



REPORT FROM:	PLANNING, ECONOMIC DEVELOPMENT AND REGULATORY SERVICES
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TO:	POLICY AND RESOURCES COMMITTEE
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DATE:	23rd JULY, 2020
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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning application.

REPORT TO POLICY AND RESOURCES COMMITTEE ON 23 JULY 2020

Application Ref: 20/0198/FUL

Proposal: Full: Resiting of a temporary single storey agricultural workers dwelling.

At: Cowfield Farm, Burnley Road, Trawden

On behalf of: Mr Robert Airey

Date Registered: 01/05/2020

Expiry Date: 26/06/2020

Case Officer: Alex Cameron

This application has been referred to Policy and Resources Committee as Colne & District Committee resolved to refuse the application due to lack of agricultural need, this would result in a significant risk of costs being awarded against the Council.

Site Description and Proposal

The application site is on agricultural land located within the open countryside and Trawden Forest Conservation Area. The site sits on a valley side to the east of farm buildings at Cowfield Farm. Public Footpath No. 40 runs along the access track and immediately past the site, Public Footpath No. 48 runs past the beck to the south and Public Footpath No. 57 runs from there to Burnley Road,

This is an application to erect an temporary agricultural work's dwelling for a period of three years, resiting an existing unauthorised building. The building has a footprint of 20m x 6.8m and is of timber construction, with horizontal timber cladding, a concrete tile roof and black uPVC window and door frames. The proposal would involve cutting into the hillside to provide a level area for the building and formation a parking area.

An application was previously refused and an appeal dismissed for the retention of the building on land to the east in a prominent position beyond the existing agricultural barns and belt of trees and an enforcement notice is in place requiring the removal of the building from that site.

Relevant Planning History

13/87/0145P - Outline: Erection of an agricultural workers dwelling – Approved, 30/11/1987.

13/88/0166P - Reserved Matters - Erection of agricultural workers dwelling – Approved, 25/04/1988.

13/13/0535P - Full: Removal of Condition 2 of Planning Permission 13/87/0145P - Relating to agricultural worker – Refused, 23/12/2013.

13/14/0301P - Full: Removal of Condition 2 of planning permission 13/87/0145P relating to agricultural worker – Approved, 13/08/2014.

18/0043/FUL - Full: Retention of a single storey agricultural workers dwelling (Retrospective) – Refused and Appeal Dismissed.

Consultee Response

LCC Highways – No objection.

Coal Authority – No objection. Please attach a note to any permission relating to potential coal mining hazards.

Trawden Forest Parish Council – The acreage owned does not warrant another property. The concerns around this have already been highlighted with the Council and the Parish Councillors note that the exact same report has been submitted with this application. All the livestock stated in the report do not belong to Mr Airey. Much of the land originally farmed by Cowfield Farm has been sold off as Mr Airey did not use it. The building is not in keeping with it's surroundings. The farm is in a conservation area and a 'log cabin' does not sit with the existing stone built buildings on the site. Mr Airey sold his tied property as he stated he no longer required the property for the farm. How has this changed?

The Councillors still feel that he is trying to exploit a loophole in the Local Plan stating that agricultural dwellings are permitted outside of the settlement boundary. There are numerous unused outbuildings - one of which is housing his caravan. There are already enough properties on the farm without the need for another one. This cabin was erected almost 3 years ago, and when the retrospective application was submitted, he stated that it would be a temporary 3 year building. There is still not enough work carried out on the farm 3 years later to warrant this cabin

Public Response

A site and press and notice have been posted – Three responses received objecting to the development on the following grounds:

This building is not something that would suit the area.

The applicant does not own the land they wish to re site this dwelling.

The applicant already lives on the land in suitable accommodation, he also owns a property a few miles away which he chooses not to live in. There is also other properties for sale a few miles away.

Officer Comments

Policy

National Planning Policy Framework

Paragraph 79 of the Framework states that decisions should avoid the development of isolated homes in the countryside unless one or more of the circumstances set out in that paragraph apply. The circumstances include the essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside.

Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Pendle Local Plan Part 1: Core Strategy (LPP1)

ENV1 (Protecting and Enhancing Our Natural and Historic Environments) states that proposals in the designated open countryside should have regard to the Development in the Open Countryside SPG.

ENV2 (Achieving Quality in Design and Conservation) All new development should viably seek to deliver the highest possible standards of design, in form and sustainability, and be designed to meet future demands whilst enhancing and conserving our heritage assets.

Policy ENV4 (Promoting Sustainable Travel) states that proposals should follow the settlement hierarchy approach in Policy SDP2 and minimise the need to travel by ensuring they are developed in appropriate locations close to existing or proposed services. Consideration should be given to locating new housing, employment and service developments near to each other to give people the opportunity to live and work within a sustainable distance.

Policy LIV1 (Housing Provision and Delivery) states that until such time that the Council adopts the Pendle Local Plan Part 2: Site Allocations and Development Policies sustainable sites outside but close to a Settlement Boundary, which make a positive contribution to the five year supply of housing land, including those identified in the Strategic Housing Land Availability Assessment (SHLAA) will be supported.

Policy SDP2 (Spatial Development Principles) states that new development should be within settlement boundaries unless it is an exception outlined in the Framework or elsewhere in the LPP1.

Replacement Pendle Local Plan

Policy 31 (Parking) requires that new developments provide parking in line with the levels set out in Appendix 1 of the RPLP. This is addressed in the Highways Issues/Parking section.

Trawden Neighbourhood Plan

Policy 1 states that development should be within a settlement boundary unless, amongst other things, it will support agriculture and other land-based rural businesses.

Principle of the Development

Paragraph 79 of the Framework states that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. The application site is located approximately 600m from the settlement boundary of Trawden, 1km from the nearest bus stop on foot via unmade public footpaths, or 2km via Burnley Road which has no footway for most of its length. The site is not located within or adjacent to any form of settlement and therefore it is an isolated location for the purposes of Paragraph 79 of the Framework and would leave occupant reliant on private motor vehicles to access essential facilities and services.

The development does not meet circumstances b-e of paragraph 79. The only remaining circumstance is a; that the dwelling meets an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside. There are two elements involved in the assessment of this, firstly whether there is a functional need for an agricultural worker to live on site and secondly whether the agricultural business is financially viable to sustain that need in the long term. Where a new enterprise or form of farming is proposed granting temporary consent may be appropriate to allow time for the proposed activity to establish whether it can be made viable.

Functional need

The current farming operation is relatively small scale, with the applicant working part time on the land and traveling from his home in Brierfield. The existing farmhouse is owned and occupied by the Applicant's sister, who is a partner in the farming business but the application states is not involved in the farming operations. The farm has been split when the estate of their parents was divided with different aspects of the farm being handed to the applicant and his sister.

The justification statement submitted with the application states the intention of the applicant to acquire his sister's share of the business and increase the scale of the farming operation to a point where it requires a full time agricultural worker to be present on the land.

The application proposes a three year temporary permission with the intention to expand the farming operation to the point where it requires a full time agricultural worker present on site. This is notwithstanding the fact that proposed house is not a caravan or a moveable structure in planning terms.

National Planning Guidance states that “a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness.”

However, in this case, the building would be relocated from its existing site in the clear knowledge that the applicant is specifically asking for consent on a temporary basis, a temporary consent will be acceptable if all of the other material planning issues are acceptable.

Until late 2014 there was an additional agricultural worker's dwelling (Clough View) associated with Cowfield Farm at Clough View, Colne Road, Trawden, 529m from the application site. This was occupied by the Applicant and his family. An application was made and granted for removal of the condition tying that dwelling to use as an agricultural worker's dwelling (ref: 13/14/0301P) and it was sold by the Applicant.

It was demonstrated in that application that the dwelling was no longer required by the holding as it had reduced in size and the Applicant lived at the farmhouse at Cowfield Farm which would continue to serve as the primary dwelling for the farm.

Details submitted with that application stated that the Applicant lived at the farmhouse at Cowfield Farm, it was stated that if he were to leave the farmhouse for any reason he would try to purchase a terraced house in Trawden Village. If the applicant could not continue farming he would sell or rent the buildings and land he owns to his sister.

It has therefore been stated previously by the applicant that an additional agricultural worker's dwelling on this farm is not necessary, that the needs of the Applicant's agricultural holding can be met by the exiting farmhouse or dwellings in Trawden Village.

However, the Applicant details that circumstances have changed since that time, it is also of relevance that the dwelling that was disposed of was on the edge of the settlement of Trawden rather than adjacent to the farm buildings. Taking this into account the disposal of that dwelling does not preclude a new workers dwelling if necessary and viable.

The details submitted by the applicant acceptably demonstrate that the proposed expansion of the agricultural business would make it necessary for a full-time agricultural worker to be accommodated on the site.

Concerns have been raised relating to the agricultural justification and alternative accommodation being available. There is a static caravan which appears to have been present for many years, the applicant stated at the appeal hearing that the caravan has

been in use for accommodating animals and is not suitable accommodation. This was accepted by the Inspector. The need for and acceptability of a temporary agricultural worker's dwelling at the farm has been established by the previous decision of the Council and at appeal.

Financial viability

The special circumstance in paragraph 79 specifically relates to a permanent need, it must therefore be demonstrated that the agricultural holding can viably sustain a full time agricultural worker in the long term.

The planning statement submitted with the application states that "the application is for a temporary period in order for the applicant to expand and diversify the existing livestock enterprises undertaken on the holding and to prove the financial viability of the proposed farm business". This indicates that the existing agricultural business is not currently in a position to viably sustain a full-time agricultural worker.

Projected accounts have been submitted in order to demonstrate that should the farming business expand as intended it would provide a sufficient income to support a full-time agricultural worker.

Agricultural planning consultants ADAS were engaged to provide an expert assessment of the previous proposal in relation to functional need and financial viability.

Taking into account their advice it was concluded that the projections of the proposed agricultural business acceptably demonstrate that the proposed expansion of the business is feasible, it has also been demonstrated that the Applicant could feasibly have finance available to fund the expansion. There have been no changes that would alter that conclusion since the previous decision and therefore a temporary permission of three years in order to demonstrate the long-term viability of the agricultural business is acceptable in principle.

Visual, Landscape and Heritage Impact

The existing building is sited in a highly prominent location, particularly viewed from Burnley Road and the surrounding public footpath network and this has been determined by the Council and at appeal to have an unacceptable impact upon the landscape and Conservation Area.

The location of the building proposed in this application would not be visible in those views it would be behind the tree line and the existing agricultural barns and where it would be seen it would be seen in the context of the group of existing agricultural buildings.

Minor, less than substantial, harm resulting from the erection of a dwelling in this location, such as in immediate views from the footpath passing the site, would be offset by the public benefits of augmenting and existing farming business and supporting its expansion,

which would have benefits to the rural economy the development in providing a home for an agricultural worker.

The proposed development is therefore acceptable in terms of visual, landscape and heritage impacts in accordance with policies ENV1 and ENV2.

Residential Amenity

The proposed dwelling would be a sufficient distance from the existing dwelling to ensure that it would raise no unacceptable residential amenity issues and, taking into account that it would be connected to the agricultural use, would provide an acceptable living environment for its occupier. The proposed development is therefore acceptable in terms of residential amenity in accordance with policies ENV1 and ENV2.

Highways

The vehicular access to the site is acceptable for an agricultural worker's dwelling and an adequate level of car parking is proposed, taking into account that the proposal is acceptable as an agricultural worker's dwelling in this location the lack of accessibility of the site is acceptable.

Other issues

Concerns have been raised that the applicant doesn't own the land of the application site. It is not necessary to own land to apply for planning permission on it, the correct ownership certification has been completed for this circumstance.

Reason for Decision

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed development is in accordance with the Pendle Local Plan Part 1: Core Strategy, Replacement Pendle Local Plan and Trawden Forest Neighbourhood Plan. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

RECOMMENDATION: Approve

Subject to the following conditions:

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

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: Air/838/2821/02.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The occupation of temporary dwelling hereby permitted shall cease, the building and any associated infrastructure relating to the development shall be removed and the land restored to its former condition within 3 years of the date of this permission.

Reason: Justification for the viability of a permanent agricultural worker's dwelling has not been made.

- 4 The occupation of the dwelling hereby approved shall be limited to a person solely or mainly, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants. (As defined in sect. 336 of the Town & Planning Act 1990 (as Amended)).

Reason: The development hereby permitted has been allowed based on the agricultural need of the agricultural unit, on a site which would otherwise not be a suitable location for residential development, in order to ensure that the dwelling will be available in perpetuity for an agricultural worker.

- 5 Notwithstanding the provisions of Article 3 and parts 1 and 2 of the second Schedule of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development as specified in Classes A, B, C, D, E, F and G of Part 1 and Classes A, B & C of Part 2 of Schedule 2 of that Order shall be carried out without express planning permission first being obtained from the Local Planning Authority.

Reason: To enable the Local Planning Authority to control any future development on the site in order to safeguard the character and appearance of the conservation area.

- 6 Prior to the occupation of the dwelling hereby approved a scheme for the disposal of foul and surface water shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for separate systems for foul and surface waters and be constructed and completed in accordance with the approved scheme before the dwelling is occupied.

Reason: To control foul and surface water flow disposal and prevent flooding.

- 7 The landscaping detailed on the approved drawing No. Air/838/2821/02 shall be implemented within the first planting season following the approval of a landscaping scheme. Any tree or other planting that is lost, felled, removed, uprooted, dead, dying or diseased, or is substantially damaged within 3 years of the date of this permission shall be replaced with a specimen of similar species and size, during the first available planting season following the date of loss or damage.

Reason: To ensure that the development is adequately landscaped so as to integrate with its surroundings.

Note: The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites.

Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/coalauthority

Application Ref: 20/0198/FUL

Proposal: Full: Resiting of a temporary single storey agricultural workers dwelling.

At: Cowfield Farm, Burnley Road, Trawden

On behalf of: Mr Robert Airey