACKGROUND PAPERS

Application Reference Number: 3/2019/0877

For further information please ask for Stephen Kilmartin, extension 4555.

RECOMMENDATION FOR PLANNING AND DEVELOPMENT COMMITTEE

**REFUSAL**

**DATE:** June 2020

**REF:** SK

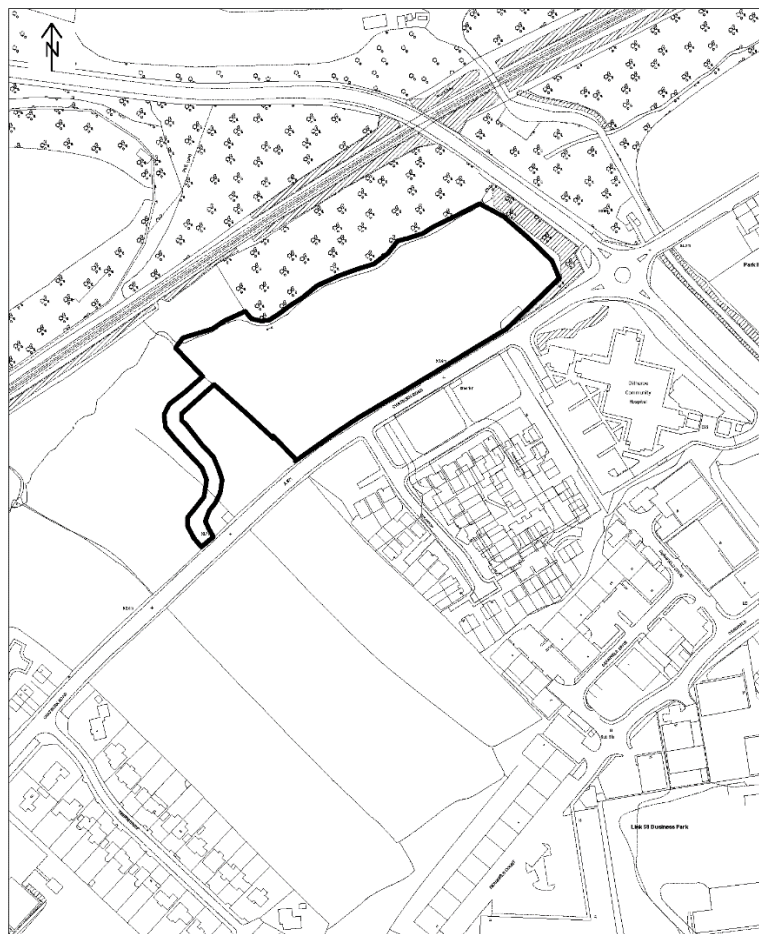
**CHECKED BY:**

**APPLICATION REF: 3/2019/0877**

GRID REF: SD 375365 443101

**DEVELOPMENT DESCRIPTION:**

ERECTION OF 39 DWELLINGS WITH LANDSCAPING, ASSOCIATED WORKS AND ACCESS FROM ADJACENT DEVELOPMENT SITE



3/2019/0877 Land at the junction of Chatburn Road and Pimlico Link Road  
Clitheroe BB7 2EQ

Scale 1:2500

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## **CONSULTEE RESPONSES/ REPRESENTATIONS MADE:**

### **CLITHEROE TOWN COUNCIL:**

Clitheroe Town Council have offered the following observations:

*If RVBC intend to recommend this application for approval the Town Council would like to see safety measures such as yellow lines to reduce parking on roads and a pelican crossing introduced. There should also be the provision of a regular bus service from the development.*

### **ENVIRONMENT DIRECTORATE (COUNTY SURVEYOR):**

The Highways Development Control section have raised no objection to the proposal following pro-active discussions in regards to the proposal that have resulted in a number of concerns having been mitigated through revisions to the internal highways arrangement.

### **UNITED UTILITIES**

No objections subject to the imposition of conditions relating to foul and surface water drainage.

### **LLFA**

No objections subject to the imposition of conditions relating to surface water drainage.

### **ENVIRONMENT AGENCY**

The Environment agency have raised no objections to the proposal and further state the submitted Flood Risk Assessment demonstrates that the proposal will not exacerbate flood risk elsewhere.

### **LCC EDUCATION**

Based upon the latest assessment, taking into account all approved applications, LCC will be seeking a contribution for 4 secondary school places and 11 primary school places.

Calculated at the current rates, this would result in a claim of:

Primary Places:

$(£12,257 \times 0.97) \times \text{BCIS All-in Tender Price } (324 / 240) \text{ (Q1-2018/Q4-2008)}$

= £16,050.54 per place

£16,050.54 x 11 places = £176,555.94

Secondary Places:

$(£18,469 \times 0.97) \times \text{BCIS All-in Tender Price } (324 / 240) \text{ (Q1-2018/Q4-2008)}$

= £24,185.16 per place

£24,185.16 x 4 places = £96,740.64

This assessment represents the current position on 15th October 2019.

LCC reserve the right to reassess the education requirements taking into account the latest information available.

## **ADDITIONAL REPRESENTATIONS:**

Three letters of representation have been received including representations from Clitheroe Civic Society in respect of the application objecting on the following grounds:

- Increase in traffic
- Increase in pollution resultant from the development
- Insufficient public services infrastructure within Clitheroe
- No housing need
- Loss of habitat and Greenfield land
- Lack of public amenity areas
- Increased flood risk
- Detrimental impact upon the character of the area

### **1. Site Description and Surrounding Area**

- 1.1 The application relates to greenfield land located to the east of a current designated housing site also being located outside but adjacent the currently defined settlement boundary for Clitheroe. The site is approximately 1.8 hectares in size being bounded by significant tree-planting/woodland to the north with hedgerow and tree planting also being present to the north-eastern extents of the site and south-east.
- 1.2 The site is bounded to the south-east by Chatburn Road with the Pimlico Link Road roundabout being located within close proximity to the north-east. The site directly adjoins, at its south-western extents, a committed housing site which is currently under construction.
- 1.3 The surrounding area is predominantly residential in character save that for the Clitheroe Hospital complex which is located to the south-east of the development site on the opposing side of Chatburn Road.

### **2. Proposed Development for which consent is sought**

- 2.1 The submitted details seek full consent for the erection of 39 dwellings with landscaping, associated works and vehicular access from an adjacent development site. It is proposed that primary vehicular and pedestrian access will be provided via an adjacent committed housing site to the south-west. A secondary pedestrian access is also proposed to the north-eastern extents of the site which directly interfaces with Chatburn Road.
- 2.2 The submitted details propose that the housing development will consist of a mixture of detached, semi-detached, terrace and bungalow type dwellings. No formal or informal usable public open space is proposed within the site save that for a small landscape buffer to the southern extents of the site. However, in this respect it is noted that residents will have use of an area of open space that will be brought forward as part of the adjacent committed housing site.
- 2.3 Following negotiation the applicant has now provided a policy compliant level of affordable housing and housing provision for those aged 55 and over.

3. **Relevant Planning History**

Members will note that the site to which the application relates does not benefit from any recent planning history relevant to the determination of the application. However, it should be noted that access to the site is facilitated through an existing committed housing site that is currently under construction pursuant to consent 3/2017/0653.

4. **Relevant Policies**

**Ribble Valley Core Strategy**

Key Statement DS1 – Development Strategy  
Key Statement DS2 – Presumption in Favour of Sustainable Development  
Key Statement DMI2 – Transport Considerations  
Key Statement EN3 – Sustainable Development and Climate Change  
Key Statement EN4 – Biodiversity and Geodiversity  
Key Statement H1 – Housing Provision  
Key Statement H2 – Housing Balance  
Key Statement H3 – Affordable Housing

Policy DMG1 – General Considerations  
Policy DMG2 – Strategic Considerations  
Policy DMG3 – Transport and Mobility  
Policy DME2 – Landscape and Townscape Protection  
Policy DME3 – Site and Species Protection and Conservation  
Policy DME6 – Water Management

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)

5. **Assessment of Proposed Development**

5.1 **Principle of Development:**

5.1.1 The application site lies within the defined open countryside being located outside but adjacent defined settlement boundary of Clitheroe, as such and given the application seeks consent for new residential development, Policies DMH3 and DMG2 are fully engaged. Both policies seek to restrict residential development within the defined countryside to that which meets a number of criteria, one of which being that which satisfies an identified local need.

5.1.2 In this respect, when assessing the locational aspects of the development, Policy DMG2 states that within the tier 2 villages and outside the defined settlement areas development must meet at least one of the following considerations:

1. The development should be essential to the local economy or social well being of the area.
2. The development is needed for the purposes of forestry or agriculture
3. The development is for local needs housing which meets an identified need and is secured as such.
4. The development is for small scale tourism or recreational developments appropriate to a rural area.

5. The development is for small-scale uses appropriate to a rural area where a local need or benefit can be demonstrated.
- 5.1.3 In this respect the applicant has not provided any supporting information as to how the application seeks to meet an identified or evidence outstanding need nor does the Local Authority consider or have evidence that there is a clear identified need for housing that must be met in this location.
- 5.1.4 Whilst the authority recognises there is a borough-wide need for affordable housing and the benefits associated with the delivery of such housing, in this case, the development of open-market residential development within this location (in the absence of identified or evidenced need) would be considered to be indirect conflict with Policies DMH3 and DMG2.
- 5.1.5 The adopted Core Strategy states that local needs housing is *'the housing developed to meet the needs of existing and concealed households living within the parish and surrounding parishes which is evidenced by the Housing Needs Survey for the parish, the Housing Waiting List and the Strategic Housing Market Assessment.'* with the supporting text to Key Statement H2 reaffirming that *'the most recent SHMA and Housing Needs Survey and waiting list evidence would always be used in determining if the proposed development meets the identified need'*.
- 5.1.6 Key Statement H2 itself also reiterates this approach stating that *'planning permission will only be granted for residential development providing it can be demonstrated that it delivers a suitable mix of housing that accords with the projected future household requirements and local need across the Ribble Valley as a whole as evidenced by the Strategic Housing Market Assessment'*.
- 5.1.7 In ensuring that a suitable proportion of housing within the borough meets local needs, the adopted Core Strategy states that information contained in the LDF evidence base assists in ensuring that this is made possible. The Strategic Housing Market Assessment (SHMA) is considered the most appropriate way of doing this as it incorporates information from the Housing Needs Surveys and combines this information with future population and household projections. Linking this information with the SHLAA assists in highlighting where the housing to meet local needs is required to be located.
- 5.1.8 In this respect it is clear that the adopted development plan places a full emphasis on the currently held evidence base being used to determine whether an outstanding housing need still exists. Based on the latest published monitoring position (HLAS March 2020) the authority is of the opinion that it has granted sufficient consents, for new residential dwellings, to take account of the needs and projections as reflected within the evidence base.
- 5.1.9 As such, and in the absence of the applicant providing evidence to suggest otherwise, the Local Planning Authority considers that the proposal cannot be supported given there is no evidenced need to meet the exception criterion contained within DMG2 or DMH3 and as such it cannot be argued that there exists any impetus to grant further consents for residential dwellings, outside the defined settlement boundary, in this location.



- 5.1.10 Members will be aware of a recent appeal (APP/T2350/W/19/3223816) at land off Henthorn Road Clitheroe (Henthorn Decision). Particularly in relation to the Local Planning Authority's interpretation an application of Policies DMG2 and DMH3 whereby it was concluded that DMG2 allows for the outward expansion of residential development, outside of a defined settlement boundary subject to such expansion being well related to the main built up area of the settlement.
- 5.1.11 Specifically, Policy DMG2 allows for '*consolidation*' which is defined as development which '*adjoins the main built up area*' of a settlement, with the policy also allowing for '*expansion*' which allows for the '*limited growth of a settlement*'. The authority is mindful of the Henthorn Decision but maintains that DMG2 should be interpreted in its truest sense.
- 5.1.12 The Inspector, in determining the 'Henthorn Decision', found that there was internal conflict within Policy DMG2 in that the policy firstly relates to development 'in' the principal settlements, which is then contradicted by the policy's support of consolidation or expansion which allows for development outside of the current defined settlement limits. The authority considers that the Inspector and appellant (at that time) wrongfully interpreted the policy in this respect. Policy DMG2 is two-fold in its approach to guiding development. The primary part of the policy DMG2(1) is engaged where development proposals are located 'in' principal and tier 1 settlements with the second part of the policy being engaged when a proposed development is located 'outside' the defined settlement areas or within tier 2 villages.
- 5.1.13 The policy is clear in this respect insofar that it contains explicit triggers as to when the former or latter criterion are applied and the triggers are purely locational and clearly based on a proposals relationship to defined settlement boundaries and whether, in this case, such a proposal is 'in' or 'outside' a defined settlement.
- 5.1.14 The adopted Core Strategy defines expansion as '*limited growth of a settlement generally it should be development which is in scale and keeping with the existing urban area*'. The Inspector and appellant, in this respect, considered (at the time of the Henthorn appeal) that the 'growth of a settlement' cannot be undertaken within a defined settlement boundary and therefore the policy must clearly allow for development outside of defined settlement limits.
- 5.1.15 The assumption that the growth of a settlement cannot be undertaken within a defined settlement boundary is erroneous. The physical 'growth' of a settlement can be undertaken within a defined settlement boundary, particularly where such a settlement boundary encompasses or includes land that is yet to be developed, such as a greenfield site.
- 5.1.16 In this respect, should a proposal come forward on such land (Principle and Tier 1 settlements), it would both constitute 'expansion' of development (assuming the proposal benefitted such a relationship with existing built form), represent the growth of a settlement and be considered as being 'inside' the defined settlement boundary and a such would align with the exception criterion of DMG(1).

- 5.1.17 In respect of the above, it is clear that the policy is supportive of the growth of settlements, but that such growth must be undertaken inside the defined settlement boundaries. An example of this would be Housing Allocation Land (HAL) allocated through the Housing and Economic Development DPD (HED DPD). Whereby defined settlement boundaries are revised to take account of Housing Allocation Land but these HAL sites would not necessary be considered to constitute 'development' that formed part of that settlement. However DMG(1) would be permissive of 'expansion' of existing 'development' into these sites given they are 'in' a defined settlement boundary and would also be representative of the general 'growth' of a settlement.
- 5.1.18 Whilst the authority accepts that historically a number of housing proposals may have been granted consent that were located outside of the defined settlement limits such decision may have been taken at a time when the Local Planning Authority could not robustly demonstrate a 5 year Housing Land Supply or whereby such supply was marginal and therefore there was a clear impetus to boost supply.
- 5.1.19 Notwithstanding the 'Henthorn Decision', a number of previous Inspectors decisions have also identified conflict with DMG2 where residential development is proposed outside defined settlement boundaries. For ease of reference for Members these are summarised below:

**5.1.20 APP/T2350/W/17/3186969 - LPA Ref: 3/2016/1082:**

The Inspector concluded, at Higher Road Longridge, that proposed housing adjacent but outside the defined settlement boundary was *'not in accordance with key Statement DS1 and Policies DMG2 and DMH3 of the CS insofar as they are relevant to the location and supply of housing and the protection of the open countryside'*.

**5.1.21 APP/T2350/W/17/3174924 – LPA Ref: 3/2016/1196:**

The Inspector stated that *'when development occurs outside settlement boundaries, as defined by the retained proposals map of the former local plan, it is deemed to be in the open countryside and policies DMG2 and DMH3 of the CS apply'* concluding that the proposed residential development *'would be in the open countryside and that the full weight of locational policies applies. The proposal would therefore be contrary to policies DMG2 and DMH3 of the CS and would not be in accordance with the development plan'*.

**5.1.22 APP/T2350/W/17/3185445 – LPA Ref: 3/2016/1192:**

The inspector stated that (Para.9) *'the appeal site is situated outside of the defined settlement boundary adjacent to the village of Read and it is common ground that it is within the 'countryside'. Policy DMG2 also includes that within the open countryside, development will be required to be in keeping with the character of the landscape and acknowledge the special qualities of the area. Whilst the policy makes provision for development proposals in Tier 1 settlements that should consolidate, expand or round-off development so that it is closely related to the main built up areas, the appeal site in this case is not in the defined settlement boundary.'* The Inspector further concludes (Para.14) *'that the appeal site is*

*situated in the countryside and not within the settlement of Read and Simonstone as defined by the settlement boundary. Consequently, the appeal scheme conflicts with CS Policies DMG2 and DMH3.'*

**5.1.23 APP/T2350/W/19/3235162 – LPA Ref: 3/2018/0507:**

The Inspector concurred with the Local Authorities application of DMG2 stating that Policy DMG2 *'relates to development outside of the defined settlement areas and requires that development must meet at least one of the listed considerations, including "that the development is for local needs housing which meets an identified need and is secured as such".'*

*Further stating that the 'proposal would introduce build development into the open countryside outside of the defined settlement boundaries and is therefore contrary to Key Statements DS1, DS2 and Policies DMG2 and DMH3 of the CS which set out the Council's approach to the location of development'*

**5.1.24 APP/T2350/W/18/3202044 – LPA Ref: 3/2017/0857:**

The Inspector found that (Para.6) *'The consolidation, expansion or rounding off of development referred to in policy DMG2 applies only to development in the settlements referred to (my italics) and I disagree with the appellant that the wording in Key Statement DS1 'towards' could reasonably mean 'outside'*

5.1.25 As such, when taking account of the above and in the absence of any evidence being submitted by the applicant in respect of the proposal meeting identified local housing need, it is considered that the proposal is in direct conflict with Policies DMG2 and DMH3 of the adopted Development Plan

**5.2 Impact upon Residential Amenity:**

5.2.1 Given the proposal seeks full consent, consideration must be given to the potential for the development to have an undue or detrimental impact upon nearby or adjoining residential amenity, consideration must also be given to the level amenities that will be enjoyed by potential occupiers of the development should consent be granted.

5.2.2 In respect the proposed development maintains a sensitive relationship (in respect of interface distances) with the development to the west with adequate spatial offset distances being maintained so as not to raise any undue concerns in respect of direct and unsympathetic overlooking of habitable rooms or private amenity space.

5.2.3 It is further considered that the proposed layout of the development is arranged in such a manner that it is unlikely that the level of residential amenity experienced by future occupiers would be significantly or measurably compromised.

5.2.4 As such it is not considered that the proposed development will have any undue impact upon existing residential amenity by virtue of direct -overlooking, loss of light or an overbearing impact.

### 5.3 Matters of Design/Visual Amenity:

- 5.3.1 The submitted details proposed that the housing will adopt a largely linear arrangement running from the south-west of the site to the north-eastern extents of the site with a central perimeter block of housing defining the overall layout of the development.
- 5.3.2 a small cluster of dwelling are also proposed and the north-eastern extents of the site with the proposed dwellings at the south-western extents of the site benefitting from a rear to rear interface with the adjacent housing that is currently under construction.
- 5.3.3 The proposed housing types adopt an elevational language that is similar to that which was granted approval on the adjacent committed housing site. As such it is not considered that the proposed housing will result in any measurable detrimental impact upon the character or visual amenities of the area when taking account of the external appearance and pattern of development of inherent to adjacent and nearby built-form.

### 5.4 Highway Safety and Accessibility:

- 5.4.1 LCC Highways have raised no objections in respect of the proposed development subject to the imposition of conditions requiring the need to submit a Construction Method Statement, the need to submit details in respect of the future maintenance and management of the internal highway. Should consent be granted there will also be a requirement to submit details in relation to a cycle-link, the construction of the site access and details of off-site highways improvements.

### 5.5 Landscape/Ecology:

- 5.5.1 The application has been accompanied by an Ecological Appraisal which concludes that plant species assemblages across the core development area are all common in the local area and as such are considered to be of low ecological value. Low numbers of common bat species were recorded foraging over the site with no roosting being evident on site or within the vicinity of the site.
- 5.5.2 The report recognises that birds are likely to utilise the tree line and woodland along the site boundaries for nesting and as such vegetation clearance should be undertaken outside of the nesting period between March and September.
- 5.5.3 Himalayan Balsam has been identified on site with the report recommending that appropriate measures be taken so as to avoid the movement of soil over and from the site. The report concludes that there will be no adverse impacts upon protected species or species of conservation concern and as such measures to mitigate such impacts are not required.

## 6. Observations/Consideration of Matters Raised/Conclusion

- 6.1 Taking account of the above matters and all material considerations, the authority considers that it has not been demonstrated that the proposal is for that of local needs

housing that meets a current identified and evidenced outstanding need as required by Policy DMG2 and DMH3 of the Adopted Core Strategy.

- 6.2 Members will note that this report seeks the endorsement of the committee to pursue the refusal of the application following the receipt of an appeal for non-determination. In this respect no decision will be made on the application, however any recommendation made will endorse and ratify the stance to be adopted by the authority in defending the aforementioned non-determination appeal.
- 6.3 It is for the above reasons and having regard to all material considerations and matters raised, that should the authority have proceeded to the determination stage of application, that it would have recommended refusal on the basis of the conflicts with the development plan as outlined above. As such the proposal would have been refused on the following grounds:

RECOMMENDATION: That the application be REFUSED for the following reason(s):

1. The proposal is considered contrary to Key Statement DS1 and Policies DMG2 and DMH3 of the Ribble Valley Core Strategy in that approval would lead to the creation of new residential dwellings in the defined open countryside, located outside of a defined settlement boundary, without sufficient justification insofar that it has not been adequately demonstrated that the proposal is for that of local needs housing that meets a current identified and evidenced outstanding need. It is further considered that the proposal fails to meet the requirements Key Statement DS1 insofar there are no identified regeneration benefits associated with the proposal.

# RIBBLE VALLEY BOROUGH COUNCIL

## REPORT TO PLANNING & DEVELOPMENT COMMITTEE

Agenda Item No. 7

meeting date: THURSDAY, 25 JUNE 2020  
title: TREE PRESERVATION ORDER 7/19/3/216 CARR HALL WOODLANDS  
submitted by: NICOLA HOPKINS – DIRECTOR OF ECONOMIC DEVELOPMENT & PLANNING  
principal author: ALEX SHUTT – COUNTRYSIDE OFFICER

### 1. PURPOSE

- 1.1 For Committee to consider whether the Carr Hall Woodlands, Off Whalley Road, Wilpshire, Tree Preservation Order 2020 should be confirmed.
- 1.2 Relevance to the Council's ambitions and priorities:
  - Community Objectives – To protect and enhance the existing environmental quality of our area.
  - Corporate Priorities – To comply with the adopted Core Strategy – Environment – Policy DME1: Protecting Trees and Woodlands.
  - Other Considerations – None.

### 2 BACKGROUND

- 2.1 On 19 February 2020 the Council received an anonymous report that a number of mature beech trees had been felled at woodland near Carr Hall, Wilpshire.
- 2.2 The Council's Countryside Officer (CO) carried out a site visit on the 27 February 2020 to ascertain the amount of damage caused. It was clear that a number of mature trees had been removed and a lot of ground works had taken place within the wooded area at Carr Hall. The CO spoke with the landowner (LO) about the felling works that had taken place and was informed that all the trees were dangerous and the majority of soil and hardcore was already on site. Access to the woodland and site was denied by the LO.
- 2.3 From initial assessments, all of the woodlands surrounding Carr Hall are considered to be of high visual amenity value. The woodlands which are primarily of native species, collectively cover a large area which is also an important wildlife and habitat corridor. The W1 part of the woodland has a Public Right of Way footpath that runs adjacent to the South West side and continues South through W2 part of Carr Hall Wood (see Appendix A).
- 2.4 The Council's Countryside Officers carried out a Tree Evaluation Method for a Tree Preservation Order [TEMPO] (see Appendix B) and on the basis of the results and the threat of further clear felling of the woodland, the local authority considered it expedient to serve a TPO (see Appendix C).
- 2.5 On 28 February a Tree Preservation Order was served to two landowners and a tenant. Although no formal objections were received a letter was submitted to the Council by a landowner on the 12 March 2020 outlining a number of discrepancies within the Regulation 5 and Tree Preservation Order. These issues were considered by the Director of Economic Development and Planning and the Council's legal team and determined not to affect the validity of the order.

### 3 ISSUES

- 3.1 The woodlands are considered to be of high visual amenity value to the locality and to the wider tree-scape. As mentioned above the mature woodland contains a mix of mainly deciduous native species and some could be as old as 150 years+. Further details on the woodland cannot be disclosed due to lack of information and access.
- 3.2 The Council served the order because of recent tree felling and land works within the wooded areas and the Council are aware of future potential development projects at the site. As such the trees and woodlands are potentially at risk from loss. Any further clear felling of the woodland will have a negative impact both for amenity and bio-diversity.
- 3.3 A Tree Preservation Order protects trees from lopping, topping and felling but does not preclude tree work being carried out, including felling, however except for emergencies, for which there are exemptions, a tree work application is required for tree management work.
- 3.4 Tree work to protected trees that are considered to be dead and/or dangerous can, under exemptions, be carried out to reduce or remove immediate risk; however, a five-day notice is normally required. If a tree has to be felled or pruned in an emergency, the onus is on the landowner to prove that on the balance of probabilities the tree was dangerous, however dead wood pruning does not require formal consent
- 3.5 Any tree management decisions about any of the trees included in the Preservation Order should be based on a detailed arboricultural quantified tree risk assessment, carried out by a qualified and public indemnity insured arborist. This ensures that any tree management decisions are based on objective and accurate arboricultural information.
- 3.6 There will be some slight variations to the order. The title will be changed to Carr Hall Woodlands, Off Whalley Road, Wilshire, Tree Preservation Order 2020. If any of the landowners want to have the woodlands and/or tree schedules modified to be more accurate then this can be updated if the correct reports are submitted and access to the woodlands for the Council is permitted.

### 4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications:
  - Resources – Dealing with tree related issues form part of the Countryside Officers' duties.
  - Technical, Environmental and Legal – Decisions made about trees have to balance protection of the environment against quantifiable risks posed by trees.
  - Political – None.
  - Reputation – The Council's environmental protection measures are being maintained.
  - Equality & Diversity – None.

5 CONCLUSION

- 5.1 The woodlands are of high amenity value to the locality and to the wider tree-scape. The PROW enables the public to enjoy the woodlands visually and physically and to guarantee the woodlands survival it is expedient that they are protected.
- 5.2 Any of the landowners that have an interest to apply for planning permission within W1 & W2 must realise that trees are a material consideration at any stage of the pre-planning, outline or detailed planning process. This TPO does not preclude a planning application being submitted or determined and in instances where a planning permission is granted and where the details indicate which trees are to be removed as part of the detailed consent, the planning permission supersedes a TPO and the loss can be mitigated.

6. **RECOMMENDED THAT COMMITTEE**

- 6.1 Confirm the Carr Hall Woodlands, Off Whalley Road, Wilpshire, Tree Preservation Order 2020.

ALEX SHUTT  
COUNTRYSIDE OFFICER

NICOLA HOPKINS  
DIRECTOR OF ECONOMIC DEVELOPMENT AND  
PLANNING SERVICES

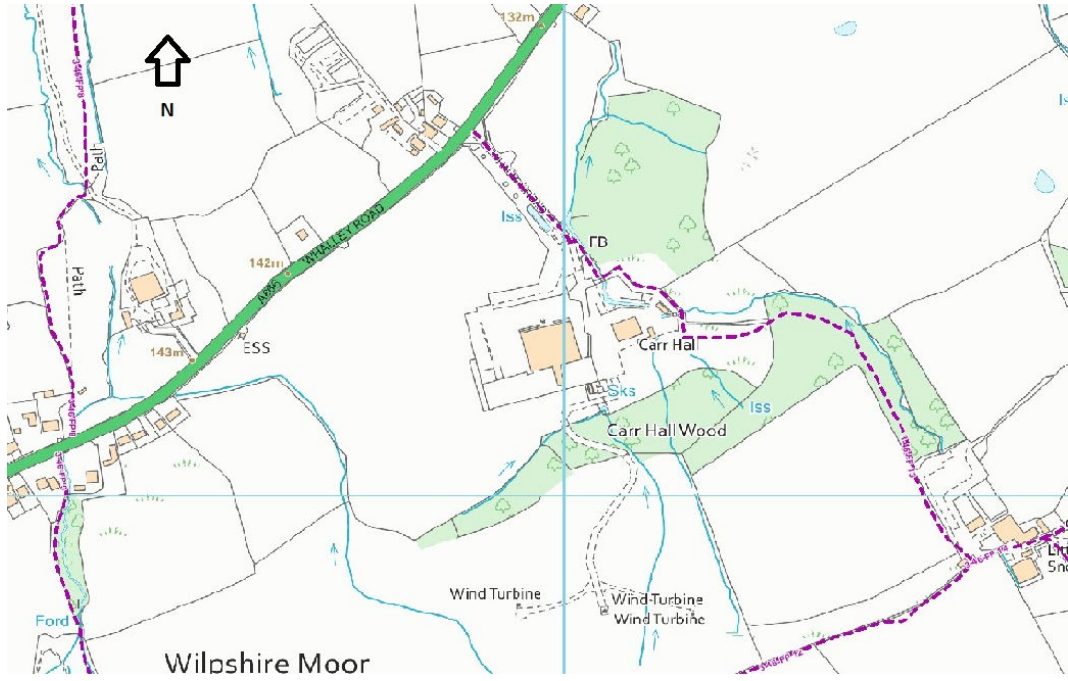
BACKGROUND PAPERS

Tree Preservation Orders and trees in conservation areas

For further information please ask for Alex Shutt, extension 4505.



# APPENDIX A



**TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)**

**SURVEY DATA SHEET & DECISION**

Date: 27/02/2020 Surveyor: Alex Shutt

**Tree Details**  
 TPO Ref (if applicable): 7/19/3/216 Tree/Group W1 & 2 Species: Mixed broadleaf & Evergreen  
 Owner (if known): Mr Donelan & Ms Cummings No: Location: Carr Hall Farm, Whalley Road, Wilpshire

**Part 1: Amenity Assessment**

**a) Condition & Suitability for TPO**

5) Good	<input type="checkbox"/>	Highly suitable	<input type="checkbox"/>	<b>Score &amp; Notes =</b> 3 - No access to woodland so cannot be properly ascertained
3) Fair	<input checked="" type="checkbox"/>	Suitable	<input type="checkbox"/>	
1) Poor	<input type="checkbox"/>	Unlikely to be suitable	<input type="checkbox"/>	
0) Dead	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>	
0) Dying/dangerous*	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>	

\*Relates to existing context and is intended to apply to severe irremediable defects only

**b) Retention Span (in years) & Suitability for TPO**

5) 100+	<input type="checkbox"/>	Highly suitable	<input type="checkbox"/>	<b>Score &amp; Notes =</b> 4 - No access to woodland so cannot be properly ascertained
4) 40-100	<input checked="" type="checkbox"/>	Suitable	<input type="checkbox"/>	
2) 20-40	<input type="checkbox"/>	Unlikely to be suitable	<input type="checkbox"/>	
1) 10-20	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>	
0) <10*	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>	

\*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality.

**c) Relative Public Visibility & Suitability for TPO**

5) Very large trees with some visibility, or prominent large trees	<input checked="" type="checkbox"/>	Highly suitable	<input type="checkbox"/>	<b>Score &amp; Notes =</b> 5
4) Large trees, or medium trees clearly visible to the public	<input type="checkbox"/>	Suitable	<input type="checkbox"/>	
3) Medium trees, or large trees with limited view only	<input type="checkbox"/>	Suitable	<input type="checkbox"/>	
2) Young, small, or medium/large trees visible only with difficulty	<input type="checkbox"/>	Barely suitable	<input type="checkbox"/>	
1) Trees not visible to the public, regardless of size	<input type="checkbox"/>	Probably unsuitable	<input type="checkbox"/>	

**d) Other Factors**

5) Principal components of arboricultural features, or veteran trees		<b>Score &amp; Notes =</b> 4
4) Tree groups, or members of groups important for their cohesion		
3) Trees with identifiable historic, commemorative or habitat importance		
2) Trees of particularly good form, especially if rare or unusual		
1) Trees with none of the above additional redeeming features		

**Part 2: Expediency Assessment**

5) Immediate threat to tree	<input checked="" type="checkbox"/>	<b>Score &amp; Notes =</b> 5
3) Foreseeable threat to tree	<input type="checkbox"/>	
2) Perceived threat to tree	<input type="checkbox"/>	
1) Precautionary only	<input type="checkbox"/>	

**Part 3: Decision**

Any 0	Do not apply TPO	<input type="checkbox"/>	<b>ADD SCORES FOR TOTAL</b>  <b>21</b>	<b>Decision</b>  Definitely Merits TPO
1-6	TPO indefensible	<input type="checkbox"/>		
7-11	Does not merit TPO	<input type="checkbox"/>		
12-15	TPO defensible	<input type="checkbox"/>		
16+	Definitely merits TPO	<input checked="" type="checkbox"/>		

## Form of Tree Preservation Order

Town and Country Planning Act 1990

The Carr Hall Woodlands, Off Whalley New Road, Wilpshire, Tree Preservation Order 2020

The Ribble Valley Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

**Citation**

1. This Order may be cited as Carr Hall Woodlands, Off Whalley New Road, Wilpshire, Tree Preservation Order 2020.

**Interpretation**

2.— (1) In this Order “the authority” means the Ribble Valley Borough Council.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

**Effect**

3.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.


**Application to trees to be planted pursuant to a condition**

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 28 day of February 2020

Signed on behalf of the Ribble Valley Borough Council

  
.....

 Mrs Nicola Hopkins Director of Economic Development and Planning Services  
Authorised by the Council to sign in that behalf

## SCHEDULE

### Specification of trees

#### Trees specified individually

(encircled in black on the map)

-NONE-

#### Trees specified by reference to an area

(within a dotted black line on the map)

-NONE-

#### Groups of trees

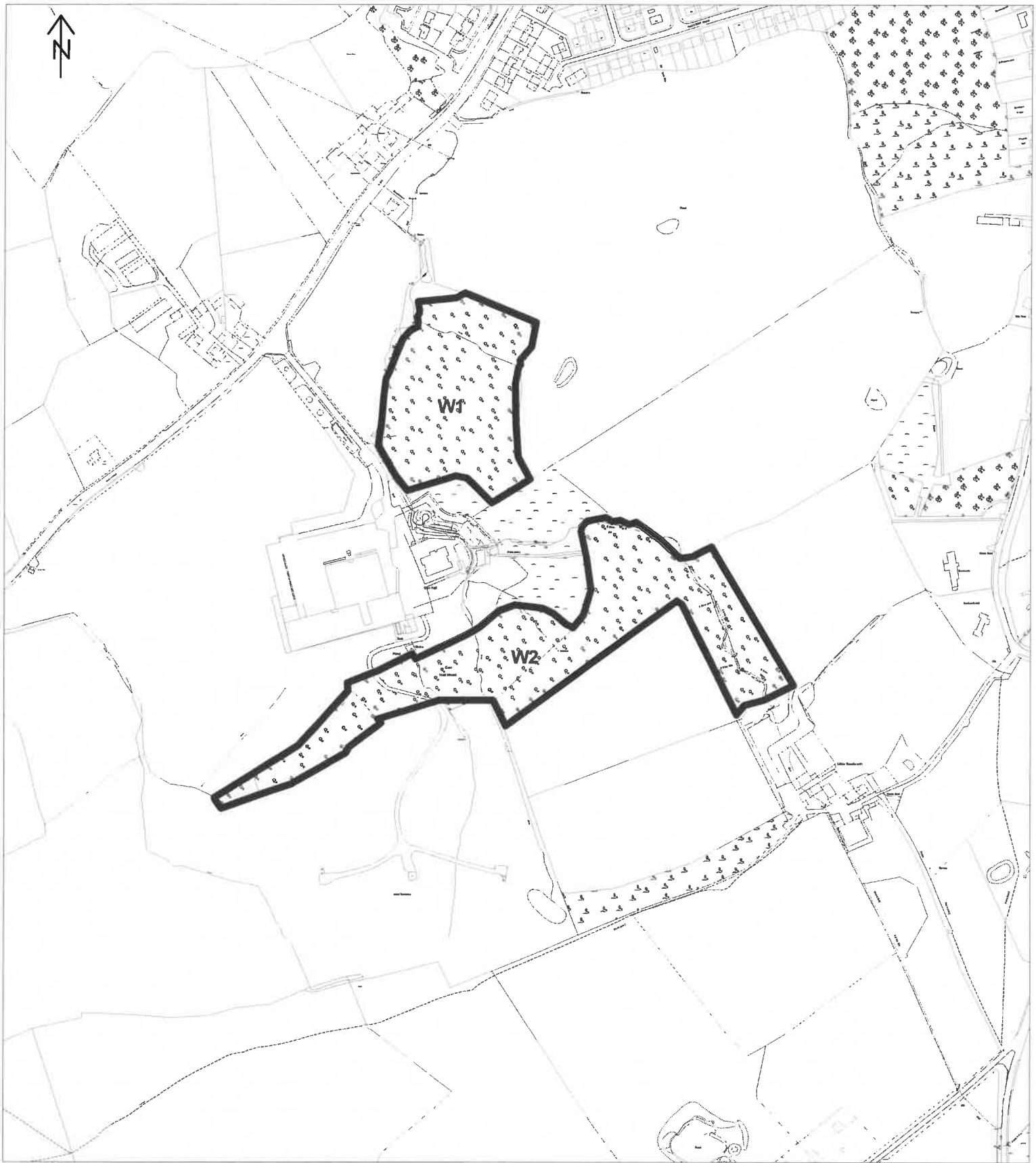
(within a broken black line on the map)

-NONE-

#### Woodlands

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
[W1]	Trees (of whatever species) within the woodland marked W1 on map	To the South of Whalley New Road
[W2]	Trees (of whatever species) within the woodland marked W2 on map	To the South of Whalley New Road



**RIBBLE VALLEY BOROUGH COUNCIL    TREE PRESERVATION ORDER NO./NOS. 7/19/3/216**  
**TOWN & COUNTRY PLANNING ACT 1990**  
**TOWN & COUNTRY PLANNING (TREES) REGULATIONS 2012**

**LOCATION: OFF WHALLEY ROAD, WILPSHIRE**  
**PARISH:    WILPSHIRE**

**OS SHEET: SD7033**

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**Scale 1:5000**



## Appeal Decision

Site visit made on 17 March 2020

**by M Russell BA (Hons) DipTP MRTPI**

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

**Decision date: 28 April 2020**

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### **Appeal Ref: APP/T2350/Z/19/3236354**

#### **1 - 3 King Lane, Clitheroe BB7 1AA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr David Parker – DJP Domestic Appliances Ltd against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2019/0497, dated 18 July 2019, was refused by notice dated 23 July 2019.
  - The development proposed is refurbishment of existing shopfront.
- 

#### **Decision**

1. The appeal is dismissed.

#### **Procedural Matter**

2. The decision notice confirms the decision was based on a revised planning application form received by the Council on 19 July 2019. The Council has provided a copy of the revised application forms and they seek planning permission only with no reference to any proposals for advertisements. I have considered the appeal on that basis. I have also taken the application date from the signed declaration on the revised application form.
3. The Council's decision notice confirms that the decision relates to the revised plan received on 24 July 2019. The information submitted with the Council's appeal questionnaire confirms that this is the revised 'Proposed Elevation' drawing ref. 1137-02 Rev C (received 24 July 2019). I have therefore based my assessment on this revised plan.

#### **Main Issue**

4. The main issue is the effect of the proposal on the character and appearance of the Clitheroe Conservation Area (CA).

#### **Reasons**

5. 1 – 3 King Lane is a two-storey building in use as a domestic appliance shop. The Clitheroe Conservation Area Appraisal (CCAA) identifies King Lane as sitting within the historic core of the CA. King Lane is characterised by a mix of residential and commercial uses. Several features contribute to the significance of the CA including the historic street pattern and numerous buildings of visual merit which often incorporate traditional architectural detailing and materials. Such features make a positive contribution to the character and appearance of the CA and add to its significance.
6. The elevations of the appeal building incorporate a mix of contemporary and traditional materials. However, at street level, features including the single

pane, timber framed windows, decorative pilasters and stone headed brick plinth all positively contribute to the overriding traditional grain of the CA. Timber window frames are also commonly used on the other commercial units on King Lane.

7. Even accounting for the vertical glazing bars included on the revised plan, the double glazed aluminium framed glazing units would be out of keeping with the prevailing traditional context of the CA. The loss of the decorative tops to the pilasters and the removal of a section of the stone headed brick plinth to facilitate a widening of the entrance doors would further erode elements of the building which presently respond positively to its position within the historic core of the CA. As a result of these factors the proposal would neither enhance nor preserve the character and appearance of the CA.
8. My attention has been drawn to modern materials on other shop fronts in the CA. I also noted on my site visit that uPVC window frames have been installed on some of the neighbouring residential properties and at first floor level on the appeal building. However, the CCAA identifies amongst other things the use of inappropriate modern materials as being a threat to the CA. The use of aluminium window frames in the appeal proposal would add to an incremental erosion of the character and appearance of the CA. I do not therefore find these other examples act as justification for the proposals.
9. Taking into account the proposal relates to the shop front of a single retail unit in the CA, the development would result in less than substantial harm to the character and appearance of the CA. Paragraph 196 of the National Planning Policy Framework (the Framework) states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
10. The unit is occupied and the business is therefore operational without the proposal. I am therefore not convinced that the proposal is a necessity to secure the optimum viable use of the building or to help retain the vitality and viability of the town centre. There would be modest economic benefits through the construction work required to carry out the proposed works. However, I must pay special attention to the desirability of preserving the setting of the CA. Taking the above issues into consideration, I find that there are no public benefits of a sufficient weight to outweigh the less than substantial harm that would result from the proposal.
11. To conclude, the proposal would have a harmful effect on the character and appearance of the CA. Consequently, in that regard, the development would be contrary to Key Statement EN5 (Heritage Assets) Policies DME4 (Protecting Heritage Assets) and DMG1 (General Considerations) of the Ribble Valley Borough Council Core Strategy 2008 – 2028 A Local Plan for Ribble Valley (2014) and the Framework.

### **Other Matters**

12. The windows and entrance door at the appeal site are fitted with slotted steel shutters which are only open during trading hours. Even so, the alterations would still be visible when the shop and others in the area are open. Consequently, the alterations would be appreciated at times when it is more likely people would be in the area. A lack of objection from neighbouring

occupiers and the Clitheroe Civic Society does not convince me that the proposals preserve or enhance the character and appearance of the CA.

**Conclusion**

13. For the above reasons the appeal is dismissed.

*M Russell*

INSPECTOR





## Appeal Decision

Site visit made on 10 March 2020

**by Felicity Thompson BA(Hons) MCD MRTPI**

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

**Decision date: 06 May 2020**

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**Appeal Ref: APP/T2350/C/19/3240341**

**Land at 12 Poplar Drive, Longridge, Preston PR3 3HS**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Robert Edward Thomas Cooper against an enforcement notice issued by Ribble Valley Borough Council.
- The enforcement notice was issued on 30 September 2019.
- The breach of planning control as alleged in the notice is without planning permission, the infill of four existing windows on the front elevation of the dwellinghouse erected on the Land and replacement with two smaller windows.
- The requirements of the notice are to remove the two windows on the front elevation facing the highway and reinstate the four original windows (or windows matching the original windows in dimensions, style and material).
- The period for compliance with the requirements is 13 weeks.
- The appeal is proceeding on the grounds set out in section 174(2) (c), (a) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is dismissed, and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.**

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### Preliminary Matter

1. Both main parties were invited to provide additional comments in respect of the appeal on ground (g) in light of the current public health emergency. Any comments received have been taken into consideration in my assessment of the appeal on ground (g).

### Application for costs

2. An application for costs was made by Mr Robert Edward Thomas Cooper against Ribble Valley Borough Council. This application is the subject of a separate Decision.

### Background

3. A retrospective application for planning permission was submitted to and subsequently refused by the Council for a single storey flat roof extension, repositioning of front door to include a small overhang, replacement of an existing door with a window, replacement roof, reduction in the size of windows to the front, rendering and materials including grey uPVC guttering/doors/fascia and flat roof EPDM rubber, reference 3/2018/0246.
4. The enforcement notice is only directed at the infilling of the windows on the front of the dwellinghouse and replacement with two smaller windows.

### The ground (c) appeal

5. The appeal on this ground is that the matters alleged in the notice do not constitute a breach of planning control. The burden of proof is on the appellant to demonstrate that the matters alleged in the notice do not constitute a breach of planning control.
6. There is no dispute between the main parties that the infilling of the existing windows and replacement with two smaller windows amounts to development within the meaning of development as set out in section 55(1) of the 1990 Act, for which planning permission is required. The appellant's contention is that the development constitutes an alteration which is permitted by Article 3 Schedule 2 Part 1 Class A of The Town and Country Planning (General Permitted Development) (England) (Order) 2015 (the GPDO).
7. Article 3 Schedule 2 Part 1 Class A of the GPDO grants planning permission for the enlargement, improvement or other alteration of a dwellinghouse subject to conditions and limitations. Condition A.3. (a) states that *"the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse"*.
8. The Government has published Technical Guidance to aid the interpretation of this condition<sup>1</sup>. It says: *"The condition above is intended to ensure that any works to enlarge, alter or improve a house result in an appearance that minimises visual impact and is sympathetic to existing development. This means that the materials used should be of similar visual appearance to those in the existing house, but does not mean that they need to be the same materials"*. An example is: *"it may be appropriate to replace existing windows with new uPVC double-glazed windows or include them in an extension even if there are no such windows in the existing house. What is important is that they give a similar visual appearance to those in the existing house, for example in terms of their overall shape, and the colour and size of the frames"*.
9. On the basis of the evidence before me, the development subject of the enforcement notice was undertaken at the same time as the other developments subject of planning application reference 3/2018/0246, as a single act of development. Prior to these developments the dwellinghouse had exposed brick walls and although not clear from the submitted evidence either white uPVC or white painted windows of rectangular form with a vertical emphasis.
10. Consequently, the infilling of the windows which included rendering the exterior of the dwellinghouse and insertion of two grey uPVC windows with a narrow, horizontal emphasis, does not comply with condition A.3 (a) as the materials used are not of a similar appearance to those used in the construction of the existing dwellinghouse, that is the dwellinghouse as it existed before the development was carried out.
11. The appellant has failed to demonstrate that the matters alleged in the notice do not constitute a breach of planning control. The development is not development that is permitted by any development order and there is no

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<sup>1</sup> Permitted development rights for householders Technical Guidance Ministry of Housing, Communities and Local Government September 2019

record of planning permission having been granted for it. The appeal on ground (c) therefore fails.

### **The appeal on ground (a) and the deemed planning application**

12. The main issue is the effect of the development on the character and appearance of the bungalow and the surrounding area.
13. The appeal property is a semi-detached bungalow located in a residential area. To one side is a detached bungalow and to the other a pair of semi-detached bungalows. Prior to the extension and alterations being carried out, No.12 and the other three bungalows in this group had a distinctly uniform appearance, each with four white windows on the front elevation of the same appearance and arrangement.
14. In the immediate locality there is a variety of dwelling types and designs including detached, semi-detached and short terraces of houses with their principal elevations facing the road. The bungalows and houses in the area are of relatively modern appearance and the majority are constructed from brick with mostly white uPVC windows, with a small number of exceptions where the frames are brown. Notwithstanding the wider variety, I observed that in those pairs and terraces the houses and bungalows exhibit a strong sense of uniformity in terms of their design and materials which contributes to a pleasing sense of rhythm and harmony.
15. The windows subject of the appeal are located at a relatively high level and are reasonably narrow with a horizontal emphasis. Notwithstanding the colour, they lack any detailing and have an appearance more commonly associated with functional windows found in secondary elevations of dwellings. They do not reflect the proportions or style of windows in the neighbouring bungalow or surrounding dwellings and undermine and unbalance the overall symmetry that exists between this pair and the adjacent pair of bungalows.
16. The windows are readily visible in public views from the street. As a result, the windows cause material harm to the appearance of the bungalow, the pair of which it forms a part and the street scene contrary to Policy DMG1 of Ribble Valley Borough Council Core Strategy 2008 – 2028 Adopted Version. This policy requires all development to be sympathetic to existing land uses in terms of style and features. It also conflicts with the design aims of the National Planning Policy Framework.

### *Other Matters*

17. I have considered the appellant's comments regarding the actions of the Council. However, this is a matter that is between the appellant and the Council and it is open to them, should they wish, to make use of the Council's own complaint procedure to resolve the matter.
18. For the reasons given above, the appeal on ground (a) fails.

### **The appeal on ground (g)**

19. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant stated that due to the uncertainty about when the economy and construction sector will 'start' and as the public health emergency has impacted significantly on the appellant's income, a 15-

month period would be more appropriate but that they would require a minimum of 12 months.

20. In their response the Council suggested that the 13-week period for compliance should commence with the date upon which the emergency period under the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 ends in relation to the restrictions on movement. However, given that it is not known when this will be, it is not possible to derive a 'period' from this and consequently this would not comply with s173(9).
21. Where an appeal is made against an enforcement notice, regardless of the grounds, the appeal 'stops the clock' and the period for compliance does not start until the date of the appeal decision. If the appeal proceeds on ground (g) and other grounds, the appellant is entitled to assume success in the other grounds, and so it is necessary to start from the date of the appeal decision when considering what the 'reasonable' period for compliance would be. Consequently, it is not relevant that the appellant was aware of the Council's concerns and intentions for a significant period of time before the enforcement notice was issued.
22. The purpose of the time period within an enforcement notice is to allow for the physical works associated with the notice to be removed. The appellant's submissions largely relate to the time before the works can commence - when funds can be raised, and a contractor can be appointed.
23. Nevertheless, the removal of the windows and reinstatement of four windows are works that would need to be carried out by a builder or suitably qualified tradesperson. Such works, whilst ongoing would undoubtedly have some impact on family life within the bungalow and I have some sympathy with the appellant in this regard.
24. I am satisfied that having regard to these circumstances, in particular in the interests of minimising disruption to the appellant and their family, that even if account is taken of the need to remedy the harm, given the current exceptional circumstances, the notice does not afford the appellant reasonable time to comply with the requirements of the notice. Looking at the case in the round, the requirements to undertake all the works within 13 weeks would place a disproportionate burden on the appellant.
25. Taking this and all other matters into account I conclude that the period for compliance should be extended to six months rather than the 15 or 12 sought. A period of six months would be a proportionate response to the breach of planning control and would achieve an appropriate balance between the need to resolve the breach of planning control and the interests of the appellant and their family. To this extent, the appeal on ground (g) succeeds.
26. I acknowledge the uncertainty regarding the current restrictions associated with the pandemic. However, I note that the Council have powers under s173A(1)(b) to extend any period for compliance, a matter entirely at their discretion, without prejudicing their right to take further action.

**Formal Decision**

27. It is directed that the enforcement notice is varied by the deletion of 13 weeks and the substitution of six months as the period for compliance. Subject to this variation I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*Felicity Thompson*

INSPECTOR



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## Costs Decision

Site visit made on 10 March 2020

**by Felicity Thompson BA(Hons) MCD MRTPI**

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

**Decision date: 06 May 2020**

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### **Costs application in relation to Appeal Ref: APP/T2350/C/19/3240341 Land at 12 Poplar Drive, Longridge, Preston PR3 3HS**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Robert Edward Thomas Cooper for a full award of costs against Ribble Valley Borough Council.
  - The appeal was against an enforcement notice alleging without planning permission the infill of four existing windows on the front elevation of the dwellinghouse erected on the Land and replacement with two smaller windows.
- 

### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant's application for costs relies to a significant extent on their view that the development constitutes permitted development and if not permission should have been granted, that the Council failed to substantiate their reasons for taking action, providing only vague, generalised and inaccurate assertions about the impact of the development, and in respect of the Council's approach and quality of its advice.
4. The taking of enforcement action is discretionary. The PPG advises that, for enforcement action, local planning authorities must carry out adequate prior investigation and that they are at risk of an award of costs if it is concluded that an appeal could have been avoided by more diligent investigation.
5. Comments made by the Council in their response to the applicant's costs application, specifically, that they consider the infilling of the windows and their reduction of size does not require consent are misleading. However, I have considered the appeal on the basis of the evidence before me and on my understanding of the legislation and advice in the Government's Technical Guidance<sup>1</sup>.
6. In this case, my decision explains why the appeal made against the enforcement notice failed. The breach of planning control occurred. The issued

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<sup>1</sup> Permitted development rights for householders Technical Guidance Ministry of Housing, Communities and Local Government September 2019

notice clearly identified the breach and the reasons for taking action which, in my assessment, can be put down to a diligent investigation.

7. Whilst it is evident that the applicant is unhappy about the Council's approach to him and the investigation, I reject any view that this appeal could have been avoided by a more diligent investigation. There is nothing to indicate the Council's lack of negotiation could have avoided the issuing of the notice. Once the Council issued the enforcement notice, the applicant exercised his right of appeal to protect his interest in the land.
8. I appreciate that the outcome of the process will have been a disappointment to the applicant however, sufficient evidence was submitted to substantiate the reasons for taking enforcement action and my decision explains why the development is unacceptable.

### **Conclusion**

9. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Felicity Thompson*

INSPECTOR



## Appeal Decision

Site visit made on 4 February 2020 by Hannah Ellison BSc (Hons) MSc

**Decision by Susan Ashworth BA (Hons) BPL MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 6 May 2020**

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**Appeal Ref: APP/T2350/D/19/3241098**

**Wilkinsons Farmhouse, Simonstone Lane, Simonstone, Burnley, BB12 7NX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs John Ford against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2019/0698, dated 4 June 2019, was refused by notice dated 13 September 2019.
  - The development proposed is the erection of a double garage structure with a first floor home office.
- 

### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issues

3. The main issues are the effect of the proposed development on:
  - the setting of the Grade II listed building, Wilkinsons Farmhouse, and
  - the character and appearance of the area.

### Reasons

4. The appeal site is located on the western side of Simonstone Lane. It includes a two-storey dwelling with outbuilding to the rear, both of which are Grade II listed. The dwelling has a large side and rear garden, enclosed by a high stone wall and mature planting. This proposal seeks permission for a detached double garage.

### Listed Building

5. Wilkinsons Farmhouse is a Grade II listed building dating from the early 18<sup>th</sup> century. Its significance appears to be principally derived from its linear plan form and the detailing of the front elevation, including the coursed sandstone blocks and flush mullion windows. Located to the rear of the dwelling is a Grade II listed former pigsty with poultry loft. The listing identifies it as being a



good example of this type of agricultural building, which is rare in this area. The two buildings have a group value, derived from the historic relationship of the farmstead and it is symbolic of the importance and hierarchy of the main farmhouse with working building to the rear.

6. The proposed development would be positioned within the setting of the farmhouse. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me to pay special attention to the desirability of preserving the setting of the listed building. The National Planning Policy Framework (the Framework) identifies what is meant by the term "setting" as the surroundings in which a heritage asset is experienced.
7. The farmhouse is set back from the highway within a generous plot with land to the front, side and rear. These areas have been landscaped and are used as a domestic garden. Whilst this somewhat reduces the contribution of the setting to the significance of the heritage asset, the space nevertheless remains large and open and reflects the space historically associated with the front of the farmhouse, which was generally uncluttered by buildings.
8. My attention has been drawn to historic evidence which suggests an ancillary structure existed in a similar forward location to the appeal proposal. I acknowledge the detail provided in the appellant's heritage assessment including the map extracts, however the information is limited. Moreover, it seems to me that the earlier structure was of a single storey scale and existed for a limited time in the history of the site. As such, the open setting around the farmhouse makes a positive contribution and allows the significance of the heritage asset to be fully appreciated.
9. The proposed garage would introduce a large structure in the open space to the front and side of the farmhouse. Whilst it would not be positioned between the two listed buildings, it would be sited within close proximity to the farmhouse and forward of its important front elevation. Its presence in this location would interrupt the linear form and historic connection and narrative of the site, and it would erode the sense of openness which contributes positively towards its setting. Whilst buildings adjacent to the roadside or forward of front elevations may be common in the wider area, such as that opposite at the grade II listed Starkie Farmhouse, the appeal site has a different setting, as noted above. The proposal would therefore detract from the ability to appreciate the significance of the heritage asset.
10. Although the proposal would be positioned at a lower level to the farmhouse, its presence would be further accentuated by its substantial overall height and massing. It would therefore be an overly dominant and incongruous addition to the site and would compete with the heritage asset. It is acknowledged that the proposal has been modelled upon a building of vernacular tradition and the elevations would be finished in stone to match the main farmhouse. However, this does not outweigh the harm caused to the historic setting of the heritage asset as a result of the size and positioning of the proposed garage.
11. Given the above, the proposal would be harmful to the setting of Wilkinsons Farmhouse. The Framework is clear that great weight should be given to the asset's conservation. Due to the scale of the proposal and given that it would only affect part of the setting of the building and would not alter its built form, the level of harm to the significance of the heritage asset would be less than substantial, having regard to the approach set out in paragraph 193 of the

Framework. Where a development proposal would lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal.

12. The proposed garage could accommodate two vehicles and the appellant notes that this would allow cars to be parked out of sight away from the front elevation of the heritage asset. However, there would be no mechanism to prohibit the parking of vehicles in the existing driveway even if the proposed garage was erected. As such, I consider the benefits of this proposal to be solely private and do not therefore outweigh the harm that I have found.
13. Accordingly, I conclude that this proposal would fail to preserve the setting of the listed building and would not meet the statutory requirements of the Act. Furthermore, it would conflict with guidance in the Framework and policies DME4 and DMG1 and Key Statement EN5 of the Core Strategy 2008-2028, A Local Plan for Ribble Valley (December 2014) (the 'CS'), which collectively seek to ensure proposals conserve and enhance heritage assets and their settings.

#### *Character and Appearance*

14. The proposed garage would be located in the side garden of the host dwelling. This area is well screened from the highway due to a high boundary wall and mature planting. This proposal would include the loss of four trees. I observed that three of the trees were ornamental and set-off the boundary, and therefore do not contribute to existing levels of screening. The fourth is positioned close to the southern boundary of the site.
15. I note the comments of the Council's Tree Officer that, individually, the trees do not have significant amenity value but collectively they do make a contribution. Be that as it may, I am not satisfied that their loss and thus any potential effect on the streetscene could not be mitigated by way of additional tree planting, controlled via a condition. Further, a condition could also seek to prevent any damage to other trees during the construction phase.
16. Consequently, I find that the proposal would not cause unacceptable harm to the character and appearance of the area through the loss of trees. As such, it would not conflict with policies DME1 and DME2 and Key Statement EN2 of the CS which collectively seek to ensure developments protect or do not significantly harm trees and are in keeping with the character of the landscape.

#### **Conclusion and Recommendation**

17. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

*Hannah Ellison*

Appeal Planning Officer

#### **Inspector's Decision**

18. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

*Susan Ashworth*

INSPECTOR





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## Appeal Decision

Site visit made on 19 May 2020

by **Paul Singleton BSc MA MRTPI**

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

Decision date: 26 May 2020

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**Appeal Ref: APP/T2350/D/20/3247601**

**Birley Fold Farm, Saccary Lane, Mellor, Blackburn BB1 9DW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Webber against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2019/1021, dated 6 November 2019, was refused by notice dated 23 December 2019.
  - The development proposed is attached double garage, patio and external balcony.
- 

### Decision

1. The appeal is allowed and planning permission is granted for attached double garage, patio and external balcony at Birley Fold Farm, Saccary Lane, Mellor, Blackburn BB1 9DW in accordance with the terms of the application Ref 2/2019/1021, dated 6 November 2019, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
    - PHA 350 100 Existing Site Plan, dated 27.06.19
    - PHA 350 200 Proposed Site Plan, dated 06.11.19
    - PHA 350 300 Existing Scheme Design, dated 27.06.19
    - PHA 350 400 Proposed Scheme Design, dated 06.11.19
    - PHA 350 500 Proposed Scheme Design, (Elevations) dated 06.11.19
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  - 4) The balcony to be constructed as part of the approved development shall not be brought into use until the existing fence to the enclosed garden has been increased in height by 1.2 metres in accordance with the details shown on approved plan PHA 350 200, dated 06.11.19. The fence shall be retained and maintained at the increased height thereafter.

### Main Issue

2. The main issue in the appeal is the effect on the living conditions of the occupiers of the adjacent dwelling in terms of a loss of privacy.

## Reasons

3. The appeal scheme represents a revised proposal following the refusal of planning permission for a scheme with a much larger area of balcony extending over the proposed garage.
4. The appeal property sits level with Birley Fold with its rear garden sloping down to the north, towards the common boundary with the rear garden to the adjacent dwelling (Brigadoon) which sits at a much lower level. An existing raised terraced area and path to the rear of the appeal property stands some 1.6 metres (m) above the immediately adjacent garden level. The topography is such that views are available from this terrace into the rear garden of Brigadoon and that, from the western end of that raised area, there is an oblique view towards the glazed entrance in the rear elevation of that property. This raised terrace is used as a route to and from the appeal property and its garden and is capable of use as a sitting out area.
5. In the appeal scheme a glass balustrade would be erected along the edge of the existing terrace but it would be unchanged in terms of its size and height. The existing views into the rear garden and of part of the rear elevation of Brigadoon would also be unchanged. The new area of balcony would be to the east of this terrace. Although it would effectively fill the gap between the terrace and the garden fence it would not project forward (to the north) of the existing terrace. The new section of balcony would also be set at a level which is some 0.3m below that of the existing terrace.
6. In my assessment the views available from the proposed new balcony area into the curtilage of Brigadoon would be more restricted than those currently available from the existing terrace. From this new area, there would be a direct view only into the bottom half of the adjacent garden. The main patio/ sitting area, located in close proximity to the rear wall of that dwelling, would not be seen. Although there would be a view towards the upper part of the glazed rear entrance to Brigadoon this would be at a relatively acute angle and at 20 or more metres distance. Hence, there would be no loss of privacy in terms of views to the principal windows of that dwelling and no material increase, compared with the existing situation, in terms of overlooking of its rear garden.
7. Due to its greater depth and the proposed installation of a hot tub the new balcony area would be likely to attract a greater level of use and activity than the existing terrace. When sitting in their own rear garden, the occupiers of Brigadoon might hear their neighbours when they are using the balcony and hot tub. This would be unlikely to be at a level which causes disturbance but could affect their sense of privacy when using their garden. However, that increased sense of awareness of their neighbours' activities could be mitigated by means of increasing the height of the adjacent garden fencing as proposed by the appellant. This would provide additional noise and visual screening between the new balcony and the rear elevation of Brigadoon and its patio/outdoor sitting area.
8. The Council has raised no objection to the other elements of the scheme and I saw nothing on my site visit that raised any concerns about these aspects of the appeal proposal.

### **Conditions**

9. Permission is granted in accordance with the standard time limit for commencement of development and I have attached a condition requiring that the scheme be completed in accordance with the approved plans. This condition, and that requiring the use of external facing materials to match those on the existing dwelling, are needed to ensure a satisfactory standard and quality of development. I have also added a condition requiring that the garden fence be increased in height before the new area of balcony is first brought into use and is retained at that new height thereafter. This is needed to ensure the protection of the amenity of the neighbouring residents.

### **Conclusions**

10. For the reasons set out above I find that the proposal would not have a significant adverse effect on the living conditions of the occupiers of the adjacent residential property at Brigadoon and that there is no conflict with Policy DMG1 of the Ribble Valley Core Strategy (2014) as asserted by the Council. I therefore conclude that the appeal should be allowed.

*Paul Singleton*

INSPECTOR