

# Agenda

## Planning Committee

Date:	Wednesday, 1 September 2021 at 10:00 am
Venue:	Town Hall, St Annes, FY8 1LW
Committee members:	Councillor Trevor Fiddler (Chairman) Councillor Richard Redcliffe (Vice-Chairman)  Councillors Tim Armit, Chris Dixon, Kiran Mulholland, Jayne Nixon, Linda Nulty, Liz Oades, David O'Rourke, Heather Speak, Ray Thomas, Stan Trudgill.

### Public Speaking at the Planning Committee

Members of the public may register to speak on individual planning applications: see [Public Speaking at Council Meetings](#).

	PROCEDURAL ITEMS:	PAGE
<b>1</b>	<b>Declarations of Interest:</b> Declarations of interest, and the responsibility for declaring the same, are matters for elected members. Members are able to obtain advice, in writing, in advance of meetings. This should only be sought via the Council's Monitoring Officer. However, it should be noted that no advice on interests sought less than one working day prior to any meeting will be provided.	<b>1</b>
<b>2</b>	<b>Confirmation of Minutes:</b> To confirm the minutes, as previously circulated, of the meeting held on <a href="#">28 July 2021</a> as a correct record.	<b>1</b>
<b>3</b>	<b>Substitute Members:</b> Details of any substitute members notified in accordance with council procedure rule 24.	<b>1</b>
	<b>DECISION ITEMS:</b>	
<b>4</b>	<b>Planning Matters</b>	<b>3-58</b>
<b>5</b>	<b>Fylde Council Tree Preservation Order 2021/0001: Land at Church Road and Albany Road, Lytham St Anne's</b>	<b>59-73</b>
	<b>INFORMATION ITEMS:</b>	
<b>6</b>	<b>List of Appeals Decided</b>	<b>74-93</b>

Contact: Lyndsey Lacey-Simone - Telephone: (01253) 658504 – Email: [democracy@fylde.gov.uk](mailto:democracy@fylde.gov.uk)

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<http://fylde.cmis.uk.com/fylde/DocumentsandInformation/PublicDocumentsandInformation.aspx>

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## Background Papers

The background papers used in the compilation of reports relating to planning applications are listed below, except for such documents that contain exempt or confidential information defined in Schedule 12A of the Local Government Act 1972:

- Fylde Local Plan to 2032 Adopted Version (October 2018)
- Joint Lancashire Minerals and Waste Local Plan
- Bryning-with-Warton Neighbourhood Plan
- Saint Anne's on The Sea Neighbourhood Development Plan
- National Planning Policy Framework 2021
- National Planning Practice Guidance
- The Community Infrastructure Levy Regulations 2010 (as amended)
- Conservation of Habitats and Species Regulations 2010 (as amended)
- Other Supplementary Planning Documents, Guidance and evidence base documents specifically referred to in the reports.
- The respective application files
- The application forms, plans, supporting documentation, committee reports and decisions as appropriate for the historic applications specifically referred to in the reports.
- Any additional information specifically referred to in each report.

These Background Documents are available online at [www.fylde.gov.uk/resident/planning](http://www.fylde.gov.uk/resident/planning)

# Planning Committee Schedule

## 01 September 2021

**Item Number:** 1      **Committee Date:** 01 September 2021

<b>Application Reference:</b>	20/0953	<b>Type of Application:</b>	Change of Use
<b>Applicant:</b>	Pete Marquis Developments	<b>Agent :</b>	Strategic Development and Cost Consultants
<b>Location:</b>	LAND EAST OF KINETON LODGE, BACK LANE, WEETON WITH PREESE, PRESTON, PR4 3HS		
<b>Proposal:</b>	CHANGE OF USE OF THE LAND FROM AGRICULTURAL TO THE KEEPING OF HORSES, ERECTION OF A STABLE BUILDING FOR PRIVATE USE COMPRISING OF 4 NO. STABLES AND A TACK ROOM AND FEED STORE ON HARDSTANDING AREA, AND FORMATION OF CONNECTING TRACK FROM EXISTING FIELD GATE		
<b>Ward:</b>	STAINING AND WEETON	<b>Parish:</b>	Weeton with Preese
<b>Weeks on Hand:</b>	30	<b>Case Officer:</b>	Alan Pinder
<b>Reason for Delay:</b>	Need to determine at Committee		
<a href="#">Click Here</a> for application site on Google Maps		<a href="#">Click here</a> for application on FBC website	

**Summary of Recommended Decision:** Grant

### Summary of Officer Recommendation

This relates to an area of land that is located off Back Lane in Weeton and is immediately adjacent to that road as it wraps around the southern and eastern boundaries of the site with the development at Kineton Lodge and The Barns to the west. It extends to *circa* 1.1 hectare in area and is currently in use as agricultural grassland. The proposal is to utilise it for equestrian purposes with the construction of a stable building for the stabling of two horses together with the storage of associated tack and horse feed to support that.

The site is located within designated countryside where a 'horsicultural' use such as this is considered appropriate and acceptable as a rural use that will preserve the character of the countryside. The scale, design, and appearance of the stable building is considered appropriate for the proposed use, and its siting is such that it would not be visually intrusive or incongruous within the wider rural area. The access location and the level of use would not create any unacceptable impacts on the local highway network.

Accordingly the proposed development accords with policies GD4 and GD7 of the Fylde Local Plan to 2032 and the application is recommended for approval.

### **Reason for Reporting to Committee**

The officer recommendation for approval conflicts with the views of the Parish Council and so it is necessary to present the application to the Planning Committee for a decision.

### **Site Description and Location**

The application site is a parcel of agricultural grassland to the east of Kineton Lodge and The Barns residential development on the northern side of Back Lane in the parish of Weeton-with-Preese. The land is approximately 1.1 hectares in area and lies within countryside as designated on the Fylde Local Plan to 2032 Policies Map. Other than Kineton Lodge and The Barns development the site is surrounded on all sides by open countryside. The M55 motorway runs east to west approximately 75 metres south of the site.

### **Details of Proposal**

Planning permission is sought for a change of use of the land to equestrian use and the construction of a stable building, comprising of 4 No. stables and a tack/feed storage room. The building would measure 22 metres in length and the width would vary between 7 metres for the actual stable and 10 metres for the tack/feed storage area. The roof would be pitched with a ridge height of 4 metres and an eaves height of 2.9 metres. The elevations would be formed by green painted timber panels atop a blockwork plinth and the roof would be covered in a 'metro' tile.

The stable building would be sited on an area of existing concreted hardstanding that would provide an apron around the building together with an area for parking. Access would be via an existing field gate located at the southern corner of the field, at the junction of Back lane and the private access road serving The Barns development. A 500 mm deep consolidated hardcore base track would run from the field access to the area of existing hardcore.

The stables are intended for private use only and not for any commercial livery use.

### **Relevant Planning History**

There is no planning history associated with this site.

### **Relevant Planning Appeals History**

None

### **Parish/Town Council Observations**

**Weeton with Preese Parish Council** notified on 02 February 2021 and comment:

*The Parish Council recommend the application be refused for the following reasons:*

- 1. Issues with the validity of this being a private and non-commercial enterprise, as plan shows 4 x stables*
- 2. The adjoining highway is on a blind bend and access / egress will be dangerous on to / from Back Lane*
- 3. The PC would surmise the access road is a private road accessing The Barns*
- 4. The structure will be closer than 5 metres from the property / garden of a private residence*

*which the PC understands is possibly in contravention of planning permission*

## **Statutory Consultees and Observations of Other Interested Parties**

### **Lancashire County Council - Highway Authority**

With the access to the site being from the local highway network LCC Highways have been consulted. They advise:

*LCC Highways does not have any objections regarding the proposed change of use of the land from agricultural to the keeping of horses and the erection on existing hardstanding of a stable building for private use comprising of 4no stables and a tack room and feed store, and are of the opinion that the proposed development will not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site*

They request that a condition be imposed to ensure that the site is only used for private equestrian purposes.

### **Environmental Protection (Pollution)**

Raise no objection but advise conditions are imposed requiring the submission of details of means of storage and disposal of stables waste, prohibiting external lighting, and that the stables to be for private use only.

## **Neighbour Observations**

### **Neighbours notified:**

02 February 2021

### **Number of Responses**

Two letters of objection

### **Summary of Comments**

- The applicant is a company that does not live in or occupy Kineton Lodge
- There are no horses on the land and haven't been for many years
- The construction and use of the stables will add to the volume of traffic that is causing disrepair to Back Lane
- The application does not appear to be for private stables as the occupants of Kineton Lodge do not own horses. Hence it is likely the stables are for commercial use.
- Back Lane is prone to flooding, which will be exacerbated by surface water run off from the stables
- The resulting increase in traffic could result in the grass verges being ruined again
- There would be conflict between private vehicles accessing dwellings at The Barns and vehicles entering/exiting the stables
- Concerned about noise disturbance from the additional traffic and the horses
- Odour nuisance from the smell of horse manure
- The stable block would ruin the landscape
- It is believed that the septic tank that serves The Barns' dwellings leaves via the field of the proposed development

## **Relevant Planning Policy**

### **Fylde Local Plan to 2032:**

GD4	Development in the Countryside
GD7	Achieving Good Design in Development

### **Other Relevant Policy:**

NPPF:	National Planning Policy Framework
NPPG:	National Planning Practice Guidance

## **Environmental Impact Assessment**

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

## **Comment and Analysis**

### **Principle of the Development**

The application site lies within designated countryside and as such policy GD4 of the Fylde Local Plan to 2032 is a relevant policy consideration. Policy GD4 seeks to restrict development within countryside to those forms of development which fall within one or more of six criteria listed 'a' through to 'f' in the policy. Of these six criteria only criterion 'a' is relevant to this application, and refers to development "*...needed for purposes of agriculture, horticulture or forestry; or other uses appropriate to a rural area, including uses which would help to diversify the rural economy, including small-scale tourist accommodation, holiday caravan sites and very exceptionally, larger scale tourism development*".

Equestrianism and the private stabling of horses is recognised as being a use that is appropriate to a rural area given the need for grazing land and rural buildings for shelter. Thus the principle of the proposed development sites under criteria a) and is acceptable as there is no conflict with Policy GD4 in this regard.

### **Design, Scale and Appearance**

This application includes the construction of a stable building for the private stabling of four horses and the storage of associated tack and horse feed. Neighbours have raised the concern that the stables are intended for commercial use, referring to the applicant being a company and/or the occupier of Kinton Lodge not owning any horses as being reasons why this would be the case. This notwithstanding there is no requirement for an applicant to be a named individual or for them to pre-own horses prior to the construction of stables.

The area of land that the site relates to is of a size that can accommodate at least 4 horses and so it is not unreasonable for four stables to be provided to support their use of the land. This scale remains acceptable as a private use and an appropriate condition would be attached to the permission (if granted) to prevent any inappropriate future commercial livery use.

In terms of finished appearance and design these are considered appropriate for a stable building within a rural area. The green painted elevations would aid in blending the building into the general rural backdrop. Notwithstanding this, the siting of the building on an area of existing hardstanding along the western boundary of the site will ensure that in the long range views from



the east it would be viewed against the back drop of the residential properties to the west. These properties would screen it in views from the west, and it would be viewed as part of the existing grouping of built development in long views from the north and south.

Overall the proposed development is considered to accord with the criteria of policy GD7 that relate to visual impact and appropriateness to the rural character of the area

#### Residential Amenity

The proposed stable building would be sited approximately 13 metres from the closest dwelling with a private access road running between them. This spatial relationship, together with the limited height of the proposed stable building, are such that neighbour amenity would not be compromised by way of overshadowing or overbearing appearance.

The occupier of this closest dwelling has expressed concern about the loss of a view across the open countryside, and the potential for nuisance caused by noise from the horses and odour from horse manure. The loss of a private view is not a matter that forms a material planning consideration. With regard to potential nuisance due to noise horses are not, in the normal course of things, noisy animals that are likely to create a persistent noise, or a noise of levels likely to be considered a nuisance. The council's Environmental Protection Team has raised no concerns in respect of noise and so accordingly it is considered unlikely that any substantiated noise nuisance would occur, with the level and nature of noise being that which is typical for a rural area.

With regard to odour, horse manure is not generally considered to have an offensive odour and as such it is common practice for it to be used on domestic gardens to aid the growth of plants. It is also the case that the natural character of countryside is one that includes odours that might otherwise be considered inappropriate within an urban area, and in choosing to live within a countryside area it is implicit that some odours are acceptable within the rural context. This notwithstanding, there does need to be some clarity over the manure storage arrangements which are not detailed on the application. This is an aspect that can be secured through condition, with the determination of the application needed to discharge that condition likely to ensure that the manure storage area is positioned as remotely as practically possible from the dwellings to minimise the potential level of amenity impact from this aspect of the development.

With this control it is not considered that the proposal would result in unacceptable odours to an extent that would be sufficiently harmful to amenity to be contrary to Policy GD7 and so justify a reason for refusal of the application.

#### Highways

As originally submitted the application proposed that the stables would be accessed via the private road that serves the adjacent residential development (The Barns) from Back Lane. County Highways were consulted on this access and raised no objections. However it subsequently transpired that this private road was outside the application site and as it is not adopted it is not available for the applicant to use.

An alternative access point which utilises an existing field access gate located at the junction of the private access road and Back Lane has been proposed, with a new length of track constructed to connect this to the stables. Visually this will sit as a typical feature in the rural landscape, but the nature of the use of the access point changes from the existing occasional access by vehicles servicing the fields to the more likely daily use by a range of vehicles. The views of the local

highway authority have been sought on this to assist the council's decision, and they have confirmed that they have no concerns over the use of this access point.

Given that this is an existing field access it is already available for use by agricultural vehicles and thus its use by private vehicles associated with the stable use would have no greater highways impact in terms of any potential obstruction. The scale of the equestrian use remains limited with the level of vehicle movements likely to be low due to the private nature of the stable use. Accordingly it is considered that the proposal accords with the requirements of Policy GD& of the Fylde Local Plan to 2032 and the requirements of NPPF21 with regards highway safety matters.

### **Other Matters**

Nearby residents have also raised concerns that the increase in traffic movements that would result from the use of the stables would cause additional unacceptable wear and tear to the road surface and grass verges of Back Lane. However the level of traffic movements associated with the private stable use are unlikely to be of such an extent that notable additional wear to any road surface or grass verges would occur. This notwithstanding, such matters are not a material planning consideration for the purposes of assessing the planning merits of the proposal.

### **Conclusions**

This application proposes the change of use of a 1.1 hectare area of agricultural grassland to equestrian use and the construction of a stable building for the stabling of four horses and the storage of associated tack and horse feed. The site is located within designated countryside where a 'horsicultural' use such as this is considered appropriate and acceptable. The scale, design, and appearance of the stable building is considered appropriate for the proposed use, and its siting is such that it would not be visually intrusive or incongruous within this wider rural area. Whilst there are some concerns over the amenity implications of manure storage and over the access to the site these are not considered to justify a refusal given the rural location of the site and that the access point is an existing one. Accordingly the proposed development accords with policies GD4 and GD7 of the Fylde Local Plan to 2032 and the application is recommended for approval.

### **Recommendation**

That Planning Permission be GRANTED 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: To comply with the requirements of section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. This permission relates to the following plans:

- Location Plan - Drawing no. S1/27/20LOC Rev A
- Proposed Plans, Elevations & Site Plan - Drawing no., M27/20P3B1 Rev F

Except as provided for by other conditions to this permission, the development shall be carried out in complete accordance with the approved drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans in the interests of proper planning in accordance with the policies contained within the Fylde Local Plan to 2032 and National Planning Policy Framework

3. Unless alternative details have first been submitted to and approved in writing by the Local Planning Authority, the development shall be constructed in accordance with the materials detailed on the approved plans listed in condition 2 to this planning permission. The concrete blockwork that forms the plinth base of the building's elevations shall be no higher than 0.5 metres in height when measured from the existing ground level immediately adjacent to the building.

Reason: To ensure the use of appropriate materials and a finished appearance which are sympathetic to the character of this rural area in the interests of visual amenity in accordance with Policy GD7 of the Fylde Local Plan to 2032.

4. The equestrian use of the site and the stable building hereby approved shall be for private equestrian purposes only with no livery, breeding, training, showing or other commercial equestrian related activities carried on, in or from the site and building.

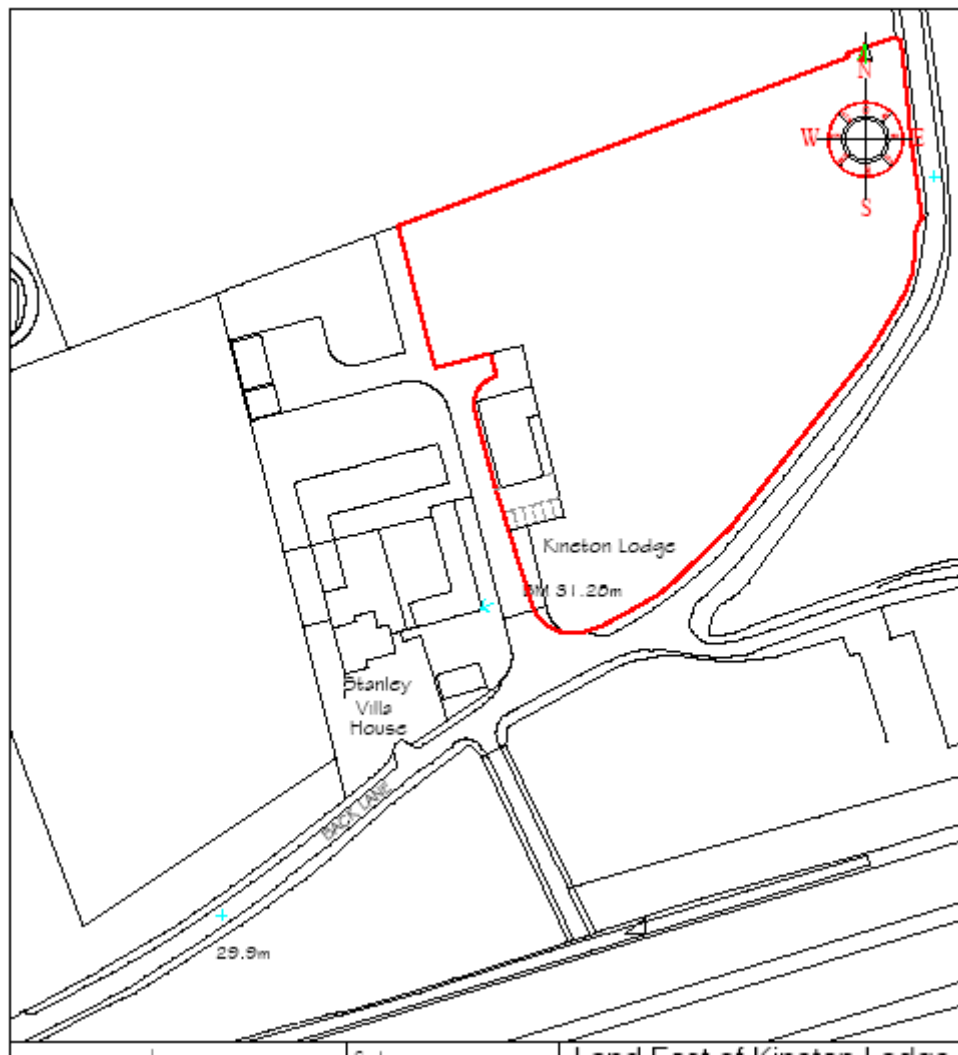
Reason: The use of the development in connection with any commercial operation would potentially cause increased activity at the site and vehicle movements to it contrary to the provisions of policy GD7 of the Fylde Local Plan to 2032.

5. Notwithstanding any details contained within the application and the requirements of condition 2 of this permission, if any external lighting is to be installed on the building(s) and/or the external areas of the site a scheme including details of the lighting's: (i) position and height on the building(s) and/or site; (ii) spillage, luminance and angle of installation; and (iii) any shields or hoods to be fixed to the lights shall be submitted to and approved in writing by the Local Planning Authority before any lighting is installed. Any external lighting shall only be installed in accordance with the duly approved scheme.

Reason: To ensure that any external lighting to be installed at the site does not cause a nuisance to surrounding occupiers or detract from visual amenity in the surrounding area as a result of light pollution in accordance with the requirements of Fylde Local Plan to 2032 policy GD7 and the National Planning Policy Framework.

6. The stables hereby approved shall not be brought into use until a scheme for the provision of a manure store has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the siting, size, materials, design and covering arrangements of the manure store along with the arrangements in place to ensure that it retains an appropriate capacity for the level of equestrian use hereby approved. The manure store shall thereafter be constructed and made available for use in accordance with the duly approved scheme before the stables are first brought into use.

Reason: In order that appropriate facilities are provided for the storage and removal of waste at the site in the interests of the amenity of surrounding occupiers and to ensure a sympathetic appearance for the manure store which is compatible with the character of the site and its surroundings in accordance with the requirements of Fylde Local Plan to 2032 policy GD7 and the National Planning Policy Framework.



**Item Number:** 2

**Committee Date:** 01 September 2021

<b>Application Reference:</b> 21/0480		<b>Type of Application:</b> Full Planning Permission	
<b>Applicant:</b>	Mr Saunders	<b>Agent :</b>	Graham Anthony Associates
<b>Location:</b>	RIVERSIDE CHALET PARK, OCCUPATION LANE, SINGLETON, POULTON-LE-FYLDE, FY6 7RA		
<b>Proposal:</b>	PHASED REDEVELOPMENT OF SITE TO A HOLIDAY CARAVAN PARK INCLUDING: 1) REMOVAL OF EXISTING LODGES/CHALETS/BUILDINGS; 2) CONSTRUCTION OF 35 BASES EACH TO CONTAIN A STATIC CARAVAN; 3) RECONFIGURATION OF INTERNAL ACCESS ROAD; AND 4) PROVISION OF PARKING SPACES FOR EACH CARAVAN		
<b>Ward:</b>	SINGLETON AND GREENHALGH	<b>Parish:</b>	Singleton
<b>Weeks on Hand:</b>	15	<b>Case Officer:</b>	Ruth Thow
<b>Reason for Delay:</b>	Need to determine at Committee		
<a href="#">Click Here</a> for application site on Google Maps		<a href="#">Click here</a> for application on FBC website	

**Summary of Recommended Decision:** Refuse

#### **Summary of Officer Recommendation**

The application site is an existing 'chalet' park that is located in a countryside location close to Singleton Crossroads and running to the River Wyre, with its access off Mains Lane close to the Singleton Crossroads junction. The existing accommodation on site is provided in a range of single storey structures, many of which seem to have evolved over time with various extensions and alterations, although there are a small number that have been more recently constructed. Prior to the recent demolition of a small number of the 'chalets' there were 36 on site with the majority in residential use.

The application proposes the reconfiguration of the site including the removal of all the existing chalets and alterations to the roadway to facilitate its use for 35 static caravan pitches which are to be used for holiday purposes. In doing so it is a virtually identical resubmission of an application that was refused by the Planning Committee in February 2021 for two reasons relating to concerns over highway safety, and to the loss of the community cohesion on the site from its redevelopment. The current application proposes a phased development of the site but provides limited details of how that could be undertaken.

The site is in the Countryside where Policy GD4 applies. This is generally restrictive but does allow for some forms of development that reflect the rural character of the area, with this specifically including small-scale tourist accommodation and holiday caravan sites. The proposed development of the site will not involve any extension of the area that is used by caravans, or any increase in the number of units on site above the existing arrangements. As such it is considered that the proposal is in accordance with the local plan allocation for the site. The use for holiday accommodation would also not involve any conflict with Policy EC7 which relates to tourist accommodation and is focused on ensuring that caravans sites

are retained for holiday purposes.

The officer report on the previous application recommended that it be granted planning permission subject to the adoption of a Habitat Regulation Assessment and a list of conditions. Whilst this recommendation was not accepted by members, officers remain of the view that, in principle the scheme complies with policies GD4 and EC7.

However, the conditions that were associated with the previous recommendation included a number of relatively significant details that it was anticipated would have been provided in any resubmission. The resubmitted application follows the form of the original proposal and the agent has indicated that there is no intention to vary the layout of the caravans and so requests that the application be considered as submitted. Whilst matters such as the phasing of the development, the protection to ensure that the existing residents can remain on site, the effective landscaping of the site, the revisions of the proposed internal road layout and parking arrangements to satisfy highway authority requests, and the provision of appropriate visual and acoustic protection for the wildlife that utilises the nearby estuary and its surrounding land could still be addressed through the imposition of suitable conditions, the layout of the site remains of a regimented form.

Since the last application was considered, a revised NPPF has been issued. This policy guidance places greater emphasis on delivering new development with a high quality of design. Whilst many of the existing 'chalets' and their associated buildings have an untidy appearance, they are of individual designs that have developed over time. The uniform design of static caravans, particularly when laid out in the regimented fashion proposed in this application, would not reflect the organic form of the existing layout, and the strong linear nature of the layout would emphasise the urban form of the development being directly adjacent to the surrounding rural area. The rearrangement of the layout to provide a layout that moves away from the parallel arrangement of caravans and the introduction of areas between caravans to provide landscaping that would visually break up the layout would help to address officers' concerns.

Whilst the previous application was recommended for approval subject to conditions that sought to improve the layout, and so the visual appearance of the site, it is clear from subsequent discussions with the applicant's agent that they would not be prepared to revise the layout. For this reason, it is considered appropriate to revise the previous recommendation to one of refusal, particularly in the light of the revised national policy guidance.

### **Reason for Reporting to Committee**

The application is a resubmission of an application that was refused by the Planning Committee contrary to officer recommendation, and so the Head of Planning and Housing has determined that this application should also be presented to the Planning Committee for a decision.

### **Site Description and Location**

The application site is known as Riverside Chalet Park, Occupation Lane, Singleton. Occupation Lane is accessed from the north side of Mains Lane, close to the junction of Mains Lane with Pool Foot Lane, Lodge Lane and Garstang Road East at 'Singleton Crossroads'. The site itself is situated to the north of no.s 8 - 12 Mains Lane and slopes gently down to the south side of the River Wyre.

At the time that the existing site plan was drawn up the site contained 36 'chalets' which are individual in their design and layout, some of which have been extended at various times since they were first brought onto the site. Since that time a number of the chalets have been removed with static caravans introduced to the pitches that they previously occupied. The 'chalets' have been constructed in a mix of materials which include render, timber and upvc cladding. The majority of the units are stationed either side of the central access road, from which a small spur road links through to the neighbouring 'Wyre Chalet Park'. A small number benefit from a specific planning permissions for extensions or reconstruction.

The site seems to have been established since before the Town and County Planning Act of 1947 created the modern planning system and so there are no controls over the occupation of the 'chalets', with the majority seemingly being in residential use. At the time of the officer site visit associated with this application, a small number of chalets that had been present at an earlier visit had been demolished and replaced by static caravans on their concrete bases.

The site has some mature landscaping to the north and west side boundaries with the trees to the northern boundary covered by Tree Preservation Order no. 1968 No. 1 (Singleton). The site is designated as countryside on the Fylde Local Plan to 2032.

There are a range of surrounding land uses, with other caravan sites in the area including the 'Pool Brow Caravan Park' to the immediate east and the 'River Wyre Caravan Park' to the west albeit across an intervening agricultural field. There are residential dwellings fronting Mains Lane to the north and agricultural land across the River Wyre within that neighbouring borough to the north.

### **Details of Proposal**

This application seeks planning permission for a redevelopment of the site. This involves the removal of all the existing chalets, and the formation of 35 concrete bases in a reconfigured layout to the present arrangement. These bases are to be used to station static caravans for holiday use together with the reconfiguration of the internal access road and provision of parking spaces for each caravan.

The application is essentially a resubmission of application 20/0542 which was refused at Planning Committee in February 2021. The scope of the scheme, the plans, and much of the supporting information are identical to that presented with that application. The Planning Statement includes a letter as a preface which refers to the previous refusal and the highway and community reasons that it was based upon.

With regards the highway reason the letter highlights that there were no objections to the development from the statutory consultees on the application. With regards to the community aspect the supporting letter refers to the scheme now being presented as providing a phased development of the site, with the supporting information providing reference to that in a letter that is said to have been sent to all occupiers on the site. This letter is quoted as saying:

*'...All existing residents would be allowed to continue residing undisturbed, with the opportunity to pass on their chalet to family if they so wished or alternatively sell back to the park owners. Licensed sites have controlled standards which protect residents and owners alike.*

*Our intention is to resubmit the application after the implications of the permission have been clearly explained to residents, in an attempt to appease any concerns individuals may have and dismiss any*

*lingering fears that people would lose their homes. As you will have already witnessed, the owners have invested across the site for the benefit of all and the intention is to continue onsite investment looking forward.*

*We would just like to make it abundantly clear that if the resubmitted application is successful, no resident will be forced to move or redevelop their chalet’.*

The agent has been asked to provide more clarity over the exact mechanism that will be used to deliver a phased development, what that phasing will be, and how the existing residents will be protected. No further information has been provided other than reference made back to this letter.

As with the previous scheme the site plan indicates a regular layout of 35 caravan pitches arranged either side of the access road with an area of hard standing at the entrance to the site retained for additional car parking. It is intended that each caravan unit is 12.1 metres by 6 metres with a parking space to the side/front of each unit. Additional tree planting is proposed in three locations between caravans with the existing trees and hedges retained. A revision to the original plans has added a turning head to the access road to allow refuse vehicles to turn.

The application is again supported by a planning statement, an ecological report and shadow HRA, and a highway statement to address comments that were raised by Highways England.

#### **Relevant Planning History**

<b>Application No.</b>	<b>Development</b>	<b>Decision</b>	<b>Date</b>
20/0542	REDEVELOPMENT OF SITE TO A HOLIDAY CARAVAN PARK INCLUDING: 1) REMOVAL OF EXISTING LODGES /CHALETS /BUILDINGS, 2) CONSTRUCTION OF 35 BASES EACH TO CONTAIN A STATIC CARAVAN; 3) RECONFIGURATION OF INTERNAL ACCESS ROAD; AND 4) PROVISION OF PARKING SPACES FOR EACH CARAVAN (RESUBMISSION OF APPLICATION 19/0875)	Refused	03/02/2021
19/0875	REDEVELOPMENT OF HOLIDAY CARAVAN PARK INCLUDING: 1) REMOVAL OF EXISTING CARAVANS; 2) SITING OF 34 NEW STATIC CARAVAN BASES; 3) RECONFIGURATION OF INTERNAL ACCESS ROAD; AND 4) PROVISION OF PARKING SPACES FOR EACH CARAVAN	Withdrawn by Applicant	18/12/2019

#### **Relevant Planning Appeals History**

None

#### **Parish/Town Council Observations**

**Singleton Parish Council** notified on 25 May 2021 and comment:

*Singleton Parish Council considered the amended version of plans for Riverside Chalet Park, no.*



21/0480 and objects to the proposal on the following grounds.

1. *The only difference to the original application is that this one will be a phased redevelopment. The problems surrounding this application remain the same.*
2. *Traffic problems to and from the site concern the Parish Council, particularly as this will eventually become a holiday caravan park.*
3. *The Parish Council is concerned about the loss of 35 permanent residences in the parish.*

#### **Statutory Consultees and Observations of Other Interested Parties**

##### **Greater Manchester Ecology Unit**

They have reviewed the application and make the following points:

- *While the previous application (20/0542) was refused, ecology did not figure in the reasons for refusal.*
- *There has not been a substantive change in the nature of the development since GMEU's response on that proposal (email 18 December 2020). The conclusions on the shadow HRA and impacts of the scheme remain the same in terms of biodiversity and GMEU's conclusions can be carried forward to the determination of the current proposal. The Council's adoption of the conclusions of the sHRA – as advised by GMEU – should still be reported in any officer's delegated/Committee report.*
- *The Local Planning Authority should consider how the acoustic and visual fencing condition can be secured on this proposal given that the development is now to be phased. The drafting of the phased condition is a more technical planning matter, although GMEU are willing to comment on draft wording should the LPA think it would be useful.*
- *As the development is now to be phased the risks to gcn (great crested newt) are reduced at each point when there is replacement of a mobile home/homes. Therefore, I consider that the proposed statement is adequate in this instance. I would request a minor adjustment to the RAMs statement; in the unlikely event that gcn are discovered and work has to cease the Local Authority and GMEU (as your representative) should also be informed. Subject to this minor adjustment the RAMs should be secured via a condition on any permission if granted.*
- *All other conditions as outlined in response to 20/0542 are still relevant to the current proposal*

##### **Commercial & Licensing (Caravans)**

Specifically confirm that they do not wish to make any representations on the application, but ask that the following points are highlighted to the application as an informative to any planning permission:

1. The site will need to operate under a site licence relating to the Caravan Sites and Control of Development Act 1960. Information on how to make an application can be found via the council's website.
2. The site will need to reflect the Model Standards 1989 of Holiday Caravan Sites.
3. The site owner may also wish to consider carrying out a fire risk assessment in accordance with the Regulatory Reform (Fire Safety) Order 2005, and a copy made available to the Local Authority

##### **Lancashire County Council - Highway Authority**

They comment that in principle LCC Highways does not have any objections regarding

the proposed phased redevelopment of site to a holiday caravan park.

They then make a series of specific points which are summarised as follows:

- As the access road to the site from Mains Lane forms part of PROW FP6 they have forwarded details of the application to the Public Rights of Way Section in case they have comments. (Note: No comments have been received)
- It is requested that the shared surface carriageway varies in width between 4.1 and 6m where a minor percentage of the road should be 4.1m wide. This is to allow passing places for larger vehicles (refuse vehicles, fire appliances, home deliveries etc.) and additional occasional on-road visitor parking.
- It is requested that the parking provision for each of the caravans is increased to a minimum of 2 car parking spaces per caravan. The proposed caravan units are proposed as 40' by 20' and accommodate two or three bedrooms.
- A turning head is required to allow refuse and emergency vehicles to turn within the site because the maximum distance a refuse vehicle should reverse is 12m, Fire and rescue vehicles should not have to reverse more than 20m from the end of an access road.
- The site is a holiday park with temporary residents and it is requested details of how the bins are stored (communal or individual bins) and where they are to be serviced is requested to ensure that they are within the maximum distances from the access point by the refuse vehicle which is 25m for a two wheeled refuse container and 10m for a four wheeled refuse container, with a resident not required to carry the waste more than 30m to the refuse storage point.

#### **Natural England**

They have reviewed the submitted ecological report and shadow Habitats Regulation Assessment provided by the applicant.

#### Summary

They raise no objection with this only subject to appropriate mitigation being secured. Without that mitigation they consider that the development would :

- Have an adverse effect on the integrity of the Morecambe Bay and Duddon Estuary Special Protection Area (SPA), Morecambe Bay Special Area of Conservation, and Morecambe Bay Ramsar Site
- Damage or destroy the interest features for which the Wyre Estuary Site of Special Scientific Interest has been notified.

The mitigation measures that they consider are needed are that an acoustic and visual fence is to be erected throughout the period when any construction works are undertaken during winter months. They suggest that a planning condition or obligation is needed to ensure this is in place.

#### Detailed Comments

With regards the Morecambe Bay and Duddon Estuary Special Protection Area (SPA), Morecambe Bay Special Area of Conservation (SAC), Morecambe Bay Ramsar site

*Natural England has reviewed the Habitats Regulations Appropriate Assessment by Simply Ecology Limited (April 2020) and notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent*

*authority, it is your responsibility to produce the HRA. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.*

*Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that the following mitigation measure is appropriately secured in any planning permission given.*

They then refer to construction and demolition works taking place either outside of winter months, or if they are to take place during those months an acoustic hoarding and visual screen is required. The details of these should be agreed with the local planning authority prior to works commencing.

Finally, they confirm that the advice applies equally to the Wyre Estuary SSSI.

#### **Wyre Borough Council**

No comments have been received

#### **Environment Agency**

Refer to the similarity of the scheme to the most recent application and advise that those comments remain relevant to the current proposals. The comments made at that time were:

*We objected to the previous application 19/0875 on the basis of insufficient information submitted in relation to flood risk, however following discussion with the LPA on the resubmitted proposals, we have no objection to the revised application, but we have the following comments:-*

##### *Flood risk*

*The River Wyre is located along the northern boundary of the site and the application site encroaches into Flood Zone 3, on the Environment Agency Flood Map for Planning. Flood Zone 3 is land defined by the national Planning Practice Guidance as having a high probability of flooding.*

*A flood risk assessment (FRA) appropriate to the nature and scale of the development has not been submitted with the application, in accordance with the requirements of the National Planning Policy Framework. However, based on our information and that proposed holiday static caravans are considered to be located in Flood Zone 1 (low probability of flooding), we are satisfied that the proposed units would not be at an unacceptable risk of flooding, given the nature and scale of the proposed development.*

*Due to the proximity of the static caravans to the River Wyre, we would recommend that the units closest to the river are anchored to the ground to prevent them becoming mobile in an extreme flood or in the future due to the impacts of climate change.*

##### *Site layout*

*We have no objections to the proposed layout of the caravan park, however in addition*

*to planning permission the applicant will require a permit for any flood risk activities associated with this development within 16 metres of the top of the bank of the River Wyre, which is designated a statutory main river, and is tidal in this location.*

#### Foul drainage

*We note that the re-submitted application has clarified the method of foul drainage as a proposed connection to the nearby main public sewer network. This is the most sustainable option on the foul drainage hierarchy in the government guidance contained within the national Planning Practice Guidance on water supply, wastewater and water quality.*

They also provide advice on the need for an Environmental Permit should various works be proposed within close proximity to the River Wyre.

#### **Strategic Housing**

*The application is for Holiday Site use where there would be no requirement for affordable housing. Therefore we have no comments to make.*

#### **Highways England**

Offer no objection

#### **Fire and Rescue Service**

They make comment on the application with regards to the need to ensure it provides a suitable arrangements in the event of a fire or other emergency. These refer to the need to provide a turning head and carriageway that is sufficient to allow access by a fire engine, and that the site has adequate water supply for fire fighting.

Their comments do not clarify if the details on site are adequate, rather they set out the expectations of what should be available.

#### **United Utilities**

Raise no objection to the proposal but request that conditions are imposed to ensure that the surface and foul drainage follows the drainage hierarchy set out in the PPG, and that arrangements are put in place to manage these arrangements. They also make standard comments about making appropriate arrangements for a water supply to the site.

Also refer to a water main crossing the site and impose a requirement that this be protected during the development of the site with a condition to establish that undertaken prior to the development taking place.

#### **Neighbour Observations**

<b>Neighbours notified:</b>	25 May 2021
<b>Site Notice Date:</b>	02 June 2021
<b>Number of Responses</b>	15
<b>Summary of Comments</b>	The comments are from local residents and all raise objection to the development on the following grounds:

#### Accommodation Matters

- Question whether there is a need for more holiday park accommodation in Fylde
- The properties on the site at present provides valuable accommodation for older people to down-size to, and this should be retained as there are limited other opportunities in the area for this.
- The existing site (and the Wyre Chalet Park next door) is for over-55s only and the change propose here will damage that community
- There are now a number of caravans on the site which are in poor condition without any proper base or ties and indicates that the future development will be done to a similarly poor quality.
- Residents on the site are concerned that the development would result in them being made homeless
- The scheme will lead to the loss of a number of residential properties that provide important affordable accommodation for the elderly
- The move to a holiday site will reduce the council tax receipts from the site

#### Access Matters

- The site entrance to Occupation Lane is very narrow and with the additional use that a holiday site brings it will not be a safe junction.
- There is no protection available to pedestrians on Occupation Lane and so they will be at risk with the increased traffic use of this road from this scheme
- Mains Lane is also a dangerous road with frequent accidents and so it is wrong to add more traffic to the road, especially drivers who are unfamiliar with it
- The traffic information provided was measured during a lockdown period when movements were restricted so is unrepresentative of the level of use that the road has

#### Other Matters

- The owner has removed trees and so harmed the appearance of the site, with this scheme adding to that harmful impact
- Allegations regarding the selling and management practices of the owner of the site towards those who own chalets on the site.
- That many of the residents on the stie wish to leave but the situation is preventing market sales and the owner is offering to purchase at very low prices
- The development will be harmful to the ecological designations in the area.

#### Relevant Planning Policy

#### **Fylde Local Plan to 2032:**

GD4

Development in the Countryside

GD7	Achieving Good Design in Development
EC6	Leisure, Culture and Tourism Development
EC7	Tourism Accommodation
CL1	Flood Alleviation, Water Quality and Water Efficiency
CL2	Surface Water Run-Off and Sustainable Drainage
ENV1	Landscape
ENV2	Biodiversity

**Other Relevant Policy:**

NPPF:	National Planning Policy Framework
NPPG:	National Planning Practice Guidance

**Environmental Impact Assessment**

This development is a type listed in part 12 e) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, which is the section for 'Tourism and Leisure' and relates to 'Permanent camp sites and caravan site'. The schedule sets a size threshold of 1 hectare, above which any proposal should be screened to assess whether it is possible that it could have significant effects on the environment and so require an Environmental Statement. That screening assessment is undertaken in this section of the report.

In this instance the site is located in an environmentally sensitive location being within the buffer zone of a Site of Special Scientific Interest and a European site. An Environmental Impact Assessment is more likely to be required if the project affects the features for which the sensitive area was designated.

The Wyre Estuary SSSI is adjacent to the northern boundary of the site and forms part of the Morecambe Bay and Duddon Estuary SPA which contains the UK's largest continuous area of intertidal mudflats and sandflats which supports a wide range of habitats. The area is of international significance for wintering wading birds and of national significance for wintering wildfowl.

In this respect the application is accompanied by a shadow HRA which has been screened by the council's ecologists who advise that there is a low risk of a Likely Significant Effect to qualifying features of a Natura 2000 (Morecambe Bay & Duddon Estuary SPA) due to construction noise and visual disturbance. However, this can be prevented with a condition requiring the fencing off of the application site from the designated site during the active autumn/winter months (October – March inclusive).

Having considered the nature of the development and its location, it is considered that the likely environmental impact would be related to ecological impact. Having considered the information submitted in regard to the Habitat Regulations Assessment, it is considered that the proposal does not EIA development and so an Environmental Statement is not required in this instance.

**Comment and Analysis**

This application seeks permission for the redevelopment of the Riverside site. It is proposed that new bases are provided for the stationing of 35 static caravans for occupation for holiday purposes. The application includes the reconfiguration of the internal access road and the provision of parking spaces to serve each caravan.

### **Background information to the site**

The proposed development requires the demolition and removal of the existing 'chalets' on the site. The chalets are in use for a mix of residential and holiday purposes, with their siting on the land for those purposes seemingly lawful through the time that the site has existed rather than any planning approval. As such there are no planning conditions or other controls over the nature of their occupation. However, it is clear from visiting the site and an inspection of historic aerial photographs that there has been chalet style development on the site for many years. With this context it is certainly not the case that there is any prospect of the council commencing any enforcement proceedings relating to the presence or use of the existing chalets on site.

Sitting alongside planning legislation, the council generally has control over the operation of caravan and mobile home sites through its role as licensing authority for those forms of accommodation. In this case there is no modern form of licence that can apply to the 'chalets' currently on site as they are outside of the definition of a 'caravan', with this having been demonstrated by an independent surveyor who assessed the accommodation site on behalf of the council in winter 2019/20. This assessment was undertaken as the council is seeking to establish how best to respond to requests for assistance from residents on the site, and to understand which, if any, legal obligations the council has with regards to those residents and the general management of the site. This work is on-going and has no bearing on the determination of this application which can only be considered on its planning merits as set out by the policies of the development plan and other material planning considerations.

Should the application be granted and then implemented there would be an obligation for the operator to obtain a caravan site licence which would then bring into play a series of controls available under that legislation which are not available at present, although these could only relate to the holiday static caravans and not the existing chalets.

In their comments to the council on this application a number of the current occupiers of the site contend that the application should be refused as it would result in them being made homeless. As a matter of principle, the possible implications of a planning decision on the existing occupiers of the application site are not a matter that can be considered in the determination of the planning application. It is also the case that any planning permission that may be granted may not be implemented, and in cases such as this it is possible that it may only be implemented incrementally over time, or only in part with only certain pitches reconfigured to the proposed use.

### **Background information to the decision**

To accord with planning legislation the determination of the application is to be made in accordance with the relevant policies of the development plan, unless other material planning considerations indicate otherwise. In Fylde, the Fylde Local Plan to 2032 remains the development plan that is applicable, and whilst this is subject to an on-going partial review the proposed modifications are subject to a current consultation process and so their weight in the decision is reduced as a result. Therefore, the report here will refer to the adopted version of the Fylde Local Plan to 2032 policies.

As the site is located within the Countryside the provisions of Policy GD4 are applicable in this case. Policy GD4 limits the type of development that can take place in the countryside to 6 elements, with a) and d) being the ones potentially applicable in this case. As the scheme is for tourism development then Policy EC7 is also directly relevant. As with all development the various elements of Policy GD7 will be examined as it refers to general principles of good design including the amenity and highway considerations of a proposal. Finally, the landscape, ecology and drainage elements of the proposal will be assessed against policies ENV1, ENV2 and CL1 respectively.

The planning history of the site is a key material consideration. In this case there is a recent history with the determination of application 20/0542 which was for an identical form of development, other than it did not include reference to the phased implementation of the holiday use that is mentioned in the planning statement and description of development with the current application. That application was presented to members at the Planning Committee meeting on 3 February 2021 with a recommendation to grant planning permission following the adoption of a Habitat Regulations Assessment and be subject to a series of conditions.

That officer recommendation was not accepted and Committee refused the application for two reasons, which are listed below for reference. There has been no appeal against that decision, and the 6-month period for lodging one has now expired.

#### Reason 1 – relating to highway matters

*The site is accessed via Occupation Lane which has a restricted width that is insufficient to allow two-way vehicle movements at any point and has pavements that are of limited width and unsuited for those with mobility needs. Moreover, Occupation Lane has a junction with Mains Lane that is in close proximity to the busy and complex junction of Mains Lane with Garstang Road East, Garstang New Road, Lodge Lane, Pool Foot Lane and a petrol filling station. This junction features a high volume of vehicular traffic which is frequently queued back in all directions.*

*Given the lack of facilities available for holiday makers on site and the limited facilities available in the surrounding area it is expected that the level of movements generated by a holiday use will represent a significant increase over that which currently exists from its use as a residential site. The proposed holiday use of the site will lead to an increase in vehicle movements associated with that use, with many of these movements undertaken by those who are unfamiliar with the location and geometry of the junction and so are less likely to be able to appropriately prepare for the turning movement into Occupation Lane on approaching the junction, particularly when travelling from the east along Mains Lane where a movement across the eastbound traffic on that road is required.*

*The likely additional vehicle movements and associated use of the junction will unacceptably increase the risk to highway and pedestrian safety in the area to a degree that is contrary to the requirements of criterion q) of Policy GD7 of the Fylde Local Plan to 2032 and guidance in para 109 of the NPPF.*

#### Reason 2 - relating to community matters

*The existing accommodation provides the sole residential accommodation available to a significant number of the existing property owners where there is a vibrant and supportive community spirit amongst residents. The proposed redevelopment of the site for a holiday use will lead to the loss of the residential accommodation that will incrementally degrade the community value of the retained accommodation should the site be developed for holiday use.*

*The undermining of the existing community cohesion on the site would conflict with criteria a), c) and l) of Policy GD7 of the Fylde Local Plan to 2032 and the supporting paragraphs of the NPPF.*

#### **Principle of Tourism Caravan Use**

This proposal is for 35 static caravans for holiday use. Policy GD4a) allows for various forms of development in a rural area, and specifically refers to 'small-scale tourist accommodation, holiday caravan sites and very exceptionally, larger scale tourism development.'

Given the number of holiday caravans being proposed and the size of the site being just over 1 hectare in this application the scheme is not 'small scale'. However, the scheme does propose a



holiday caravan site and is on a previously developed site that is currently in a similar use given the presence of the chalets. The parameters of GD4a are not specifically defined in the Local Plan, but the justification to the policy explains that *"It is important that the countryside is protected from unacceptable development that would harm its rural character."* It then advises that *"...certain forms of development are necessary to support rural life and maintain or enhance the rural economy"*. This indicates that the overarching intention of Policy GD4 is to protect the character and appearance of the countryside whilst supporting appropriate economic growth in line with guidance in para 84 of NPPF21 on this matter which is supportive of sustainable rural tourism.

The existing land use of the site for chalets is therefore a key consideration and establishes that the application site is previously developed with permanent structures with wide variation in their design. This proposal would result in a slight reduction in the number of units and their uniform layout across the site. This redevelopment provides the opportunity to reduce the impact of the development on the visual amenity of the wider area as a result. Therefore, whilst the number of caravans being proposed is significant in number, the impact of the proposal is mitigated by the presence of the existing chalets. Consequently, subject to achieving a layout that is suitable for this rural location, it is not considered that there will be any detriment to the overall character and appearance of the countryside as a result of this development

The landscaping arrangements is an aspect that was to be the subject of a condition in the previous officer recommendation as there were concerns that the layout that was presented was overly regimented, and would have benefited from the introduction of areas of landscaping to allow the caravans to be more organically laid out. This landscaping would also assist with bringing opportunities for wildlife habitat to the site. Unfortunately, the current scheme does not provide any improvements in that respect and the agent has confirmed their intention is to proceed with the layout as shown on the submitted plans. The implications of their insistence to persevere with this layout will be considered further in the conclusion to this report.

Policy EC7 refers to camping and caravan pitches and so has relevance to the form of accommodation that is to be provided in this proposal. This policy allows for a limited increase in static and touring caravan and camping pitches within existing site boundaries. In this instance the number of caravans proposed at 35 is less than the existing 36 chalets on site and the proposal is within the site boundary of the chalet site. Accordingly, the proposal complies with Policy EC7. That policy is also resistant to the loss of holiday accommodation to a residential use and so the potential for this site to increase the overall level of holiday caravans is compliant with the policy in that regard.

### **Highway safety**

When the previous application was under consideration the discussion at Committee focussed on the highway safety implications of the development, and this resulted in the first reason for refusal of the application. There were several contributing factors to this:

- The access to the site along Occupation Lane is limited in its width and so there is the potential for conflict between passing traffic and between traffic and pedestrians.
- That the junction of Occupation Lane to Mains Lane is located in close proximity to a significant and complex junction of that road at Singleton Crossroads and so would be difficult to locate for visitors unfamiliar with the site, which is more likely to be the case in a tourism use rather than the existing largely residential use.
- That there are no existing or proposed facilities on site that provide any social, leisure, shopping, etc. opportunities for visitors meaning that all such activities will be undertaken off-site and so is likely to lead to a higher level of vehicle and pedestrian movements than with a residential use

The current application remains identical in the scope of the proposal to the scheme that Committee concluded was unacceptable for the reasons set out in reason for refusal 1, and there would be logic in this application being refused for that reason to ensure consistency. However, members are advised to refer to the views of the respective highway authorities in reaching their view on the application.

Highways England are responsible for providing advice on developments that could impact on the use of the strategic highway network, which includes Mains Lane. They undertook a detailed consideration of traffic information that was provided for the previous application regarding that aspect and concluded that they did not object to the application. They have retained that position in their comments to this application as that information has been re-presented.

Lancashire County Council are responsible for providing advice on the aspects of a development that impacts on the local highway network, which in this case is the use of Occupation Lane and the site itself. They have not raised objection to the application, but have suggested that several changes are made to the site layout to improve the road width internally, to provide 2 parking spaces for each caravan, and to increase the turning head that is provided so it can be safely used by the full range of service vehicles that need to visit the site. As with the landscaping suggestions these were matters that were requested previously and which were the subject of conditions that would require a revised layout to be implemented. Officers have requested a revised plan from the agent to include these details, but that has not been provided.

The legislative requirement for assessing highway matters is the guidance in paragraph 111 of NPPF21 which requires that '*Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*' This is supported by Policy GD7 of the Fylde Local Plan to 2032 which requires that all development is acceptable in terms of the access, parking and servicing arrangements.

Notwithstanding the previous reason for refusal on this ground and the lack of any efforts in this application to address that reason, with the lack of any objection from Highways England the officer recommendation is that the highway safety implications of the development is not an aspect that can support a reason for refusal of the application. The failure to provide the improved internal layout is disappointing and is considered further in the conclusion to this report.

### **Impact of loss of residential units**

The council's second reason for the refusal of the previous application related to the loss of the residential accommodation on the site and the community value it brought to the occupiers. This related to several criteria in Policy GD7 of the Fylde Local Plan to 2032 which focus on promoting community cohesion and the benefits to neighbour amenity that being part of a community brings.

Irrespective of the lawful planning status of the occupation of the chalets that are on site, it was clear from Council Tax records and the submitted comments of the residents at the time of the previous application that the majority of the chalets were being occupied residentially. Whilst it is understood that a number have become vacant since, the loss of these units to a holiday use through the grant of this application could ultimately lead to all of these units being lost from residential use. There are two aspects to consider in this: the housing supply impacts and the community impacts.

With regards the housing supply issue the scheme will lead to a reduction in the borough's overall

housing stock, and so needs to be counted as a negative figure in the calculation of the housing supply delivery. This is a material consideration of some weight given the importance that maintaining the growth in the housing stock of the borough has in the council's Corporate Plan and Local Plan. Whilst the local plan seeks to ensure that sufficient housing land is delivered to maintain a 5-year housing land supply, there is no development plan policy that guards against the loss of housing units. Each year there are units lost to the supply as a result of demolition, changes of use and amalgamation of homes into single dwellings. This natural change is accounted for in the plan which makes allowances for net gains through windfall sites.

There is also a qualitative assessment to be addressed in the determination of this particular application, with the properties being, in many cases, of a poor quality in terms of their size and structural condition. Discussions with the council's Housing and Environmental Protection teams have highlighted that they have concerns over the standard of accommodation that is available to residents in some instances. Whilst the loss of the number of housing units is a negative factor, with some exceptions, the housing that the site provides is not of a good quality. The council should be striving to increase the number and quality of accommodation available for the residents of the borough and so retaining poor quality housing stock should be of lesser importance.

Accordingly it is officer view that whilst the loss of a number of residential units in the borough is a harmful implication of the development proposal due to the importance in maintaining a 5 year housing supply, the loss of the residential accommodation on the site as a matter of principle is not an issue that could support a refusal of the application.

The community impacts that lead directly to the second reason for refusal are an area where the agent has provided some additional information in this application. This is in the form of a proposal to 'phase' the implementation of the scheme, and the reference to a letter that has been sent by the applicant to the occupiers on the site that commits to them being able to retain in their properties for as long as they wish.

As with the landscaping and internal highway layout matters, the details of how the development could be phased was an area that was proposed to be required by a condition in the officer recommendation to the previous application. It is also an area that officers have sought clarity over in the assessment of this application as has the method of guaranteeing the continued occupation by existing owners. No further information has been provided on this in response, with the agent simply reiterating the stance set out in the application as is highlighted in the Proposals section of this report.

The failure to provide any clarification on this is unfortunate given that it formed a reason for refusal of the application. Officers understand that a number of the owners/occupiers of units on the site have sold and left since the previous decision and so the 'community' may not be as it was at that time, but it remains an issue that there is local plan support for a reason for refusal should that be the wish of the Committee.

### **Impact on neighbours**

The nearest residential neighbours to the application site lie to the south side of the site on Mains Lane. There are also understood to be residential occupiers on the Wyre Chalet Park to the east. The Mains Lane properties are alongside the access and the arrivals / visitor car park that is located in that area, rather than any of the proposed caravans. The Wyre Chalet Park properties are in close proximity to both existing and proposed units. Accordingly, there are no privacy or other implications from the proposed siting of the caravans that could impact on these neighbours by virtue of the proposed layout of the site.

It is considered that the proposed holiday use of the site is unlikely to result in levels of noise and disturbance above the general noise and disturbance likely to be experienced with the existing use. There is the potential for noise during the re-development phase however, this could be restricted with a condition to restrict development works to daytime only.

As a consequence of the presence of the existing site and the number and location of caravans proposed in this application it is considered that the development and proposed use of the site will not result in a detriment of the amenity of nearby neighbours and complies with Policy GD7 in this regard.

### **Ecological Implications**

The report on the previous application considered this matter in some detail. It is an important consideration because the northern boundary of the proposed development site is adjacent to the boundaries of Morecambe Bay & Duddon Estuary Special Protection Area (SPA), Morecambe Bay Ramsar Site and the Wyre Estuary Site of Special Scientific Interest (SSSI). These are internationally important habitats, with the River Wyre being of national importance for wintering and passage of black-tailed godwit, and for wintering of turnstone and teal.

Article 6(3) of The Habitats Directive sets out the decision-making tests for plans and projects likely to affect Special Areas of Conservation (SACs) and Special Protection Areas (SPAs); collectively these sites are referred to as Natura 2000 sites. *Any plan or project not directly connected with or necessary to the management of the [Natura 2000] site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subjected to appropriate assessment of its implications for the site in view of the sites' conservation objectives.*

This status requires that any application for development in the vicinity of these habitats is assessed carefully for the potential impacts it could have on them. It is accepted in the submitted documents that the proposed development of the site could have negative effects on the designated sites as a consequence of the scale, location, timing and nature of the development in relation to the sensitivity, exposure and vulnerability of the nature conservation features present within the designated sites. This is confirmed in the consultee comments that have been received from GMEU and Natural England.

The assessment of the previous application, through the presentation of a shadow Habitats Regulation Assessment and an Appropriate Assessment, concluded that only 'Construction Disturbance' triggers a 'likely significant effect' in the development. This is assessed as being a low risk due to the existing developed nature of the site, the existing screening around its boundaries, and the likelihood that slow moving machinery will be used, but concluded that further mitigation is needed. This is in the form of an acoustic and visual hoarding (or similar) is to be used during should there be any demolition or construction activity on the site during the autumn/winter months (October – March inclusive) so that the risk of disturbance from the construction activity is reduced.

Given that the previous application was considered recently and that the scope and location of the development proposed in this application is identical to that scheme then the same conclusion is reached in the assessment of this application.

The previous report proposed that a planning condition be imposed to secure this. Officers have sought to secure details of the design and location of this screen to assist in the determination of this application. However, it has not been provided and so a condition will again need to be

imposed to request this detail in the event that any works are proposed in the autumn/winter months when the birds are most likely to be utilising the surrounding land.

It will also be necessary for the council's decision on the application to formally confirm that it is adopting the Shadow Habitat Assessment and Appropriate Assessment as its own, which will address the off-site ecological implications providing the condition is imposed and appropriately implemented.

The previous application also considered the ecological implications within the site. These are limited due to the previously developed and residential nature of the site, and with the lack of any likely impact on bats or other protected species no adverse impacts were raised. Any application should provide opportunities to improve biodiversity and wildlife habitat and it was intended that the landscaping of the site would provide for those opportunities. As no information of this has been provided with this application a condition will need to be imposed to secure those details and so achieve compliance with the requirements of Policy ENV2 of the Fylde Local Plan to 2032.

### **Drainage**

The site is adjacent to the River Wyre which is to the north of the site and in Flood Zones 2 and 3. However, the proposed siting of the caravans is all within an area in Flood Zone 1. The NPPG regarding flood risk classifies various uses in accordance with their vulnerability to flooding, with caravans and mobile homes that are for residential use classified as 'highly vulnerable' whilst those for a holiday use are in the lesser 'more vulnerable' category.

In this case as the caravans are all to be in Flood Zone 1 there is no need to assess the vulnerability of their use, although it is noted that the EA request an informative relating to the securing of those units that are located closest to the River Wyre to the ground to assist their stability in the event that it breaches its banks. Given the previous objections to the development from the EA and the proximity of the tidal River Wyre to the site it is considered to be an appropriate precaution that a condition of this nature is imposed.

The application provides no clear details over the surface water drainage of the site, and so this is a further matter that can be the subject of a condition to require that these details are provided prior to the commencement of development works, as was the case with the previous recommendation.

The application also confirms that foul drainage of the site is proposed to connect to the existing sewers. With the existing developed nature of the site it is assumed that there are foul connections in place for this that will simply need to be amended to serve the new development layout, and accordingly a condition to require these details to be provided is sufficient to address this and secure compliance with Policies CL1 and CL2 of the Fylde Local Plan to 2032.

One aspect that was not raised previously, but is now, is that United Utilities have referred to the presence of a water main crossing the site access. The application does not seem to include any works in this area but UU request that a condition is imposed to require that a scheme is presented to ensure that the water main is protected during the development. Given the presumed importance of this water main to the wider area it seems appropriate to include this precautionary condition and so it will be added to the list of conditions in the event that the application is recommended for approval.

### **Conclusions**

The application site is an existing 'chalet' park that is located in a countryside location close to

Singleton Crossroads and running to the River Wyre, with its access off Mains Lane close to the Singleton Crossroads junction. The existing accommodation on site is provided in a range of single storey structures, many of which seem to have evolved over time with various extensions and alterations, although there are a small number that have been more recently constructed. Prior to the recent demolition of a small number of the 'chalets' there were 36 on site with the majority in residential use.

The application proposes the reconfiguration of the site including the removal of all the existing chalets and alterations to the roadway to facilitate its use for 35 static caravan pitches which are to be used for holiday purposes. In doing so it is a virtually identical resubmission of an application that was refused by the Planning Committee in February 2021 for two reasons relating to concerns over highway safety, and to the loss of the community cohesion on the site from its redevelopment. The current application proposes a phased development of the site but provides limited details of how that could be undertaken.

The site is in the Countryside where Policy GD4 applies. This is generally restrictive but does allow for some forms of development that reflect the rural character of the area, with this specifically including small-scale tourist accommodation and holiday caravan sites. The proposed development of the site will not involve any extension of the area that is used by caravans, or any increase in the number of units on site above the existing arrangements. As such it is considered that the proposal is in accordance with the local plan allocation for the site. The use for holiday accommodation would also not involve any conflict with Policy EC7 which relates to tourist accommodation and is focused on ensuring that caravan sites are retained for holiday purposes.

The officer report on the previous application recommended that it be granted planning permission subject to the adoption of a Habitat Regulation Assessment and a list of conditions. Whilst this recommendation was not accepted by members, officers remain of the view that, in principle the scheme complies with policies GD4 and EC7.

However, the conditions that were associated with the previous recommendation included a number of relatively significant details that it was anticipated would have been provided in any resubmission. The resubmitted application follows the form of the original proposal and the agent has indicated that there is no intention to vary the layout of the caravans and so requests that the application be considered as submitted. Whilst matters such as the phasing of the development, the protection to ensure that the existing residents can remain on site, the effective landscaping of the site, the revisions of the proposed internal road layout and parking arrangements to satisfy highway authority requests, and the provision of appropriate visual and acoustic protection for the wildlife that utilises the nearby estuary and its surrounding land could still be addressed through the imposition of suitable conditions, the layout of the site remains of a regimented form.

Since the last application was considered, a revised NPPF has been issued. This policy guidance places greater emphasis on delivering new development with a high quality of design. Whilst many of the existing 'chalets' and their associated buildings have an untidy appearance, they are of individual designs that have developed over time. The uniform design of static caravans, particularly when laid out in the regimented fashion proposed in this application, would not reflect the organic form of the existing layout, and the strong linear nature of the layout would emphasise the urban form of the development being directly adjacent to the surrounding rural area. The rearrangement of the layout to provide a layout that moves away from the parallel arrangement of caravans and the introduction of areas between caravans to provide landscaping that would visually break up the layout would help to address officers' concerns.

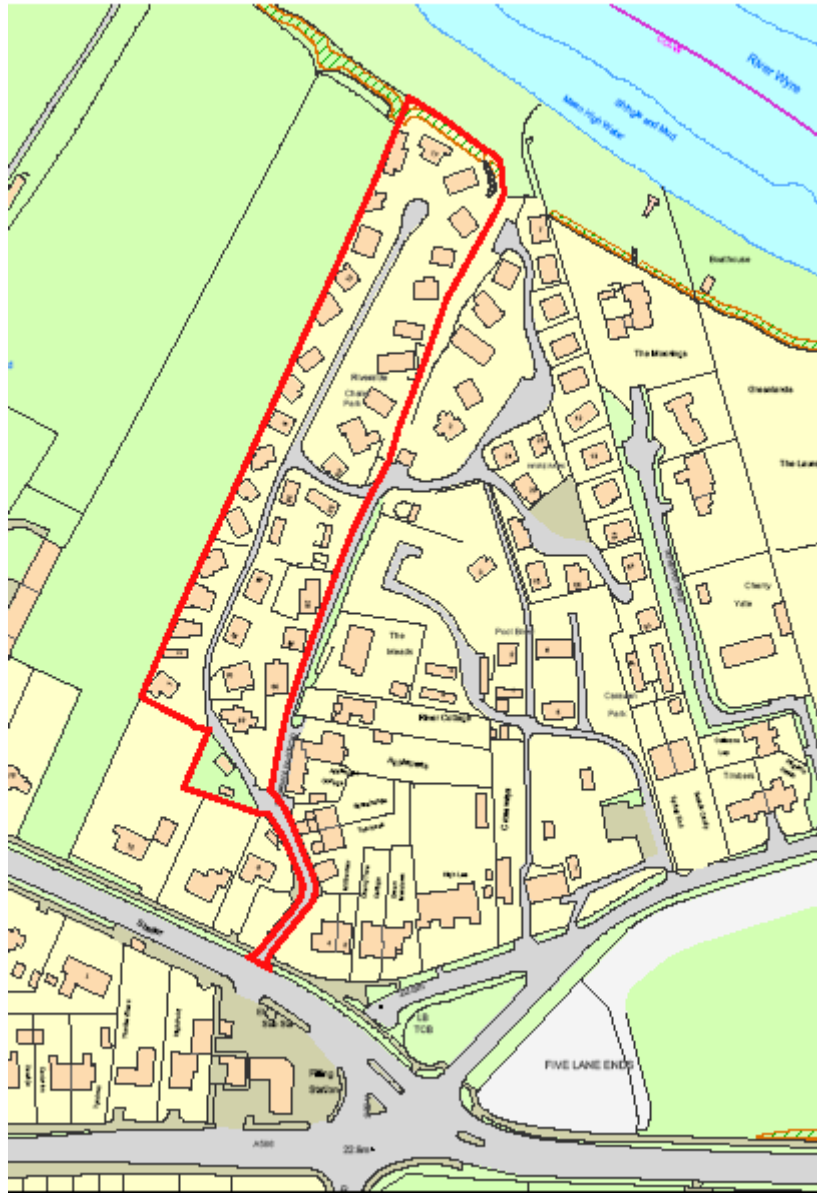
Whilst the previous application was recommended for approval subject to conditions that sought to improve the layout, and so the visual appearance of the site, it is clear from subsequent discussions with the applicant's agent that they would not be prepared to revise the layout. For this reason, it is considered appropriate to revise the previous recommendation to one of refusal, particularly in the light of the revised national policy guidance.

### **Recommendation**

The Planning Permission be REFUSED for the following reason:

1. The application proposes an intensive re-development of the site with a regimented layout of caravans that will result in a largely continuous form of development that is located in close proximity to the site boundary on all sides. This is at odds with the existing organic layout of the chalets and the variation in their size and form which ensures it has a more limited visual impact within the site and on the surrounding rural area. Furthermore, the level of development proposed ensures that there is limited space available to provide for any meaningful areas of landscaping to become established within and around the site to help mitigate this intensive and regimented form of development.

The application is therefore considered to be in conflict with the requirements of Policies GD7 and ENV1 of the Fylde Local Plan to 2032 and in particular the guidance on ensuring development complies with the objectives of sustainable development as set out in para 8, the guidance on enhancing the natural environment in para 174. and the guidance on achieving well-designed places in Chapter 12 of NPPF21.





**Item Number:** 3

**Committee Date:** 01 September 2021

<b>Application Reference:</b> 21/0545		<b>Type of Application:</b> Full Planning Permission	
<b>Applicant:</b>	Brandhills Partnership	<b>Agent :</b>	ML Planning Consultancy Ltd
<b>Location:</b>	SHORROCKS FARM, ROSEACRE ROAD, TREALES ROSEACRE AND WHARLES, PRESTON, PR4 3XE		
<b>Proposal:</b>	CHANGE OF USE OF AGRICULTURAL BUILDING TO A MIXED USE WITHIN CLASSES E(G) (BUSINESS) AND/OR B8 (STORAGE OR DISTRIBUTION) INCLUDING ASSOCIATED EXTERNAL ALTERATIONS TO BUILDING AND FORMATION OF 29 SPACE VEHICLE PARKING AREA - PART RETROSPECTIVE APPLICATION		
<b>Ward:</b>	NEWTON WITH TREALES	<b>Parish:</b>	Treales, Roseacre and Wharles
<b>Weeks on Hand:</b>	12	<b>Case Officer:</b>	Ruth Thow
<b>Reason for Delay:</b>	Need to determine at Committee		
<a href="#">Click Here</a> for application site on Google Maps		<a href="#">Click here</a> for application on FBC website	

**Summary of Recommended Decision:** Grant

#### **Summary of Officer Recommendation**

The application relates to a building and land forming part of the land that comprised Shorrocks Farm which is that located to the south side of Roseacre Road, opposite New Hall Farm in the hamlet of Wharles. As with the remainder of the Parish the application site is designated Countryside under Policy GD4 of the Fylde Local Plan to 2032.

The proposal relates to a change of use of the existing building to a mixed use for business and storage uses with an area of the building retained as an agricultural workshop. The building is of substantial construction being portal framed and clad in a mix of cement boards and metal cladding. It is provided with a large forecourt area that would provide a suitable parking area for the proposed business uses.

The application proposes that the building be used for a mixed use within classes E(g) (business) and/or B8 (storage or distribution) of the Use Classes Order, and the external works to facilitate that change. These uses are from the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, which took effect on 1 September 2020.

Class E(g) permits an employment use which can be carried out in any residential area without detriment to the amenity of occupiers as was the case with the former Class B1 use which it replaced in September 2020. This means that if a use were to be undertaken at the premises that was of a nature that created harmful impacts to amenity then by definition it could not be a use that fell within Class E(g), and so would not be authorised by an approval of this application.

Class B8 storage and distribution by its nature is again a use which can be carried out without

impact on residential amenity by way of noise, smell etc.

It is considered that the change of use is in accordance with the policies of the Fylde Local Plan to 2032 in particular with Policy GD4 which allows for the re-use of existing buildings, Policy EC2 which supports employment uses, and Policy GD7 which requires all development to have appropriate access, design, neighbour impacts, etc. The development is considered to be sustainable development in a rural area which is therefore supported by the aims of the NPPF. Accordingly, the development is recommended for approval by Members.

### **Reason for Reporting to Committee**

The officer recommendation for approval conflicts with the views of the Parish Council and so it is necessary to present the application to the Planning Committee for a decision.

### **Site Description and Location**

The application refers to an agricultural building and land previously forming part of Shorrocks Farm, Roseacre Road, Wharles. In particular the application refers to a single storey agricultural building and forecourt area situated on the south side of Roseacre Road. The building measures 43m x 16m and is in a site of 1,700m<sup>2</sup> including the building, parking areas and the shared access with the property at 'Four Oaks' to the south.

To the west of the site, within land owned by the applicants, are two redundant poultry buildings, to the immediate north is open land with New Hall Farm and its associated buildings opposite the site. To the south east is 'Four Oaks, directly south is open land, with the properties at Hogarth Crescent situated to the east.

The site is within an area designated as countryside on the Fylde Local Plan to 2032.

### **Details of Proposal**

This application seeks permission for a change of the use of the building and the land immediately in front of the building to a mixed use within classes E(g) (business) and/or B8 (storage or distribution) with the retention of an area of the building in the south east corner for use as agricultural workshop. The scheme includes the recladding of the building and the demarcation of 29 vehicles spaces on the existing hardstanding area alongside the building. The scheme does not involve any substantial reconstruction works to the building, and there are no extensions involved.

The plans indicate that the resultant building will provide six units in total, four proposed as B8/E(g) use, a single unit as B8 only, and the retained agricultural workshop area.

The western end of the building has been re-clad and is currently being used for storage of motor homes and so the application is part retrospective.

### **Relevant Planning History**

Application No.	Development	Decision	Date
18/0854	CONVERSION OF RESIDENTIAL ANNEX TO SELF-CONTAINED DWELLING - RETROSPECTIVE APPLICATION	Withdrawn by Applicant	04/02/2019

### **Relevant Planning Appeals History**

None

### **Parish/Town Council Observations**

**Treales, Roseacre & Wharles Parish Council** notified on 16 June 2021 and comment:

*At their meeting on the 20 July 2021 the Parish Councillors resolved to object to the application for the following reasons:*

- 1. The application proposes to change the land use to that which includes distribution and industrial processes at what is currently an agricultural site in the Countryside. The application before the Parish Council does not appear to comply with any of the criteria of Policy GD4 of the Adopted Fylde Local Plan (FLP) to 2032.*
- 2. There is no evidence of a local need for the proposed development or that the proposed development would be serving an essential local business or community need appropriate to the rural character of the small hamlet of Wharles or the wider Parish.*
- 3. The application proposes a substantial provision of 29 vehicle parking spaces. To indicate the scale of this development, 29 parking spaces is the same number of parking spaces as the total number of dwellings in the entire hamlet. This allocation would cover both customer & contractor use, potentially resulting in significant manoeuvring of HGV and other regularly visiting vehicles to & from the site. The change of use proposed may expose the residents of this small hamlet to inappropriate types and scales of business activities/processes taking place that may have adverse impacts upon the intrinsic value of the rural character of the local area.*
- 4. The application site, by reason of its location in the countryside, with no public transport and the lack of pedestrian footways on local roads, would result in an unsustainable form of development, where access would be dependent on the car. The proposal would therefore be contrary to Policy T4 of the FLP which seeks to improve safety and the quality of life for the residents and reduce the Borough's carbon footprint. The proposed change of use has the potential to expose the residents and all road users of the small rural lanes to inappropriate and potentially hazardous levels of vehicular activity by day and night.*

### **Statutory Consultees and Observations of Other Interested Parties**

#### **Lancashire County Council - Highway Authority**

They have provided comments that confirm a lack of objection as follows:

*Highways do not have any objections to the proposed mixed use development and are of the opinion the proposed development will not have a detrimental impact on highway safety, capacity or amenity in the immediate vicinity of the site.*

These comments are subject to the imposition of a condition that requires that the internal access road is widened to 5.5m so a commercial vehicle and car can pass each other.

### **Greater Manchester Ecology Unit**

Have provided comments on the application which do not raise objection to the development and state:

*An ecology survey has been undertaken and submitted as part of the application (Envirotech). A point of clarification is required regarding the survey date as the executive summary states it was undertaken in April 2020 and the body of the text states April 2021. Once this is clarified the findings of the report are accepted.*

*The building on the site was assessed as having low potential to support roosting bats, being constructed from pre-fabricated concrete panels. No evidence of bats was found within the building. However, all species of bats and their roosts receive legal protection, and bats are mobile in their habitats and can colonise new roosts, even in unlikely places. We would advise that a precautionary approach is adopted and the measures outlined in section 9.2.1.1 of the ecology report are followed during any works.*

*Buildings have the potential to support nesting birds, and evidence of birds nesting in the building was found, however no evidence of barn owl roosting/breeding was found. The nests of all wild birds are protected by the Wildlife and Countryside Act, 1981 (as amended), and therefore work should be times to avoid the main bird nesting season (March – August inclusive) unless otherwise approved by the LPA.*

*We would also advise that a precautionary informative is recommended to make the applicant aware of the laws which are in place to protect wildlife, such as roosting bats and nesting birds. Should they find or suspect any such species on the site during the development, work should cease and the LPA should be contacted for further advice.*

*Opportunities to enhance the building for wildlife, such as bats or nesting birds such as swallows or barn owls should also be considered, in line national planning guidelines (NPPF) and some guidance is provided within the ecology report.*

Following clarification on the date of the survey GMEU advised that they were satisfied with the report (20/07/2021).

### **Environmental Protection (Pollution)**

*No objections to the proposals.*

### **Lancashire Fire and Rescue Service:**

The applicant should be aware of conditions which will have to be satisfied on a subsequent building regulation application.

### **Neighbour Observations**

<b>Neighbours notified:</b>	16 June 2021
<b>Site Notice Date:</b>	29 June 2021
<b>Number of Responses</b>	5 letters received
<b>Summary of Comments</b>	<ul style="list-style-type: none"><li>• could this lead to an increase in noise/air pollution</li><li>• increase amount of traffic on roads could be hazard</li><li>• increased lighting would impact on myself</li><li>• additional noise of 29 vehicles could disturb me</li></ul>

- concerned about access and egress on lane
- roads not suitable for volume of traffic
- would not feel safe to leave door unlocked
- application vague as to what building would be used for
- change the area to industrial
- traffic would cause concern for Mother
- new housing has added to traffic
- issues of fumes
- impact on peace and tranquillity

### **Relevant Planning Policy**

#### **Fylde Local Plan to 2032:**

GD4	Development in the Countryside
GD7	Achieving Good Design in Development
ENV1	Landscape
ENV2	Biodiversity
EC2	Employment Opportunities
T5	Parking Standards

#### **Other Relevant Policy:**

NPPF:	National Planning Policy Framework
NPPG:	National Planning Practice Guidance

### **Environmental Impact Assessment**

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

### **Comment and Analysis**

This application seeks permission for a change of the use of an agricultural building and associated land to a mixed use within classes E(G) (business) and/or B8 (storage or distribution).

### **Site Background**

The applicant's family previously farmed at New Hall Farm and bought the application site in the 1970s and used the building for the storage and maintenance of agricultural machinery as well as storing potatoes, hay, straw and minerals.

New Hall Farm was subsequently sold and land at Shorrocks Farm was downsized or rented out and the farm house also sold however, the applicants retained the application site and 10 acres. The application building is currently used for the storage of agricultural equipment, stabling, and the storage of motor homes. Although the motorhome storage use does not have planning approval the stables have been in use for approximately 40 years and so would be lawful. The motor home storage commenced April/May 2020 when the end section of the building was provided with replacement cladding.

Some agricultural activity continued in the two poultry buildings adjacent to the site, until October 2019 when this operation ceased.

The applicants are not farmers themselves and have looked to find alternative uses for the application building however, the land has limited use, other than as grazing land for a few sheep and horses as it contains several concrete bases from its use as a former naval site it once was in the 1940's. Hence the submission of this application for storage and business uses.

### Policy Background

Paragraph 38 (6) of the Planning and Compulsory Purchase Act 2004 indicates that development proposals should be determined in accordance with the development plan unless material considerations indicate otherwise. The Fylde Local Plan to 2032 (FLP32) is the council's adopted Development Plan and can be afforded full weight and is in accordance with the NPPF.

As the site is located within the Countryside Area defined in the Fylde Local Plan to 2032 the provisions of Policy GD4 are applicable in this case.

GD4 limits development in the countryside to the following;

- a) that needed for purposes of agriculture, horticulture or forestry; or other uses appropriate to a rural area, including uses which would help to diversify the rural economy, including small-scale tourist accommodation, holiday caravan sites and very exceptionally, larger scale tourism development;*
- b) the re-use or rehabilitation of existing permanent and substantial buildings;*
- c) extensions to existing dwellings and other buildings in accordance with Policy H7;*
- d) development essentially needed for the continuation of an existing enterprise, facility or operation, of a type and scale which would not harm the character of the surrounding countryside;*
- e) isolated new homes in the countryside which meet the criteria set out in Policy H6;*
- f) minor infill development*

The following policies are also relevant to the determination of this application:

Policy GD7 refers to achieving good design in development. This policy refers to general principles of good design and includes various criteria for which developments need to comply with. These are extensive and not all are relevant for every application, however the following criteria are appropriate and will be used to assess the application;

- c) Ensuring that amenity will not be adversely affected by neighbouring uses, both existing and proposed.*
- d) Ensuring the siting, layout, massing, scale, design, materials, architectural character, proportion, building to plot ratio and landscaping of the proposed development, relate well to the surrounding context.*
- h) Being sympathetic to surrounding land uses and occupiers, and avoiding demonstrable harm to the visual amenities of the local area.*
- i) Taking the opportunity to make a positive contribution to the character and local distinctiveness of the area through high quality new design that responds to its context and using sustainable natural resources where appropriate.*
- j) Ensuring parking areas for cars, bicycles and motorcycles are safe, accessible and sympathetic to the character of the surrounding area and that highway safety is not compromised*
- k) Ensuring the layout, design and landscaping of all elements of the proposal, including any internal roads, pedestrian footpaths, cycleways and open spaces, create user friendly, sustainable and inclusive connections between people and places resulting in the integration of the new development*

*into the built and historic environment.*

Policy ENV1 relates to landscape issues. This policy states that development will have regard to its visual impact within its landscape context and the landscape type in which it is situated. Development will be assessed to consider whether it is appropriate to the landscape character, amenity and tranquillity within which it is situated, as identified in the Lancashire Landscape Character Assessment, December 2000 or any subsequent update. Development will also need to have regard to any impact on valued landscapes. In addition;

- a) A landscaped buffer of appropriate depth and species will be provided for development that impacts upon land in or adjacent to the Countryside, and wherever necessary includes advanced planting, in order to limit the visual impact of development;*
- b) Development proposals will ensure that existing landscape features will be conserved, maintained, protected and wherever possible enhanced through increased tree and shrub cover including soft edge / transitional areas of planting;*
- c) In the event of the loss of landscape features, the impact will be minimised or, where loss is unavoidable, their like-for-like replacements will be provided. Where such features, including trees, woodlands, hedgerows and field ponds, are lost and replaced, measures will be put in place to manage these new features;*
- d) Suitable landscape planting of native species, appropriate to its context should be incorporated within or, where appropriate, close to new development. Measures should be put in place for the management of such landscaping. Specific consideration should be given to how landscaping schemes will minimise the rate of surface water run-off;*
- e) Details of the ongoing maintenance of all landscaping areas will be presented for approval by the Council.*

Policy ENV2 refers to biodiversity and commits the council to ensuring the protection and enhancement of Fylde's biodiversity and geological assets and interests.

Policy EC2 refers to employment opportunities. *The Council will take account of the following factors when assessing all development proposals for employment uses:*

- a. The accommodation should be flexible and suitable to meet changing future employment needs, and in particular provide for the requirements of local businesses and small firms.*
- b. The Council will seek to ensure that employment opportunities are provided and are easily accessible for local people and, where necessary, developers will be encouraged to implement relevant training programmes.*

Policy T5 refers to parking standards and advises that: *Car parking should, wherever possible, be provided on site so as to ensure there is no detrimental effect on highway safety.*

*A flexible approach to the level of car parking provision will be applied, dependent on the location of the development concerned.*

Both the NPPF and the NPPG are material considerations for any application that is submitted. Paragraph 84 a) of the NPPF (2021) indicates that, in order to support a prosperous rural economy, planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings.

### Principle of Development

The application site is located in the countryside and as such Policy GD4 is the starting point for assessing any development proposed within this designation. Policy GD4 defines the types of development which are acceptable in the countryside as listed above and in this instance the most relevant is criterion b) of Policy GD4.

#### *b) the re-use or rehabilitation of existing permanent and substantial buildings;*

This application relates to a single building previously used for agricultural purposes for the storage of agricultural vehicles, with two other buildings adjacent the site for the rearing broiler hens. Since the applicants inherited the site the broiler activity has ceased along with any other agricultural activity.

The building is a portal framed building clad with corrugated tin and asbestos with a 'lean-to' extension at the rear constructed in concrete blocks. The application does not propose any extension or rebuilding of the building, and whilst re-cladding of the building is proposed as part of this application it could equally be utilised for the proposed use without the need for further works to facilitate the use. It is therefore considered that the building is 'permanent and substantial' in the context of the use proposed and so a proposal to reuse it would comply with Policy GD4 in this respect.

The principle of the development is therefore acceptable, but to reach an overall recommendation on the application there is a need to assess the implications of that re-use and so these will be examined in the following sections of this report.

### Impact on Character and appearance of countryside

An over-arching theme of Policy GD4 is that the development it permits should be appropriate for a rural area, and so should not have a harmful impact on the character and appearance of that area. In this case the application building is set back from the highway with a small field separating the proposed car parking area from the highway, and as such it is not prominently sited. The proposal includes the removal of the existing external cladding which is in a mixture of conditions, and will improve its overall appearance in the countryside by replacing it with new cladding, roofing and doors. These materials will match the replacement cladding that has recently been carried out to the western end of the building and is similar in design and appearance to the agricultural buildings situated at New Hall Farm opposite the application site.

The access road is between two small fields and both the road and forecourt area is currently hard surfaced with loose gravel. Whilst there is no proposal to resurface the access and car parking areas LCC require that the access is slightly widened to a minimum of 5.5m to allow passing for larger vehicles. The widened access is within the site and given the limited increase involved will have little impact on the overall character and appearance of the countryside setting.

The proposal will therefore utilise an existing building in the landscape, and so will not have a greater physical impact. It will be consistently reclad so will have an upgraded appearance, and whilst there will be some widening of the access track this is not to an extent that will be particularly harmful to the rural character of the area. Accordingly, it is considered that the proposal complies with the requirements of the Policy GD7 in regards to the impact of the development on the visual amenities of the area.



## Residential impact

Policy GD7 and Policy EC2 require that the development will not prejudice residential amenity.

Letters of objection have been received from neighbours in regards to the proposal. These comments refer to the potential for increased noise, pollution, traffic and an increase in lighting around the building.

In considering these comments relating to noise, there is a potential for some increase in noise and disturbance from the up-take of the new units through an increase in general activity around the building. The change proposes a mixed use within classes E(g) (business) and/or B8 (storage or distribution). Class E is a new class that was introduced in 2020 and groups together commercial, business and service uses which could account for uses such as shops, restaurants, fitness, etc and which were previously in various A, B and D class uses into a single Class E. However, this class is subdivided, with this application relating to Class E(g) which allows for:

- (i) an office to carry out any operational or administrative functions [*formerly B1(a)*],
- (ii) the research and development of products or processes [*formerly B1 (b)*], or
- (iii) any industrial process [*formerly B1(c)*],

The definition of this class explains that it only permits a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit (as in the former Class B1). This means that if a use were to be undertaken at the premises that was of a nature that created harmful impacts to amenity then by definition it could not be a use that fell within Class E(g), and so would not be authorised by an approval of this application.

Class B8 storage and distribution by its nature is again a use which can be carried out without impact on residential amenity by way of noise, smell etc.

Neighbours to the site have highlighted the existing use of part of the building for motor home storage, and a small number of vehicles were present at officer site visits. It is arguable that the storage of these vehicles would be a Class B8 use and so would be authorised by this permission if granted. However, any advertisement of them for sale on a forecourt arrangement, or any repairs or servicing, conversion, painting, etc. using noisy machinery would not fall within either a B8 use or use Class E(g) and so would not be authorised.

Whilst there is the likelihood that there will be an increase in traffic noise for the occupiers of the nearest residential property at 'Four Oaks' the location of the car park on the existing area of hardstanding to the front of the building will mitigate the noise to some extent. In addition, the building has a lawful use for agricultural purposes and there is always the possibility that noise from agricultural vehicles could increase at the site and so needs to be taken into account when assessing the potential impact on neighbouring amenity.

Having regard to these matters and the distance of the building to residential neighbours it is considered that any increase in traffic noise is not likely to be so significant to warrant a refusal of the application on grounds of noise. Accordingly the scheme is considered to be acceptable in regards to the amenity of residential neighbours and complies with the criteria of Policies GD7 and EC2 in this regard. A condition will be imposed to any planning permission that ensures that the uses are limited to those specific uses and not the wider uses now permitted by Class E which would allow for a range of activities, such as a retail use or a gym, which would require further assessment

in a rural location such as this.

### Highway impact and Parking

Policies GD7, EC5 and T5 refer to the impact of a development on highway safety. In this case the site is provided with access from Roseacre Road from an existing track which has suitable visibility at the junction with the highway in both directions. This leads to an existing concrete yard area which the submission confirms can provide parking for up to 29 vehicles with adequate manoeuvrability to allow them to turn on site and so leave the site in a forward gear.

Subject to a minor modification of the access track to widen it to accommodate two way movements the local highway authority do not raise any objection to the development. Officers have also viewed the site access arrangements and accept that they provide appropriate visibility and that the 29 spaces will make effective use of this existing area and will be ample to serve the reasonable needs of the development proposed on site without leading to off-site parking.

The Parish Council have referred to Policy T4 of the Fylde Local Plan to 2032 - 'Enhancing Sustainable Transport Choice', in their objection to the scheme. The aim of Policy T4 is to improve accessibility across the Borough, improve safety and quality of life for residents and reduce the Borough's carbon footprint and encourage a modal shift away from car use to public transport. Without a defined end user for the units traffic generation is unquantified to some extent. Therefore, whilst this scheme could generate some increase in vehicle usage it also has the potential to offer employment uses to locals without the need to travel further across or outside the borough thereby reducing the carbon footprint of local residents. Given the uncertainty of the end use it is not considered that a reason for refusal on this basis could be justified. This is particularly the case as the scheme seems to provide for the rural employment opportunities that are promoted in para 84 of NPPF21 which highlights the support to the diversification of agricultural businesses and the growth of all business types in rural areas where transport links are inevitably are limited.

With regards the construction of the access, LCC Highway Engineers originally raised concern in regards to the width of the internal access road and suggested that this was widened to allow a goods vehicle to pass a car. The applicants have submitted revised plans to take account of the concerns expressed in regards to the access and on this basis LCC Highways are satisfied that the development can provide adequate parking provision and will not result in a detriment to highway safety. There is no requirement to provide extensive alterations to the highway network to make the scheme acceptable for pedestrians and other highway users. The recommendation by LCC for a condition to widen the access road will be included as part of this recommendation.

Subject to the imposition of this condition and a requirement to ensure that the parking areas are retained for that purposes it is not considered that there are any highway issues with the development that could reasonably lead to its refusal. As such it must accord with the requirements of Policy GD7 of the Fylde Local Plan to 2032.

### Ecology and biodiversity

As the development relates to an agricultural building in a rural area there is the potential for impact on protected species. Consequently, the application is accompanied by a Bat, Barn Owl and Nesting Bird survey. The survey found that the building has low potential for use by bats and barn owl with no indications of use of the site by bats or barn owls, but there was evidence of nesting birds within the building.

A range of mitigation measures are proposed to the building and around the site which include the provision of bat and bird boxes to enhance the biodiversity in the area and to ensure the protection of nesting birds.

Compliance with the mitigation strategy set out in the ecological survey forms part of the recommendation on this application and together with a requirement to provide additional landscaping will enhance biodiversity in the area. Accordingly the scheme complies with the requirements of Policies ENV1 and ENV2 of the local plan and the aims of the NPPF.

### Employment Generation

Policy EC2 refers to employment opportunities and advises that:

*'The Council seeks to retain continued employment use of current employment sites. This could include any type of employment use, including agriculture and may not be restricted to B1, B2 and B8 land uses'.*

*The council will take account of the following factors when assessing all development proposals for employment uses:*

- a. The accommodation should be flexible and suitable to meet changing future employment needs, and in particular provide for the requirements of local businesses and small firms.*
- b. The council will seek to ensure that employment opportunities are provided and are easily accessible for local people and, where necessary, developers will be encouraged to implement relevant training programmes'.*

The site is currently in agricultural use and could offer some agricultural employment. However, given the relatively small size of the building and its associated land the employment opportunities would be limited.

The proposed change of use offers a wider range of employment uses for more people than that which would be likely with the agricultural use in an area that offers limited employment opportunities. The NPPF supports the sustainable growth and expansion of all types of businesses in rural areas both through conversion of the existing buildings and new buildings. Given that the proposal achieves that and involves a form of use that by definition will not have any harmful amenity issues, or lead to any highway or other harmful impacts then it is considered to be in compliance with the aims of the NPPF and the requirements of Policy EC2.

### Conclusions

The application relates to the conversion of an agricultural building located in Wharles which has become redundant by a change in the agricultural circumstances in the area. The proposal is to clad the existing building and use it for a mixed use of light industrial and storage uses.

Employment land in the borough is limited, and the Fylde Local Plan to 2032 supports the sustainable growth and expansion of all types of business where this is in accordance with other policies of the local plan. In this instance the site can provide employment or storage uses in a substantial existing building which has limited agricultural use without any extensions to it or the site being required. Rather than abandon the building to dereliction the proposal allows the site to be re-purposed in a sustainable way for an alternative use that could bring about benefits for the local community in providing employment, and will do so without creating harm to the visual amenity of

the area or the residential amenity of neighbours.

Taking the above matters into account it is considered that the proposal represents sustainable development in a rural area which is supported by the aims of the NPPF and is in accordance with policies GD4, GD7 and EC2 of the Fylde Local Plan to 2032. Accordingly the application is recommended for approval subject to conditions.

### **Recommendation**

That Planning Permission be GRANTED 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: To comply with the requirements of section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. This permission relates to the following plans:

- Location Plan - Drawing no. 'Stanfords Vector Map'
- Proposed site plan - Drawing no. ML/LMSG/6012 REV. A
- Proposed location plan, floor plan, roof plan - Drawing no. ML/LMSG/6008
- Proposed elevation plans Drawing no. ML/LMSG/6007

Except as provided for by other conditions to this permission, the development shall be carried out in complete accordance with the approved drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans in the interests of proper planning in accordance with the policies contained within the Fylde Local Plan to 2032 and National Planning Policy Framework

3. Unless alternative details have first been submitted to and approved in writing by the Local Planning Authority, the development shall be constructed in accordance with the materials detailed on the application form and / or approved plans listed in condition 2 to this planning permission.

Reason: To ensure use of appropriate materials which are sympathetic to the character of surrounding buildings and the street scene in the interests of visual amenity in accordance with Policy GD7 of the Fylde Local Plan to 2032.

4. Notwithstanding the provisions of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any equivalent Order revoking and re-enacting that Order with or without modification, the development hereby approved shall only be subdivided as shown on the approved layout plan (Drawing: ML/LMSG/6008), and the respective parts of that building shall only be used for the indicated purposes which fall within Classes B8 and E(g) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument amending or replacing that Order.

Reason: To ensure that the future use of the premises is limited to one which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit in order that it remains compatible with and does not

have any adverse amenity impacts upon the occupiers of nearby dwellings; to ensure that the level of parking provided by the development remains sufficient to serve the use in the interests of highway safety; and to preserve the vitality and viability of neighbouring centres by preventing the building being changed to a main town centre use without the application of the sequential test in accordance with the requirements of policies GD7, EC5 and T5 of the Fylde Local Plan to 2032, and the National Planning Policy Framework.

5. Prior to the first use of the building for any Class B8 or Class E(g) uses as permitted by this planning permission, the works to widen the internal access road as shown on drawing ML/LMSG/6012 shall be undertaken, with the access maintained at this width thereafter.

Reasons: To enable all traffic to enter and leave the premises in a safe manner without causing a hazard to other road users, in accordance with the requirements of Policies GD7 and T5 of the Fylde Local Plan to 2032 and the aims of the National Planning Policy Framework.

6. Prior to the first use of the building for any Class B8 or Class E(g) uses as permitted by this planning permission, a soft landscaping scheme relating to the development site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the number, size, species, siting, planting distances/densities and the programme of planting of trees, hedges and shrubs. The duly approved soft landscaping scheme shall be carried out during the first planting season after the approval of the landscaping scheme and the areas which are landscaped shall be retained as landscaped areas thereafter. Any trees, hedges or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees, hedges or shrubs of similar size and species to those originally required to be planted.

Reason: To ensure appropriate landscaping of the site in the interests of visual amenity, to enhance the character of the rural area and to provide biodiversity enhancements in accordance with the requirements of Fylde Local Plan to 2032 policies GD7, ENV1 and ENV2, and the National Planning Policy Framework.

7. There shall be no external storage of any plant, tools, equipment, machinery, materials or other appurtenances associated the use hereby permitted.

Reason: To limit the area of the site that can be used for storage to internal storage only, in order to minimise the visual effects arising from external storage on the character and appearance of the surrounding area and adjoining countryside, and to ensure that the land to be used as a "turning area and parking" (as identified on drawing no. ML/LMSG/6008) remains free from obstruction in order to allow sufficient space for vehicle parking in the interests of highway safety in accordance with the requirements of Fylde Local Plan to 2032 policies GD4, GD7 and ENV1, and the National Planning Policy Framework.

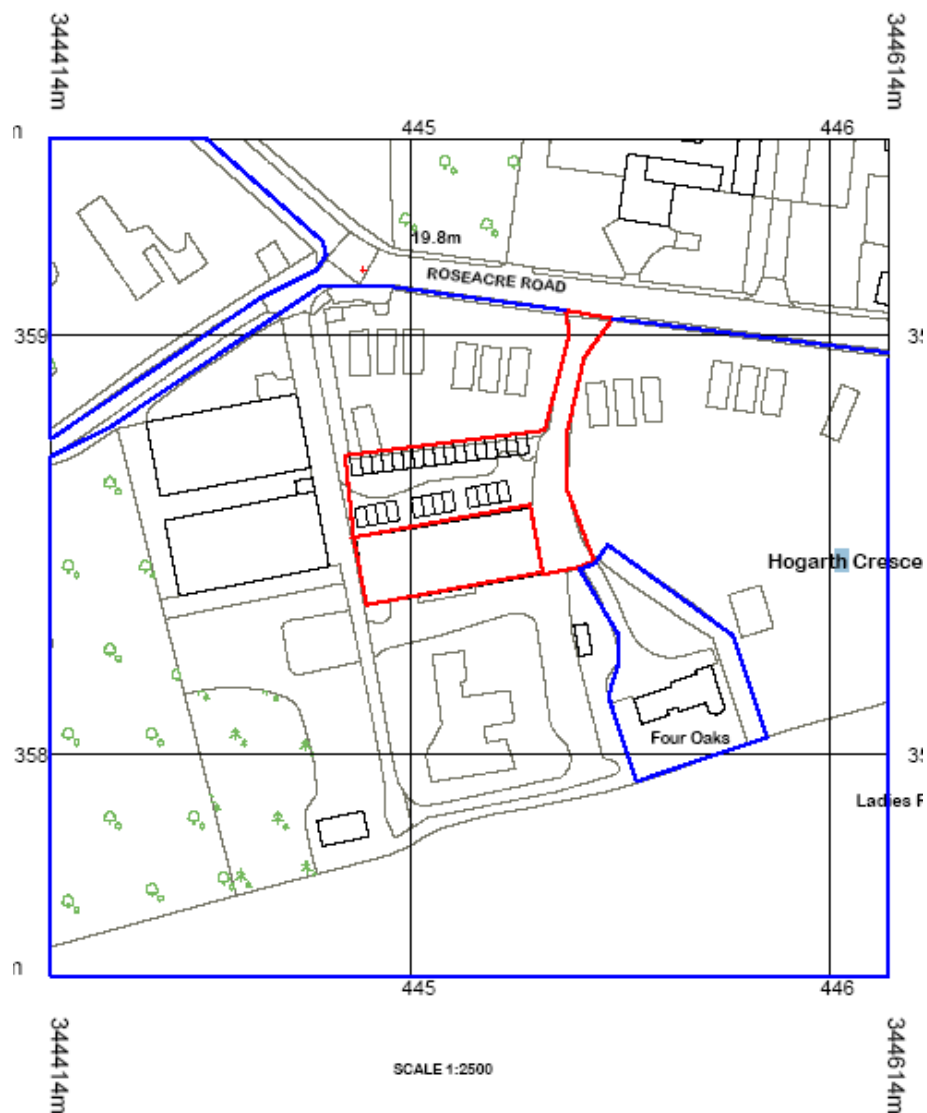
8. Any of the physical alteration works or re cladding of the building hereby approved shall only be undertaken in accordance with the mitigation measures identified in section 9.2 of the document titled 'Bat, Barn Owl and Nesting Bird Survey at 'Shorrocks Farm, Wharles' by Envirotech (report reference 7092, Version 2) shall be carried out in full.

Reason: To ensure that adequate mitigation measures are implemented as part of the development in order to limit the potential for harm to, and that it does not adversely affect the favourable conservation status of, any protected species in accordance with the requirements of Fylde Local Plan to 2032 policy ENV2, the National Planning Policy Framework, the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

9. Prior to the first use of the building for any Class B8 or Class E(g) uses as permitted by this planning permission, a scheme for the incorporation of the following biodiversity enhancement measures (including details of their number, location and specification) into the development and a timetable for their provision has been submitted to and approved in writing by the Local Planning Authority:
- a) The installation of bat boxes.
  - b) The installation of bird boxes to provide habitat for a range of bird species likely to be attracted to the site
  - c) The landscaping of the site with plant species that are to be established to be attractive to native wildlife species

The biodiversity enhancement measures shall thereafter be provided in accordance with the details and timetable in the duly approved scheme, and shall be retained as such thereafter.

Reason: To ensure that the development delivers appropriate biodiversity enhancements in accordance with the objectives of Fylde Local Plan to 2032 policy ENV2 and the National Planning Policy Framework.



**Item Number:** 4

**Committee Date:** 01 September 2021

<b>Application Reference:</b> 21/0586		<b>Type of Application:</b> Variation of Condition	
<b>Applicant:</b>	Lowther Gardens (Lytham) Trust	<b>Agent :</b>	Creative SPARC Architects
<b>Location:</b>	LOWTHER PAVILION, LOWTHER GARDENS SITE, WEST BEACH, LYTHAM ST ANNES, FY8 5QQ		
<b>Proposal:</b>	APPLICATION FOR MINOR MATERIAL AMENDMENT TO PLANNING PERMISSION 18/0302 RELATING TO EXTENSIONS AND ALTERATIONS OF PAVILION BUILDING, WITH AMENDMENT BEING TO ADD A CONDITION RELATING TO THE PHASING OF DEVELOPMENT AND TO VARY THE WORDING OF CONDITION 3 (FACILITIES MANAGEMENT PLAN) ,4 (SIGNAGE ARRANGEMENTS), 7 (CONSTRUCTION MATERIALS) AND 9 (LANDSCAPING ARRANGEMENTS)		
<b>Ward:</b>	CLIFTON	<b>Parish:</b>	
<b>Weeks on Hand:</b>	10	<b>Case Officer:</b>	Andrew Stell
<b>Reason for Delay:</b>	Need to determine at Committee		
<a href="#">Click Here</a> for application site on Google Maps		<a href="#">Click here</a> for application on FBC website	

**Summary of Recommended Decision:** Grant

**Summary of Officer Recommendation**

The application relates to Lowther Pavilion which is a theatre and venue in Lowther Gardens in Lytham. The Pavilion does not have any heritage status itself but stands in the conservation area and is within a locally listed park, with further protection to the park being secured through its designation as existing open space in the Fylde Local Plan to 2032.

Planning permission was granted in 2018 for an ambitious series of development works to the Pavilion, including the enhancement of the foyer element to the eastern end to form a rooftop restaurant and redesigned main entrance, the construction of additional 'back of house'; and other accommodation to the western side of the main building which are designed to upgrade those facilities and that part of the building, and the construction of a new 'studio theatre' to the rear of the existing building. Those works are the subject of an extant planning permission that can be implemented up to mid-November 2021.

The current application is submitted as a s73 application which proposes an identical form of development to that approved in 2018 but proposes that a number of the conditions be revised and an additional condition imposed. The extra condition would allow for the implementation of the development approved by the planning permission in a series of discrete phases, with the amendments to the other conditions being designed to allow the matters that are required by those conditions to also be agreed in a phased manner.

This will not weaken or undermine the existing planning permission, and will simply allow it to be undertaken in a more flexible and practical way. This is understandable given the events that have occurred since 2018 and is accepted as being a preferable arrangement for

the scheme of the size and nature of the development proposed here.

Accordingly, the application is considered to provide an appropriate form of development, and sets out a planning permission that will allow it to be effectively implemented. It is therefore recommended that the officer recommendation be supported and planning permission granted with the revised conditions.

### **Reason for Reporting to Committee**

The application site relates to land that the council has an interest in, and the proposal is one that was previously granted planning permission by Committee. The effect of this application is to revise some of the conditions to that planning permission and so the scheme of delegation requires that the application is determined at Committee.

### **Site Description and Location**

Lowther Pavilion is located within Lowther Gardens which is bounded by Church Road to the north, West Beach to the south, Lowther Terrace to the east and Woodville Terrace to the west. The site is located within the conservation area and Lowther Gardens is locally listed and designated as existing public open space in the Fylde Local Plan to 2032. Lowther Pavilion is a community theatre complex set within the mature Lowther Gardens public park located on West Beach in Lytham.

Lowther Gardens was opened on 31 August 1872 and was gifted to the people of Lytham by John Talbot Clifton of Lytham Hall. An original barrel-vaulted timber pavilion building was built in 1920 and has been extended at various times since with the original timber structure replaced by brickwork and other materials. The building was subject to a major refurbishment in the 1980s, and has more recently seen improvements made to the roof and other areas to reflect modern theatre requirements. It now serves as a multi-function venue with a café facility that serves the customers of the building and wider visitors to Lowther Gardens.

### **Details of Proposal**

The application is submitted under s73 of the Town and Country Planning Act 1990 which allows for the variation of conditions applied to an existing planning permission. The effect of the variation is to create, if approved, a second planning permission for the development that sits alongside the original permission.

This application proposes the variation of several conditions that are attached to planning permission 18/0302 which approves a series of extensions and alterations to Lowther Pavilion. That permission was granted by the Planning Committee on 7 November 2018 with the decision issued a few days later on 12 November 2018. The planning permission has not been implemented as yet, but remains extant given that the 3 year period for that implementation has not expired.

The 2018 permission relates to a three phase refurbishment, enhancement and extension of the Pavilion building with the works briefly comprising:

- Phase 1 – The construction of a new first floor extension above the existing foyer at the eastern end of the building to provide a restaurant with an external roof terrace with new stair and lift access. At ground floor there will be the reconfiguration and refurbishment of main entrance, foyer, cafe, bar, box office and toilets.



- Phase 2 – The construction of a first floor extension above the existing dressing rooms at the western end of the existing building to provide additional rooms used in relation to the theatre productions, as well as alterations to the external appearance of the main theatre building
- Phase 3 – The construction of an extension at the western end of the building to provide a 150 seat Studio Theatre and Education Centre.
- Additional works - The application also includes the reconfiguration of the existing car park and both soft and hard landscaping adjacent to the pavilion, together with the removal of the existing public toilets which are to be replaced by facilities within the building.

That permission is subject to a series of conditions, with a number of these requiring that details of works are submitted for agreement prior to a lawful commencement of the development.

The current application does not propose any alterations to the scope or design of the approved development. Instead, the submission proposes revisions to the wording of a number of the planning conditions that are attached to that planning permission so that the process of discharging the details required for them is less onerous initially and allowing an initial development phase with lesser works to be undertaken. The effect of this would be that once a substantial start has been lawfully made on the planning permission it will remain extant after the existing November 2021 expiry date so that the remainder of the works can follow once the appropriate funding and logistical arrangements are in place.

The conditions that are proposed to be varied will be discussed more fully in the 'Comment and Analysis' section of this report, but briefly relate to:

- New condition – a new condition is proposed to introduce the requirement to agree a phasing plan prior to work commencing
- Condition 3 – This requires the submission, agreement and implementation of a management plan to ensure that access to the site and for construction and operational purposes are adequately and safely maintained. The proposed revision is to allow for the submission of a separate plan prior to the commencement of works on each of the agreed phases, whereas the current wording requires the submission of a single plan relating to the whole of the development prior to the commencement of any works.
- Condition 4 – relates to the signage for the car park, with the proposed revision being to permit this to be agreed for each of the phases of development that are now envisaged
- Condition 7 - this relates to the materials of construction, with the proposed revision being to permit this to be agreed for each of the phases of development that are now envisaged
- Condition 9 - this relates to the landscaping of the site, with the proposed revision being to permit this to be agreed for each of the phases of development that are now envisaged

### **Relevant Planning History**

<b>Application No.</b>	<b>Development</b>	<b>Decision</b>	<b>Date</b>
18/0302	ALTERATIONS AND EXTENSION OF EXISTING PAVILION BUILDING, INCLUDING A TWO STOREY EXTENSION TO THE EAST TO FORM A FIRST FLOOR RESTAURANT WITH EXTERNAL ROOF TERRACE, AN EXTENSIONS TO THE WEST OF THE BUILDING TO FORM AN EDUCATION CENTRE AND STUDIO THEATRE, TIMBER CLADDING AND GLAZING TO EXISTING ELEVATIONS, RECONFIGURATION OF	Granted	12/11/2018

EXISTING CAR PARK TO PROVIDE 70 SPACES,  
NEW PEDESTRIAN ACCESS, ASSOCIATED SOFT  
AND HARD LANDSCAPING WORKS AND  
DEMOLITION OF EXISTING PUBLIC TOILETS,  
STORAGE BUILDING AND AVIARY STRUCTURE.

16/0651	TO HOLD A MONTHLY CAR BOOT SALE ON THE CAR PARK OF THE LOWTHER PAVILION THEATRE DURING THE SUMMER MONTHS (MAY - OCTOBER)	Refused	18/10/2016
16/0671	APPLICATION TO DISCHARGE DETAILS ASSOCIATED WITH CONDITIONS ON PLANNING PERMISSION 16/0333 - CONDITION 2 - MATERIALS	Advice Issued	25/10/2016
16/0333	INSTALLATION OF NEW BARREL ROOF OVER EXISTING ROOF STRUCTURE WITH ASSOCIATED WORKS INCLUDING RENDERING, REMOVAL AND REPAIR OF COPULAS, AND RELOCATION OF FIRE DOOR	Granted	05/07/2016

### **Relevant Planning Appeals History**

None

### **Parish/Town Council Observations**

Site is not in a Parished area.

### **Statutory Consultees and Observations of Other Interested Parties**

There are no consultation responses to report.

### **Neighbour Observations**

<b>Neighbours notified:</b>	01 July 2021
<b>Site Notice Date:</b>	14 July 2021
<b>Number of Responses</b>	None

### **Relevant Planning Policy**

#### **Fylde Local Plan to 2032:**

ENV5	Historic Environment
ENV1	Landscape
GD1	Design of New development

#### **Other Relevant Policy:**

NPPF:	National Planning Policy Framework
NPPG:	National Planning Practice Guidance
LLST	Locally Listed Building

### **Site Constraints**

Conservation area site

## **Environmental Impact Assessment**

This development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

## **Comment and Analysis**

With the nature of the application under consideration there are two aspects to consider in this report: the merits of the development that is proposed in the light of any changes that have arisen since the original decision to grant planning permission, and whether the proposed alterations to the conditions are acceptable or not.

## **Consideration of Merits of Development**

In many cases the council receives applications under s73 that propose to make 'minor material amendments' to the format of the development, such as by altering the layout of a residential scheme, amending the design of a building, or to vary the terms of a development that is underway. That is not the case here as it relates to a planning permission that is as yet unimplemented, and does not propose any alterations to the form, design, scale, layout, etc of that development.

Whilst the scheme itself has not changed, the planning policy background has changed slightly through the local listing of the Lowther Gardens park that the Pavilion building sits in, and the revisions to the NPPF made in 2019 and 2021.

These are minor changes that continue to require a very similar assessment to be made over the application. The existing planning permission concludes that the design of the extensions and alterations were all acceptable to the property and provided a further iteration of its evolution over time from its origins as a timber pavilion in Lowther Gardens. The scale and materials used were considered to be appropriate in that context and the level of landscaping and parking that were provided were all acceptable.

The location of the site within the Lytham Town Centre Conservation Area confirms its status as a designated heritage asset meaning that the local listing that has since been applied to the gardens makes no material difference to the heritage implications of the assessment that is to be made. The appropriate design means the heritage value of the gardens is not diminished with this now being a requirement of para 199 of NPPF21. The scheme was revised prior to its original approval to reduce the amount of hardstanding and the introduction of avenue tree planting to re-enforce the Victorian character of the gardens. These elements are unchanged in the current application and so the same conclusion should be reached over their acceptability within the designated heritage asset.

The conditions that were imposed were felt to provide appropriate control over the operation of the site during construction and operation to protect the amenity of the area and the neighbouring residential occupiers.

As all these elements are unchanged then it is logical that a consistent position is reached on the acceptability of the scheme under this 'duplicate' application. The existence of the existing planning permission as a viable fall back position lends further support to the acceptability of the development.

The proposal is considered to comply with the requirements of the Fylde Local Plan to 2032 and to the revised national guidance and to represent a suitable and welcome enhancement of the Pavilion building. As such development proposals continue to be supported.

#### Revisions to Conditions

As the scheme itself is unchanged, the motivation for the submission of this application is clearly designed to provide a more effective way of implementing the planning permission. The original permission includes a series of conditions that require extensive levels of information and detail to be provided relating to the whole of the development covered by the planning permission in advance of any construction works taking place. This is an unwieldy approach now that the development is proposed to be delivered in a series of discreet phases.

This application is proposing a phased approach with the introduction of an additional condition to allow for the agreement of a phasing plan for the implementation of the development. Whilst that phasing plan is not actually submitted at this time it is envisaged from discussions with the applicant's agent that the works to be initially undertaken will involve the erection of the studio theatre and associated works. Whilst this is described as Phase 3 in the original planning application the Trust are keen to avoid disruption to the trading of the main theatre as it re-establishes itself post-covid. The construction of the studio theatre will limit disruption to the activities at the main theatre. The studio theatre extension will also provide the Trust with more space to deliver smaller, community based events and performances in addition to the events in the main auditorium, which is felt to be a particular priority post-covid.

The phasing plan serves two purposes. Firstly, it allows for the whole of the development to be implemented in a manner that is more appropriate given the extensive scale of the works covered by the planning permission and the fact that they relate to discrete parts of the building that will likely need to remain operational through the construction phases, and which are likely to be developed over an extended timeframe in any event.

Secondly, given the relatively short time frame before the planning permission is due to expire in November 2021 it allows for a substantial start to be made on some part of the planning permission within that timescale. Under planning legislation once there has been a substantial start on a development then the remainder of that planning permission is capable of being undertaken at any time. This approach will allow the Trust that now operates the Pavilion building more time to coordinate the funding and logistical arrangements that it is expected to be needed to be completed to allow the more extensive works that are to be undertaken in alter phases to be confirmed.

The introduction of an additional phasing condition will allow for that phased development to occur in a managed fashion, with the other conditions that are covered by this application simply being revised to allow for the matters they previously covered to be agreed in a phased manner in accordance with whatever phasing is agreed.

The first reason set out here is an understandable one given the wide-ranging scope of the scheme. The second reason is one that is also understandable with the construction, funding and management difficulties that have arisen since the planning permission was granted. These include the Covid lockdowns that halted construction work, and the subsequent difficulties sourcing materials to undertake work that is an issue across the construction sector. The lockdown delays were such that central government changed planning legislation to allow extended implementation dates for some planning permissions. Whilst the timescales involved here mean that the automatic extension is not available to this development, there have been additional legal and management

technicalities that have also caused understandable delays with the development.

The proposed conditions are, therefore, considered to be an appropriate change that will add flexibility and practicality into the planning permission for the refurbishment and enhancement works that the planning application proposes, and will do so in a manner that does not weaken the control that the council has over those details through the planning conditions. It is therefore recommended that the development be supported with the additional and revised conditions as set out in this planning permission.

The Planning Practice Guidance confirms that this approach cannot be used to extend the life of a planning permission so the conditions below reflect those that were imposed on the previous planning permission with condition 1 amended to reinforce the timeframe for its implementation, an additional phasing condition added as condition 3 and then the other conditions amended appropriate with the numbers increased by 1 to reflect the insertion of the phasing condition.

### **Conclusions**

The application relates to Lowther Pavilion which is a theatre and venue in Lowther Gardens in Lytham. The Pavilion does not have any heritage status itself but stands in the conservation area and is within a locally listed park, with further protection to the park being secured through its designation as existing open space in the Fylde Local Plan to 2032.

Planning permission was granted in 2018 for an ambitious series of development works to the Pavilion, including the enhancement of the foyer element to the eastern end to form a rooftop restaurant and redesigned main entrance, the construction of additional 'back of house; and other accommodation to the western side of the main building which are designed to upgrade those facilities and that part of the building, and the construction of a new 'studio theatre' to the rear of the existing building. Those works are the subject of an extant planning permission that can be implemented up to mid-November 2021.

The current application is submitted as a s73 application which proposes an identical form of development to that approved in 2018 but proposes that a number of the conditions be revised and an additional condition imposed. The extra condition would allow for the implementation of the development approved by the planning permission in a series of discrete phases, with the amendments to the other conditions being designed to allow the matters that are required by those conditions to be agreed in a phased manner.

This will not weaken or undermine the existing planning permission, and will simply allow it to be undertaken in a more flexible and practical way. This is understandable given the events that have occurred since 2018 and is accepted as being a preferable arrangement for the scheme of the size and nature of the development proposed here.

Accordingly, the application is considered to provide an appropriate form of development, and sets out a planning permission that will allow it to be effectively implemented. It is therefore recommended that the officer recommendation be supported and planning permission granted with the revised conditions.

### **Recommendation**

That Planning Permission be GRANTED subject to the following conditions:

1. The development must be begun not later than the expiration of three years from the date of

planning permission 18/0302 (i.e. by 7 November 2021).

Reason: To comply with the requirements of section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and to ensure that the date of expiry of this permission is consistent with the extant planning permission that is to be varied.

2. This permission / consent relates to the following details:

Approved plans:

- Location Plan - SPARC drawing 16-01 PL01
- Proposed Layout Plan Pavilion- SPARC drawing 16-06
- Proposed Layout Plan Extension - SPARC drawing 16-07
- Proposed Elevations Overall - SPARC drawing 16-09
- Proposed Elevations Pavilion - SPARC drawing 16-10
- Proposed Elevations Extension - SPARC drawing 16-11
- Arboricultural Impact Plan - SPARC drawing 16-14
- Bin Store drawing 16-01 PL16
- Outdoor class room section drawing 159.3.02
- Landscape proposals ReLandscape
- Landscaping layout plan 159.3.01

Supporting Reports:

- Design and Access and Heritage Statement by SPARC 09/04/18
- Arboricultural Constraints Appraisal by Bowland Tree Consultancy Ltd January 2018

Reason: To provide clarity to the permission.

3. Prior to the commencement of any development hereby approved, a detailed Phasing Plan shall be submitted to and approved in writing by the Local Planning Authority. This Phasing Plan shall confirm the number of phases of work that are to be undertaken and the extent of works within each phase. The development hereby approved shall thereafter only be implemented in accordance with the approved phasing unless an alternative phasing has been submitted and approved in writing by the Local Planning Authority.

Reason: To provide clarity over the delivery of the overall development, and to ensure that it is undertaken in a manner that allows for the community facilities on the wider Lowther Gardens site to remain functional during construction works in accordance with Policies EC6 and ENV5 of the Fylde Local Plan to 2032.

4. That prior to the commencement of the works set out in each phase of the works approved by the Phasing Plan as agreed under condition 3 of this planning permission, a Facilities Management Plan for that phase of the works shall be submitted to and approved in writing by the Local Planning Authority. This Plan shall identify measures to be implemented to ensure that the works within each phase ensure that key facilities within and around the site are maintained, with these details including:
- a) Access arrangements to the Gardens by pedestrians during and post-construction on each phase
  - b) Access arrangements to the Pavilion by pedestrians during and post-construction on each phase

- c) Access arrangements to the site by visitor vehicles during and post-construction on each phase
- d) Access arrangements to the site by construction traffic during construction on each phase
- e) Access arrangements to the Gardens by service vehicles during and post-construction on each phase
- f) Access arrangements to the Pavilion by service vehicles during and post-construction on each phase
- g) The provision of adequate and appropriately designed parking areas for all users during and post-construction on each phase
- h) The retention of a public toilet facility during and post-construction on each phase
- i) The extent of any works to existing and proposed landscaping within each phase.

Reason: To ensure that the development is undertaken in a coordinated manner that provides certainty that Lowther Pavilion and Lowther Gardens will continue to function appropriately through the development given their important role to the local tourism economy and to respect the character of the conservation area. This is in accordance with Policies EC6 and ENV5 of the Fylde Local Plan to 2032.

5. That prior to the commencement of the works set out in each phase of the works approved by the Phasing Plan as agreed under condition 3 of this planning permission full details of the proposed signage for the car park, pedestrian access and HGV delivery entrance shall be submitted and approved in writing by the Local Planning Authority, for the phase of works due to be commenced. These signs shall be erected in accordance with that phasing and then retained thereafter.

Reason: To avoid conflict between highway users and between construction works and other users of the site in the interests of highway safety as required by Policy GD7 of the Fylde Local Plan to 2032

6. The external terraces and outdoor classroom area hereby approved shall be closed to patrons no later than 21:00 on any day and there shall be no amplified music or other amplified entertainment performed within these areas at any time.

Reason: to safeguard the amenity of adjacent residents and locality in general, in accordance with Policy GD7 of the Fylde Local Plan to 2032 and the requirements of para 185 of NPPF21.

7. During performances of amplified entertainment within the premises all doors and windows shall remain closed except for access and egress.

Reason: to safeguard the amenity of adjacent residents and locality in general, in accordance with Policy GD7 of the Fylde Local Plan to 2032 and the requirements of para 185 of NPPF21.

8. That prior to the commencement of the works set out in each phase of the works approved by the Phasing Plan as agreed under condition 3 of this planning permission, details of all construction materials including timber and steel cladding, doors and roofing materials shall be submitted to and approved in writing by the Local Planning Authority for the phase of works due to be commenced. The details shall include the proposed materials finish and profile. The development shall be constructed in accordance with the approved materials.

Reason: In the interests of visual amenity of the area and the conservation area in accordance with policies GD7 and ENV5 of the Fylde Local Plan to 2032.

9. Samples of materials proposed for all hard surfaced areas of the site shall be submitted to the Local Planning Authority for approval 14 days prior to the commencement of any surfacing work on site, and thereafter only approved materials shall be used either during the initial works or

subsequently in any repairs to the surfaces.

Reason: In the interests of visual amenity of the area and the conservation area in accordance with policies GD7 and ENV5 of the Fylde Local Plan to 2032.

10. That prior to the commencement of the works set out in each phase of the works approved by the Phasing Plan as agreed under condition 3 of this planning permission, a landscaping scheme, including soft and hard surface landscaping, shall be submitted to and approved in writing by the Local Planning Authority relating to the works approved by the phase of works due to be commenced. The scheme and programme shall thereafter be varied only in accordance with proposals submitted to and approved by the Local Planning Authority and such variations shall be deemed to be incorporated in the approved scheme and programme. T

he approved landscaping scheme shall be implemented in a timetable of planting to be agreed in writing with the Local Planning Authority but which in any event shall be undertaken no later than the next available planting season. The developer shall advise the Local Planning Authority in writing of the date upon which landscaping works commence on site prior to the commencement of those works.

Reason: To enhance the quality of the development in the interests of the amenities of the locality as required by policies GD7 and ENV5 of the Fylde Local Plan to 2032.

11. The whole of the landscape works, as approved shall be implemented and subsequently maintained for a period of 10 years following the completion of the works. Maintenance shall comprise and include for the replacement of any trees, shrubs or hedges that are removed, dying, being seriously damaged or becoming seriously diseased within the above specified period, which shall be replaced by trees of a similar size and species. The whole of the planted areas shall be kept free of weeds, trees shall be pruned or thinned, at the appropriate times in accordance with current syvicultural practice. All tree stakes, ties, guys, guards and protective fencing shall be maintained in good repair and renewed as necessary. Mulching is required to a minimum layer of 75mm of spent mushroom compost or farm yard manure which should be applied around all tree and shrub planting after the initial watering. Weed growth over the whole of the planted area should be minimised. Any grassed area shall be kept mown to the appropriate height and managed in accordance with the approved scheme and programme.

Reason: In the interests of visual amenity of the area and the conservation area in accordance with policies GD7 and ENV5 of the Fylde Local Plan to 2032..

12. No development within a phase of the works identified in condition 3 of this permission shall be commenced until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority for that particular phase of works. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) the timing of the provision, and standard of construction, of the site access for construction traffic,
- a) times of construction activity at the site,
- b) the parking of vehicles of site operatives and visitors,
- c) loading and unloading of plant and materials,
- d) storage of plant and materials used in constructing the development,
- e) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate,
- f) The protection arrangements for areas of landscaping and trees on site during each phase of development
- g) wheel washing facilities, including details of how, when and where the facilities are to be used'
- h) measures to control the emission of dust and dirt during construction,



- i) measures to control the generation of noise and vibration during construction to comply with BS5228:2009
- j) a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: To ensure the development is implemented without compromising residential amenity or highway / pedestrian safety as required by Policy GD7 of the Fylde Local Plan to 2032.



Development Services Fylde Council		(c) Crown Copyright and database right (2018). Ordnance Survey (100006084).	
Application No. 5/18/0302	Address Lowther Pavilion, Lowther Gardens Site, West Beach, Lytham St Annes	Grid Ref. E.3359 : N.4270	Scale 0 10 20 30 40 m 

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	PLANNING COMMITTEE	1 SEPTEMBER 2021	5
<b>FYLDE COUNCIL TREE PRESERVATION ORDER 2021/0001: LAND AT CHURCH ROAD AND ALBANY ROAD, LYTHAM ST ANNE'S</b>			

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

Planning Committee are asked to confirm this Tree Preservation Order (TPO) following consideration of the comments received during the consultation on the TPO. The council's constitution requires that when an objection is received the decision whether to confirm the TPO is to be made by the Planning Committee. Having considered the representations that have been made, your officers remain of the opinion that the TPO should be confirmed. If the TPO is not confirmed within six months it will 'lapse', and the trees may be felled.

### RECOMMENDATION

1. That the committee confirms the Tree Preservation Order without modification so that it becomes permanently effective.

### SUMMARY OF PREVIOUS DECISIONS

None

### CORPORATE PRIORITIES

Economy – To create a vibrant and healthy economy	
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	
Tourism – To create a great place to live and visit	✓

### REPORT

#### 1. Legislative background to tree protection.

##### 1.1 Statutory Duty regarding Trees.

The Town and Country Planning Act 1990 (TCPA 1990) prescribes a "General duty of planning authorities as respects trees".

Section 197 defines a duty in respect of trees:

Planning permission to include appropriate provision for preservation and planting of trees.

*It shall be the duty of the local planning authority—*

*(a) to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees; and*

*(b) to make such orders under section 198 as appear to the authority to be necessary in connection with the grant of such permission, whether for giving effect to such conditions or otherwise.*

The council is therefore obliged by statutory legislation to consider the preservation of trees in planning applications and to use planning conditions to secure new tree planting in development.

## **1.2 Tree Preservation Orders.**

Section 198 (1) of the TCPA 1990 empowers local planning authorities to make Tree Preservation Orders, (TPOs).

*If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.*

## **1.3 Changes to TPO procedures from 6<sup>th</sup> April 2012.**

In 2012 the government introduced what it described as “a consolidated and streamlined tree preservation order system.” One of the notable changes was the removal of sections 199 and 201 of the Town and Country Planning Act. This meant that ALL tree preservation orders take immediate effect from the day the Order is made and no consultation is allowed for.

## **2. Background to making the Tree Preservation Order 2021/0001 (TPO).**

### **2.1 Four large areas of groups of trees (see TPO Appendix 1)**

These are situated next to Blackpool & Fylde College on land adjacent to Church Road and Albany Road, St Annes. These trees were identified by the Tree Officer as worthy of a tree preservation order.

This is due to the rarity of large groups of trees within the urbanised area and seeing that the College looked to be permanently closed so represented a potential development site.

On inspection of the trees it was found that there were four different composition of tree groups. Due to two groups having a mix of understory and some early mature trees having poor form, it was decided to use area and group classifications for the order.

Group Classification: is when there is a distinct group of tree species that warrant a preservation order

Area Classification: are intended as a stop-gap: the effect is to prevent any work to the trees until either more is known about the reality of a threat or a more refined Order can be issued that itemises the trees as individuals or groups.

Following the Government’s guidelines of Tree Preservation Orders and classifications, it was deemed by the Tree Officer appropriate to place the trees under protection, based on safeguarding the amenity value from future tree work or potential development of the site.

The TPO was served on all property owners within the grounds of the land affected at Church Road and Albany Road that might be interested parties, as it was unclear from Land Registry who owned the building and the land on which the trees are located.

### **2.2 Objection Period.**

A statutory twenty-eight-day objection period applies to new TPOs.

All persons notified of the TPO were required to make any representations or objections to the Council before 14<sup>th</sup> April 2021.

### **3.0 Objection.**

An objection was made by way of a letter submitted by Ekersley Property on behalf of Blackpool and Fylde College. The objection was dated 8<sup>th</sup> April 2021 and sent by post to the Tree Officer. A copy is attached as Appendix two.

### **3.1 Summary of Objection.**

The objection centers on Areas 1 & 2 and Group 2. There is no objection to Group 1.

The objections consist of the following:

1. Areas 1 & 2: Not in a high visible location providing low amenity value, limited habitat, and biodiversity.
2. Group 2: Due to poor pruning and limited view the amenity value has been reduced and is merely an extension of G1
3. Potential development could mitigate the loss of Area 1 & 2 and Group 2 with a robust landscape scheme with appropriate management and request the order be modified accordingly.

### **4. Response to the Objection.**

1. Areas 1 & 2: These trees consist mainly of young to early mature trees and are yet to reach their full potential in size. As they grow their visibility will increase and even though they are not completely visible from Church and Albany Road, there is clear visibility from the public footpath that runs from Church Road to Beauclerk Road, which is adjacent to Royal Lytham & St Anne's Golf club. This footpath runs alongside residential properties that are facing the trees. There is a school and college sports field that is used on a weekly basis during term time and the public visibility will, therefore, also increase when the site the trees are situated on is utilized again.

It is agreed that there will be limited habitat and biodiversity, but the protection of these trees as this mixed group in the urban environment is very rare and so the amenity value is considered sufficient justification to warrant protection of the trees. The trees also have potential to grow to their natural size (20-30m in height) if afforded adequate space to grow and have very little conflict with their surroundings in their current location. This reduces the foreseeable threat of removal or fear that they will be a significant risk of failure due to inadequate space. Although the contribution of these trees to habitat and biodiversity will be limited, they will provide a degree of shelter for specific birds and insects, along with mycorrhizal organisms in the soil.

2. Group 2: This is an extension of G1 but as it mainly consists of Oak trees, this is a separate entity to the group of pines and this should be reflected in the Order and does not detract from the value of either group. There has been some substandard pruning in the past, but on the whole this does not impact from the group's amenity value and as the trees are early in their maturity, their amenity value will increase with time. Being Oak trees, they have a long-life expectancy and will, if afforded protection and proper management, be in this location for many years to come. This group of trees, even though they are situated further away from Church and Albany Road, are situated next to G1 and visible from the public footpath that runs from Church Road to Beauclerk Road adjacent to Royal Lytham & St Anne's Golf club. This footpath runs alongside residential properties that are facing the trees. There is a school and college sports field that is used on a weekly basis during term time and therefore the public visibility will also increase when the site the trees are situated on is utilized again.

3. Potential development could mitigate the loss of trees, but it is impossible to instantly replace trees of this age and size immediately. For this maturity to be reached will take time and a robust management schedule of maintenance. Planning conditions to safeguard trees can be imposed as part of the consent for landscaping, including a requirement to replace any tree/shrub provided as part of a landscaping scheme that is seen to be dead or not of any viability, but this cannot protect the trees in perpetuity. In contrast, a Preservation Order has no fixed end date and because of the reasons set out above, the Tree Officer sees no reason to modify the TPO as requested in the objections.

### **Conclusion**

These trees are rare and unique in the urbanised areas and play an integral part in our lives, not only in adding green infrastructure but also help to soften the hard infrastructure. If they are not afforded protection they could be removed from the landscape and so detract from the character of this populated area. This can then lead to reduced benefits that the trees provide from biodiversity, carbon sequestration, reducing run off from rain and

flood attenuation, along with softening the landscape and creating value to the area which makes it a more attractive place to work, live and visit.

As these trees grow so will their visibility and amenity value. They provide shelter and a source of food for the wildlife and if the trees are removed, the animals/ insects and fungi that are species specific to these trees will be lost.

The council should be looking to retain, wherever reasonably practicable, the borough's tree stock, not only for the local area in which they sit, but for the whole of the Fylde.

Members are therefore asked to confirm the TPO without modification which will provide protection to the trees.

IMPLICATIONS	
Finance	There are no financial implications arising from this report
Legal	The legal implications are contained within the body of the report
Community Safety	There are no direct community safety implications arising from this report.
Human Rights and Equalities	The making of the tree preservation order that is the subject of this report has been prepared and considered in accordance with relevant legislation. There are no direct human rights and equalities implications arising from this report.
Sustainability and Environmental Impact	The provision and retention of trees is a key component in ensuring a healthy and sustainable environment and is in line with the draft Tree & Woodland Strategy for Fylde Borough and the adopted Local Plan 2032
Health & Safety and Risk Management	There is no risk at this moment

LEAD AUTHOR	CONTACT DETAILS	DATE
Andrew Rayner	<a href="mailto:andrew.rayner@fylde.gov.uk">andrew.rayner@fylde.gov.uk</a> & Tel 01253 658446	September 1st 2021

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
TPO 2021 No 1		Town Hall, St Annes

#### Attached Documents

Appendix 1 – Objection

Appendix 2 – Tree Preservation Order 21/0001 Land at Church Road and Albany Road, Lytham St Anne's

Appendix 3 – Regulation 5 letter



**Bev Robinson**  
Principal and Chief Executive

8<sup>th</sup> April 2021

Eckersley Property,  
25A Winckley Square,  
PRESTON PR1 3JJ.

Tree & Landscape Officer,  
Fylde Borough Council,  
Town Hall,  
LYTHAM ST. ANNES  
FY8 1LW.

Dear Sir

**RE: Fylde Council Tree Preservation Order 2021/0001 Land at Church Road and Albany Road, Lytham St. Annes.**

This letter makes a formal objection in part to the above provisional Tree Preservation Order based on the reasons as set out below.

**A1** – this is a small, isolated block of planting which appears unmanaged. The pine is young to semi-mature and crowded. The rowan and hawthorn are spindly in growth form being outcompeted by the more dominant pine. The whole appears unmanaged.

Although this small, isolated block of planting may afford the occasional adjacent Ledbury Avenue thoroughfare user partial filtered screening of the now permanently closed Lytham Sixth Form College. In the wider landscape amenity context being set well back from Church Road/Albany Road, it is considered barely noticeable in any views.

**Bev Robinson**  
 Principal and Chief Executive

In terms of ecology, the block of planting is fragmented in managed amenity grassland and not connected in any meaningful way to other significant wildlife friendly habitats. In addition, as noted in the tree preservation order it is a monoculture of pine. As such, the understory is shaded and devoid of any floristic diversity. Further, the non-native invasive Japanese rose appears present to the edge of the block and it is noted that this species is listed on Schedule 9 of the Wildlife & Countryside Act 1981.

**A2** - a small, isolated block of crowded planting. Some rough management has been undertaken in the form of hand pruning with arisings deposited around the edge, fly tipping is also evident within the plot. The pine and broad-leaved trees are young to semi-mature and competing for light, leading to poor form and character in many individuals.

Like A1, this small, isolated block of planting may afford the occasional adjacent Ledbury Avenue thoroughfare user partial filtered screening of the now permanently closed Lytham Sixth Form College and Andsell Medical Centre. In the wider landscape amenity context being set back from Church Road/Albany Road, although more visible than A1, it is considered that G1 (see below) dominates the view.

From an ecological perspective, the block of planting is in managed amenity grassland and not directly connected to other significant wildlife friendly habitats. In addition, as noted in the tree preservation order it is dominated by pine, as such and like A1, the understory is shaded and devoid of any floristic diversity. Japanese rose appears to be present to the edge of the block of A2.

**G1** – a significant block of semi-mature to mature pine. The single oak and beech mentioned in the tree preservation order are being completely outcompeted and are unlikely to become trees of any significant merit. Historical thinning has been undertaken in the past, although some poor pruning techniques are evident on some individuals adjacent to the Ledbury Avenue thoroughfare.



**Bey Robinson**  
 Principal and Chief Executive

G1 fronts Church Road/Albany Road and runs along the edge of the Ledbury Avenue thoroughfare, as such it is a significant boundary feature and frames the site. In winter G1 is visible for a considerable distance to users approaching from either direction along Church Road/Albany Road. In summer, though still visible, its presence is likely somewhat diminished by deciduous trees and shrubs along Church Road/Albany Road that will contribute to the complete street scene.

G1 is immediately adjacent to G2 and there is also connectivity to the rear gardens of properties along Church Road and Lomond Avenue. As such, it may provide some cover or resource opportunity for urban animal species such as fox and bat or bird species. The understory of the pine is a monoculture of unmanaged grassland with low ecological value.

**G2** – six semi-mature and one young oak make up G1, there also appears to be a self-set young sycamore. Most of the oak have a lop-sided crown development due to the poor techniques used in pruning branches along the boundary with Ledbury Avenue thoroughfare.

G2 is connected at the south-west end of G1 and along with G1 forms a boundary along Ledbury Avenue thoroughfare. In winter, G2 is barely discernible along the thoroughfare when approaching from Church Road, G1 dominates the view. G2 is likely to be more discernible during summer months when in leaf, both along Ledbury Avenue thoroughfare and to a filtered extent from Church Road/Albany Road.

As G2 is essentially connected to G1, it too may provide some cover or resource opportunity for urban animal species.

In summary, the amenity value of G1 is recognised as a significant boundary feature framing the site and is not challenged, although it is considered that some sympathetic selective pruning would benefit G1.

A1 and A2, on their own are considered to afford nominal amenity value. Moreover, many of the individuals that make up A1 and A2, are of poor form and character due to intra and inter specific competition, and either unmanaged in the case of A1, or managed poorly in the case of A2.

G2 is essentially an extension of G1, although poor pruning techniques along Ledbury Avenue thoroughfare have affected some individual development and form, subsequently reducing the overall amenity value of G2.

Cumulatively, the variable amenity value of all the trees is recognised. However, it is considered that the loss of A1, A2 and G2 in the event of any potential development of the site could be mitigated via a robust landscape scheme with appropriate management. Further, it is considered that any potential development would present an opportunity to enhance the frontage planting along Church Road/Albany Road as well as renewing the planting layout internally.

As such, it is requested that Fylde Borough Council reconsider Tree Preservation Order 2021/0001 and modify accordingly based on the information presented above. Blackpool and The Fylde College recognise the value of trees in the urban environment and would be happy to discuss the matter further.

Kind Regards

Steve Nunwick

On behalf of Blackpool and The Fylde College



**Town and Country Planning Act 1990 & The Town and Country Planning  
(Tree Preservation) (England) Regulations 2012**

**The Fylde Borough Council Tree Preservation Order 2021/0001 Land at Church  
Road and Albany Road, Lytham St Anne's**

The Fylde 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 The Fylde Borough Council Tree Preservation Order 2021/0001 Land at Church Road and Albany Road Lytham St Anne's

**Interpretation**

**2**

- (1) In this Order "the authority" means the Fylde 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, lop, uproot, wilfully damage or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, 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 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 17<sup>th</sup> day of March 2021

A handwritten signature in dark ink, appearing to be 'P Walker', written over a light grey rectangular stamp.

Paul Walker  
Director of Development  
Authorised by the Council to sign in that behalf

**SCHEDULE  
SPECIFICATION OF TREES**

**Article 3**

**Trees specified individually**

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation - approximate easting/northings</i>

**Trees specified by reference to an area**

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
A1	30 Pine trees, Hawthorn, Rowan	334017/428510
A2	17 Pine, Whitebeam, Rowan, Willow, Horse Chestnut	334053/428547

**Groups of trees**

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation – approximate eastings/northings to centre of group</i>
G1	23 Pines, 1 Oak, 1 Beech	334059/428576
G2	6 Oak	334037/428558

**Woodlands**

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>

Land at Church Road and Albany Road Lytham St Anne's







Our Ref: 21/0001/AR

Your Ref:

Eckersley Property  
25A Winckley Square  
Preston  
PR1 3JJ

Please Ask For: Andrew Rayner

Telephone: 01253 658446

Email:

Date: 17<sup>th</sup> March 2021

Dear Sir or Madam,

**Fylde Council Tree Preservation Order 2021/0001** Land at Church Road and Albany Road Lytham  
St Anne's

**FYLDE BOROUGH COUNCIL TREE PRESERVATION ORDER IMPORTANT – THIS COMMUNICATION MAY  
AFFECT YOUR PROPERTY**

This is formal notice under the Town and Country Planning (Tree Preservation) (England) Regulations 2012 that the Council has made the above Tree Preservation Order.

A copy of the Order is enclosed for your information. In basic terms, the Order prohibits anyone from cutting down, topping or lopping the tree described in the Schedule to the Order and shown on the plan attached to it, without the Council's consent.

**Reasons for making the Order:**

The Council has made this tree preservation order because it is considered expedient to protect these trees from unsuitable tree works, which could reduce the Amenity value and significantly impact on the natural soft landscape view they provide. Along with other benefits from biodiversity, ecology, and climate change adaption. Due to the value of these trees, the order has been placed to ensure that the amenity provided and included in it, is safeguarded in the event of any future tree work or potential development of the site. The effect of the TPO is to sustain that outlook for public visual amenity.

The Order took effect on from 17<sup>th</sup> March 2021 on a provisional basis for a period of 6 months from this date until the Council confirm it, following which it will remain in force.

**Making objections or representations:**

Before the Council decides to confirm the Order you have a right to make objections or other representations about any of the trees covered by the Order. You can do this by writing to:

The Tree & Landscape Officer, Fylde Borough Council, Town Hall, Lytham St Annes, Lancashire FY8 1LW.

The objections and representations must be received by us no later than 14<sup>th</sup> April 2021 and in accordance with Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012. This is excerpted below. All valid objections and representations will be carefully considered before a decision is made whether or not to confirm the Order. The Council will write to you again when that decision has been made.

**Town and Country Planning (Tree Preservation) (England) Regulations 2012**

**6 Objections and representations**

- (1) Subject to paragraph (2), objections and representations--
  - (a) shall be made in writing and--
    - (i) delivered to the authority not later than the date specified by them under regulation 5(2)(c); or
    - (ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;
  - (b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which such objections and representations are made; and
  - (c) in the case of an objection, shall state the reasons for the objection.
- (2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.

Yours faithfully,



Andrew Rayner  
Tree & Landscape Officer.  
andrew.rayner@fylde.gov.uk



## INFORMATION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	PLANNING COMMITTEE	1 SEPTEMBER 2021	6
LIST OF APPEALS DECIDED			

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY OF INFORMATION

The council received the following appeal decisions between 16/7/21/21 and 20/8/21.

### SOURCE OF INFORMATION

Development Services

### INFORMATION

List of appeals decided attached.

### WHY IS THIS INFORMATION BEING GIVEN TO THE COMMITTEE?

To inform members of the appeals that have been decided during the period.

### FURTHER INFORMATION

Contact Andrew Stell, Development Manager, 01253 658473

## Appeal Decisions

The council received decisions on the following appeals in the period 16 July 2021 to 20 August 2021. The Inspector's decision letters are attached for reference.

Rec No: 1

22 February 2021	21/0170	PARLES COTTAGE, BANK LANE, BRYNING WITH WARTON, PRESTON, PR4 1TB ENFORCEMENT APPEAL AGAINST ENFORCEMENT NOTICE RELATING TO UNAUTHORISED ERECTION OF 2M HIGH TIMBER FENCE TO FRONT BOUNDARY	Enforcement Written Reps Case Officer: KLH
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Fylde Dec. Level

Appeal Decision: Dismiss: 16 July 2021

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Rec No: 2

22 April 2021	20/0796	CHAROLAND FARM, GREENHALGH LANE, GREENHALGH WITH THISTLETON, PRESTON, PR4 3HL ERECTION OF TWO DETACHED BUNGALOWS TO PROVIDE TOURIST ACCOMMODATION FOR HOLIDAY USE	Written Representations Case Officer: RT
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Fylde Dec. Level

DEL

Appeal Decision: Dismiss: 20 August 2021

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Rec No: 3

21 April 2021	20/0805	REAR OF, 3 THOMAS STREET, LYTHAM ST ANNES, FY8 5QJ ENLARGEMENT OF A DWELLINGHOUSE BY CONSTRUCTION OF TWO ADDITIONAL STOREYS.	Householder Appeal Case Officer: JPC
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Fylde Dec. Level

DEL

Appeal Decision: Dismiss: 06 August 2021

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Rec No: 4

24 May 2021	20/0839	BRYNING FERN NURSERIES, BRYNING FERN LANE, KIRKHAM, PRESTON, PR4 2BQ ALTERATIONS AND SINGLE STOREY SIDE & REAR EXTENSION TO EXISTING GARAGE TO ENABLE CONVERSION TO HYDROTHERAPY SUITE AND ASSOCIATED PLANT ROOM, INCLUDING RAISING OF ROOF, ALTERATIONS TO OPENINGS, ADDITION OF HIGH LEVEL WINDOWS AND EXTERNAL VENTS	Householder Appeal Case Officer: RT
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Fylde Dec. Level

DEL

Appeal Decision: Dismiss: 18 August 2021

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## Appeal Decision

Site visit made on 8 June 2021

**by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC**

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

**Decision date: 16 July 2021**

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**Appeal Ref: APP/M2325/C/21/3267033**

**Parles Cottage, Bank Lane, Warton, Preston PR4 1TB**

- 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 Jason Finnerty against an enforcement notice issued by Fylde Borough Council.
- The enforcement notice was issued on 26 November 2020.
- The breach of planning control as alleged in the notice is the erection of a boundary fence of a solid and closed design the height of which exceeds one metre above ground level has been erected to the boundary of the Land adjacent to Bank Lane in the position marked A-B as shown on the attached plan (the Fence).
- The requirements of the notice are to remove the fence adjacent to Bank Lane in the position marked A-B on the attached plan or reduce its height so that it no longer exceeds one metre above ground level.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) 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.**

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### The Enforcement Notice

1. Some of the matters raised by the appellant challenge the validity of the notice. In particular, under his case for the appeal on ground (b) he contends that the plan attached to the notice is inaccurate and therefore the notice should be considered to be invalid. In terms of invalidity, there will be those defects that are capable of being corrected under the Inspector's powers in s176(1)(a) of the Act and those that are too fundamental to be corrected without causing injustice and lead to the notice being quashed.
2. Regulation 4(c) of The Town and Country Planning (Enforcement Notices and Appeals)(England) Regulations 2002 (ENAR) states that an enforcement notice shall state the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise. In paragraph 2, the notice sets out the precise boundaries of the land to which the notice relates and there is also a detailed description of the breach and the location of the development in paragraph 3 under the matters which appear to constitute a breach of planning control.
3. The plan attached to the notice shows the boundaries of the land in question and also identified the position of the boundary fence to which it relates. I understand the appellant's argument that the location of the letters 'A' and 'B' may not be precisely accurate but in my judgement the notice taken as a whole is sufficiently clear for the appellant to be able to identify what he has done

wrong and also what he must do to remedy it, which is the appropriate test derived from case law<sup>1</sup>. Consequently, I find that the notice is not invalid.

4. I have noted that with respect to the appeal on ground (a) the Council contends that no fee has been received. However, I have seen clear evidence that the correct fee was paid to the Council on 25 January 2021.

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

5. The ground of appeal is that the breach of control alleged in the enforcement notice has not occurred. In order to succeed on this ground it would need to be demonstrated that a boundary fence as alleged had not been erected on the land. A fence has quite clearly been erected on the land as described in the enforcement notice as a matter of fact and thus the appeal on ground (b) fails.

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

6. The ground of appeal is that the matter alleged does not constitute a breach of planning control. The erection of a fence comprises operational development within the meaning of s55 of the Act for which, s57 indicates, planning permission is required. In this case the appellant argues that the fence is not directly fronting onto the highway and a 2 metre high fence could be erected under permitted development rights.
7. Schedule 2, Part 2 Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO) relates to minor operations comprising gates, fence, walls etc. Permitted development is the erection of a gate, fence, wall or other means of enclosure. The GPDO goes on to state that development is not permitted if the height of any fence erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed 1 metre above ground level.
8. There is no statutory definition of what constitutes a highway, but it is generally accepted that a highway is a way over which members of the public have the right to pass and repass. Therefore, it is clear to me that Bank Lane is a highway. In addition, the appellant states that there is no formal definition of what is meant by immediately fronting, being adjacent, or being next to a highway. The courts have held that the word 'adjacent' does not necessarily mean that a fence has to be actually abutting or touching the highway. Indeed, a wall or fence can be set back from the highway but still be adjacent to it as a matter of fact and degree provided that the means of enclosure is clearly there to define the boundary of the property concerned from the highway and is perceived to do so.
9. In this case there is a narrow grass verge between the edge of the tarmac road and the fence in question. In my judgement this is part of the highway in that it is part of the area which may be used by the public to pass and repass if need be. On this basis and as a matter of fact and degree I therefore consider that the fence which is the alleged breach of planning control is adjacent to the highway. In addition, the means of enclosure (the fence) has been erected for the purposes of defining the boundary of Parles Cottage from the highway and in my judgement is perceived to do so.

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<sup>1</sup> Miller Mead v MHLG [1963] 2 WLR 225

10. Consequently, the fence at a height in excess of 1 metre above ground level does not benefit from permitted development rights set out in the GPDO and requires planning permission, which has not been granted
11. The appeal on ground (c) fails.

**The appeal on ground (a)**

12. The ground of appeal is that planning permission should be granted. The appeal site is located in the Green Belt and it is agreed between the main parties that the development is inappropriate development in the Green Belt. Therefore, the main issues are:
  - i. the effect of the development on the openness of the Green Belt and on the character and appearance of the area; and
  - ii. whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
13. The appeal site contains a dwelling positioned close to Bank Lane and a wooden fence has been erected along the property's boundary with Bank Lane to a height in excess of 1 metre. The appellant acknowledges that the development is inappropriate development in the Green Belt and is therefore harmful by definition. It is also argued that the erection of the fence above 1 metre in height has had no more than a negligible impact on either the purposes of the land being in the Green Belt or the essential characteristics of the Green Belt and that the greater the harm to the principle character of the Green Belt and to the purposes of the Green Belt, the greater the level of very special circumstances required to be demonstrated.
14. However; the term 'building' refers to any structure or erection and therefore includes fences. They do not fall within the list of exclusions in the Framework. Therefore, when judged against the wording of national policy the proposal is inappropriate development in the Green Belt. Due to its scale the development does not substantially prejudice any of the purposes of including land in the Green Belt but, according to the Framework, inappropriate development is harmful by definition.
15. In that there is a solid, man-made feature which did not previously exist, the openness of the area has been reduced to a limited degree, particularly when considering the fall-back position whereby a fence of a height of up to 1 metre could be erected in this position without requiring planning permission. The appellant argues that the site is on the fringe of the Green Belt and the impact of the fence is less than if it was on a large open site in the middle of the Green Belt. That may be the case, but nevertheless, the site is in the Green Belt and is clearly visible from along Bank Lane.
16. The appeal site is in an area where there is a mix of open land and some residential development and I would therefore describe its character as being mixed with a range of different residential frontages in the locality including some fences and hedges. As a consequence of its height, solid appearance, materiality, length and position, the fence in question is a prominent local feature which contrasts with other boundaries and development in the area. Because the development is not compatible with its location there is a conflict with Policy HD7 of the Fylde Local Plan to 2032 Adopted 22 October 2018 (the

LP) although the harm to the character and appearance of the area is not of a great magnitude.

17. The appellant has put forward a number of considerations which he considers amount to very special circumstances, even though he openly admits that these are "modest at best". It is my understanding that BAe contractors undertook works to some tall trees in the appellant's garden due to interference being caused to the radar operations at nearby BAe Warton. Following these works the garden was left open and exposed and the fence the subject of the enforcement notice was erected to replace the previous level of security. The height of the fence prevents children and dogs from climbing over it. However, other steps could have been taken to ensure they are kept safe in the garden of the appeal property. The fence also serves as a security barrier to prevent possible intruders but a hedge or other more suitable landscape feature could serve that purpose equally well.
18. The appellant contends that local residents are supportive of the development because it has resulted in significant benefits in noise reduction and improvements to road safety from there being less trees overhanging the road. Other than comments from local residents there is no detailed evidence that the fence has resulted in noise attenuation, but it is a potential limited positive side effect. The benefit of there being less damage to caravans as a result of the trees having been removed is of very limited benefit in this case. Therefore, overall, these factors are of limited weight.
19. In summary, the development is inappropriate development in the Green Belt. Substantial weight has to be attached to any harm to the Green Belt. The fence results in limited reduction to the openness of the Green Belt and marginally harms the character and appearance of the area. Even when taken together the other considerations reviewed above do not clearly outweigh these objections. Consequently, no special circumstances exist and the development is contrary to Policy GD2 of the LP. Therefore, for the reasons given the appeal on ground (a) should fail.

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

20. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in s173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or the remedy injury to amenity (s173(4)(b)). The notice requires the removal of the fence or reduce its height to no more than 1 metre above ground level and therefore in this case it is clearly to either remedy the breach or remedy injury to amenity.
21. I am mindful that enforcement action is intended to be remedial and not punitive and with a ground (a) appeal it may be possible to grant planning permission for part of the development. The appellant has suggested that a reasonable compromise would be to reduce the height of the fence by a modest amount of, say 0.5 metres, in order to limit injury to amenity and would provide a reasonable level of security which, the appellant contends, constitutes very special circumstances which are required in a case such as this. It is further suggested that further measures such as painting, staining or landscaping could mitigate any harm identified.

22. However, as set out above, the development is inappropriate development in the Green Belt which is harmful by definition. Reducing the height of the fence would not overcome this Green Belt objection, but it may somewhat reduce the extent of harm to the openness of the Green Belt and the effect on the character and appearance of the area. However, these reductions would be only marginal in this case. I can also see that leaving part of the fence above a height of 1 metre in place would retain a level of safety and security, but as I have previously commented, these objectives could be achieved by other means. In addition, the appellant's suggestion may have a marginal effect in terms of noise mitigation, but that is of limited weight in any case.
23. Taking account of the potential benefits of reducing the height of the fence it is clear that these would not clearly outweigh the objections to the development with respect to the Green Belt and the character and appearance of the area. Therefore, the appeal on ground (f) fails because lesser steps would not achieve the objectives of the notice.

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

24. The ground of appeal is that the time given to comply with the requirements is too short. The three months given would be sufficient to remove the fence or reduce its height. The 12 month compliance period suggested by the appellant would be excessive having regard to the continuing harm caused by the fence. However, given the ongoing Covid-19 pandemic restrictions and associated potential delays in carrying out the works to the property, I consider the period should be extended to enable the appellant adequate opportunity to comply with the requirements. In this respect I consider five months would strike the appropriate balance and would not place a disproportionate burden on the appellant. To this limited extent the appeal on ground (g) succeeds.

### **Formal Decision**

25. I direct that the enforcement notice is varied by the deletion from paragraph 6 of the words "three months" and the substitution therefore of the words "five months" as the time for compliance with the requirements.
26. Subject to this variation the appeal is dismissed and the enforcement notice upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*A A Phillips*

INSPECTOR



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## Appeal Decision

Site Visit made on 22 June 2021

**by J Williamson BSc (Hons) MPlan MRTPI**

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

**Decision date: 20 August 2021**

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**Appeal Ref: APP/M2325/W/21/3271466**

**Charoland Farm, Greenhalgh Lane, Greenhalgh With Thistleton, Preston PR4 3HL**

- 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 Walter Holloway and Ms Jane Lingings against the decision of Fylde Borough Council.
  - The application Ref 20/0796, dated 29 October 2020, was refused by notice dated 11 January 2021.
  - The development proposed is erection of two tourist accommodation units for holiday use.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The Council's decision notice describes the proposed development as "*erection of two detached bungalows to provide tourist accommodation for holiday use.*" The description of proposed development on the planning application form is "*erection of two tourist accommodation units for holiday use.*" I have not been provided with any evidence that the appellant agreed to the change of description. Although the units proposed are bungalows, I consider the description of proposed development provided on the planning application form adequately describes the proposal. The submitted plans depict the type of units proposed. I have therefore made my decision on this basis.
3. Following the submission of the appeal a revised National Planning Policy Framework (the Framework) was published. I have sought the views of the main parties as to the relevance of any changes. I have taken account of the responses received, and the content of the revised Framework, in my decision. Whilst some content has been added and paragraph numbers changed, the substance of the Framework with respect to the main issues of the case has not.

### Main Issues

4. The main issues are:
  - Whether the location of the proposed development is acceptable, having regard to local policies regarding development in the countryside; and
  - the effect of the proposed development on the character and appearance of the area.



## Reasons

5. The site comprises a rectangular strip of open agricultural land, located on the eastern side of Greenhalgh Lane between an existing small caravan site associated with Charoland Farm, to the south, and a range of domestic and agricultural buildings associated with Tunsteads Farm to the north. There is an existing access off Greenhalgh Lane. The site is bounded by hedges along the southern, western, and northern boundaries (with a few trees along the western end of the northern boundary) and a fence along its eastern boundary, separating it from the fields beyond. In planning policy terms, the site is located within the Countryside Area.

### *Whether the location is acceptable*

6. Policy GD4 of the Fylde Local Plan to 2032 (2018), (FLP32), seeks to protect the intrinsic value and rural character of the countryside. It defines the types of development that are acceptable within the countryside, which includes (type 'a') *"...uses appropriate to a rural area, including uses which would diversify the rural economy, including small-scale tourist accommodation..."*.
7. The Council has not challenged the appellant's assertion that the proposal would complement the existing agricultural diversification of Charoland Farm, and I have no reason to do so either, as adding 2 units of accommodation for holiday use to the business portfolio of the farm represents further diversification of it, and hence a diversification of the rural economy. The issue disputed between the parties is whether the proposal represents *"small-scale tourist accommodation"*.
8. The terms 'small-scale' and 'tourist accommodation' are not defined in Policy GD4, nor have I been provided with a definition of these terms from elsewhere within the FLP32. I accept the council's proposition that an assessment of whether something is or is not 'small-scale' needs to take account of its context. Nevertheless, I consider the phrase, when used ordinarily, refers to something being of limited size or extent. In my opinion, therefore, the scale of the proposal may relate to aspects such as the size of the site, the number of units proposed, the size of the plots, the size of the units, the extent of tourist accommodation within proximity of the site and the likely extent of use.
9. I consider the wider context to consist broadly of Greenhalgh Lane and Back. These 2 rural roads are distinctly different in character to the M55 and A585 to the south and east respectively. Additionally, I consider the proposal the immediate context to comprise of the neighbouring sites Charoland Farm, to the south, and Tunstead Farm, to the north.
10. I have not been provided with any evidence of there being an excessive amount of tourist accommodation within the area; as such, within the context of the area, I consider the provision of 2 units to be small-scale. The area of each proposed plot would be much smaller than the plots of the immediate neighbouring properties, and they would be comparable to many of the plots in the wider area. The size of the bungalows would be smaller than the immediate neighbouring properties and either smaller than or comparable to many of the properties in the area. I consider the extent of use of the properties, even when at maximum occupancy, would constitute a

limited extent of use of the land. Hence, with regards to these aspects I consider the proposal to be 'small-scale'.

11. However, given that the proposal is for 2 x 2-bedroomed properties to be used by visitors for holiday accommodation, I consider the size of the plots, in particular their depth and the proportion of garden/private outdoor space, to be excessive in relation to their proposed use. Thus, the front half of each plot, which would be around 21 and 26 m deep respectively, would only be used for 2 car parking spaces and a turning area; and the rear gardens would be around 10 and 15 m deep respectively. I consider the size of the gardens to both the front and rear would not be required for most visitors visiting for short periods. Furthermore, the proposed density would be a very inefficient use of land. Therefore, regarding the depth of the proposed plots and the proposed use, I consider the proposal would not be 'small-scale'. As such, I conclude that the proposal would not accord with this element of Policy GD4.
12. I consider the term 'tourist accommodation', when used ordinarily, to refer to sheltered accommodation provided for a fee to visitors to an area. The Council considers the proposed bungalows not to constitute 'tourist accommodation' due to factors such as the proposed plot sizes, site layout, size of the units, design features, external materials and the potential for the buildings to be used as dwellings at some point in the future. In my opinion, 'tourist accommodation' could potentially be of any design and size and constructed of any materials, as it is how the accommodation is used which is the defining factor.
13. Policy EC6<sup>1</sup> of the FLP32 provides a list of things the Council seek to do to plan for leisure, culture, and tourism development across the plan area. The policy states that the promotion and enhancement of rural tourism will be encouraged through rural diversification to create small-scale, sensitively designed visitor attractions, which satisfy criteria listed in the Policy. One of the criteria (number '2') seeks to encourage the reuse, rehabilitation, and conversion of existing permanent, substantial buildings in rural areas to support the visitor economy.
14. Although Policy GD4 (type 'b' development) allows for the re-use of existing buildings in the countryside, I disagree with the Council's suggestion that there is an expectation that development for rural tourism will only consist of reusing existing buildings. Type 'b' development in Policy GD4 is one type of development allowed by the policy; the policy allows for other types of development. To my mind, there is nothing in policies GD4 or EC6 per se which would exclude newly constructed bungalows from constituting small-scale tourist accommodation.
15. Additionally, I disagree with the Council's reluctance to a condition being attached, should I have been allowing the appeal, restricting use of the properties to holiday use. The Council reached this view due to considering that it would have difficulty refusing an application to vary or remove such a condition should it receive such an application in the future. However, I consider this goes beyond an assessment of the proposal before me.

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<sup>1</sup> Paragraph 6.12 of the Council's statement of case refers on 2 occasions to policy EC5. However, I have taken such references to be word processing errors, given the overall contents of the paragraph.

16. I therefore conclude that what is proposed constitutes tourist accommodation. However, as I have found that the proposal is not 'small-scale', due, in particular, to the depth of the proposed plots, I conclude that the proposal does not, on the whole, accord with policies S1, GD4 or EC6 of the FLP32.

#### *Character and appearance*

17. Greenhalgh Lane and Back Lane are typical rural lanes, ie narrow roads with field boundary hedges either side, interspersed with residential and agricultural buildings. Most of the surrounding land is in agricultural use, along with there being several camping and caravan sites and a few coarse fishing venues. Although the residential properties in the area have some shared features, ie they are between one and two storeys high, of traditional design, and constructed using a limited palette of external materials, they are also all different. Thus, they vary in terms of their shape, footprint size, height, width, depth, mass, plot size and siting of the property within it. Construction of the properties in the area has evolved gradually over time.
18. I consider the proposal to contrast with the character and appearance of the area. Except for the 2 properties proposed having a staggered set-back, the buildings and their respective plots are almost identical and symmetrical in terms of size, layout, and design. They would have a shared access; the designated parking and turning areas would be opposite and mirror each other in the front half of the plots; the adjacent plots would be relatively narrow and deep identical strips; the gaps between each side elevation and its adjacent side boundary would all be the same width; there would be no difference between the properties in terms of design, size, form, fenestration openings and materials used. I consider the extent to which the proposed plots and buildings would be uniform and symmetrical would be out of keeping with the individual and varied properties of the immediate and surrounding area.
19. Consequently, I conclude that the proposal would erode and significantly harm the rural character and appearance of the area. As such, it does not accord with Policy GD7 of the FLP32 or paragraphs 130 and 174 of the Framework. These policies collectively, and among other things, require development to be of a high standard of design, ensure layout and building to plot ratios relate well to the area, are sympathetic to local character and recognise the intrinsic beauty of the countryside.

#### *Other considerations*

20. I note that the appellants' submissions include comparisons between the proposed scheme and 2 schemes previously refused by the Council (planning application Refs 19/0994 and 20/0355). I appreciate that such comparisons may have been of benefit to the parties. However, I have assessed the proposal before me against relevant development plan policies, in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004 (as amended), taking account of any other relevant material considerations. I attach little weight to refused applications 19/0994 and 20/0355 as material considerations.
21. Parties have posed the question as to whether the proposal constitutes 'minor infill development' in the countryside, which Policy GD4 of the FLP32 allows for (type 'f' development). However, as this type of development is in addition to

small-scale tourist accommodation, I have interpreted it to be something different than small-scale tourist accommodation, which is what is proposed. As such I have not concluded on the matter of whether the proposal constitutes 'minor infill development', as I do not wish to fetter the Council's decision-making should it receive an application specifically for such development in the future.

22. The appellant has drawn my attention to several planning applications for holiday accommodation previously approved by the Council, highlighting that the Council has attached an occupancy condition in such circumstances and therefore suggesting that there should be consistency in decision-making. I have already dealt with the matter of an occupancy condition above. As regards the other schemes the appellant refers to, I do not have the full details of either of the applications and therefore cannot be certain of the extent to which they may be comparable to the proposal before me. Furthermore, as the appellant notes, the previous decisions referred to were not assessed against Policy GD4.
23. I acknowledge that the Framework, having regard to the rural economy, advises that planning decisions should, among other things, enable the sustainable growth and expansion of all types of businesses in rural areas, including new buildings; and the diversification of land-based rural businesses. As noted above, I accept that the proposal would be a further expansion of the diversified business portfolio of Charoland Farm. I attach moderate weight to this factor. However, I consider that this consideration does not outweigh the significant harm I have found in respect of the character and appearance of the area and the conflict with Policy GD4.
24. I note that the site is not within a high-risk Flood Zone; it is not within a designated or valued landscape; there would be no adverse effects on ecology; there would be no adverse effects on the living conditions of occupiers of existing properties and the proposal would provide good quality living conditions for future users. However, these are matters which must be addressed in accordance with other development plan policies. As such, they do not attract any additional weight.

### **Conclusion**

25. For the reasons outlined above, I conclude that the appeal is dismissed.

*J Williamson*

INSPECTOR



## Appeal Decision

Site Visits made on 15 June 2021 and 13 July 2021

**by Mark Caine BSc (Hons) MTPL MRTPI LSRA**

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

**Decision date: 6<sup>th</sup> August 2021**

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**Appeal Ref: APP/M2325/D/21/3271971**

**3 Thomas Street, Lytham St Annes FY8 5LF**

- 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 John Green against the decision of Fylde Council.
  - The application Ref 20/0805, dated 2 November 2020, was refused by notice dated 8 January 2021.
  - The development proposed is described as 'Roof lift to form additional floors'.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application form and Council's decision notice state that the site address is the rear of 3 Thomas Street, Lytham St Annes FY8 5LF. Nonetheless, it is clear from the submitted plans and accompanying details, including the appeal form, that the address is 3 Thomas Street, Lytham St Annes FY8 5LF. I have therefore omitted the words 'rear of' from the site address in the banner heading above as this is more accurate.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The content of the revised Framework has been considered but in light of the facts in this case it does not alter my conclusion.

### Main Issues

4. The main issues are;
  - Whether the proposed development would preserve or enhance the character or appearance of the Lytham Town Centre Conservation Area.
  - The effect of the proposed development on the living conditions of neighbouring occupiers, with particular regard to privacy, outlook and natural light, and any implications in this regard for future occupiers of the development
  - The effect of the proposed development on highway safety.

### Reasons

#### *Character and appearance*

5. The appeal relates to a two storey detached dwelling that is located to the rear of a restaurant called Lytham House, on Henry Street, and to the rear of a short residential terrace row comprising 3, 3a and 4 West Beach. The appeal

site is accessed via Thomas Street which is a narrow lane that is situated in between Lytham House and a hair salon on Henry Street.

6. The appeal site lies within the Lytham Town Centre Conservation Area (CA) which comprises Lytham Town Centre and most of the town's seafront promenade.
7. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
8. I have been provided with limited information on the CA as a whole and its significance. Nonetheless, I saw on my site visit that it is characterised by a tight-knit pattern of development within the historic core of the town centre, that mainly comprises attractive traditional terrace properties that are laid out in grid formations. Large period villas that sit within generous plots and face the seafront and the large grassed expanse of Lytham Green are also prevalent in the CA. The majority of these buildings are faced in red brick with slate roofs to provide a harmonious and coherent character. I therefore consider the historic street patterns, buildings of varying architectural styles and coherent materials to contribute to the significance of the CA.
9. Unlike the larger traditional buildings in the immediate vicinity, the appeal building is of a relatively modern two storey pitched roof design. Its humble scale and form ensures that it does not compete with nor challenge the traditional design and appearance of neighbouring properties. As a result, it makes a neutral contribution to the overall significance of the CA.
10. I recognise that the proposed works would be kept within the existing footprint of the building and that it would be of a similar height as the neighbouring properties. Nonetheless, the increased scale and height of the proposal would provide significant additional visual bulk and dominance to the building. There would also be visual confusion arising from the number of differently sized and randomly positioned windows within its front elevation.
11. As a result, it would introduce an oversized, top heavy and conspicuous form of development. This impact would be compounded by the use of the dark grey aluminium standing seam cladding, which in combination with its size and scale would contrast and compete with the traditional design, materials and roof forms of neighbouring properties, thereby drawing the eye, and further accentuating its visual prominence. The discordant effect of the proposal would be readily apparent from a number of vantage points, including from the windows of neighbouring properties on West Beach, and along Dicconson Terrace and Queen Street. As a consequence, it would have a materially harmful effect on the significance of the CA.
12. Nonetheless, I consider the harm that I have identified above would, in the parlance of paragraph 201 of the Framework, be 'less than substantial'. Paragraphs 199 and 200 of the Framework explain that great weight should be given to the conservation of a designated heritage asset, and any harm requires clear and convincing justification.
13. In paragraph 202 it goes on to state that where a proposal would lead to less than substantial harm to the significance of such an asset that harm should be weighed against the proposal's public benefits. However, no public benefits



associated with the proposal have been put forward to be weighed against this harm.

14. I therefore find that the proposed development would not preserve or enhance the character or appearance of the Lytham Town Centre Conservation Area.
15. As such it conflicts with Policies GD7 and ENV5 of the Fylde Local Plan to 2032 (2018) (Local Plan). Amongst other things, these seek to achieve good design in development and to conserve or enhance the elements that make a positive contribution to the special character and appearance and setting of designated conservation areas.

*Effect on neighbouring occupiers and implications for future occupiers*

16. The principal elevation of the proposal faces eastwards across its front yard area and towards the rear garden area of 3 West Beach. On my site visit I saw that the proposed southern side elevation also faces the rear garden and rear windows of 3a and is in close proximity to a first floor window in No 4 and the three storey side elevation of the Clifton Arms Hotel, which also contains a number of hotel room windows.
17. I appreciate that the proposed first floor front windows would provide surveillance of the car parking area, and these would not directly face any of the neighbouring properties' windows. However, the windows within this elevation of the proposal have also been orientated to directly overlook the rear garden area of No 3. The increased second and third floor heights and proximity of these windows, along with the third floor height of the roof terrace, to the shared boundary with No 3's rear garden area would result in a significant amount of overlooking and loss of privacy for its neighbouring residents.
18. For the same reasons, there would also be an unacceptable amount of overlooking and loss of privacy caused to the residents of Nos 3a and 4 by the first floor and second floor Juliet balconies within the proposed southern side elevation. On my site visit I saw that No 3a has a set of ground floor patio doors that directly face the proposal. Although No 4's first floor window would not directly face the proposed side elevation, given the close proximity and position of the Juliet balconies, I do not consider that there would be such a restricted and oblique viewpoint from them to prevent a substantial amount of overlooking occurring. This relationship and additional bulk created by the proposal would also appear unacceptably overbearing and lead to a loss of natural light to these neighbouring windows. It would therefore materially harm the living conditions of the occupiers of Nos 3a and 4 and the appeal dwelling as a result.
19. I am satisfied that the intervening distances and oblique angle between the proposed second floor rear windows and the hotel room windows in the Clifton Arms' side elevation would ensure that no undue loss of privacy would occur in this respect. However, the distance between the proposed third floor glazed roof terrace and the second floor windows within the Clifton Arms Hotel would not be sufficient to safeguard the privacy of both the users of the balcony and the hotel rooms.
20. Whilst I note that the submitted plans denote frosted glass to some windows, this does not include the first floor and second floor Juliet balconies in the

southern side elevation and the first floor and second floor Juliet balconies, and roof light windows in the front elevation or the third floor glazed roof terrace. This would therefore not provide sufficient mitigation to overcome the harm that would be caused to the privacy of the occupiers of these neighbouring properties.

21. As such I find that the proposed development would significantly harm the living conditions of future and neighbouring occupiers, with particular regard to privacy, outlook and natural light. It would therefore conflict with Local Plan Policy GD7 in this respect. Amongst other matters this seeks to ensure that amenity will not be adversely affected by neighbouring uses.

#### *Highway safety*

22. I recognise that Thomas Street is relatively narrow with no pedestrian footways, and that the appeal site is located in close proximity to local shops and services and public transport links. However, I am mindful that there is already sufficient space within the curtilage of the appeal dwelling to park more than four cars. Furthermore, the principle of a vehicular access at this location is already established and in use. Pedestrians and other vehicle users would therefore expect and be aware of the presence of vehicles, as would drivers of pedestrians.
23. Whilst the Council consider the visibility at the junction with Henry Street to be limited I saw on my site visit that there is a white line junction marking on this road and that traffic speeds in the area are low. In light of all of these factors I do not consider that the use of an additional vehicle associated with the proposal would make the existing situation materially worse.
24. I am therefore satisfied that the proposed development would not cause any material harm in regard to highway safety. As such it would not conflict with Local Plan Policy GD7 in this respect, which amongst other things, seeks to ensure that parking areas for cars, bicycles and motorcycles are safe, accessible, sympathetic to the character of the surrounding area and do not compromise highway safety.

#### **Other Matters**

25. I recognise that the appeal site is located outside of a Flood Zone, and that the proposal is required to improve the appellant's living accommodation and living conditions. Nonetheless, these factors do not outweigh or overcome the harm that I have identified that the proposed development would cause to the conservation area and living conditions of the occupiers of neighbouring properties.

#### **Conclusion**

26. Although I have found that there would be no adverse impact on highway safety this is significantly outweighed by the harm I have identified on the other two main issues. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should therefore be dismissed.

*Mark Caine*  
INSPECTOR





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## Appeal Decision

Site Visit made on 3 August 2021

**by Sarah Manchester BSc MSc PhD MEnvSc**

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

**Decision date: 18<sup>th</sup> August 2021**

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**Appeal Ref: APP/M2325/D/21/3272917**

**Brying Fern Nurseries, Bryning Fern Lane, Kirkham, Preston PR4 2BQ**

- 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 Oliver Proniewicz against the decision of Fylde Borough Council.
  - The application Ref 20/0839, dated 18 November 2020, was refused by notice dated 19 January 2021.
  - The development proposed is Conversion of existing detached garage to a Hydrotherapy Suite, including raising of the existing roof and plant room extension to the rear.
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### Decision

1. The appeal is dismissed.

### Preliminary matters

2. The revised National Planning Policy Framework (the Framework) was published in July 2021. Consequently, I have had regard to it in my determination of the appeal.

### Main Issues

3. The main issues are the effects of the proposal on:
  - i) The character and appearance of the area; and
  - ii) The living conditions of neighbouring residential occupiers, with particular regard to noise.

### Reasons

#### *Character and appearance*

4. The appeal property is a substantial detached dwelling set back from the street in a large plot. It is a modern 2 to 3 storey dwelling with an imposing mock Georgian frontage and dormer roof extensions, finished in painted render with stone detailing. The detached garage, which would be converted, is to the rear of the property and it is finished in matching materials. It is in a primarily residential area characterised by detached dwellings in a range of styles, sizes and ages. It is separated from the rear of a traditional residential terrace that fronts Ribby Road by the pedestrian and vehicular access to The Willows, a social club with car park, which is to the rear of the appeal property.
5. The proposal would be a 2 storey building beneath a shallow pitched roof, and with an irregularly shaped single storey flat roof extension wrapping around it

- to the rear. The side elevation facing the garden would have ground and first floor windows and a door. The side and gable ends immediately facing the boundaries would be blank. Unlike the existing situation of garage doors, the gable end facing the road would be blank except for a small first floor window.
6. There would be no increase in the height of the ridgeline but the increased eaves height and the uncharacteristic shallow pitched roof would create a noticeably larger and bulkier building than the existing garage. Irrespective that it would be finished to match its host, the absence of vehicular doors and the predominantly blank and tall outward-facing elevations would set it apart from domestic garages and outbuildings elsewhere in the area. While it would clearly not be a garage, its function and its relationship to the dwelling would not be readily understood. Its large scale and unusual appearance would be conspicuous and discordant.
  7. Although to the rear of the plot, by virtue of the wide driveway to the side of the property and its siting close to the boundary, the proposal would be in a relatively open and prominent location. Consequently, the proposal would be visually obtrusive when viewed from the front of the property, and above the side boundary fence when viewed from locations in and around the access to The Willows and from the rear of the adjacent terrace. It would not make a positive contribution to sense of place or local distinctiveness and it would not add to the overall quality of the area. It would not contribute to the aims of the Framework including in relation to the creation of high quality, beautiful and sustainable buildings and places.
  8. My attention has been drawn to a planning permission (ref 06/0117) elsewhere in the street for the replacement of a domestic garage with a double garage with first floor annex accommodation. At the time of my visit, I observed that scheme is located, and it is clearly visible, to the side and rear of the host property in that case. It is undoubtedly a very large building but, unlike the proposal, it has a more readily relatable ancillary domestic function. Moreover, its matching materials, features and details, including windows, respond to the surrounding townscape group of dwellings. I am not aware of the particular circumstances of that case. However, it is a very different building to the appeal proposal, in a different visual context, and it was considered in an earlier planning policy context. It does not appear to provide a justification for the appeal scheme, which I have considered on its own merits.
  9. Therefore, the proposal would harm the character and appearance of the area. It would conflict with Policy GD7 of the Fylde Local Plan to 2032 Adopted October 2018 (the LP). This requires, among other things, that development should relate and respond well to its surrounding context, including in terms of massing, scale, design and proportion, taking opportunities to contribute positively to local character and distinctiveness. It would conflict with the design and visual amenity aims of the Framework.

#### *Living conditions*

10. There would be a heating and ventilation system and an internal plant room to the rear of the garage close to the boundary. Fresh air and exhaust would pass through external walls via weather louvres. The proposal would result in the generation of noise, at least during the times that the hydrotherapy pool was in use. I note the suggestion that there would be only a moderate level of noise within 6m of the proposal and therefore no adverse effects on neighbouring

residential occupiers. However, no substantive evidence or noise assessment has been submitted to demonstrate that the proposal would not contribute to unacceptable levels of noise pollution.

11. I am aware that planning permission (ref 21/0082) has subsequently been granted for extensions to the existing garage and alterations including the installation of external vents to enable conversion to hydrotherapy suite and associated plant room. Based on the description alone and in the absence of details, I cannot be certain that it is directly comparable to the appeal scheme including in terms of its ventilation arrangements. Nevertheless, the fact that the later scheme was approved appears to suggest that the Council's concerns in relation to noise could be overcome. On this basis and taking account of the scale and nature of the proposal, the distance to neighbouring dwellings, the surrounding context including social club and car park, and being mindful of the recommendations of the Council's Environmental Protection Officer, I consider this matter could be dealt with by condition.
12. The first floor windows in the side elevation would serve a full height room proposed for storage. Although the windows would be relatively well separated from the neighbouring property and its garden, nevertheless they would allow for greater overlooking than has previously been the case. However, harm through overlooking and loss of privacy could be avoided by obscure glazing to the first floor windows. This is a matter that could be dealt with by condition.
13. Therefore, subject to conditions, the proposal would not result in significant harm to the living conditions of neighbouring residential occupiers. It would not conflict with LP Policy GD7 which requires, among other things, that amenity will not be adversely affected by existing and proposed neighbouring uses. There would be no conflict with the residential amenity aims of the Framework.

### **Other Matters**

14. There is evidence before me in relation to the personal circumstances of the appellant and his son, including medical conditions. The appellant has also drawn my attention to the Children Act 1989, which appears to relate to consideration of children's welfare through the courts. Irrespective, Section 149 of the Equality Act 2010 sets out that the particular medical conditions in this case are a protected characteristic for the purposes of the Act. Consequently, it is necessary for me to have regard to the Public Sector Equality Duty (PSED) contained in the Equality Act. This includes having due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it, including by taking steps to meet the needs of such persons that are different from the needs of persons who do not share the relevant protected characteristic.
15. The appeal scheme would be a significant benefit to the appellant's son including in terms of pain management, health and mobility. However, third party representations suggest that there is a mobile hydrotherapy pool at the property and there is a permanent hydrotherapy suite at the school that the appellant's son attends. It has not been demonstrated that the proposal would be a significantly greater benefit than these alternatives. Irrespective, planning permission (ref 21/0082) for a hydrotherapy suite, which appears to be a valid fallback position at this site, suggests that similar benefits can be delivered by alternative schemes. Therefore, while I am sympathetic, the appellant's

personal circumstances are a matter which must carry limited weight in my consideration of the proposal.

16. The proposal would make a minimal contribution to the local economy during construction and operation. Neither this, nor compliance with the requirements of other policies in the LP and the Framework, including in relation to parking provision, carry any more than negligible weight in favour of the scheme.

### **Conclusion**

17. I have found that, subject to conditions, the proposal would not harm the living conditions of neighbouring residential occupiers. However, it would harm the character and appearance of the area. Therefore, the proposal would conflict with the development plan and there are no material considerations, including the appellant's personal circumstances, that would outweigh the conflict.

*Sarah Manchester*

INSPECTOR