



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

**TO: POLICY AND RESOURCES COMMITTEE**

**DATE: 16<sup>th</sup> DECEMBER, 2021**

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## **PLANNING APPLICATIONS**

### **PURPOSE OF REPORT**

To determine the attached planning applications.

## REPORT TO POLICY & RESOURCES COMMITTEE 16 DECEMBER 2021

**Application Ref:** 21/0399/PIP

**Proposal:** Permission in Principle: Erection of up to 9 No. Dwellings.

**At:** Land Off Cob Lane And, Old Stone Trough Lane, Kelbrook

**On behalf of:** YLBD

**Date Registered:** 11/05/2021

**Expiry Date:** 15/06/2021

**Case Officer:** Alex Cameron

### **Monitoring Officer**

The application was considered at the September meeting of this Committee. The decision was that the application not be determined.

Councils are designated a decision making bodies for planning under the Town & Country Planning Act 1990. There are duties under the Local Government Act 1972 and other associated legislation to discharge their functions.

Refusing to determine an application would be a failure to properly discharge the duty of the Council to Act as the Local Planning Authority for the area and would leave the Council open to challenge wither through the Courts or through a planning appeal. Refusing to make a determination would constitute unreasonable behaviour at appeal.

Committee is strongly advised that they should make a decision on the application based on its planning merits. Not to do so would be an abuse of the decision making powers given to the Authority.

### **Site Description and Proposal**

The application site is an agricultural field to the south of Cob Lane. The site is located to the south east of the main village and is outside of, but adjacent to the defined settlement boundary. To the west is Yellow Hall, a row of listed dwellings, to the south and east is open land. The land slopes upwards from Old Stone Trough Lane, as Cob Lane rises away to the east. It is designated as Open Countryside in the Local Plan.

The site was subject to an outline planning application for up to 10 dwellings in 2017 which was refused and then allowed on appeal.

This is an application for Permission in Principle for up to 9 dwellings on the site.

### **Relevant Planning History**

13/86/0832P – erection of 2 dwellings on land adjacent to Yellow Hall – Refused

16/0488/OUT - Outline: Major: Application for up to 17 dwellings (Access only) – Refused and Appeal Dismissed. The appeal was against the development of 17 houses. The Inspector did not raise any objections to the scheme on highway grounds, amenity, loss of wildlife, highway safety, drainage, housing land supply or infrastructure provision.

17/0691/OUT Outline: Major: Erection of up to 10 Dwellinghouses (Access only) (Re-Submission). Appeal allowed.

### **Consultee Response**

**LCC Highways** – Principle matters: The site has been the subject of previous planning applications, the most recent one being 13/17/0691/OUT for the erection of up to 10 dwelling houses (access only). This application was allowed at appeal, with a number of conditions applied, including some relating to highways.

The proposed development site would be accessed directly from the adopted highway network on Cob Lane. Cob Lane is an unclassified road (U40347), with the section along the site frontage subject to a maximum speed limit of 30mph.

For a road with a speed limit of 30mph a Stopping Sight Distance (SSD) of 43m should be provided. As the site access has not been indicated on the submitted Location Plan it is not clear whether the necessary visibility splays can be achieved over land within the applicant's ownership and/or over the adopted highway, although these were provided under planning application 17/0691/OUT.

Technical details stage: If Permission in Principle is granted there are a number of matters that would need addressing at the technical details stage. These include, but are not exclusive to:

- Provide a new vehicular access – including construction, surfacing and drainage details – and appropriate visibility splays.
- Provide off-road car parking for each dwelling in accordance with Pendle Borough Council's Parking Standards. That is, two spaces for two – three bedroom dwellings and three spaces for four plus bedrooms.
- Provide adequate internal manoeuvring space to allow vehicles to enter/leave the site in forward gear, including refuse vehicles, emergency vehicles and large delivery vehicles.
- The approved site layout submitted for 17/0691/OUT included the provision of a footway along the frontage of site. A footway with minimum width of 1.8m should be provided in any future layout.
- Provide secure, covered cycle parking for at least two cycles and an electric vehicle charging point at each dwelling.
- To be counted as one parking space single garages should have minimum internal dimensions of 6 x 3m. This size of garage could also provide secure storage for two cycles.
- To be counted as two parking spaces double garages should have minimum internal dimensions of 6 x 6m.

Highway related conditions were applied to the appeal approval. These related to a Construction Method Statement (10); vehicles being able to enter/leave in forward gear (13); construction details of the estate road (14); visibility splays of 43m x 2.4m x 1.0m (15) and full engineering, drainage, street lighting details of the internal road (16). For the sake of consistency, the above conditions should be applied to any future planning permission. In addition, conditions covering electric vehicle charging points and secure cycle storage for each dwelling, where garages are not provided, should be applied to improve the site's sustainability.

**Yorkshire Water** – The site should have separate foul and surface water drainage comments related to surface water disposal.

**Lancashire Fire and Rescue Service** – Comments relating to building regulations.

**Kelbrook and Sough Parish Council** – Objects for the following reasons:

1. There is an extant planning application 17/0691/OUT for exactly the same number of houses and the same land in use by the developers. The Parish Council considers that this may be an attempt to circumvent the law regarding planning/development deadlines, and also an attempt to circumvent the conditions applied by the inspector in his appeal decision of 17/069/OUT. It notes that Covid-19 is used as a reason for this additional application, yet the construction industry has been open and supported by the government from the start of the Covid-19 pandemic. The Parish Council notes that the developers have been open in their wish to proceed down the Reserved Matters route and only want to preserve their development "rights". Nevertheless, the developers were aware of the time related conditions when they made agreement with the landowner and the approval of this application might well set an unwelcome precedent.

2. Should the above reason be insufficient, given the lack of specifics within the PIP, the Parish Council objects on the grounds of a) heritage – the relationship of Yellow Hall and Stoops Farm with the proposed site and the open countryside setting (as expressed by the inspector in the appeal of 17/0691/OUT); b) natural environment – the disturbance and danger to the circa 450 years old wooded area lining the beck adjacent to the site, and the bats which roost within the trees therein; c) the increase in traffic which will be caused by the development; d) the development being situated outside of the settlement area.

The Parish Council is further concerned that this application for nine dwellings has been put forward to undermine the scrutiny which would have been automatically in place for a Major Development. Should this PIP be approved, the Parish Council would want assurances that there would be no attempt to build additional houses over and above the nine stated in the PIP and thus create a Major Development by means outside of the spirit of the planning laws and regulations.

The Parish Council would also like to understand why a site notice has not been posted and why Stoops Farm, Oliver's Croft, The Moorings and Newlyn have been omitted from the Neighbour Consultees distribution, yet other dwellings, much further afield have been included as Neighbour Consultees.

## **Public Response**

Site notices posted and nearest neighbours notified. Responses received objecting on the following grounds:

- Impact on Listed Buildings
- Increase traffic congestion
- Highway safety risk, including risk to school children
- Impact of construction traffic
- Increase in on-street parking
- Poor access visibility
- Lack of footways on roads leading to the site
- Loss of greenfield / countryside land
- Impact on wildlife and protected species
- Impact on trees
- Brownfield land should be developed first
- Unacceptable visual impact
- Impact of the character of the village
- Increase risk of flooding

- Lack of community benefit
- Insufficient details to assess impacts
- This is an attempt to circumvent the requirements of the previous appeal decision
- The PIP should have the same conditions and buffer zone as the outline approval
- Concerns regarding surface water runoff to adjacent property on lower land.
- Loss of light to and overlooking of adjacent property.
- Impact on views from adjacent property.
- Disruption during construction and potential harm to adjacent Listed Building.
- Noise impacts from residents and vehicles.
- Impacts on wildlife.
- The Planning Inspectorate's dismissal of the previous appeal was wrong

## **Officer Comments**

This type of application can only be determined on matters of the principle of the development with its scope limited to location, land use and the amount of development. Conditions and/or planning obligations cannot be imposed at this stage. If approved a Technical Details application would be required before the development taking place, that would include details such as plans and technical reports. Conditions and planning obligations can only be imposed at that stage.

## **Policy**

### **Local Plan Part 1: Core Strategy**

The following Local Plan policies are relevant to this application:

Policy SDP2 identified Kelbrook as a 'Rural Service Centre'. These settlements are to be the focus for growth in Rural Pendle. It also advises that where Greenfield land is required for new development, it should be in a sustainable location and well related to an existing settlement.

Policy SDP3 indicates that new housing provision and distribution will be guided by the settlement hierarchy within the policy. Rural Pendle (inc. Kelbrook) is expected to account for 12% of the Borough's supply over the plan period. It should be noted that this figure is not a fixed limit, it is a representation of the projected housing distribution.

Policy ENV1 requires developments to make a positive contribution to the protection, enhancement, conservation and interpretation of our natural and historic environments.

Policy ENV2 identifies the need to protect and enhance the heritage and character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that siting and design should be in scale and harmony with its surroundings. The proposal's compliance with this policy is addressed in the design and amenity sections.

Policy ENV7 does not allow development where it would be at risk of flooding and appropriate flood alleviation measures will be provided and/or would increase the risk of flooding elsewhere. The proposal's compliance with this policy is addressed in the drainage and flood risk section.

Policy LIV1 sets out the housing requirements for 2011 to 2030 and how this will be delivered.

Policy LIV3 provided guidance on the housing needs in order to provide a range of residential accommodation.

Policy LIV4 sets out the targets and thresholds required to contribute towards the provision of affordable housing.

Policy LIV5 requires all new housing to be designed and built in a sustainable way. New development should make the most efficient use of land and built at a density appropriate to their location taking account of townscape and landscape character. Provision for open space and/or green infrastructure should be made in all new housing developments.

### **Principle of Housing**

Policy LIV1 states that until the Council adopts the Pendle Local Plan Part 2: Site Allocations and Development policies then sustainable sites outside but close to a Settlement Boundary, which make a positive contribution to the five year supply of housing land, will encourage significant and early delivery of the housing requirement.

This site is located immediately adjacent to the settlement boundary of Kelbrook, which is a Rural Service Centre. Kelbrook has a variety of services and facilities and is accessible by means of both public and private transport and also has established links with the larger West Craven Towns.

It has been demonstrated in the previous application that acceptable access and visibility can be achieved.

The proposed site is a sustainable location for new development. This principle of development of this site for up to 10 houses, subject to conditions and contributions, has been established by the outline permission granted previously. The principle of housing is therefore acceptable in accordance with policies SDP2 and LIV1.

### **Other Matters**

Comments have been received regarding traffic, visual impacts, heritage impacts, impacts on ecology and protected species, flooding and drainage issues. This Permission in Principle application can only consider the principle of development, including location, land use and the amount of development. Therefore, factors outside of this cannot be considered as part of this application and must be dealt with at the technical details consent stage.

Concerns were also raised regarding this application circumventing the conditions of the previous permission. This is an application process open to the applicant, whilst conditions cannot be applied at this stage any necessary conditions and planning obligations could be imposed at the Technical Details stage.

Concerns were also raised in relation to publicity of the application not being the same as the previous application, unlike the previous application this is not a major application, is an entirely different form of application and has a different application site (not including the land of the previous larger 17 house proposal) and therefore has different publicity requirements.

### **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. Taking into account all material considerations the proposed development is acceptable in principle. 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**

INFORMATIVE

As part of a technical details application the following information should be provided:

- Plans, including location plan, site plan, access visibility splay plan, elevation and floor plans.
- Planning Statement.
- Heritage Statement.
- Foul and Surface Water Drainage Scheme.
- Ecology Survey.
- Landscaping Scheme.
- Dependent on the layout, scale and design planning obligations for affordable housing and education provision, or other public benefits, may be necessary to offset the impact on the significance of the Listed Building Yellow Hall and for off-site open space