

**REPORT FROM: PLANNING, ECONOMIC DEVELOPMENT AND  
REGULATORY SERVICES MANAGER**

**TO: POLICY AND RESOURCES COMMITTEE**

**DATE: 26<sup>th</sup> NOVEMBER, 2020**

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## **PLANNING APPLICATIONS**

### **PURPOSE OF REPORT**

To determine the attached planning application.

## REPORT TO POLICY AND RESOURCES COMMITTEE ON 26 NOVEMBER 2020

**Application Ref:** 19/0868/FUL

**Proposal:** Full: Formation of an access track (Part Retrospective).

**At:** Harwes Farm, Cockhill Lane, Foulridge

**On behalf of:** Harwes Farm Community Interest Company

**Date Registered:** 14/02/2020

**Expiry Date:** 06/11/2020

**Case Officer:** Alex Cameron

The site of this application spans both West Craven and Colne Committee areas and therefore it must be determined by Policy and Resources Committee.

### **Site Description and Proposal**

The application site is a farm located within the open countryside approximately 3km to the north east of the settlement of Colne and 2km to the south east of the settlement of Kelbrook. The application site includes an area of moorland and woodland that is designated as a Biological Heritage Site (BHS).

The proposed development is the formation of a 1.8m wide access track between the existing access to the farm and the woodland to the north. The proposed track would run approximately 750m along the western boundary of the woodland and enter the woodland at its northern end. The track has been partially formed and it is proposed for it to be finished in stone chippings.

### **Relevant Planning History**

None.

### **Consultee Response**

**LCC Highways** – No objection in principle to the above proposal, subject to the following comments being noted, and informative note being attached to any formal planning permission granted.

There are a number of Public Rights of Way which may be affected by the formation of the access track, including, but not exclusive to, Public Footpath 17 (Colne). These rights of way have not been shown on the site plans submitted. Any development which obstructs or encroaches onto a public right of way would be contrary to paragraph 98 of the National Planning Policy Framework which states '...decisions should protect and enhance public rights of way and access ...'.

As works have already commenced to form this access track the applicant should contact Pendle Borough Council's Countryside Access Officer in the first instance for advice regarding works affecting Public Footpath 17 (Colne) and the measures needed to prevent its obstruction, together with any remedial works necessary. This should be done regardless of whether or not planning permission is granted.

If the local planning authority is minded to approve this application the following informative note should be applied to any formal planning permission granted.

**Informative Note:**

The grant of planning permission does not entitle a developer to obstruct a right of way and any proposed stopping-up or diversion of a right of way should be the subject of an Order under the appropriate Act. Public Footpath 17 (Colne) may be affected by the development. The applicant should be advised to contact Pendle Borough Council's Countryside Access Officer or Lancashire County Council's Public Rights of Way section by email on [PROW@lancashire.gov.uk](mailto:PROW@lancashire.gov.uk), quoting the planning application number, to discuss their proposals before any further works take place.

**Natural England** – No comments.

**PBC Environment Officer** - Kelbrook Moor BHS was designated for meeting the criteria of Heathland (He1), Swamp and Fen (Fe2) and Grassland (Gr3). While the woodland itself may not be the greatest of quality it is designated for its ground flora which is species rich. I would also argue that while the track itself may not damage the biodiversity of the woodland to any great extent its intended use for educational groups will through disturbance. Essentially, it will encourage people to enter a habitat that has had very little disturbance.

I also want to understand the impacts of the track on the hydrology on the moorland. The track effectively takes a soil structure that soaks up and holds water and replaces it with a surface that will allow water to run off. It is my opinion that this has not been adequately addressed within the documents supplied with the application. Furthermore, I do not think the ecology report has taken into account the mosaic of priority habitats within and adjoining the site.

Revised comments in response to additional ecology report received 3/11/20:

No objection subject to a condition for details of the construction and drainage of the track.

**Laneshawbridge Parish Council**

**Kelbrook & Sough Parish Council**

**West Craven Area Committee** – West Craven Committee wanted the verbal comments made to committee to be reflected in the report to this Committee. Those members of the public attending Committee were advised to set out their comments in writing as a verbatim record of what they said could not be given to Policy and Resources and to avoid ambiguity they needed to put their concerns in their own words.

The main thrust of the points made in favour of the application were that it provided a valuable contribution to the education of disadvantaged children, that there were not highway safety issues that could not be managed and that there would not be ecological damage caused by the operation of the site. Those objecting did so on a number of grounds but principally that there were unacceptable highway safety issues that could not be mitigated, there would be noise disturbance from the activities, there would be a conflict of users of the right of way, the right of way definitive map did not reflect the extent of the area to which the public had established a right to use and the development was in an unsustainable location.

**Colne and District Area Committee** - Resolved that the Policy and Resources Committee be asked to give very serious consideration and weight to the highway issue and be recommended to refuse the application.

### **Public Response**

Site and press notices posted – 2 responses received objecting on the following grounds:

- Impact on wildlife and flora within the woodland by the development and constant human traffic.
- The land is designated as a BHS and public access should be discouraged.
- The Council should make reference to their biodiversity audit when considering this application.
- The retrospective nature of the application.
- Highway safety impact

29 Responses received supporting the application for the following reasons:

- Benefits to local community and young people.
- The development supports the local economy.
- The current owners are sensitive enough to ensure that the concerns about access would not be an issue.
- Much needed access to the outdoors.
- It is an excellent way to protect our woodlands.
- It is valuable to encourage young people to visit and learn about nature.
- Support efforts to make the projects accessible to all.
- The proposed development would enable vulnerable children to experience the countryside in a safe environment, promoting their education and emotional development in a unique and life changing way.

### **Officer Comments**

#### **Policy**

The following Pendle Local Plan Part 1: Core Strategy policies apply:

Policy 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, or its replacement.

Policy ENV2 (Achieving Quality in Design and Conservation) states that 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.

#### **Visual Amenity and Landscape Impact**

The proposed track predominantly runs along the boundary with the woodland and would not be excessively prominent in the landscape, however, public rights of way run directly adjacent to the site and it would have a minor impact on localised views introducing development in an area where there previously was none. The development is necessary both in connection with the proposed educational and camping use subject to a separate application and for the management of the woodland. Taking

into account that the management of the woodland is necessary irrespective of the acceptability of the other uses, balancing the benefit of that against the minor visual harm the proposed development is acceptable in terms of landscape and visual impacts in accordance with policies ENV1 and ENV2.

### **Residential Amenity**

The proposed development does not result in any potentially unacceptable residential amenity impacts.

### **Highway Safety**

It is not envisaged that the track would result in a degree or nature of vehicular traffic that would have an unacceptable impact upon the safety of users of the public rights of way and would not directly result in an increase in traffic accessing the site. The proposed track is therefore acceptable in terms of highway safety in accordance with policy ENV4.

### **Ecology**

The proposed track has potential implications for the hydrology of the moorland within the Kelbrook Moor BHS. The track would also enable an increase of activity within the woodland of the BHS. The special ecological value of the woodland identified when it was designated as a BHS was in its ground flora.

An additional ecology report has been received. The report addresses the concerns of the Council's Environment Officer in relation to the ground flora within the woodland, which the report details has changed since the area was designated a BHS and is no longer species rich. There are also additional details regarding the effect of the proposed access road on the hydrology of the moorland. Subject to a condition for details of the construction and drainage of the track the Council's Environment Officer has no objection to the proposed track.

Notwithstanding the proposed educational and camping use of the land subject to a separate application, the applicant has provided justification that track is necessary for the management of the woodland, with appropriate conditions to control the details of the construction of the track in relation to its drainage and the mitigation recommendations of the ecology report the proposed track would be acceptable in terms of its ecological impacts in accordance with Policy ENV1.

### **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 proposal is acceptable in terms of impact on visual amenity, residential amenity, highway safety and ecology and 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 proposed development hereby permitted shall be begun before the expiration of three years from 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: 01 – received 14/02/2020, 01 Sheet 1 – received 23/01/2020.

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

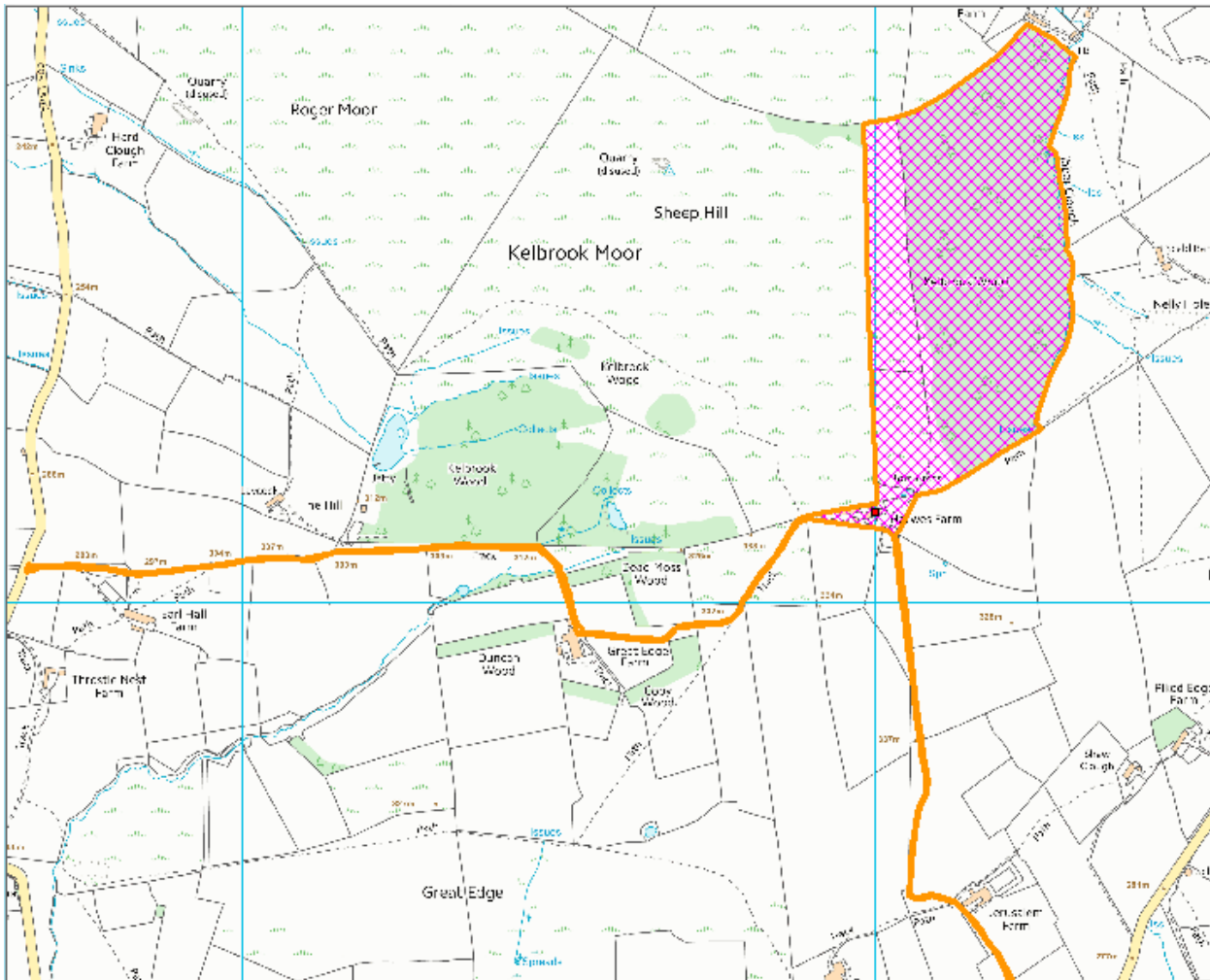
3. No further work shall commence on the track unless and until details of the construction and drainage / permeability of the track have been submitted to and approved in writing by the Local Planning Authority. The track shall thereafter be constructed and maintained only in strict accordance with the approved details.

**Reason:** In order to protect the ecological value of the Biological Heritage Site.

4. The development shall be carried out in accordance with the recommendations of the ecology report ref: BOMB-RSC-19-04.

**Reason:** In order to protect the ecological value of the Biological Heritage Site.

Note: The grant of planning permission does not entitle a developer to obstruct a right of way and any proposed stopping-up or diversion of a right of way should be the subject of an Order under the appropriate Act. Public Footpath 17 (Colne) may be affected by the development. The applicant should be advised to contact Pendle Borough Council's Countryside Access Officer or Lancashire County Council's Public Rights of Way section by email on [PROW@lancashire.gov.uk](mailto:PROW@lancashire.gov.uk), quoting the planning application number, to discuss their proposals before any further works take place.



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