



Agenda

Planning Committee

Date:	Wednesday, 17 April 2019 at 10:00am
Venue:	Town Hall, St Annes, FY8 1LW
Committee members:	<p>Councillor Trevor Fiddler (Chairman)</p> <p>Councillor Richard Redcliffe (Vice-Chairman)</p> <p>Councillors Jan Barker, Michael Cornah, Neil Harvey, Kiran Mulholland, Jayne Nixon, Linda Nulty, Liz Oades, Sandra Pitman, Heather Speak, Ray Thomas.</p>

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
1	Declarations of Interest: 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.	1
2	Confirmation of Minutes: To confirm the minutes, as previously circulated, of the meeting held on 20 March 2019 as a correct record.	1
3	Substitute Members: Details of any substitute members notified in accordance with council procedure rule 24.	1
	DECISION ITEMS:	
4	Planning Matters	3 - 39
5	Scheme of Delegation	40 - 44
	INFORMATION ITEMS:	
6	List of Appeals Decided	45 - 61

Contact: Sharon Wadsworth - Telephone: (01253) 658546 – Email: democracy@fylde.gov.uk

The code of conduct for members can be found in the council's constitution at
<http://fylde.cmis.uk.com/fylde/DocumentsandInformation/PublicDocumentsandInformation.aspx>

© Fylde Council copyright 2019

You may re-use this document/publication (not including logos) free of charge in any format or medium. You must re-use it accurately and not in a misleading context.

The material must be acknowledged as Fylde Council copyright and you must give the title of the source document/publication.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

This document/publication is also available on our website at www.fylde.gov.uk

Any enquiries regarding this document/publication should be sent to us at the Town Hall, St Annes Road West, St Annes FY8 1LW, or to listening@fylde.gov.uk.

Planning Committee Index

17 April 2019

Item No:	Application No:	Location/Proposal	Recomm.	Page No.
1	18/0461	LAND OPPOSITE FARNAH AND WYNWOOD, BEECH ROAD, ELSWICK OUTLINE APPLICATION FOR A RESIDENTIAL DEVELOPMENT OF UP TO 6 DWELLINGS (ACCESS APPLIED FOR WITH ALL OTHER MATTERS RESERVED)	Grant	5
2	19/0179	THE DEACON, 84 CLIFTON STREET, LYTHAM ST ANNES, FY8 5EJ INSTALLATION OF REVISED FULL HEIGHT GLAZING TO FRONT AND SIDES OF EXTENSION TO REPLACE EXISTING GLAZED SCREENS, BALUSTRADE AND ASSOCIATED SUPPORTS	Refuse	20
3	19/0184	PENNARD, 4 ISLAY ROAD, LYTHAM ST ANNES, FY8 4AD MINOR MATERIAL AMENDMENT TO VARY THE APPROVED PLANS UNDER CONDITION 2 OF PLANNING PERMISSION 18/0200 TO AMEND THE DESIGN OF THE APPROVED DWELLING. AMENDMENTS INCLUDE REVISION TO WINDOW DETAILS, INTRODUCTION OF CANTILEVERED DETAIL TO SIDE, REVISION TO EXTERNAL CLADDING, AND ADDITIONAL SERVICING DETAIL.	Grant	29

Background Papers

In accordance with Section 100D of the Local Government Act 1972, 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 Act.

- 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 2018
- 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 either at www.fylde.gov.uk/resident/planning or for inspection by request at the Town Hall, St Annes Road West, St Annes.

Planning Committee Schedule

17 April 2019

Item Number: 1

Committee Date: 17 April 2019

Application Reference:	18/0461	Type of Application:	Outline Planning Permission
Applicant:	Mr Coxon	Agent :	Smith & Love Planning Consultants
Location:	LAND OPPOSITE FARNAH AND WYNWOOD, BEECH ROAD, ELSWICK		
Proposal:	OUTLINE APPLICATION FOR A RESIDENTIAL DEVELOPMENT OF UP TO 6 DWELLINGS (ACCESS APPLIED FOR WITH ALL OTHER MATTERS RESERVED)		
Ward:	ELSWICK AND LITTLE ECCLESTON	Area Team:	Area Team 2
Weeks on Hand:	43	Case Officer:	Kieran Birch
Reason for Delay:	Design Improvements		

If viewing online this is a Google Maps link to the general site location:

<https://www.google.co.uk/maps/@53.8396848,-2.8834094,553m/data=!3m1!1e3?hl=en>

Summary of Recommended Decision: Grant

Summary of Officer Recommendation

The development proposed for consideration by members is an outline application with all matters reserved asides access for the erection of 6 dwellings on land north of Beech Road in Elswick. The site extends to 0.3 hectares and falls within the Countryside as defined on the Policies Map of the Local Plan to 2032, but is adjacent to the settlement boundary.

As the site falls outside the settlement boundary and planning applications have to be determined in accordance with the Development Plan the correct policy to consider the scheme against is policy GD4 – Development in the countryside. Policy GD4 is generally restrictive of new development in these areas, but criteria f allows for minor infill development in the countryside and therefore officers have had to assess whether or not the scheme can be considered a minor infill. The scale or parameters of this are not defined in the Local Plan and so will need to be assessed on a case by case basis. In this case the application site involves a corner of a larger area that has been granted planning permission for residential development on appeal. With the site's location and character matching the form of the previously approved application it is considered that this scheme can constitute a minor infill development. Furthermore within the Development Plan policy DLF1 and Policy SL5 allow for the development of windfall sites throughout the Borough and as the development of 6 dwellings in this location is acceptable in that context.

The scheme would not have any significant adverse effects on landscape character and quality, and appropriate landscaping mitigation can be introduced as part of the scheme in order to minimise impact. The development would not result in any significant loss of the Borough's best and most versatile agricultural land and would have no impact on residential amenity. There are no highways, ecology or drainage issues and the development would

result in an acceptable relationship with surrounding land uses. The proposal is therefore considered acceptable and it is recommended that planning permission be granted.

Reason for Reporting to Committee

The officer recommendation for approval is in conflict 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 consists of 0.30 hectares of open land. The site is not linked to the adjacent agricultural land through ownership and is not actively farmed. The site is located on the northern edge of Elswick, on the north side of the B5269 'Beech Road'. The land falls within the open countryside as defined on the Policies Map of the Fylde Local Plan to 2032.

The site presently comprises open land set behind a grass verge on Beech Road within which are small trees. An existing farm gate punctuates a hedgerow which currently provides access to the field. There are a number of trees along the eastern boundary alongside a wooden fence, with post and rail fencing providing the boundaries for the rest of the site.

The site has a generally flat topography which gently falls away to the north. The site does not contain any statutory or non-statutory nature conservation, landscape or heritage designations and is classified as flood zone 1 (low probability) on the Environment Agency (EA) flood map. The site is directly adjacent to application site 16/0645 which was granted planning permission at appeal for 50 dwellings but has not yet commenced construction. This site is directly north and west of the application site.

The site is situated on the north edge of the village adjoining the settlement boundary. Immediately to the south of the site is a grass verge containing a group of mature trees and flower beds created for the Royal Horticultural Society's 'Britain in Bloom' campaign. Directly opposite the site are residential properties situated on the south side of Beech Road. These dwellings are mixed in character and of relatively low density. The centre of Elswick is located within walking distance of the site. In wider terms, the site is bound to the west and north by the allocated site referred to above and to the east by open agricultural fields. The site is situated approximately 2km to the south of Great Eccleston, a large village, within in the administrative boundary of Wyre Borough Council (WBC), which comprises a range of facilities, services and amenities.

Details of Proposal

The application scheme was originally submitted for the erection of 9 dwellings however because of officer concerns is regarding the layout and visual impact of the scheme presented for consideration this has been reduced to 6. The application is made in outline with all matters reserved asides for access which is a detailed matter for consideration. The submitted indicative layout shows the dwellings accessed via a new access to be constructed between the existing trees with the existing field gate to be closed as part of the proposals. The dwellings are then arranged so there is one that fronts Beech Road and the five to the north fronting out to the countryside to the east. Landscaping is proposed to the eastern boundary which softens the impact of the development. Three different house types are proposed however no details for these are submitted, and like the layout and landscaping these are matters that are reserved for a latter assessment.

The application has been submitted with the following supporting reports which have been

considered by officers and consultees;

Transport Statement
Arboricultural Impact Assessment
Topographical Survey
Tree Survey
Drainage Strategy
Ecological Survey and assessment
Phase 1 Land quality assessment
Agricultural land assessment,

Relevant Planning History

None

Relevant Planning Appeals History

None

Parish/Town Council Observations

Elswick Parish Council originally notified on 21 June 2018 and comment:

Subsequent to the June meeting, the parish council considered the above application. It was resolved to RECOMMEND REFUSAL in relation to this application.

Primarily, the issue is the number of houses approved against the quota in the emerging Local. Fylde initially designated the village as a Tier 1 settlement in the emerging Local Plan with a quota of 140 houses but then listened to our objections and revised the status of the village to Tier 2 and reduced the quota to 50 houses. Whilst Fylde kept to this commitment in rejecting the applications both for 50 houses at Beech Rd and Mill Lane, the planning inspector allowed the appeals on the basis that Fylde did not have an approved Local Plan or a five-year supply of housing.

They are:-

50 Beech Rd

50 Mill Lane

24 Copp Lane

8 Bonds Café – whilst it looks like this development may no longer go ahead as the business is still trading it nevertheless counts towards the quota as circumstances could change at any time and the site has planning permission.

9 The Orchard on the High St.

4 Chapel Farm on Copp Lane

2 Gorst Farm Lodge Lane

2 Tiny Paws Cattery on Mill Lane

1 The Old Barn on Beech Rd

1 Mayfield on Copp Lane

1 Langtree Lane

The total of 152 houses is, therefore, three times the level of housing which Fylde agreed was a sustainable figure for the village.

Additionally, there is serious concern over the visibility splay with regards access and egress to the development. There are existing TPO's at the proposed entrance to the development. The proposal is

on Grade 2 agricultural land which is unacceptable in a rural community. The additional traffic that will be evident in development stage and the long-term, with additional residents, is again unacceptable in such a small village with limited access roads. The A585 is already over-used and any further weight of traffic will further impact.

A further consultation was been undertaken with the Parish Council on the scheme on 25 March as it has reduced from 9 to 6 dwellings. No further comments had been received at the time of writing this report, but any comments that are received will be provided to members in the late observations report.

Statutory Consultees and Observations of Other Interested Parties

Regeneration Team (Trees)

Concerning Application 18/461. I don't see any reason for the proposed tree work at Beech Road (removing branches and maintaining clearance of 2.1m from ground level) to be any benefit as there is already a clear line of site in both directions and the local parish maintain the area. However I do recommend that fencing be in place from the entrance to the road to prevent vehicles from parking on or around the two bedding areas and trees that are next to the site entrance, reducing any impact on the beds and tree roots.

Greater Manchester Ecology Unit

Summary

No significant ecological constraints were identified by the developer's ecological consultant. Issues relating to bats, nesting birds and landscaping can be resolved via condition

Bats

One tree a sycamore on the boundary of the site was assessed as having low bat roosting potential. I recommend that the tree is retained in order to prevent the need for further surveys and reduce the ecological impact of the development. If the tree is to be removed further surveys should be provided prior to determination.

Great Crested Newts

Previous surveys for the adjacent development site found no evidence of great crested newts in nearby ponds. I accept that no further surveys or pre-cautionary measures are required.

Nesting Birds

Potential bird nesting habitat will be lost, including bramble scrub and sections of hedgerow to facilitate access. All British birds nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife & Countryside Act 1981, as amended. I recommend a condition along the following lines be applied to any permission.

No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the LPA.

Contributing to and Enhancing the Natural Environment

Section 109 NPPF states that the planning system should contribute to and enhance the

natural and local environment. The development will result in small area of low to moderate value widespread early successional ecological habitats typical of abandoned grazing land and short sections of hedgerow. This will represent a negative impact at the site level, a very low impact at the local level and negligible impact at the district level it is however cumulative with the adjacent larger development. Mitigation is warranted.

The indicative layout shows a number of new trees within the gardens of the proposed houses. There is limited scope to provide new hedgerows because of the adjacent development already proposing this along the western boundary. I therefore recommend that in order to maximise on-site mitigation:

- *all landscape trees are small native varieties such as silver birch and mountain ash;*
- *all existing hedgerows and trees are retained (other than to facilitate access);*
- *Integral bird and bat boxes are provided for all houses;*
- *Ornamental shrub planting utilises wildlife friendly species.*

The detail can be conditioned.

Lancashire County Council - Highway Authority

Initially objected to the development recommending a refusal on highways safety grounds. This was because they considered the verge area to not be part of the adopted highway, and as the red edge did not include this area and was thought to be third party land maintained by Elswick Parish Council that the applicants could not control or condition this area.

However this was subsequently to be shown to be part of the adopted highway and the plans were amended to 6 dwellings so they were re-consulted. Their response to this consultation on the current scheme is that they do not have any objections regarding the proposed outline application for 6 dwelling with access applied, 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.

Whilst layout is a matter reserved for future consideration they confirm that the indicative layout conforms with the guidance in Manual for Streets but for formal adoption amendments will need to be made to the width of the internal footpath. They then recommend a series of conditions that they wish to place on any approval.

Environment Agency

No comments received.

Highways England

Offer no objections.

United Utilities

No comments received.

Neighbour Observations

Neighbours notified:	27 July 2018
Amended plans notified:	25 March 2019

Number of Responses	Four letters of objection to the original consultation and three letters of objection to the revised plans
Summary of Comments	<p>Summary of comments to the original plans;</p> <p>Increase in traffic and road congestion. Road safety. Too many houses in Elswick. Barn Owl habitats in adjoining development site. TPO'd trees affected. Not sustainable development. Countryside location. Surface water run off to highway resulting in flooding. Four dwellings opposite exit in a horseshoe pattern on to Beech Road – not safe. Access should be through 50 unit site.</p> <p>Summary of comments to revised plans;</p> <p>Traffic speed and increased traffic. Don't need properties, not enough amenities available. Impact on wildlife. Access on to a sharp bend. Would block view (not a planning matter) Impact on TPO'd trees.</p>

Relevant Planning Policy

Fylde Local Plan to 2032:

DLF1	Development Locations for Fylde
SL5	Development Sites outside Strategic Locations for Devt
GD4	Development in the Countryside
GD7	Achieving Good Design in Development
H2	Density and Mix of New Residential Development
ENV1	Landscape
ENV2	Biodiversity

Other Relevant Policy:

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

Site Constraints

Within countryside area

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

The issues that need to be considered when determining this application area as follows;

Principle of the development
Landscape and visual impact
Highways
Residential Amenity
Arboricultural and ecology
Flooding and drainage

Principle of the Development / Landscape and visual impact

Policy Background

As ever 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 NPPF advocates a presumption in favour of sustainable development.

The development plan consists of the recently adopted Fylde Local Plan to 2032. This plan identifies the application site as being within the open countryside directly adjacent to the settlement of Elswick and therefore policy GD4 applies directly to the site. The adopted Local Plan identifies Elswick as a Tier 2: Smaller rural settlement with an indicative expansion of 50 new dwellings over the plan period. This is a revision from its original allocation as a Tier 1 settlement with an expected capacity of a further 100 to 150 dwellings. Originally it was envisaged that Elswick would not have any housing allocations and the process of allocating the sites would be done via a Neighbourhood Development Plan, however, planning permissions in the area overtook the plan making process and Elswick's allocations are now specified on the policies map and relate to those sites that have planning permission. The application site is located directly adjacent to one of those allocations (HS73) granted planning permission at appeal (ref 16/0645) for 50 dwellings.

Policy Assessment

When considering the proposal for 6 dwellings it needs to be considered if there is provision in the Development Strategy for approving dwellings beyond the sites specifically allocated in the Plan. Policy DLF1 – 'Development locations for Fylde' outlines where the 8175 houses found to be necessary over the plan period will be constructed. These are primarily to be located in the 4 strategic locations for development, with around 10% of the total to be spread across the non-strategic locations, including Elswick. Whilst it is not one of the identified allocations in the village, and the expected scale of development has been exceeded, the scheme is limited in size and so the reference in Policy SL5 stating *'There may be smaller schemes / infill schemes for sites of fewer than 10 homes, which are factored into allowances and not specified for each settlement or other locations'* applies. The development of a scheme of 6 dwellings is not considered to be so significant that it will harm the delivery of a balanced settlement hierarchy through the Local Plan process, as was the case with the strategic level schemes that were recently dismissed in Wrea Green.

Policy DLF1 refers specifically to Windfall sites, stating that these are small housing sites amounting to between 1 and 9 dwellings, which are not allocated and can occur throughout the borough where compliant with the other policies in the plan. Small committed sites and windfalls yet to come are anticipated to provide around 1040 homes within the plan period (11 %) of the housing requirement, it also states that some larger windfall sites will also contribute to this figure. There is

therefore an expectation in the Development Plan that 11% of the housing requirement over the Plan period will be delivered outside of the allocated sites. These sites could be delivered within existing settlements or within the Strategic Locations on unallocated sites or elsewhere throughout the Borough when as DLF1 states when compliant with other policies in the Plan.

To that end Policy GD4 – Development in the Countryside states what limited development will be permissible in the countryside, these being;

- 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*

Therefore it needs to be assessed whether or not the proposed development complies with any of the above criteria. Clearly a, b, c, d and e are not relevant, leaving criteria f) minor infill development. There is no definition of ‘minor infill’ within the Local Plan to 2032, with the number of dwellings this would or could apply to and the types of sites and development spaces it could relate to not specified either. Therefore a judgement needs to be made on whether or not the application site can be considered an infill site and as such acceptable in principle to be developed in accordance with GD4 and the Development Strategy

It is considered that the best way to do that is to look at the characteristics of the site and the subsequent landscape impact the development of it would have. The proposed development is for 6 dwellings, DLF1 refers to small windfall sites as being between 1 and 9 dwellings so the development can be considered to comply with the expectation of the Development Plan in that respect. As outlined above the site is directly adjacent to the allocated site HS73 to the whole of both its northern and western boundaries. The application sites eastern boundary is a continuation of the allocated site’s eastern boundary, as is the southern. The development form proposed on the indicative plan has one dwelling fronting the highway adjacent to those fronting the highway on the adjacent site and five facing the eastern boundary following the line of the five dwellings to the north that have the same arrangement. The projection into the countryside is therefore the same as the adjacent approved full planning permission, and so in this context the proposed development can be considered to be a minor infill of this gap in the corner of existing permitted developable area.

Design and Visual Impact

Policy GD7 – achieving good design in development requires that densities of new housing development reflects the character of the surrounding area, with the arrangement shown the development would comply with this criteria. Criteria d of the same policy requires that 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. By following the form of the adjacent approved full application, this criteria is complied with. Criteria h requires development to be sympathetic to surrounding land uses and occupiers and avoid demonstrable harm to the visual amenities of the area. Given that the application site will be located directly

adjacent and abutting into an approved site it is not considered that there will be any unacceptable harm to the visual amenities of the area. Given the sites position when the development site when viewed from any direction it will be seen as part of the larger site, and if the application site were not to be developed the views and landscape impact would be the same. Despite the layout presented being indicative a condition can be used to ensure that any Reserved Matters application significantly reflect this layout to ensure that this impact is the same.

In terms of landscape impact policy ENV1 – Landscape states that development will have regard to its visual impact within its landscape context and type within which it is located. Development will be assessed to consider whether it is appropriate to the landscape character and states several criteria that need to be complied with. Criteria a is that *‘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.’* Indicative landscaping is shown on the layout plan to supplement the exiting trees along the boundary. This will have the benefit of creating a new defensible edge to the settlement boundary so is a benefit of the scheme. Criteria b requires existing landscape features to be retained, which this scheme does.

Landscaping is a reserved matter for this application but this type of planting along the eastern boundary is entirely achievable. The landscape impact of the adjacent site was found acceptable at appeal, and this site is located such that the impact that it will have will not exacerbate the impact of the already approved scheme, and as noted above offers the opportunity to bolster the boundary and also retains the same projection into the countryside. The site is not considered to be prominent, with only glimpsed views through trees and open fields being afforded, and where views are possible it will be seen as part of the larger site. There are of course more prominent views of the site when seen at close quarters from adjacent housing and from Beech Road. The application proposes an outward facing development, with a landscaping buffer and retained natural features that will act as a soft barrier to assimilate the proposal into the countryside setting. Such features are intrinsic to the proposal making a successful transition between urban and rural, forming appropriate mitigation against the countryside encroachment.

Principle of the development conclusions

Having considered the characteristics of the site and the development proposed it is Officer's opinion that the application site can be considered a minor infill site and therefore its development is acceptable in principle in accordance with criteria f of Policy GD4 and the fact that DLF1 and SL5 allow for development of windfall sites throughout the Borough in order to make up 11% of the overall housing requirement in the Plan. Given that the site sits against and within the approved housing allocation and continues the built form effectively rounding off the site it will have only a very localised landscape impact and will not harm the visual amenities of the area. As such the principle of the development is acceptable.

Highways

As outlined above LCC Highways originally objected to the scheme. However that was when they thought that the grass verge that had been planted with amenity trees was not part of the adopted highway and was in third party ownership. Consequently LCC were of the view that adequate site lines could not be achieved on land either within the applicant's ownership or highway land. It has since been found that this is not the case and it has emerged from LCC's adoption plans that the grass verge is part of the adopted highway and as such the sight lines can be achieved over land that is available for that purpose.

The applicants have submitted a proposed junction layout which shows that the splays are available within the adopted highway to demonstrate this. The trees within the verge are not affected by the sightlines and do not need to be removed to achieve them. The applicants have also demonstrated that a refuse vehicle can access and exit the site safely and a 5.5m carriageway for the first 10m into the site facilitates this. LCC's final comments dated 3 April 2019 refer to these plans and the revised indicative layout and confirm that they have no objections and that the application scheme will not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site. The internal layout is a matter reserved for future consideration as part of assessing the layout of the development and as such there are no highways issues with the application.

Accordingly the application is considered to comply with the requirements of those aspects of Policy GD7 relating to highway safety with conditions to be imposed to ensure that the development of the site is brought forward in a suitable and safe manner.

Residential Amenity

Policy GD7 – Achieving good design in development of the Fylde Local Plan to 2032 requires development to be of a high standard and requires that new residential development that ensures that amenity will not be adversely affected by neighbouring uses both existing and proposed. This amenity impact includes privacy, dominance, loss of light, over shadowing or disturbance resultant from the development itself on neighbours, or during the construction period. The Councils SPD on house extensions provides additional guidance with particular reference to separation distances between dwellings to ensure the amenity of residents is safeguarded.

The proposed indicative layout shows that dwellings will be appropriately located so as not to create any unacceptable overlooking or loss of light to existing neighbouring dwellings and also those proposed on the adjacent site. The nearest property to the site to the south of Beech Road is approximately 25m away and its amenity will not be impacted unduly by the positioning of a dwelling fronting Beech Road on the indicative plan. The other dwellings are shown to be outward facing to the countryside to the east and backing onto dwellings to the west. The dwellings on that site are side on to the application site and therefore there will be no unacceptable overlooking or loss of privacy.

The level of vehicle activity associated with the development of 6 dwellings is not considered to have a significant noise impact on adjacent residents and is therefore unlikely to cause an unacceptable disturbance. It is inevitable that there will be some disruption for residents during the construction period. This disruption however is temporary, for duration of the build and is therefore acceptable. Conditions can be imposed to reduce this disruption for neighbours and construction hour's restriction, wheel wash facility and dust controls are recommended. As such there are no amenity issues with the application and the scheme complies with the relevant aspects of Policy GD7.

Arboricultural and ecology implications

The application has been submitted with an ecological survey which has been carried out by suitable qualified consultants. The site is not designated and whilst it is within 3km of the Morecambe Bay/Wyre Estuary protected sites the nature of it means that it does not have any value for bird communities associated with the Estuary/Bay. The council's ecological consultant confirm that no significant ecological constraints were identified and that issues relating to bats, nesting birds and landscaping can be resolved via condition.

With regard to bats one tree on the boundary (which is being retained) was found to have a low bat roost potential, and is to be retained. With regard to newt's previous surveys for the adjacent development site found no evidence of great crested newts in nearby ponds. GMEU accept that no further surveys or pre-cautionary measures are required. Due to a section of hedgerow being lost to facilitate access GMEU recommend a condition that no works take place in bird nesting season unless a survey is carried out immediately prior to clearance and information agreed in writing with the LPA. They also recommend measures to be incorporated into the future landscaping arrangements that will maximise on site mitigation including:

- all landscape trees are small native varieties such as silver birch and mountain ash;
- all existing hedgerows and trees are retained (other than to facilitate access);
- Integral bird and bat boxes are provided for all houses;
- Ornamental shrub planting utilises wildlife friendly species.

This can be subject to a condition, and with these measures in place there are no ecology issues with the application.

The Council's Tree Officer initially expressed concern about the threat to the amenity trees in the grass verge stating that they had local value. Subsequently he served a TPO notice on all but one of these trees. However the revised application proposes none of these trees are to be removed and it is suggested that a condition be imposed to ensure that the roots of the existing trees either side of the access are protected with a no dig construction method. The Tree Officer also recommends that fencing be in place from the entrance to the road to prevent vehicles from parking on or around the two bedding areas and trees that are next to the site entrance, reducing any impact on the beds and tree roots. As such there are no tree issues with the application.

Flooding and Drainage

The site is not located in a flood zone and the application has been submitted with a drainage strategy, although the scheme is not of a scale that requires the submission of a Flood Risk Assessment. The outline drainage strategy indicates that there is a combined public sewer that runs through the site in a north to south direction and then along Beech Road to the west. The strategy outlines that the nature of the geology of the site means that infiltration back into the ground is not feasible. There is no watercourse into which surface water from the site can discharge. It therefore proposes that surface water be attenuated and discharged into the public sewer at a controlled rate of 5 l/s, with attenuation provided via underground storage. Foul water will discharge into the public sewer. The EA and UU have been consulted on the application but have not made any comments, however the drainage solution proposed is acceptable for a development of this scale and the proposed dwellings and existing dwellings would not be at risk at flooding as a consequence. The details of the drainage scheme can be subject to a condition.

Conclusions

Having considered the characteristics of the site and the development proposed it is Officer's opinion that the application site can be considered a minor infill site and therefore its development is acceptable in principle in accordance with criteria f of Policy GD4 and the fact that DLF1 and SL5 allow for development of windfall sites throughout the Borough in order to make up 11% of the overall housing requirement in the plan.

Given that the site sits against and within the approved housing allocation and continues the built form effectively rounding off the site it will have only a very localised landscape impact and will not harm the visual amenities of the area. Landscaping on the eastern boundary can bolster this

boundary and form a defensible edge to the settlement and also mitigate the impact of the development. As such the principle of the development is acceptable.

The access to the site is safe and 6 dwellings will not create an unacceptable amount of traffic. The proposed layout is such that residential amenity will be protected, and appropriate conditions can ensure there are no ecology, drainage or tree issues.

Recommendation

That Planning Permission be GRANTED subject to the following conditions:

1. Application for approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than: (i) the expiration of three years from the date of this permission; or (ii) two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Details of the appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development commences and the development shall be carried out as approved.

Reason: This permission is an outline planning permission and details of these matters still remain to be submitted.

3. The development hereby permitted is for no more than 6 dwellings. The development shall be carried out in accordance with the following plans, unless otherwise varied by the conditions set out:

Approved plans:

Location Plan - Beech Road Elswick (Plans Ahead by emapsite)
Site Access Figure 2 (revised 25.1.19)

Reason: To provide clarity to the permission.

4. The development shall relate to 6 dwellings and the details for these that are submitted as part of the Reserved Matters application shall be substantially in accordance with the illustrative proposed site layout plan (18-025 1001 Rev A).

Reason: In order to ensure a satisfactory layout that does not harm the visual amenities of the area.

5. Any Reserved Matters submission in relation to layout shall include details of existing and proposed site levels throughout the site and finished floor levels of all dwellings. The development shall thereafter only be carried out in accordance with the approved levels.

Reason: In order that the dwellings have an acceptable visual impact, and do not harm residential amenity.

6. The new estate road/access between the site and Beech Road shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any construction works on the residential dwellings hereby approved commences.

Reasons: To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative, and so to minimise the potential for material to be brought onto the adopted highway and so harm highway safety as required by Policy GD7 of the Fylde Local Plan to 2032.

7. Prior to the commencement of development a Construction Management Plan (CMA) shall be submitted to and approved in writing by the Local Planning Authority. The CMA shall include and specify the provisions to be made for the following:
- a. The days and hours that construction works that could be audible at the site boundary are undertaken.
 - b. Arrangement for parking of vehicles of site operatives and visitors;
 - c. Loading and unloading of plant and materials used in the construction of the development;
 - d. Storage of such plant and materials;
 - e. Wheel washing and road sweeping facilities, including details of how, when and where the facilities are to be used;
 - f. Periods when plant and materials trips should not be made to and from the site (mainly peak hours but the developer to identify times when trips of this nature should not be made)
 - g. Routes to be used by vehicles carrying plant and materials to and from the site;
 - h. Measures to ensure that construction and delivery vehicles do not impede access to adjoining properties.

Reasons: To minimise the potential for disturbance to neighbouring dwellings and to maintain the operation and safety of the local highway network throughout the development in accordance with Policy GD7 of the Fylde Local Plan to 2032.

8. No construction works on the dwellings hereby approved shall commence until visibility splays measuring 2.4 metres by 40 metres in both directions have been provided, with these distances measured along the centre line of the proposed new road from the continuation of the nearer edge of the existing carriageway of Beech Road, to the satisfaction of the Local Planning Authority. The land within these splays shall be maintained thereafter, free from obstructions such as walls, fences, trees, hedges, shrubs, ground growth or other structures within the splays in excess of 1.0 metre in height above the height at the centre line of the adjacent carriageway and any overhanging trees within the sight lines shall be cleared to a height greater than 2.4m above the crown level of the carriageway of Beech Road.

Reasons: To ensure adequate visibility at the street junction or site access in the interest of highway safety as required by Policy GD7 of the Fylde Local Plan to 2032.

9. No clearance of trees and shrubs in preparation for or during the course of development shall take place during the bird nesting season (1st March - 31st August inclusive) unless an ecological survey has first been submitted to and approved in writing by the Local Planning Authority which demonstrates that the vegetation to be cleared is not utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no clearance of trees and shrubs shall take place until a methodology for protecting nest sites during the course of the development has been submitted to and approved in writing by the Local Planning Authority. Nest site protection shall thereafter be provided in accordance with the duly approved methodology.

Reason: In order to prevent any habitat disturbance to nesting birds, in accordance with Policy ENV2 of the Fylde Local Plan to 2032 and the National Planning Policy Framework.

10. Prior to commencement of the development hereby approved, a scheme to protect all existing trees and hedgerows (including the trees located in the highway verge) during the construction period shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall indicate the trees and hedgerow for retention and provide for a no dig in the vicinity of the tree roots, and provide details of a Construction Exclusion Zone around the Root Protection Areas of the trees/hedgerows along with details of a non-compacting material to be laid on the existing soil level so heavy plant can access the site without impacting on the tree roots. The Construction Exclusion Zone shall be provided in the form of protective fencing of a height and design which accords with the requirements BS 5837: 2012 and shall be maintained as such during the entirety of the construction period.

Reason: To protect existing trees and hedgerows which are to be retained as part of the development, in accordance with Policy ENV2 of the Fylde Local Plan to 2032 and the National Planning Policy Framework.

11. Any Reserved Matters landscaping submission shall include details of the following mitigation measures;

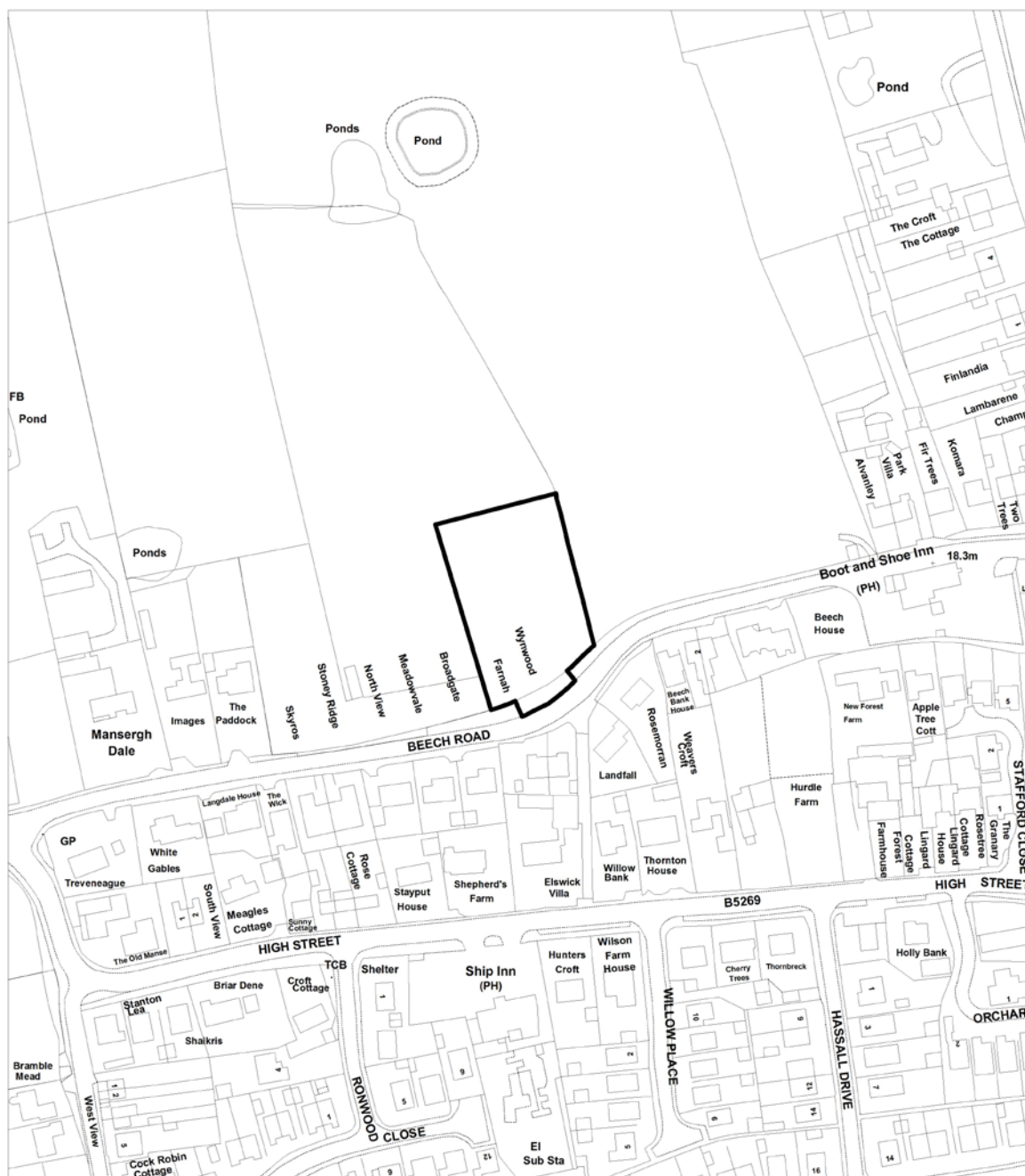
- Landscape trees of a small native variety such as silver birch and mountain ash;
- Protection measures for all existing hedgerows and trees to be retained (other than to facilitate access);
- Details of integral bird and bat boxes to be provided for all houses;
- Ornamental shrub planting utilises wildlife friendly species.
- Substantial native tree planting along the eastern boundary of the site. .


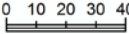
Reason: In order to mitigate the impact of the development, in accordance with Policies GD7 and ENV2 of the Fylde Local Plan to 2032 and the National Planning Policy Framework.

12. Any Reserved Matters submission in relation to layout shall include a foul and surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority. The submission shall also include details of a sustainable drainage management and maintenance plan for the lifetime of the development and shall include as a minimum:

Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company and arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance within the drainage requirements of NPPF and NPPG.



		(c) Crown Copyright and database right (2019). Ordnance Survey (100006084).	
Application No. 5/18/0461	Address Land opposite Farnah and Wynwood, Beech Road, Elswick	Grid Ref. E.3419 : N.4385	Scale 0 10 20 30 40 m 

Item Number: 2

Committee Date: 17 April 2019

Application Reference:	19/0179	Type of Application:	Full Planning Permission
Applicant:	Mr Furnell	Agent :	
Location:	THE DEACON, 84 CLIFTON STREET, LYTHAM ST ANNES, FY8 5EJ		
Proposal:	INSTALLATION OF REVISED FULL HEIGHT GLAZING TO FRONT AND SIDES OF EXTENSION TO REPLACE EXISTING GLAZED SCREENS, BALUSTRADE AND ASSOCIATED SUPPORTS		
Ward:	CLIFTON	Area Team:	Area Team 1
Weeks on Hand:	6	Case Officer:	Andrew Stell
Reason for Delay:	Not applicable		

If viewing online this is a Google Maps link to the general site location:

<https://www.google.co.uk/maps/@53.7368493,-2.9631943,69m/data=!3m1!1e3?hl=en>

Summary of Recommended Decision: Refuse

Summary of Officer Recommendation

The application site is The Deacon, which is a former bank premises located on the corner of Clifton Street with Clifton Square in Lytham that currently trades as a bar / restaurant. The building is located in the defined town centre area of Lytham, is within the Town Centre Conservation Area and is on the local list of buildings of historic and architectural importance.

The application relates to the glazed extension that stands on the Clifton Square elevation and is unauthorised and the subject of an enforcement notice that requires either its removal or its modification to a previously approved open-side canopy by July 2019. That deadline is an extension of the originally imposed timescale following the examination of the planning merits of the extension in its current form by a planning inspector who dismissed an appeal against the serving of the enforcement notice and the council's refusal of planning permission for the extension. In reaching his decision the Inspector found that the current extension *"appears dominant and bulky when read against the more traditional building behind and detracts significantly from the open appearance of the vibrant Clifton Square."*

The current application seeks to reduce that harm by retaining the enclosed glazing nature of the extension, but replacing the current glazing which is in a series sections either side of a horizontal mid-rail with a series of full height glazed panels all around the extension. These glazing panels are to be 'seamlessly' joined to each other to give the appearance of larger glazing sheets to each elevation that are only separated by the vertical supporting posts to the structure. Decorative corner features are to be added to these vertical posts.

The proposal is an undoubted improvement over the current situation in that the glazing arrangement will provide a more subtle enclosure to the extension than that which currently exists, as it will remove some of the current thick supporting framework, and reduce the

width of the frames which remain. However, the proposal retains the full height glazing and so enclosed nature of the extension that is a significant contributor to the overall harm that the current structure causes. The enclosure of the area ensures that it is decorated as an internal space and so is at odds with the open square character of the area, and the reflective characteristics of the glazing and internal furnishings will obscure views of the building itself.

These impacts are harmful to such a degree that the alteration proposed in this application do not adequately address the harm that the existing structure is causing, and as such the application is recommended for refusal as being contrary to Policy GD7 relating to design and Policy ENV5 relating to heritage assets of the Fylde Local Plan to 2032. The scheme also causes conflict with paras 193 and 196 of the NPPF relating to the protection of heritage assets.

Reason for Reporting to Committee

The application relates to a site that has a high profile in Lytham and where previous decisions have been made by the Planning Committee. As such the Head of Planning and Housing considers it is appropriate that the application be determined by the Planning Committee.

Site Description and Location

This proposal relates to the former Royal Bank of Scotland building which is a corner terrace premises fronting onto Clifton Street and the pedestrianised Clifton Square. The property is an imposing two storey building, which appears to have been purposely built as a bank premises, and is constructed of red brick and slate with contrasting stone surrounds to the windows and doors and ornate brick/ stone eaves level detail. There is a glazed extension to the Clifton Square elevation that is unauthorised and the subject of an extant enforcement notice requiring its removal or modification to an open sided structure, and a series of planters have been posited to the Clifton Street elevation to enclose an area of the forecourt which is occupied by tables and chairs during trading hours.

The property is locally listed, is located centrally within the Lytham Town Centre Conservation Area, and is designated as a Secondary Shopping Frontage in the adopted Fylde Local Plan to 2032. There are 3 trees within the site frontage of the application site which, being located within the Conservation Area, are afforded protective status. The premises has been in use as a bar / restaurant since early 2018.

Details of Proposal

The application relates to the glazed extension to the Clifton Square elevation of the building, and proposes the replacement of the existing glazing arrangements with a series of full height glazed panels to enclose the area as an alternative to the existing (unauthorised) arrangement with a glazed balustrade to 1.1m height with additional glazing elements above. The proposal would therefore involve the removal of the metal top of the balustrades and the supporting frames for the upper level glazing. The vertical structural supports would remain with these being at the corners, at the midpoint of each side and to divide the front into 3 sections. This creates a series of roughly square sections between these supports and this application proposes that each of these be enclosed with 3 sheets of glass that are seamlessly joined. A series of decorative ironwork elements would be added to the top of each of the vertical supports to provide some detailing to these.

In addition to the elevation drawings the application is supported with an image of the proposal and a comparative image that purports to indicate a previously approved arrangement where the balustrade would be retained and the upper level remaining open.

The supporting statement refers to the need for the glazing as follows: *“Without the additional glazing the canopy structure is exposed to the prevailing winds direct form the seafront, restricting the use of the existing canopy area.”*

Relevant Planning History

Application No.	Development	Decision	Date
18/0284	RETROSPECTIVE APPLICATION FOR FORMATION OF CANOPY TO CLIFTON SQUARE ELEVATION WITH PERMANENTLY GLAZED ROOF AND BALUSTRADE AROUND, AND RETRACTABLE GLAZED SCREENS TO FRONT AND SIDES	Refused	31/05/2018
18/0011	RETROSPECTIVE APPLICATION FOR ERECTION OF GLAZED EXTENSION TO CLIFTON SQUARE ELEVATION WITH RETRACTABLE GLAZED SCREENS TO FRONT AND SIDES	Refused	09/02/2018
17/0971	ERECTION OF GLAZED CANOPY TO CLIFTON SQUARE ELEVATION INCLUDING BALUSTRADE AROUND AND ALTERATION OF EXISTING WINDOW OPENINGS TO ALLOW ACCESS TO EXTENSION/OUTDOOR COVERED SEATING AREA.	Granted	15/03/2018
17/0723	VARIATION OF CONDITION 2 (APPROVED PLANS) TO PLANNING PERMISSION 17/0262 TO FACILITATE MINOR MATERIAL AMENDMENT INVOLVING INCREASED PROJECTION AND WIDTH OF GLAZED CANOPY AND ASSOCIATED PLINTH	Refused	12/10/2017
17/0715	APPLICATION TO DISCHARGE DETAILS ASSOCIATED WITH CONDITIONS ON PLANNING PERMISSION 17/0262 - CONDITION 3 (DETAILS OF WORK TO BUILDING), CONDITION 4 (DETAILS OF WORK TO CANOPY), CONDITION 5 (TREE PROTECTION MEASURES)	Advice Issued	29/01/2018
17/0262	RE-SUBMISSION OF APPLICATION 16/0731 FOR ERECTION OF GLAZED SINGLE STOREY EXTENSION TO CLIFTON SQUARE ELEVATION INCLUDING BALUSTRADE AROUND AND ALTERATION OF EXISTING WINDOW OPENINGS TO BI-FOLDING DOORS TO ALLOW ACCESS TO EXTENSION	Granted	15/06/2017
16/0728	CHANGE OF USE OF EXISTING BANK (CLASS A2) TO RESTAURANT (CLASS A3) WITH ANCILLARY BAR (CLASS A4)	Granted	24/11/2016
16/0731	EXTERNAL CANOPY	Refused	13/01/2017

Relevant Planning Appeals History

Application No.	Development	Decision	Date
18/0284	RETROSPECTIVE APPLICATION FOR FORMATION OF CANOPY TO CLIFTON SQUARE ELEVATION WITH PERMANENTLY GLAZED ROOF AND BALUSTRADE AROUND, AND RETRACTABLE GLAZED SCREENS TO FRONT AND SIDES	Dismiss	14/01/2019

Parish/Town Council Observations

Not in parished area.

Statutory Consultees and Observations of Other Interested Parties

No comments to report.

Neighbour Observations

Neighbours notified:	06 March 2019
Site Notice Date:	08 March 2019
Press Notice Date:	19 March 2019
Number of Responses	1
Summary of Comments	They are opposed to the development, and express disappointment that the owners persist with proposing alterations to the extension that the neighbour suggests should be removed to restore the elegance of the Square. They also refer to the position of planters that obstruct the right of way over elements of pavement at the property.

Relevant Planning Policy

Fylde Local Plan to 2032:

GD1	Settlement Boundaries
GD7	Achieving Good Design in Development
ENV5	Historic Environment

Other Relevant Policy:

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

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

Policy Background

The property is located within the settlement of Lytham St Annes as defined under Policy GD1 which is generally supportive of new development that complies with other relevant policies of the plan. It is also located within the defined town centre of Lytham under Policy EC5 which is supportive of development that is appropriate for such locations and which will enhance their vitality and viability. The property is within the Lytham Town Centre Conservation Area and is on the local list of buildings of historical and architectural interest and so the heritage implications of the development are to be assessed against Policy ENV5. It is also relevant to consider the general design obligations of Policy GD7.

Members will also be aware that the council has adopted a design guide to specifically assist with decisions on extensions and canopies in the town centres, and so the proposal is to be assessed against that document.

Planning History and Context

Historically the premises has operated as a bank, and has the appearance of being constructed for that specific purpose as it occupies a prominent corner location between Clifton Street and Clifton Square and has elegant proportions and detailing to the elevations that reflect that original use. Following the closure of the bank, planning permission was granted for the change of use of the building to a bar / restaurant and the premises has traded as such for the past two years. As part of the works undertaken to implement this use a series of applications have been made relating to the formation of a canopy or an extension to the Clifton Square facing elevation. This application is a proposal relating to that element of the property.

There is a glazed extension on the property at present. This is unauthorised and has been the subject of applications that have been refused by Committee, most recently under reference 18/0011 in February 2018 and then by officers under delegated powers when resubmitted under reference 18/0284 a month later. This final application was the subject of an appeal, as was the enforcement notice that was served following the refusal of planning permission. This enforcement notice requires that the extension is either removed, or modified to reflect the design of an open-sided canopy that has been approved under reference 17/0971 at Committee in March 2018. This has the same width and projection as the existing extension but has open sides above the glass balustrades that run around the canopy at waist height. The appeals were dismissed and so the enforcement notice upheld.

The enforcement notice requires that the removal or modifications be undertaken within 6 months of it coming into force. Part of the appeal contended that this timescale was inadequate, but this argument was rejected by the Inspector who maintained this timescale in his decision and so confirms that the council could commence prosecution proceedings for the failure to comply with the requirement of the Enforcement Notice should the works not be undertaken by 14 July 2019.

Visual Impact

The council has considered the planning merits of a glazed extension to the building on four separate occasions, and has refused the applications for reasons which relate to the visual harm that the extension causes to the building, to the general streetscape, and to the conservation area. This view was supported by the Planning Inspector when he considered the merits of the enforcement notice and planning appeal in November 2018. His decision letter comments on this as follows:

“15. The appeal development does not look like a canopy. Instead it looks like a substantial and solid extension due to its glazed sides. Owing to its thick frame, and more enclosed appearance, it has the effect of significantly detracting from the more open and light weight appearance of most of the other canopies in the area. Furthermore, it appears dominant and bulky when read against the more traditional building behind and detracts significantly from the open appearance of the vibrant Clifton Square.

16. I acknowledge that parts of the original building can still be seen through the glazing, but this does not overcome my concerns relating to the thickness of the frame or its overall dominant appearance in the street-scene. Furthermore, enclosed front extensions are not prevalent in the CA as a whole: light weight and simple canopies are mainly seen in the locality.”

The scheme under consideration here has similarities and differences from the existing structure that has been considered previously. It is similar in that:

- it will be the same size as the existing extension,
- it will be entirely glazed to all elevations,
- the number of supporting vertical frame elements will remain the same
- it will continue to enable the space enclosed to serve as an extension to the internal use of the building and so have the internal furniture and decorations,
- it will retain the open archway connection between the extension and the main building,

It differs in that:

- the supporting framework to the top and sides of the upper glazing will be removed,
- the horizontal mid-rail will be removed,
- whilst the number of supporting vertical elements will remain the same, and their width will remain the same, the change in the supports to the glazing will reduce their apparent width

It is accepted that the change will reduce the harm that is caused by the existing structure as the removal of much of the clumsy and bulky framework will result in a simpler structure than that which currently exists. However, the result will still be a glazed extension to the side of the building which will continue to function as an extension to the internal accommodation of the premises. This means that whenever the premises are trading the illumination and internal decoration of the extension will be evident, and will be at odds with its location as part of the Square. It is also the case that at all times the glazing will offer strong reflections that will restrict the views through to the original building behind.

In his recent assessment of the existing extension the Inspector highlight how an enclosed extension is not a prevalent feature in the locality. In fact there are no other lawful extensions of this nature in the area, with the traditional canopies that exist all being lightweight in their construction and simple in their general design.

This is a point that is made in the recent Design Guide adopted by the council which has two parts: firstly it sets out the basics for where extensions can be accepted, and secondly provides guidance on the form these should take. In this case the grant of planning permission for an open canopy ensures that the first aspect is addressed, but this proposal conflicts with several elements of the second aspect but crucially the guidance that *“The structure shall retain the open character of the frontage and not result in a closed space, such that it assumes the form of a projecting conservatory”*

Whilst the proposal is an improvement of the existing situation, the fact that it retains the enclosed

conservatory style to the extension means that it brings harm to the building, to the streetscene and to the conservation area as a whole. These harms are contrary to the requirements of Policy GD7 and ENV5 of the Fylde Local Plan to 2032 and the design guide adopted by the council to assess the merits of such proposals in August 2018.

Mitigating Factors

The above section of the report confirms that the proposal is contrary to the relevant policies of the up to date development plan, and as such the application should be refused unless there are other material considerations that could outweigh the public benefit of determining the application in accordance with the development plan.

Previous applications and the appeal had referred to the economic benefits of the extension to the business and so by inference to Lytham town centre as a whole. This application is not supported with any information either and so there are not considered to be any material considerations that can apply to the council's decision. If any details were provided these would need to explain the specific benefits of the extension to the commercial viability of the business compared to the trading position of the business with the lawful open canopy, especially that which was approved when the business was first opened.

In the absence of these details there is nothing to be considered in a planning balance against the conflict with the development plan.

Conclusions

This proposal is presented by the applicant as an attempt to find a compromise between the previously approved open canopy that was granted planning permission at the time that the premises opened, and the current unlawful structure that was actually erected at that time. Whilst the scheme does reduce the harm that the current structure causes through having a less bulky vertical frame and a removal of the horizontal elements, the structure continues to be an entirely glazed extension to the building and so continues to display the harmful impacts that this causes through the obscuration of the original features of the building and the presence of internal style decorations to the extension projecting into the open Square. These are aspects that were recently assessed by the Inspector examining the planning and enforcement appeals, and were found to be harmful in his decision. This scheme continues to cause harm to a degree that conflicts with policies ENV5 and GD7 of the Fylde Local Plan to 2032.

With regards to the NPPF, it is accepted that the harm caused is the 'less than substantial harm to the significance of a heritage asset' referenced in para 196 with this relating to the building as a locally listed building, and to the Lytham Town Centre Conservation Area. However, para 196 requires that this harm is weighed against the public benefits of the proposal and as none are present in this case then the development is also contrary to that para, and para 193 which requires that great weight is given to the conservation of such assets.

Recommendation

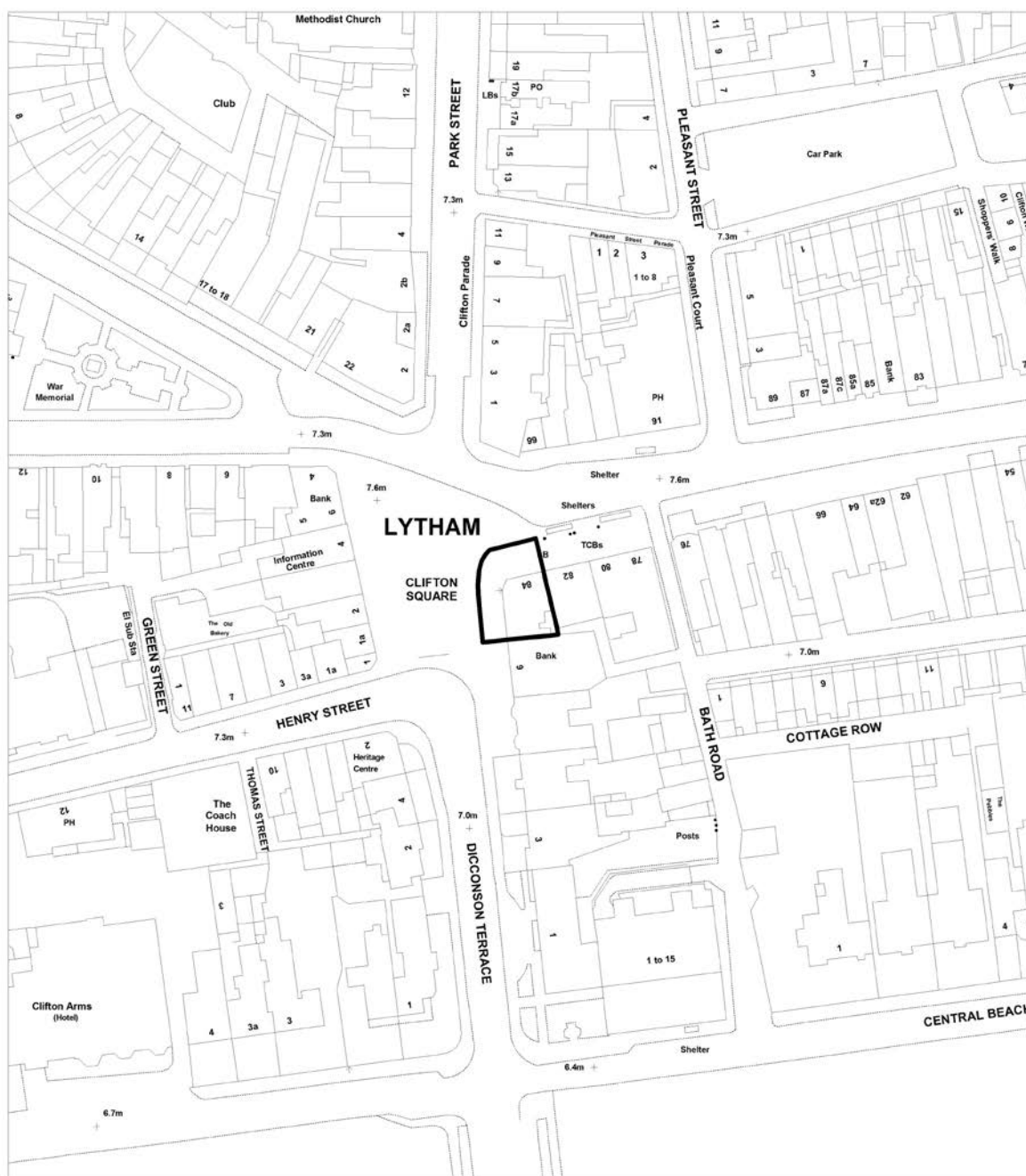
That Planning Permission be REFUSED for the following reasons:


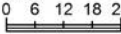
1. The enclosed nature of the canopy has a design and appearance that is harmful to the building and to its contribution to its neighbouring buildings, the broader streetscene and conservation area setting. This is particularly due to:
 - The character and form of an enclosed structure would present a visual and continuous

extension of the private internal space of the restaurant into the streetscene. This streetscene character is one with a generally open and accessible character and so any canopy should be viewed as an integral part of the open nature of the adjoining public realm, which is a major contributing factor to the character of this part of the Conservation Area.

- The entirely enclosed nature of the proposed extension is uncharacteristic of traditional and more recent forms of forward extension in the area that are designed to be open fronted and sided which, unlike this proposal, have created an appropriate and accessible transition between the premises they serve and the wider public spaces
- The form of construction, with entirely enclosed front and sides, would result in an unrefined and unsympathetically bulky appearance that is in contrast to the fine detailing of the host building, its neighbours and the Conservation Area
- The dominating impact that the enclosed canopy has on the adjacent pedestrianised area of Clifton Square

Accordingly the proposal fails to preserve or enhance the character of the conservation area and is detrimental to the character of the existing building contrary to Policies GD7 and ENV5 of the Fylde Local Plan to 2032, to the supporting Design Guide on Canopies and Glazed Extension to Commercial Forecourts of August 2018, and to paragraphs 193 and 196 of the National Planning Policy Framework.



		(c) Crown Copyright and database right (2019). Ordnance Survey (100006084).	
Application No. 5/19/0179	Address The Deacon, 84 Clifton Street, Lytham St Annes	Grid Ref. E.3365 : N.4271	Scale 0 6 12 18 24 m 

Item Number: 3

Committee Date: 17 April 2019

Application Reference:	19/0184	Type of Application:	Variation of Condition
Applicant:	Mr Wareing	Agent :	Firth Associates Ltd
Location:	PENNARD, 4 ISLAY ROAD, LYTHAM ST ANNES, FY8 4AD		
Proposal:	MINOR MATERIAL AMENDMENT TO VARY THE APPROVED PLANS UNDER CONDITION 2 OF PLANNING PERMISSION 18/0200 TO AMEND THE DESIGN OF THE APPROVED DWELLING. AMENDMENTS INCLUDE REVISION TO WINDOW DETAILS, INTRODUCTION OF CANTILEVERED DETAIL TO SIDE, REVISION TO EXTERNAL CLADDING, AND ADDITIONAL SERVICING DETAIL.		
Ward:	PARK	Area Team:	Area Team 1
Weeks on Hand:	5	Case Officer:	Ruth Thow
Reason for Delay:	Not applicable		

If viewing online this is a Google Maps link to the general site location:

<https://www.google.co.uk/maps/@53.7510216,-2.9879352,277m/data=!3m1!1e3?hl=en>

Summary of Recommended Decision: Grant

Summary of Officer Recommendation

The application relates to the replacement of an existing dwelling on Islay Road in Lytham. Planning permission was granted in 2018 for the erection of a two storey property in a bespoke design to replace the existing bungalow. Work has well advanced on that property but there are some differences between the plans approved and the property under construction. This application seeks to regularise that situation and is submitted as a minor material amendment application that, if it were approved, would create a second planning permission for the property.

The building remains in the same location, is of a similar design, and retains the same height, width and other dimensions as that approved. The variations relate to the insertion of an additional door to one side, the revision of the position of windows due to an alteration of the spacing between ground and first floor, the formation of a cantilevered area over what was previously a supported element to the side, an increase in height of two central sections and the removal of some roof lights. When first submitted the scheme proposed the formation of a second roof access hatch and an increase in the size of both, but that element of the scheme has since been revised to provide a single 800mm x 800mm hatch as previously approved. This complies with a requirement imposed by Committee at the meeting when the original application was approved.

The changes that are introduced to the development are minor in scale and have a very limited impact on the appearance of the dwelling in the streetscene or as viewed from neighbouring properties. There are no changes to the impacts on residential amenity of any of the surrounding neighbours as the internal layout or position of the dwelling are unaltered. Accordingly the proposal is in accordance with policies GD1 and GD7 of the

Fylde Local Plan to 2032 and is recommended for approval subject to the imposition of a series of conditions that reflect those imposed previously.

Reason for Reporting to Committee

The application is submitted as a minor material amendment which proposes the variation of the approved plans to planning permission 18/0200. As that application was determined by the Planning Committee it is appropriate that this application is also determined at that level.

Site Description and Location

The application site is 'Pennard', 4 Islay Road, Lytham St. Annes. The site previously provided a large, detached, hipped roof single storey dwelling with a low boundary wall to the roadside frontage and with a mix of mature landscaping to all boundaries.

Permission was granted for a replacement dwelling under planning permission 18/0200 at Committee in July 2018. Since then the original dwelling has been demolished and work is well advanced on the construction of its replacement.

The area is characterized by large dwellings of a varied mix of styles and types with no overriding design but with commonalities in the use of materials, size of plots and significant amounts of mature landscaping a feature.

The site is designated as within the settlement of Lytham St. Annes on the Fylde Local Plan to 2032. There are no tree preservation orders in the application site, although a mature Beech Tree to the rear, at no. 4 Belgrave Avenue, was protected under TPO 2018 No. 4 (Lytham St. Annes), at the time of the previous application. The site is not within a conservation area or subject to any other such designation.

Details of Proposal

This application is submitted as a Section 73 application under the Town and Country Planning Act 1990 to vary the plans approved under application no. 18/0200 and as listed in condition no. 2 of that application. This is a method of examining the merits of minor changes to a planning permission, and has the effect, if approved, of creating a second planning permission that would sit alongside the original one.

Planning application 18/0200 granted approval for a replacement dwelling of bespoke design with integral double garage.

The amendments sought in this application relate to changes to the design of the dwelling to include revisions to the window details, the introduction of a cantilevered first floor element to the side elevation, an increase of 250mm to the height of the roof of the central section of the dwelling, revision to the materials proposed for the cladding, and the inclusion of additional servicing access to the roof (albeit this element has since been removed from the scheme).

The plans were initially submitted with a new set of plan references, but they have been revised prior to decision to introduce a more typical evolution of the original referencing scheme.

Relevant Planning History

Application No.	Development	Decision	Date
18/0990	APPLICATION TO DISCHARGE DETAILS ASSOCIATED WITH CONDITIONS ON PLANNING PERMISSION 18/0200 CONDITION 3 (MATERIALS) CONDITION 6 (SURFACE MATERIALS) CONDITION 7 (BOUNDARY TREATMENTS) CONDITION 8 (FOUL AND SURFACE WATER) AND CONDITION 9 (GROUND LEVELS)	Withdrawn by Applicant	04/03/2019
18/0200	DEMOLITION OF EXISTING SINGLE STOREY DWELLING AND ERECTION OF DETACHED TWO STOREY DWELLING WITH INTERNAL DOUBLE GARAGE. ALTERATION OF FRONT BOUNDARY WALL TO PROVIDE NEW VEHICULAR ACCESS, LANDSCAPING WITH HARD STANDING TO FRONT DRIVEWAY AND REAR PATIO.	Granted	06/07/2018

Relevant Planning Appeals History

None

Parish/Town Council Observations

No parish relevant to this site.

Statutory Consultees and Observations of Other Interested Parties

None received.

Neighbour Observations

Neighbours notified:	13 March 2019
Site Notice Date:	13 March 2019
Number of Responses	16 letters received from 6 neighbouring properties
Summary of Comments	<ul style="list-style-type: none">• see no reason for roof access• morally wrong that changes be considered• showing disrespect for conditions imposed• would not windows on first floor• note on number of rooms with classification of study• condition 12 of original plans is re-considered• winter garden resembles private viewing box at football stadium• applicants guaranteed would remain a bungalow• privacy invaded with first floor window height and design• plans do not represent the visual reality• not an overnight issue, this is for the life of us living in our property• concern with regard to the ambiguity of the proposal• proposal should be rejected and resubmitted with each of the

- proposed changes highlighted
- condition 16 changed
- application should be new application not minor alterations
- neighbours would love to see building taken down
- not in keeping with immediate surrounding area
- suggest previous conditions remain unaltered
- building is blot on landscape
- residents pursuing intention for terrace
- considerable leeway allowed with original agreement
- comments on dates of consultation re registered on portal
- lack of consultation from architect/applicant
- comments on nature of application type
- not in keeping with street scene
- confusion over plans
- comments on 'minor material amendment'
- stress of writing letters
- attitude of builders
- must ensure enforceable condition to prevent 3rd floor used as amenity space
- witnessed fake gable end
- what compensatory features to mitigate loss of privacy
- planning department being over accommodating

Relevant Planning Policy

Fylde Local Plan to 2032:

GD1	Settlement Boundaries
H1	Housing Delivery and the Allocation of Housing Land
H2	Density and Mix of New Residential Development
GD7	Achieving Good Design in Development
ENV1	Landscape
ENV2	Biodiversity
T5	Parking Standards
CL2	Surface Water Run-Off and Sustainable Drainage

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 a variation of condition no. 2 (approved plans) on planning permission 18/0200. This application seeks approval for changes to the design of the dwelling to include revisions to the window details, the introduction of a cantilevered first floor element to the side elevation, an increase of 250mm to the roof of the central section of the dwelling, revision to the

materials proposed for the cladding and the inclusion of an additional door to the side elevation.

This application has been submitted to amend the above condition under Section 73 of the Town and Country Planning Act 1990. The effect of an application under this section is the issue of a new planning permission, sitting alongside the original permission, which remains intact and in this case would be unimplemented.

Principle of development

Planning permission 18/0200 granted approval for a replacement dwelling on this site of a bespoke design. The property under construction does not strictly accord with the appearance of the approved dwelling, but from measurements taken by officers on site it does accord with the scale and position of the approved scheme. As such the principle of a replacement dwelling of this scale has previously been examined and agreed, it will not be revisited in this report.

The issues arising in this application is therefore the impact of the amendments put forward in this application on the visual amenity and the character and appearance of the area, and any impact on neighbours.

Impact on visual amenity

The submitted drawings highlight the changes that are proposed which appear to be a result of an evolution of the design as some constructional and financial practicalities revise elements of the architect's original vision, along with some minor design changes. The main visual changes are:

- A minor (250mm) increase in the height of the central roof kerb to the dwelling, although the overall roof height is not increased
- The spacing between windows at the ground and first floor is increased by reducing ground floor window / door head heights by 635mm and raising first floor cill heights by 150mm
- Clarification is provided over the details of the cladding material to be used which is proposed to be a vertical standing seam zinc cladding in 'Anthracite Grey'. Other material details are also now provided
- Elements of glazing to the roof are removed
- A simplified window design is proposed to the front and rear elevations. The original scheme had windows that 'wrapped around' the edge of the roof, but this has been revised to a more traditional window arrangement with roof edging detail above.
- An element to the side of the dwelling that was previously supported is to cantilever out with a void below at ground floor.
- A window to the side elevation is to be replaced with an access door

As originally submitted the application proposed increasing the size of the roof access hatch from the 800mm x 800mm size approved to 800mm x 1250mm and to add a second access of that height. Given that this restriction was a clear imposition by Committee the applicant has been advised to revert to the approved arrangement, and revised plans have been received which confirm that to be the case.

Policy GD7 of the local plan sets out a series of guiding principles for good design intended to ensure that developments achieve a high standard of design and take account of the character and appearance of the area.

As previously reported to committee on the earlier application for this development, the application

site sits within the broader enclave of development of Islay Road, Regent Avenue and Kintour Road, where the character of the properties are large, detached dwellings that have been afforded architectural freedom to adopt a range of forms and styles. In particular development along Islay Road contains an eclectic mix of designs, whilst retaining the key parameters relating to building lines, overall scale, hard and soft landscaping and space between building plots.

The dwelling, as approved, retained the approximate footprint of the original dwelling albeit positioned in a more central location and having a rear projecting leg and being of a greater scale and of a more prominent design than the original bungalow on the plot. Whilst the design contrasts with its immediate neighbours and these are not unattractive, neither are they recognised formally for their quality. As a consequence the unique and modern style of the new dwelling was not considered to be harmful in this context.

The proposed revisions maintain the scale of the previously approved replacement dwelling, with the roof kerb increase not material in the context of the building. The other changes described above, whilst material in the context of the appearance of the dwelling, do not alter the character away from that which was previously approved. As such they represent a practical evolution of that design that do not compromise it unduly and so it is considered that the visual impact of the dwelling is equally acceptable. Accordingly the proposed dwelling accords with the requirements of Policy GD7 in this regard.

Impact on residential amenity

Policy GD7 criterion requires that '*amenity will not be adversely affected by neighbouring uses, both existing and proposed.*'

The siting of this dwelling on the plot and the separation distances between the proposed dwelling and its neighbours was examined at the time of the original submission for the dwelling. The dwelling now under construction has been erected in the location as approved and so maintains the previously approved separation to neighbours. These exceed the guidelines for spacing between properties that are accepted in urban situations and so remain acceptable.

Members will recall neighbour concerns being articulated at Committee at the time of the original applications determined regarding the potential for the roof of the dwelling to serve as a terrace. This was addressed by a requirement for the access to this area to be physically restricted and a condition imposed to reinforce this control. The current scheme imposed a larger and second hatch, but that is now deleted from the plans and the remaining access reduced in scale to that as approved in the original scheme.

Given the dwelling under construction is of the scale approved, in the location as approved and of the design approved, with the exceptions referred to in this application, it is considered that the current proposal does not prejudice the neighbours to this site. As such the revised development accords with the requirements of Policy GD7.

Landscaping

In common with other dwellings in this enclave, the plot has mature landscaping in and around the site. Whilst none of this landscaping is protected, during the course of the original application a Tree Preservation Order was made in respect of a mature Beech tree located within the premises of 4 Belgrave Close to the rear of the site. This tree forms part of the Sylvain backdrop to the setting of the dwelling, which will be required to be retained and enhanced by additional planting to

the front and rear of the new dwelling to bring about visual and environmental benefits as well softening the impact of the development for neighbours.

A comprehensive landscaping scheme for this site is required to ensure that the character of the street scene and setting for the dwelling is maintained. A condition was imposed to the previous planning permission to require that this is submitted and agreed prior to the occupation of the dwelling. This approach should be followed through to this application to ensure compliance with Policy ENV1 of the local plan.

Access & Parking

No change to the access is proposed in this application from that agreed in the original application. The scheme has an integral garage and a parking area to the frontage that could accommodate 4 cars comfortably. This is appropriate given the lack of on-street parking available on Islay Road due to the limited width, and ensures compliance with that aspect of Policy GD7.

Conclusions

This application is submitted as a Section 73 application to vary the approved plans under application 18/0200 which granted approval for a replacement dwelling. Applications of this nature are submitted to develop without complying with a condition(s) previously imposed. The local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide the original condition(s) should continue.

In this instance the changes proposed from that previously approved have a negligible impact on the appearance of the proposed dwelling and thereby on the wider visual amenity of the street scene. The dwelling is being constructed of the scale and in the location as approved and so impact on neighbours' remains as the approved dwelling.

Accordingly the proposal is considered to comply with the policies of the local plan, as set out above, and is recommended for approval subject to conditions. These conditions will largely reflect those imposed previously with an update to the plans listed, and simplification of other conditions requiring details to be submitted, such as materials, that are now with the council. The requirements that were introduced to protect neighbouring amenity and the operation of the dwelling are to be retained as previously imposed.

Recommendation

That Planning Permission be GRANTED subject to the following conditions:

1. This permission / consent relates to the following details:
 - Proposed site plan - drawing no. PEN/1/010 REV. D
 - Proposed ground floor plan - drawing no. PEN/1/110 REV. B
 - Proposed first floor plan - drawing no. PEN/1/111 REV. D
 - Proposed loft/service plan - drawing no. PEN/1/112 REV. F
 - Proposed front/rear elevation plans - drawing no. PEN/3/313 REV. C
 - Proposed side elevation plan - drawing no. PEN/3/314 REV. B
 - Proposed roof elevation plan - drawing no. PEN/3/316 REV. E
 - Proposed site plan (materials) - drawing no. PEN/1/011 REV. C
 - Topographical survey (levels) drawing no. PEN/1/002 REV. A

Reason: To provide clarity to the permission.

2. Materials of construction shall be as indicated on drawing no.s PEN/3/313 REV. C, PEN/3/314 REV. B and PEN/1/011 REV. C listed in condition no. 1 of this approval, the dwelling shall be constructed in accordance with the approved schedule of materials unless otherwise agreed in writing with the Local Planning Authority.

Reason: In order to secure a satisfactory appearance to the development as required by Policy GD7 of the Fylde Local Plan to 2032 and the aims of the National Planning Policy Framework.

3. Within 2 months of the date of this decision a scheme for the landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. Specific details shall include any hard surfacing materials (other than as agreed by drawing no. PEN/1/011 REV. C, and any soft landscape works which shall include plans and written specifications noting species, plant size, number and densities and an implementation programme. 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. The 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 following the first occupation of the dwelling.

Reason: To enhance the quality of the development in the interests of the amenities of the locality in accordance with Policies GD7 and ENV1 of the Fylde Local Plan to 2032 and the aims of the NPPF.

4. The whole of the landscape works, as approved shall be implemented no later than the first planting season following first occupation of the new dwelling 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 silvicultural 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: To ensure a satisfactory standard of development and in the interest of visual amenity in the locality in accordance with Policies GD7 and ENV1 of the Fylde Local plan to 2032 and the aims of the National Planning Policy Framework.

5. With the exception of the details shown on drawing no. PEN/1/011 REV. C any new boundary treatments proposed shall first be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be retained / implemented in accordance with the details shown on drawing no. PEN/1/011 REV. C unless alternative details have been agreed and shall be retained as such thereafter.

Reason: In the interests of visual amenity and to protect the character of the area and the relationship with neighbouring land uses in accordance with Policies GD7 and ENV1 of the Fylde Local Plan to 2032 and the aims of the National Planning Policy Framework.

6. Drainage of the site shall be as indicated on drawing no. PEN/1/011 REV. C listed in condition no. 1 of this approval and shall be installed as approved prior to first occupation of the dwelling hereby approved.

Reason: To secure proper drainage and to manage the risk of flooding and pollution in accordance with Policies CL1 and CL2 of the Fylde Local Plan to 2032 and the aims of the National Planning Policy Framework.

7. The finished floor level for the proposed dwelling shall be as indicated on drawing no. PEN/1/002 REV. A as listed in condition 1 of this approval unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the development has an appropriate scale and relationship to the neighbouring dwellings as required by Policy GD7 of the Fylde Borough Local Plan to 2032.

8. The roof area of the dwelling hereby approved shall not be used for any form of domestic enjoyment or recreational use as part of the occupation of the dwelling, with access to this roof area to only be undertaken for the purposes of its maintenance. Notwithstanding the rights available under Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 the access to the roof area shall only be available via a single service hatch of size and dimensions indicated on plan PEN/1/112 Rev F and PEN/3/316 Rev E as listed in condition 1 of this planning permission.

Reason: In the interests of protecting the amenity of occupiers of nearby residential properties from undue overlooking and loss of privacy as required by Policy GD7 of the Fylde Local Plan to 2032.

9. Notwithstanding the indication on the site plan hereby approved in condition 1 of this permission the existing highway access between the property and the carriageway of Islay Road shall be closed up and the resultant area reinstated as highway verge to match the existing verges elsewhere on Islay Road prior to the first occupation of the dwelling.

Reason: In the interests of visual amenity in accordance with Policy GD7 of the Fylde Local Plan to 2032 and the aims of the National Planning Policy Framework.

10. That should any windows be inserted into the west facing elevation of the dwelling at first floor level they shall be fitted with obscured glazing, and that this style of glazing shall be retained at all times thereafter.

Reason: To prevent undue overlooking and loss of privacy between this dwelling and the neighbouring property to that side in accordance with Policy GD7 of the Fylde Local Plan to 2032 and the aims of the National Planning Policy Framework.

11. Should any protected species be found during construction works all site works shall cease and ecological advice shall be sought from a suitably qualified person and a detailed method statement and programme of mitigation measures submitted to and agreed in writing with the Local Planning Authority. Thereafter those agreed measures shall be implemented.

Reason: In accordance with Policy ENV2 of the Fylde Local Plan to 2032, the aims of the National Planning Policy Framework, the Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended).

12. The development hereby approved shall be carried out in accordance with the 'Construction Phase Plan' by Wareing and the accompanying 'contractors & visitors parking plan' provided by Firth Architects and drawing no. PEN/1/001 submitted with application no. 18/0200, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the development is implemented without compromising residential amenity or highway / pedestrian safety in accordance with Policy GD7 of the Fylde Local Plan to 2032 and the aims of the National Planning Policy Framework.

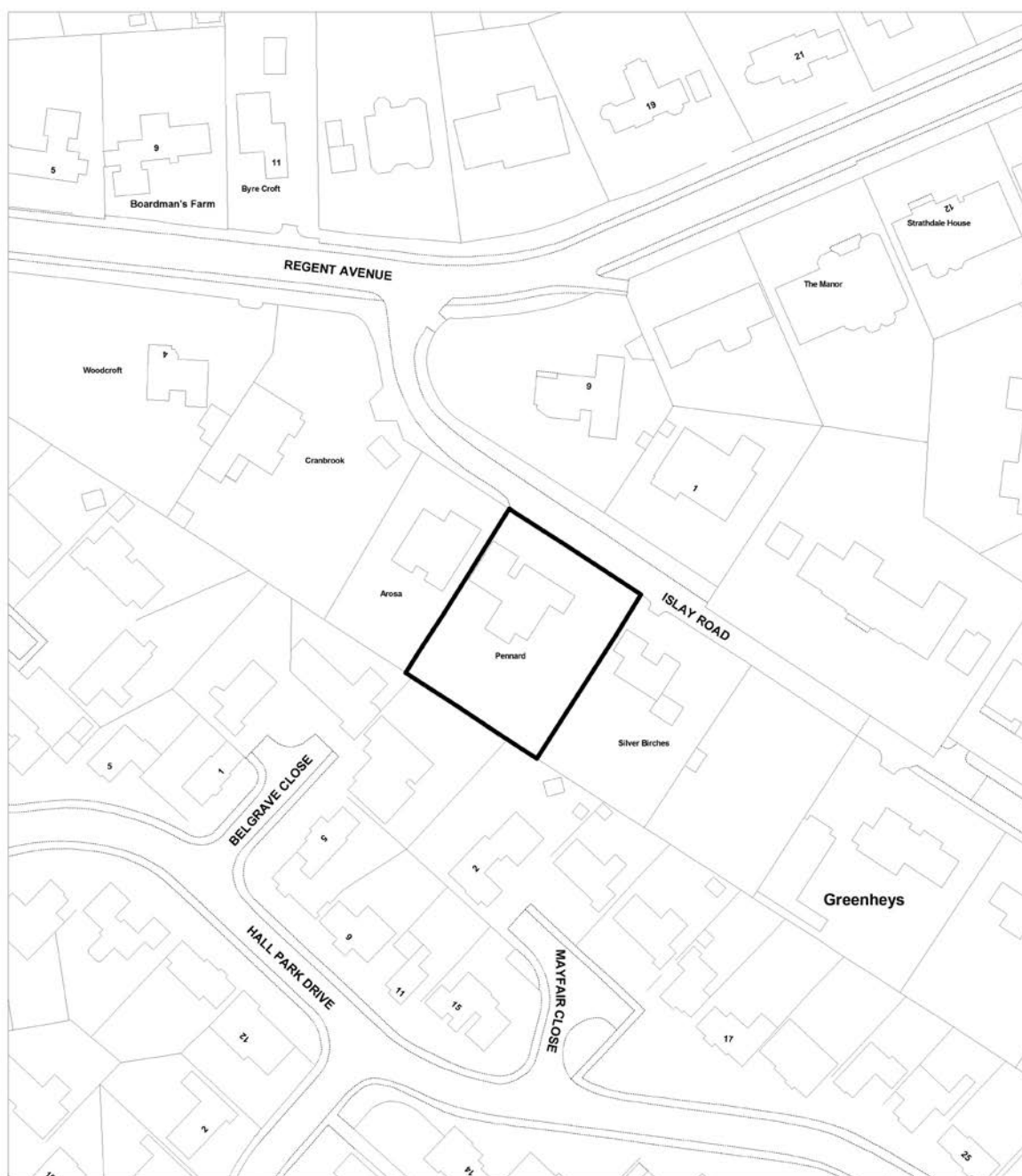
13. The retained trees to the southern and eastern boundaries and the Blue Cedar tree located within the site shall be protected by erecting HERAS fencing at their Root Protection Area.


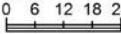
Within, or at the perimeter of, these root protection areas, all of the following activities are prohibited:

- Lighting of fires;
- Storage of site equipment, vehicles, or materials of any kind;
- The disposal of arisings or any site waste;
- Any excavation;
- The washing out of any containers used on site.

HERAS fencing must not be removed or relocated to shorter distances from the tree without the prior agreement of the Local Planning Authority. Any work to retained trees to facilitate development or site activity must (a) be agreed in advance with the Local Planning Authority and (b) must meet the requirements of BS3998:2010 Tree Work - recommendations.

Reason: To ensure that tree root damage and damage to the aerial parts of retained trees is avoided so that the trees' health and visual amenity is not diminished by development activity in accordance with the aims of Policies GD7 and ENV1 of the Fylde Local Plan to 2032 and the aims of the National Planning Policy Framework.



		(c) Crown Copyright and database right (2019). Ordnance Survey (100006084).	
Application No. 5/19/0184	Address Pennard, 4 Islay Road, Lytham St Annes	Grid Ref. E.3348 : N.4287	Scale 0 6 12 18 24 m 

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	PLANNING COMMITTEE	17 APRIL 2019	5
SCHEME OF DELEGATION			

PUBLIC ITEM

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

SUMMARY

The report sets out proposed changes to the scheme of delegated powers under which decisions on certain planning and other applications are made by or under the authority of the Director of Development Services. The changes will clarify that prior determination applications, applications for certificates of lawfulness, applications for non-material amendments to planning permissions and applications to discharge planning conditions fall within the delegations to the Director.

The report also requests that authority to issue community protection notices be delegated to the Director of Development Services where such notices are in the scope of the council's activities as local planning authority.

RECOMMENDATIONS

1. Make the changes to the delegated powers of the Director of Development Services set out in paragraph 3.
2. Delegate authority to the Director of Development Services to issue community protection notices under the Anti-Social Behaviour, Crime and Policing Act 2014, where the conduct concerned falls within the council's remit as local planning authority.

SUMMARY OF PREVIOUS DECISIONS

Development Control Committee, 19 November 2008: 1. *To agree to the changes to the delegated powers of the Director of Strategic Development subject to the word "minor" being inserted after the words "except those which are" (paragraph 2.4 refers) and inserting the words "or where the Director proposes to refuse planning permission" at the end of the paragraph 2.4.*

CORPORATE PRIORITIES	
Spending your money in the most efficient way to achieve excellent services (Value for Money)	✓
Delivering the services that customers expect of an excellent council (Clean and Green)	✓
Working with all partners (Vibrant Economy)	
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	✓
Promoting Fylde as a great destination to visit (A Great Place to Visit)	✓

REPORT

INTRODUCTION

1. This report recommends some minor changes to the scheme of delegation under which planning and other applications are decided by the Director of Development Services under powers delegated by the committee. It also recommends that power to issue community protection notices be delegated to the Director of Development Services where the conduct giving rise to the notice is within the scope of the council's responsibilities as local planning authority.

THE SCHEME OF DELEGATION

2. The scheme of delegation in its present form was adopted in 2008 and has not been subject to any material change since then. It is intended to make sure that applications which are non-contentious, administrative or technical are dealt under delegated powers, with committee time being reserved for applications which are significant because of their nature, size, or sensitivity. It gives a significant role to ward members and parish and town councils in deciding which applications are dealt with under delegated powers and which by the committee.
3. The scheme as it presently stands is set out below, with the proposed changes underlined, and commentary on them highlighted in grey.

Introduction

The objective of the scheme of delegation is to speed up the decision making process by allowing key officers to determine the majority of planning and related applications. Only those that are considered major applications will be presented to Planning committee and any which are referred to in the scheme below.

Delegated applications

(1) Subject to paragraph (2), decisions on the following matters are delegated to the Director:

- (a) Planning applications*
- (b) Applications for certificates of lawfulness*
- (c) Advertisement consent applications*
- (d) Hazardous substance applications*
- (e) Listed buildings applications*
- (f) Telecommunications applications and prior determinations*
- (g) ~~Agricultural~~ All other prior determinations*

Commentary: Changes in planning legislation over the past few years have expanded the scope of matters requiring prior determinations. These prior determinations are exclusively technical in nature and are presently dealt with under sub-paragraph (h) immediately below. The recommended change to the scheme would add clarity.

(h) any other application or matter of a similar nature to (1)(a) to (1)(g)

(i) Approval of non-material amendments to planning approvals

Commentary: Applications for approval of non-material amendments are, by definition, not material to the development. If such an application disclosed a material amendment, it could not be approved under that procedure.

(j) Applications to discharge planning conditions

Commentary: Applications to discharge planning conditions require a technical assessment of whether a condition has been complied with, and do not engage planning judgment.

(2) notwithstanding paragraph (1), the Director may not exercise delegated authority to take decisions on the following matters:

- (a) Any application falling within (1)(a) to (1)(h) where a Ward Councillor has required that delegation be not exercised provided that their request has been accompanied by adequate written reasons for the non-exercise of the delegation and has been made within the time scale in paragraph (12).*
- (b) Any application falling within (1)(a) to (1)(h) where the chairman or vice-chairman of the Planning Committee has required that delegation be not exercised, provided that their request has been accompanied by adequate written reasons for the non-exercise of the delegation.*

(c) Any application falling within (1)(a) or 1(c) to (1)(e), or an application that falls within (1)(h) because of its similar nature to such an application, that the Director proposes to approve and on which a parish or town council for the application site has submitted representations on justifiable planning grounds contrary to that proposed decision and has requested that the decision be considered by the committee.

Commentary: This change removes certificate of lawfulness applications and prior determinations from the scope of applications which parish or town councils can request be brought before the committee for determination. These matters are not required to be consulted upon, do not engage planning judgment and are not generally appropriate for committee determination. The requirement for a request by a parish or town council to support any request by representations on justifiable planning grounds effectively excludes these categories of applications already, since they are not matters of planning judgment, so the change is merely clarifying the present position.

(d) Major Planning applications, except those which are minor revisions of applications previously considered by the committee and where neither the Director, a parish or town council or any other consultee has objected to the proposed revision or where the Director proposes to refuse planning permission.

(e) Any application for the total or partial demolition of a Listed Building, where the proposed demolition would amount to more than 55% of Listed Building.

(f) Any application which is the same or substantially the same as a previous application that was refused by the Planning Committee and where the Director proposes to grant permission.

(g) Any application that the Director considers has significant, borough-wide importance or has been the subject of significant public interest.

(h) Any application for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted where the previous planning permission was granted by the Planning Committee.

(3) For the purposes of paragraph (2)(c), a representation will be taken to be on justifiable planning grounds unless the Director advises the parish or town council in writing that in his opinion the representation is unreasonable. In forming his opinion, the Director will take account of the guidance on awards of costs as explained in the National Planning Practice Guidance.

(4) Notwithstanding paragraph (1), the Director may only exercise delegated authority to make decisions on any application where the council or a council employee is an applicant or an owner of the application site after consultation with the chairman and vice-chairman of the Planning Committee.

(5) Nothing in paragraph (2) or (4) above will prevent the Director exercising his delegated authority to take decisions in respect of applications under part 16 of schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 for determination as to whether prior approval is needed for the siting and appearance of development by or on behalf of an electronic communications code operator.

Responses to consultations

(6) The Director has delegated authority to respond to consultations from bodies such as local authorities, and utility and infrastructure providers, and government agencies.

Environmental impact assessments

(7) The Director has delegated authority to deal with all matters relating to scoping reports and screening opinions in connection with environmental impact Procedure.

Interpretation

(8) "Listed Building" has the same meaning as in the Planning (Listed Buildings and Conservation Areas) Act 1990.

(9) “Major Planning Application” has the same meaning as in paragraph 2 of The Town and Country Planning (Development Management Procedure)(England) Order 2015.

(10) “Ward Councillor” means a councillor representing a ward that includes the application site or any ward that abuts the application site.

(11) “Director” means the Director of Development Services.

Procedure

(12) All Councillors will be circulated with a weekly list of planning applications, published and dispatched each week. Councillors will have 21 days from the date of dispatch of the list to require under (2)(a) that the delegation to the Director be not exercised.

(13) A weekly list of all those applications where the Director has exercised his delegated decision-making power will be distributed to all councillors each week.

(14) A rigorous scrutiny process will ensure that no application will be decided by its case officer and that only those applications that qualify to delegated decision-making go forward to be decided under delegated powers. The case officer will present a simple report to the Development Manager or Senior Development Officer, including a clear statement why the decision meets the criteria for delegation who will sign off the report and determine the application on behalf of the Director. If the Development Manager is the case officer, he will pass the report to the Director of Head of Planning and Housing for decision. A pro forma completed by the case officer will assist with the scrutiny process.

COMMUNITY PROTECTION NOTICES

4. Community protection notices (‘CPNs’) may be issued by the council if it is are satisfied, on reasonable grounds, that the conduct of an individual, business or organisation is having a detrimental effect on the quality of life of those in the locality; is persistent or continuing in nature; and is unreasonable¹. A CPN can require that the recipient does specified things, stop doing specified things, or takes reasonable steps to achieve specified results. Failure to comply with a CPN is a criminal offence, and can result in the issue of a fixed penalty notice.
5. The power to issue a CPN is wide enough, where the tests set out in paragraph 4 are met, to cover planning contraventions. CPNs can therefore be a further means of enforcement available to the council as local planning authority. They may be particularly relevant to enforcement activity like the control of unlawful advertisements in the streetscene.
6. It would be sensible if the power to issue CPNs in relation to planning and related breaches was delegated to the Director of Development Services². This would bring CPNs in line with all other forms of planning enforcement, which are presently delegated to the director.

IMPLICATIONS	
Finance	There are no financial implications arising directly from this report.
Legal	Included in the report
Community Safety	There are no implications arising directly from this report.
Human Rights and Equalities	There are no implications arising directly from this report.
Sustainability and Environmental Impact	There are no implications arising directly from this report.
Health & Safety and Risk Management	There are no implications arising directly from this report.

¹ Anti-social Behaviour, Crime and Policing Act 2014, section 43.

² Power to take any action under the 2014 act is presently (with the exception of making public spaces protection orders) delegated to the Chief Executive and to the Director of Resources, following consultation with the relevant committee chairman. That delegation will remain in place alongside the proposed delegation to the Director of Development Services.

LEAD AUTHOR	CONTACT DETAILS	DATE
Ian Curtis	ian.curtis@fylde.gov.uk & Tel 01253 658506	6 March 2019

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Council constitution		https://fylde.cmis.uk.com/fylde/DocumentsandInformation.aspx Town Hall, Lytham St Annes

INFORMATION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	PLANNING COMMITTEE	17 APRIL 2019	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 attached appeal decisions between 8/3/19 and 5/4/19.

SOURCE OF INFORMATION

Development Services

INFORMATION

Appeal decisions received between 8/3/19 and 5/4/19.

WHY IS THIS INFORMATION BEING GIVEN TO THE COMMITTEE?

To inform members on any appeals that have been decided.

FURTHER INFORMATION

Contact Andrew Stell, Development Manager, 01253 658473

APPEAL DECISIONS

The council received the decisions on the following appeals between 8 March 2019 and 5 April 2019. The decision notices are enclosed as appendices to this report.

Rec No: 1 06 July 2018	17/0572	FYLDE TROUT FISHERY, BACK LANE, WEETON WITH PREESE RETROSPECTIVE APPLICATION FOR THE CHANGE OF USE OF THE LAND FOR CAMPING AND SITING OF 25 CAMPING PODS FOR EITHER HOLIDAY USE OR USE ASSOCIATED WITH THE EXISTING FISHERY, THE GENERAL USE OF THE FACILITIES BUILDING TO SUPPORT THE FISHING AND HOLIDAY USES, AND THE USE OF ANCILLARY FACILITIES ON SITE (CAR PARKING AREAS, OFFICE BUILDING, TOILET) TO SUPPORT THE FISHING AND HOLIDAY USES. EXCAVATION OF ADDITIONAL FISHING LAKE AND PROVISION OF LANDSCAPING TO SITE.	Informal Hearing Case Officer: RB
---------------------------	---------	---	--

Fylde Dec. Level Appeal Decision:	COMM Allowed: 04 April 2019
--------------------------------------	--------------------------------

Rec No: 2 28 December 2018	18/0121	4a CYPRUS AVENUE, LYTHAM ST ANNES, FY8 1DY CHANGE OF USE OF BUILDING FROM GARAGE/STORE TO A DWELLING	Written Representations Case Officer: RC
-------------------------------	---------	---	--

Fylde Dec. Level Appeal Decision:	DEL Dismiss: 03 April 2019
--------------------------------------	-------------------------------



Appeal Decisions

Hearing Held on 12 March 2019

Site visit made on 12 March 2019

by B.S.Rogers BA(Hons) DipTP MRTPI

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

Decision date: 04 April 2019

Appeal A Ref: APP/M2325/C/18/3199156

Appeal B Ref: APP/M2325/C/18/3199158

Fylde Trout Fishery, Back Lane, Weeton With Peese, PR4 3HN

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Mr Alexander Young and Appeal B is made by Dr Suzan Bradley against an enforcement notice issued by Fylde Borough Council.
- The enforcement notice was issued on 13 February 2018.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from use as a fishing lake to a mixed use as a fishing lake and camping site.
- The requirements of the notice are a) stop using any part of the land as a camping site (whether using camping pods or tents) except insofar as such use may be authorised under planning permission 12/0247 (granted by the Council on 12 September 2012); b) remove from the land all camping pods or relocate them in accordance with the plans accompanying the decision notice in relation to planning permission 12/0247; c) stop using the building permitted under planning permission 09/0839 (granted by the Council on 16 March 2010) for any purpose other than a purpose incidental to the use of the land as a fishing lake; d) remove from the land the portable buildings shown on the plan in the approximate positions marked "Ancillary Structures".
- The period for compliance with the requirements is three months.
- The appeals are proceeding on the grounds set out in section 174(2) (a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The enforcement notice is quashed.

Appeal C Ref: APP/M2325/W/18/3197600

Fylde Trout Fishery, Back Lane, Weeton With Peese, PR4 3HN

- 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 Alexander Young against the decision of Fylde Borough Council.
- The application Ref: 17/0572, dated 5 July 2017, was refused by notice dated 10 January 2018.
- The development proposed is use of the land for camping, including mobile pod accommodation for use both associated with and un-associated with the use of the existing fishery; the general use of the facilities building for use associated with the camping and fishery uses, along with ancillary facilities including office building, mobile toilet, car parking and footpaths; formation of a new fishing lake.

Summary of Decision: The appeal is allowed and planning permission is granted subject to conditions.

Appeals A & B, Preliminary Matter

1. At the opening of the hearing, the appeals on ground (c) were withdrawn in respect of Appeals A & B.

Appeals A & B, The Enforcement Notice

2. Requirements 5a) and 5b) of the notice are phrased in the alternative, giving the appellants the option of complying with the terms of planning permission ref: 12/0247, granted by the Council on 12 September 2012. However, by the time of the hearing, the Council's clearly stated position was that this permission was not lawfully implemented and therefore no longer of benefit to the appellants. The Council's position, as set out in an email dated 25 February 2019 and confirmed at the hearing, was that the notice should be varied so that 5a) simply required the use as a camping site to stop and 5b) simply required the camping pods to be removed from the site.
3. Both the validity of the 2012 permission and the lawfulness of camping by persons not using the fishing lake are disputed by the parties. The appellants have made an application for a Lawful Development Certificate [LDC] to this effect (ref: 16/0533) which remains undetermined by the Council.
4. To my mind, the notice as written is not so hopelessly ambiguous as to render it a nullity. However, the Council's clearly stated position on the validity of the 2012 permission is now substantially different, such that it leaves the appellants in a position of doubt and confusion as to how they might be able to comply with the requirements of the notice, as originally written. This is a serious matter, given the legal consequences of non-compliance and I would not expect the interpretation of a planning permission to be within the remit of the Magistrates' Court. If the Council was to be correct in its assertion that the 2012 permission is no longer valid, step 5b) would still allow the relocation of the camping pods onto the permitted site but step 5a) would prevent their use. This appears to me to be both unclear and unreasonable.
5. The Council's suggested variation of 5a) and 5b) would place the appellants in a far worse position than when the notice was issued. It would result in the total cessation of camping and, were I to uphold the notice, it would deprive the appellants of the opportunity to pursue the above application for an LDC to a conclusion. The above considerations lead me to the view that the appellants would suffer injustice.
6. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the steps required for compliance. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act as amended since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed. In these circumstances, the appeals under grounds (a), (f) and (g) as set out in section 174(2) of the 1990 Act as amended, and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended, do not fall to be considered.

Appeals A & B, Formal Decision.

7. The enforcement notice is quashed.

Appeal C

Relevant planning history

8. The appeal site lies in flat, open countryside, near the small settlement of Greenhalgh. The site contains a long-established leisure fishing lake and, in March 2010, permission was granted to add a facilities building (ref: 09/0839) [the 2010 permission]. As indicated above, in September 2012, permission was granted for "*change of use of land for siting of 25 units of mobile "pod" accommodation along with cooking area, for use associated with fishery – (part retrospective)*" [the 2012 permission].
9. In May 2016, an appeal was dismissed (ref: APP/M2325/W/15/3140295) relating to the Council's refusal to allow "*the use of the land for camping, including mobile pod accommodation for use both associated with and un-associated with the use of the fishery; the general use of the facilities building for use associated with the camping and fishery uses, along with ancillary features*". Although the appeal was dismissed essentially on the grounds of undue noise and disturbance, the Inspector considered that, in principle, a well-run camping use would be acceptable, having regard to the policies of the then current Local Plan relating to the rural economy, tourism and the promotion of business activity.

Planning policy and main issue

10. At the hearing, the Council confirmed that the present development plan, the Fylde Council Local Plan (adopted October 2018) contains no material change in the thrust or direction of policies that would alter the above conclusion that the use is acceptable in principle. However, Policy GD7 seeks to ensure that amenity will not be harmed by neighbouring uses. This is consistent with the advice of both the National Planning Policy Framework [NPPF] and the Planning Practice Guidance [PPG].
11. Accordingly, the main issue in this case is the impact of the development on the amenities of users of this countryside location, and on the living conditions of neighbouring residents, with regard to noise and disturbance.

Site context

12. The camping pods are sited around a grassed area to the south of the fishing lake in a fairly central position within the appeal site. They are more widely spread than permitted by the 2012 permission but this appears to me of little significance as they are no nearer the southern site boundary, beyond which is Little Orchard caravan site. The nearest pod to this boundary is in the region of 90m away.
13. Mr Johnson, the proprietor of Little Orchard caravan site, indicated that he has 45 pitches, with groundwork completed to extend this to 57. Although these are touring pitches, caravans are permitted to be sited there on a seasonal basis. There is also planning permission to convert 18 existing pitches to statics. The business model for the caravan site revolves around its being a family orientated, peaceful site; it has also received awards for conservation. Further to the south of the caravan pitches are the nearest permanent dwellings, Kirby's Farm, Shorrocks Barn and three adjoining cottages, which

have a shared access from Back Lane. These are around 240m away from the nearest camping pod.

14. Although not formally designated a tranquil area, a number of representations point to the value placed on the generally undisturbed nature of the countryside here, permeated by a number of footpaths. However, reference has also been made to the background hum of the nearby M55 motorway, the operation of fishing and caravan businesses in the locality, with their attendant vehicular movements, and the presence of a long-established gun club some 200m to the north of the appeal site, which Mr Richardson, the proprietor, said operated 4 days a week, in summer up to 20.00 hrs. In this context, whilst I agree it is, for the most part, a generally quiet site, there is clearly scope for some activity to take place on the appeal site without unduly disturbing neighbouring residents or caravan occupants. However, that should not be taken to detract from the reasonable expectation of neighbourliness and particularly the avoidance of disturbance in the late evenings.
15. The appellant relies on the 2012 permission as part of the context for the present proposal. As indicated above, the parties disagree as to both the validity and the scope of that permission. The Council supplied a written counsel's opinion on the validity, but not the scope, of the permission. Mr Carter, for the appellant, addressed the issue of validity at the hearing; his written opinion related to the scope of the permission. It is not the purpose of this appeal to make a formal determination as to the lawful use of the camping pods but I have taken account of the submissions made on this matter.
16. Turning first to the validity, the Council's case is essentially based on the failure to comply with a condition precedent, condition no.4. However, the decision notice clearly refers to the development as "*part retrospective*", and this is confirmed in the Officer's Report, written prior to the decision, which indicates that 8 of the pods were in situ. Contemporary photographs and records of pod bookings provided by the appellant are consistent with this. Whilst condition no.4 is correctly worded as a condition precedent, it appears to me that it could not have been complied with, as development had commenced and the permission had been implemented¹.
17. In addition to the above point, the condition in question relates to the provision of covered and secured cycle storage. I find it hard to imagine how cycle storage was a matter that went to the heart of the permission for the camping pod use. Even if it did, such storage was, in fact, provided by the appellant in 2013, in close consultation with the Council. Given the Council's detailed knowledge of the situation, it seems somewhat irrational for the validity of the permission to be acknowledged in February 2018, when the enforcement notice was issued, and then to be questioned in February 2019, during the course of this appeal. Taking all the above points together, I lean to the view that the 2012 permission was lawfully implemented and remains extant.
18. Turning to the scope of the 2012 permission, the description of the development clearly indicates the intention that it is "*for use associated with fishery*". However, there is no condition attached to the permission limiting its use in this respect. Mr Wheatman conceded on behalf of the Council that, so long as an occupant of the pod used the fishery for part of the stay, his or her family, including children, could also share the use of the pod, whether they

¹ *Lawson Builders Ltd v SSCLG* [2015] EWCA Civ 122

fished or not. The appellant has submitted a persuasive argument that general camping would not be materially different from such a use. I am inclined to agree with this, subject to the exclusion of occupation by larger groups and of 'events', which appear to be materially different in character. However, there is no dispute that the use of the facilities building is limited by a condition on the 2010 permission to uses incidental to the fishery. As this contains the toilets and showers, it is difficult to see how non-fishery related camping could, in practice, take place without breaching this condition.

19. Having regard to the above factors, I am drawn to the view that the 2012 permission, with occupation of the pods in the manner accepted by the Council in para.18 above, forms a fallback position against which the current proposal should be assessed.

Noise and disturbance

20. Separate noise impact assessments were submitted by the appellant, by the Council and by the Johnson family. It is common ground that there is no agreed standard by which noise of the type experienced here, largely the sounds of children playing and adults socialising, should be assessed. It also seems to be agreed that it is not appropriate to use long term average measurements for such noise and that the specific character of the noise should be taken into account. The time at which the noise occurs is of prime importance, particularly later in the evening when sleep might be disturbed.
21. Mr Heyes, for the appellant, had monitored the site during use, when the camping pods were fully occupied. He had applied World Health Organisation (WHO) guidelines, on the basis that children's noise falls within 'neighbourhood noise', and found the measured levels at the boundary of the caravan site to be some 8 dB below the acceptable threshold. He had also applied Sport England guidelines applicable to artificial sports pitches, as these are characterised by people running and shouting; these also refer to WHO guidelines. His analysis was based on 1 hour periods, rather than an inappropriate longer term average. He assumed no amplified music and adherence to a management plan. On this basis, he concluded that the noise was, in the terms of the PPG, 'noticeable and not intrusive'.
22. Mr Kenyon, for the Council, had also monitored the site during its fully occupied use, coincidentally overlapping with the time period monitored by Mr Heyes. He also had no concerns with the noise identified at that time, although he suggested that this may not have been representative and that there was still the potential for problems from the intrusion of loud voices. In his view, the proposed earth bund would do little to mitigate any noise, largely as it would not intervene between the pods and a significant part of the caravan site.
23. Mr Bentley, for the Johnson family, had not monitored the site but took issue with some of Mr Heyes' analysis. He pointed out that, in a quiet area, reliance on a noise threshold might not be appropriate, in that a small increase in noise can be significant. It is the character, time and frequency of the noise that is most significant when considering neighbour noise. He concurred with Mr Bentley on the inadequacy of the proposed bund. The Johnson family also gave anecdotal examples of recent annoyance caused by singing, shouting and other such behaviour by occupants of the camping pods.

24. The Council's Environmental Protection Officer's comments, made back in January 2018, noted some complaints had been received since the previous appeal. The comments indicated there were two aspects of noise here, relating to amplified music and guests'/children's play. The former was capable of amounting to a statutory nuisance in this context and conditions were recommended to deal with these issues. I note the officer pointed out that noise travels both ways and that noise from the caravan site could also be heard at the appeal site.
25. Going back to the 2016 appeal, the Inspector referred to compelling written evidence back then from local residents and from the Council's Environmental Protection Officer of noise and disturbance. Much, but not all, of this related to large groups and 'events'. He opined that the use by fishermen would be to a degree self-regulating in terms of noise and disturbance. Whilst accepting at the hearing that non-fishing family members, including children, could occupy the pods, the Council agreed with this and envisaged some form of common interest in maintaining a reasonably quiet fishing environment. The appellant pointed out that camping and caravanning commonly co-exist on sites across the country. It seems logical that both fishing and non-fishing families occupying camping pods would equally wish their sleep to be undisturbed by unneighbourly behaviour from occupants of other pods.
26. My consideration of the specialist noise monitoring indicates no compelling evidence of undue noise disturbance. However, there is plainly the possibility of significant annoyance to neighbouring residents and visitors caused by unneighbourly behaviour arising from amplified music, the loud play of children and the late evening socialising of adults. Therefore, it is my view that, whether the use applied for can happily co-exist with its neighbours relies on whether suitable planning conditions and a management plan can be devised and enforced. The previous Inspector did not have such a plan before him and considered it unacceptably imprecise to impose a condition requiring a plan, without knowing what it would contain.
27. There has now been submitted to me a management plan, prepared in consultation between the parties. To my mind, its terms require the site operator to take all reasonable steps to ensure the site is operated in a neighbourly manner. There are control and monitoring provisions in place and draft planning conditions have been submitted to require compliance with this plan. I particularly note that no 'events' may take place, no combined bookings of more than 3 pods, no outdoor music and a noise curfew would be imposed. I am satisfied that compliance with the plan, and with the planning conditions to which I refer below, would ensure that the use would not give rise to undue noise and disturbance to nearby residents and to users of the neighbouring caravan site.

The fishing lake & bund

28. The proposed new fishing lake would be in the SE part of the site, a presently roughly grassed area close to the boundary of Little Orchard caravan site. It would not appear out of character in this area, which contains a number of such lakes.
29. Although not part of the reason for refusal, the Council now considers the lake to be a potential source of disturbance. However, that somewhat flies in the face of the acknowledged position that the use of a fishing lake is a generally

peaceful pastime. Mr Heyes accepted that a lake would not have the sound absorption qualities of the present grassland but that the difference would be 'incredibly small'. The Council has suggested planning conditions which would prohibit access to this general part of the site other than for fishing and would limit the use of the lake to fishing. This is shown on dwg.no.You/708/2178/01 Rev.C [Doc.5]. I am satisfied that the presence of the fishing lake, and its use for fishing only, would not give rise to undue noise and disturbance.

30. The proposed bund which is indicated on the submitted plans is intended to provide a means of disposal of the excavated material arising from the formation of the lake and to help mitigate the impact of noise. However, as proposed, it would only extend along part of the common boundary between the appeal site and the caravan site, seriously limiting its effectiveness in reducing noise. It would also appear a rather stark and unnatural feature in the landscape. It appears to me that the deposit of spoil could be more carefully designed to blend in with the landscape, as well as providing a degree of additional noise and visual screening between the adjacent uses. It would appear to be more effective if located closer to the site of the pods. To my mind, a draft condition requiring a scheme to be submitted for the disposal of spoil and its subsequent landscaping would suitably cover this matter.

Conclusion

31. I have taken account of the site history and of what I consider to be the fall-back position relating to the 2012 permission. It appears to me that this permission is extant and that, as indicated in para.18 above, the use of the pods is not limited solely to those who fish; it could also include their non-fishing family members. I have also taken account of the noise monitoring evidence and the other evidence relating to noise and disturbance, including the 2016 appeal decision. Having seen the draft conditions and the Management Plan, I am satisfied that the use as proposed to be operated and controlled is not so substantially different from that which I believe to be authorised and should be able to co-exist with its neighbouring uses without unacceptable harm by way of noise and disturbance. As such, there would be no undue conflict with the development plan, and particularly Policy GD7. Accordingly, the appeal succeeds.

Planning conditions

32. The parties have submitted a draft list of 17 conditions [Doc.7], to which the following comments apply. For clarity, conditions 1, 2 & 3 rightly specify the approved plans and the area in which camping is permitted and preclude permanent occupation of the units, in line with Local Plan Policy GD4. Condition no.4 would limit the use of the facilities building to use in connection with the fishery, directly contradicting what is applied for. As I have found the proposal acceptable, this is not needed.
33. Condition 7, requiring submission of a management plan, is not needed as such a plan has already been submitted [Doc.6]. Condition 9 requires the site to be operated in conformity with this plan. As I have found the use, if properly managed, to be acceptable, I see no need for condition 8, which seeks a noise mitigation scheme. To some extent, this is covered by condition 6, regarding the disposal of spoil and its landscaping, which should have the effect of mitigating noise. In any event, the draft condition gives no indication as to the level of mitigation sought by the Council. I do not see the need for condition

10 as use of fires is not itself inherently noisy and the management plan seeks to control noise after 22.30 hours.

34. Condition 13 properly seeks to control mud on surrounding roads during the construction period. Conditions 14 – 17 rightly seek to ensure compliance with the flood risk assessment and to ensure the site is drained in a suitable, sustainable manner.

Formal Decision, Appeal C

35. The appeal is allowed and planning permission is granted for use of the land for camping, including mobile pod accommodation for use both associated with and un-associated with the use of the existing fishery; the general use of the facilities building for use associated with the camping and fishery uses, along with ancillary facilities including office building, mobile toilet, car parking and footpaths; formation of a new fishing lake at Fylde Trout Fishery, Back Lane, Weeton With Peese, PR4 3HN in accordance with the terms of the application, Ref: 17/0572, dated 5 July 2017, and the plans submitted with it, subject to the conditions, set out below:-

- (1). This consent relates to the following plans and/or reports:

- Location plan - drawing no. YOU.708.2178/02
- Site plan - drawing no. YOU.708.2178/01 Amendment B.
- Cross Section Information Elevations of Existing Pods - drawing no. YOU/708/2178/03
- GHA supporting statement - June 2017
- Stanley Village Farm Camping - Camping Management Plan of 19 March 2019.

- (2). The use of the site for camping hereby approved shall be limited to the area annotated as camping pods as detailed on drawing number You/708/2178/01 Amendment B. Overnight stays shall only be undertaken within the 25 camping 'pods' within this area. No additional forms of camping in the form of tents, caravans, caravettes or any other form of motorhome will be allowed

- (3). No 'pods' or other building/structure on the site shall be occupied as a person's permanent, sole or main place of residence.

- (4). Prior to any works connected to the commencement of the construction of the fishing lake hereby approved and notwithstanding any details shown on the approved plans, a hard and soft landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for surface finishes of all new hardstanding areas and ensure retention of all trees and hedgerows on the site as well as the type, species, siting, planting distances and the programme of planting of trees, hedges and shrubs for additional landscaping within the development.

The approved landscaping scheme shall be implemented in accordance with a timetable 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.

- (5). Notwithstanding the details of the approved drawings, this approval notice does not grant consent for the 5 metre wide bund located to the southern boundary of the site as detailed on drawing number You/708/2178/01 Amendment B. Instead, prior to construction of the additional lake hereby approved, a scheme

detailing how spoil from the excavated lake will be disposed of shall be submitted to and approved in writing by the Local Planning Authority. If being disposed of on site, the scheme shall detail changes to ground levels and landscaping thereof. Construction of the lake shall be undertaken in accordance with the approved scheme.

(6). The development hereby approved shall be managed in strict accordance with the submitted Stanley Villa Farm Camping - Camping Management Plan of 19 March 2019 (CMP), or any revision of the CMP subsequently agreed in writing by the Local Planning Authority.

(7). Notwithstanding the approved drawings or provisions of the General Permitted Development Order 2015, the lake hereby approved shall be used as a fishing lake only.

(8). There shall be no public access to the land located south of the camping pods and hatched brown on drawing titled 'Public Access Restriction' You/708/2178/01 Amendment C, other than for the purposes of access to the fishing lake.

(9). Prior to commencement of any works on the site for the excavation of the fishing lake, wheel wash facilities shall be provided within the site which will be used to clean the wheels of vehicles before leaving the site and a street cleaning vehicle shall be employed when required to clear surrounding roads from mud and debris resultant from works on the site. The wheel wash facilities shall be available for use throughout the construction period.

(10). The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) (November 2017, Ref 17050-FRA, Rutter Johnson) and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off generated by the critical storm events (sec 4.4, paragraph 12) so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
2. Provision of compensatory flood storage, (new pond No 3).
3. Identification and provision of safe route(s) into and out of the site to an appropriate safe haven (sec 4.4, paragraph 19)
4. Finished floor levels are set no lower than 150mm above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority in consultation with the lead local flood authority.

(11). The development permitted by the planning permission shall be implemented in accordance with the sustainable drainage scheme for the site contained within the Flood Risk Assessment (November 2017, Ref 17050-FRA, Rutter Johnson). The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

(12). Within 2 months of the date of this approval notice, a Management and Maintenance Plan for the sustainable drainage system for the lifetime of the development shall be submitted to and approved in writing by the Local Planning Authority. The Plan, as a minimum, shall include:

a) The arrangements for management and maintenance of the sustainable drainage system.

b) Means of access for maintenance and easements where applicable.

The sustainable drainage system shall be managed and maintained in accordance with the approved details.

(13). All attenuation basins and flow control devices/structures are to be constructed and operational prior to the commencement of any other development and prior to any development phase.

B.S.Rogers

Inspector

Appearances

For the appellants

Mr K.Howarth - GHA Ltd

Mr G.Hoerty - GHA Ltd

Mr M Carter of Counsel

Mr M.Heyes - Cole Jarman

Mr A Young - Appellant

Mr C Bradley - site owner

For the Council

Mr C Wheatman - CW Planning Solutions Ltd

Mr M Kenyon - Martec

Interested Persons

Mr J.Johnson - Adjoining land owner

Dr R.Johnson - Adjoining land owner

Mrs L.Johnson - Adjoining land owner

Mr C Bentley - Sharps Redmore, on behalf of Messrs Johnson

Cllr L Oades - Fylde B.C. Councillor

Cllr L.Nulty - Fylde B.C. Councillor

Mr A.Richardson - Adjoining land owner

Mr L Goodier - Resident of Greenhalgh

Documents

1. Attendance list
2. R. v Flintshire CC and Another Ex Parte Somerfield Stores Ltd [1998]
3. Bedford B.C. v SSCLG and Murzyn [2008] EWHC 2304 (Admin)
4. Lawson Builders Ltd v SSCLG and Wakefield MDC [2015] EWCA Civ 122
5. Drawing no.You/708/2178//01 Rev.C – Public Access Restriction
6. Camping Management Plan of 18 March 2019
7. Draft list of 17 planning conditions received 15 March 2019



Appeal Decision

Site visit made on 19 February 2019

by Kate Mansell BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 April 2019

Appeal Ref: APP/M2325/W/18/3214544

4a Cyprus Avenue, LYTHAM ST ANNES FY8 1DY

- 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 Gordon Rowatt against the decision of Fylde Borough Council.
- The application Ref 18/0121, dated 19 December 2017, was refused by notice dated 4 May 2018.
- The development proposed is change of use of existing storage building to a dwelling.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Whilst the address on the application form refers to 4 Cyprus Avenue, it is clear from the location plan that the appeal site relates to No 4a Cyprus Avenue. This is the address cited by the appellant on the appeal form. Moreover, the Council dealt with the proposal on this basis and so shall I.
3. The Council adopted the Fylde Local Plan to 2032 (Fylde LP) on 29 October 2018. As a result, Policy HL02 of the adopted Fylde Borough Local Plan that is cited in the Council's decision notice has been superseded, principally by Policies H3 and GD7 of the Fylde LP. Additionally, the Saint Anne's on the Sea Neighbourhood Plan (St Anne's NP) has been 'made' and forms part of the development plan. This is set out in the Council's Statement of Case, upon which the appellant has had the opportunity to comment.
4. The decision notice cites paragraphs 17, 58 and 64 of the 2012 National Planning Policy Framework. However, on 19 February 2019, the Government published an updated revised version (the Framework) following a previous revision in July 2018. In relation to the main issue in this appeal, Government policy has not materially changed. Accordingly, no parties have been prejudiced by my having regard to the updated revised version.

Main Issue

5. The main issue is the effect of the development on living conditions having regard to (a) those of existing and future occupiers in respect of privacy and (b) those of future occupiers in respect of amenity provision, light and outlook.

Reasons

(a) Privacy of existing and future occupiers

6. No 4 Cyprus Avenue is a substantial semi-detached property within an established residential area of spacious dwellings. It was subdivided into six flats circa 20 years ago. A hard-surfaced driveway runs to the left of No 4, in front of the side gable and a large rear outrigger.
7. With no functional link to No 4, the vacant appeal property at 4a Cyprus Avenue is a detached two-storey red brick building positioned along the full width of the rear boundary, at the end of the driveway. As a former coach house, it is a remnant of a previous age, although not, in the Council's view, of sufficient merit to warrant recognition as an undesignated heritage asset. A fireplace within the building may indicate a past domestic function on the upper floor but it has evidently been utilised for storage for many years.
8. The appeal proposal would preserve the building's present built form but change its use to a two-bedroom dwelling with a garage for car parking/cycle storage. It would involve some minor external alterations, such as the replacement of the vehicle doors with full height windows. Otherwise, existing window openings would be retained. There is a planning history of previous refusals and appeals on the site relating to its change of use to a dwelling, including three between 2001-2009¹, one of which was dismissed on appeal. A prior notification refusal in 2016 was also dismissed on appeal².
9. With regard to the issue of privacy, the Council refer to its 'Extending your Home' Supplementary Planning Document (SPD). I acknowledge that paragraph 126 of the Framework seeks to avoid applying guidance prescriptively, but this paragraph relates particularly to design expectations to create a framework for distinctive places. I appreciate that the SPD relates specifically to house extensions. Nevertheless, its provisions are consistent with guidance at paragraph 127 of the Framework, to ensure that development delivers a high standard of amenity for existing and future users. It is therefore material in so far as it provides guidance on appropriate relationships between windows to protect privacy and prevent overlooking, that can be applied generally to residential development.
10. The SPD advises that first floor windows to habitable rooms should be a minimum of 21 metres from any facing habitable room windows in neighbouring properties. There would be a distance of approximately 18.5m between such windows within the main rear elevation of No 4 and the front elevation of the appeal proposal, contrary to the SPD guidance. There would also be a direct line of sight between them. As a result, this relationship would, in my view, be harmful to the privacy of existing occupiers within No 4 and future occupiers of the proposal.
11. The SPD also indicates that ground level windows to habitable rooms should not enable or allow an unrestricted view into ground floor windows of any other property. The nearest existing residential unit to the appeal site is within the rear of the outrigger to No 4. The main entrance to this flat is within the side elevation of the outrigger, facing the driveway. Its main ground floor window is

¹ Council refs: 08/0988, 08/0435 and 01/0187 (dismissed on appeal – APP/M3235/A/01/1072621)

² Council ref: 16/0581 and appeal ref: APP/M2325/W/17/3172860

angled towards the appeal site, but I acknowledge this window is at an oblique angle that would avoid direct overlooking. However, there is a small glazed window at ground floor level within the rear elevation of the outrigger. Even if this window were not to a habitable room, it is clear glazed, and the kitchen window of the proposal would be positioned approximately 5 metres from it. At such close proximity, it would result in a loss of privacy and overlooking for both existing and future occupiers.

12. Furthermore, at first floor level, the main window to Bedroom 2 and a secondary window to Bedroom 1 would be respectively positioned on the northern and southern boundaries of the site, immediately overlooking the rear yards of the adjacent properties. I appreciate that these windows, and others within No 4a, are largely existing openings. Nevertheless, the proposal would change the character of the building to one that is residential, which would increase the frequency of use of the building and the occasions for looking out of the windows. This would be to the detriment of the privacy of neighbouring properties.

(b) Amenity provision, light and outlook for future occupiers

13. With the exception of the driveway access to Cyprus Avenue, the red line boundary to the appeal site is tightly drawn around the building. This would result in a dwelling that would have no external setting. Being constrained by the boundaries, it would appear cramped and have no capacity for external amenity provision for future occupiers for purposes such as outdoor rest, play or drying washing.
14. I acknowledge the appellant's contention that the lack of amenity space is similar to other smaller dwellings and most flats. However, I have no substantive evidence before me in this regard, thereby limiting the weight that I can give to this assertion. Furthermore, the appeal proposal would be a two-bedroom stand-alone dwelling so that I do not find standards relating to flats/apartments to be directly comparable. Even accepting that the size of the proposed dwelling may be sufficient to incorporate accommodation internally to dry clothes, there would still be no outside area to sit. The provision of parks and recreation space such as Fairhaven Lake close by would not, in my view, be a sufficient substitution for the lack of private amenity space.
15. In fact, the absence of any meaningful degree of separation between the appeal site and No 4, except for the driveway, results in the evident proximity between the two buildings. Additionally, the scale of No 4 is substantial in relation to the appeal site, which is a relatively small two-storey structure.
16. The cumulative effect is that No 4 would, in my view, appear dominant in the outlook from the appeal proposal. This would be exacerbated by the fact that with the exception of secondary windows to Bedroom 1 and the kitchen, and a main window to Bedroom 2, the proposed dwelling would effectively be single aspect with the outlook directed towards No 4 and the driveway. As a result, No 4 would appear prominent in most views from the appeal site and overbearing to future occupiers. From my observations on site, I also consider that there would be some loss of light to habitable rooms and to the kitchen of No 4a, in particular, which would be served by one narrow vertical window in close proximity to the rear elevation of the outrigger.

Findings

17. On both issues, for the reasons set out above, I conclude that the proposal would be harmful to the living conditions of existing and future occupiers. It would therefore conflict with Policies H3 and GD7 of the Fylde LP. These policies seek to safeguard the living conditions of nearby residents and ensure that amenity is not adversely affected. It would further conflict with the general objectives of HOU1 of the St Anne's NP, in pursuing well designed residential development. Additionally, it would be contrary to guidance within the Framework, to ensure that proposals deliver a high standard of amenity for existing and future users.

Other Matters

18. The Council highlight the building's structural condition and whether it would be physically capable of the change of use. However, I have no evidence to support this statement. Furthermore, I would accept that its re-use would provide the opportunity for repair and to improve its energy efficiency. The Council also suggest that access to the dwelling would require the use of land outside of the red line boundary, but issues of land ownership and access rights are civil matters that do not alter the planning merits of the proposal.
19. I also appreciate the appellant's view that storage is no longer suitable within the premises having regard to, not least, the sufficient provision of business accommodation within the local area, as well as proposed business and warehousing units. I have no detailed information to support this assertion, such as employment land supply data, but, in any event, I must, consider the appeal on the basis of the proposal before me.

Planning Balance

20. The appellant refers to paragraph 11(d) of the Framework. In this case, however, the Council have a recently adopted development plan and they advise that they can demonstrate a five-year supply of deliverable housing sites, including a buffer. Accordingly, paragraph 11(d), and specifically the matter of the tilted balance, is not engaged in this case.
21. Nevertheless, I acknowledge that the appeal site lies within an established and accessible housing area where residential development would be acceptable in principle and compatible with surrounding land uses. I also appreciate that it would involve the conversion, repair and re-use of a presently vacant building. However, the limited benefits that would arise from the scale of development proposed, resulting in one dwelling, would not, in my view, outweigh the harm that I have identified to the living conditions of both existing neighbouring occupiers and future occupiers of the proposal.

Conclusion

22. Taking all these matters into account, I conclude that the appeal should be dismissed.

Kate Mansell

INSPECTOR