



REPORT FROM: PLANNING, ECONOMIC DEVELOPMENT AND
REGULATORY SERVICES MANAGER

TO: BARROWFORD AND WESTERN PARISHES COMMITTEE

DATE: 2ND NOVEMBER 2022

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To consider the attached planning applications for determination by Council.

REPORT TO BARROWFORD AND WESTERN PARISHES COMMITTEE ON 2ND NOVEMBER 2022

Application Ref: 22/0167/CEU

Proposal: Certificate of Lawful Use (S.191 Existing Development): Use of agricultural building for livestock.

At: Tower Farm, Gisburn Road, Blacko

On behalf of: Mr J. Kay

Date Registered: 10/03/2022

Expiry Date: 05/05/2022

Case Officer: Alex Cameron

Site Description and Proposal

The application site is an agricultural building at Tower farm sited adjacent to former farm buildings not converted to dwellings.

A prior approval notification under Part 6, Class A of the General Permitted Development Order 2015 (GPDO) for an agricultural storage building on this site was approved in 2016 and the building was erected following that.

This is an application for a Lawful Development Certificate to establish the lawful use of the building for accommodation of livestock. The application seeks to demonstrate that the building is unauthorised and immune from enforcement action and therefore the restriction on accommodation of livestock within 400m of a protected building imposed by Part 6 of the GPDO does not apply.

Relevant Planning History

13/15/0614P - Prior Approval Notification (Agricultural Building) Erection of an agricultural building (20m x 12m, height 5.6m). Approved

Consultation Response

PBC Legal Services – Agree with the officer's conclusion.

Public Response

None

Officer Comments

The consideration in determining this Lawful Development Certificate is whether the building was unlawfully erected as a result of the intention of its use for housing livestock within 400m of protected buildings. A protected building being any residential property not within the agricultural unit or used in connection with agriculture. On the balance of probabilities the building was within 400m of at least one protected building at the time of the Prior Approval Notification and to the present day.

There are two elements to the control of use for accommodation of livestock within Schedule 2, Part 6, Class A of the GPDO.

Firstly, the circumstances where development is not permitted (A.1(i)) this excludes from the scope of the class proposed developments for buildings that are or to be used for accommodation of livestock within 400m of a protected building. This control relates to proposed developments.

A.1 Development is not permitted by Class A if—

(i) it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock or for the storage of slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building;

Secondly, condition A.2(1)(a), this imposes a planning condition on development that has already been carried out preventing use for livestock accommodation within 400m of a protected building other than in specified circumstances.

A.2—(1) Development is permitted by Class A subject to the following conditions—

(a) where development is carried out within 400 metres of the curtilage of a protected building, any building, structure, excavation or works resulting from the development are not used for the accommodation of livestock except in the circumstances described in paragraph D.1(3) of this Part...

D.1(3) The circumstances referred to in paragraphs A.2(1)(a) and B.5(1) of this Part are—

(a) that no other suitable building or structure, 400 metres or more from the curtilage of a protected building, is available to accommodate the livestock; and

(b) (i) that the need to accommodate the livestock arises from quarantine requirements, or an emergency due to another building or structure in which the livestock could otherwise be accommodated being unavailable because it has been damaged or destroyed by fire, flood or storm; or

(ii) in the case of animals normally kept out of doors, they require temporary accommodation in a building or other structure because they are sick or giving birth or newly born, or to provide shelter against extreme weather conditions.

On the basis of the information submitted the existing use for livestock accommodation does not meet any of the circumstances set out in paragraph D.1(3).

The determination to be made here is whether the unstated intention of the applicant to use the building for livestock accommodation detailed in the supporting evidence resulted in the development not being permitted by Class A, by virtue of A.1(i). If so the development would have been unauthorised and the unauthorised building would have become immune from enforcement action after a period of four years from its substantial completion and therefore not subject to condition A.2(1)(a).

Or, whether the erection of the building was permitted by Class A, but its subsequent use has been in breach of condition A.2(1)(a), which would require 10 years to become immune from enforcement action.

Part 6, Class A requires the submission of the Prior Approval Notification for proposals for new buildings. The Prior Approval Notification application form submitted for the building stated that it would not be used for the accommodation of livestock, and the justification statement did not detail any need to accommodate livestock, the notification was assessed and determined on that basis and the development subsequently commenced in accordance with that notification. The officer's report clearly assessed and determined that the development set out in the notification met the requirements of Part 6.

Article 3(1) of the GPDO had the effect of granting planning permission for the development as formally set out in the submitted prior approval notification once it was initiated, the building was constructed in accordance with that planning permission and only departed from it when the use for accommodation of livestock was begun. That did not result in the loss of the planning permission, the permission was initiated and extant at that point, it was a breach of condition A.2(1)(a).

The applicant has taken advice from Counsel and provided that to us, that advice disagrees with our position on the basis that because that the applicant had the intention to use the building for livestock accommodation, although unstated / contradicted in the prior approval notification, that the development did not meet the requirements of Part 6, Class A.1(i) and so was not at any point permitted development.

Sufficient evidence has been provided to demonstrate on the balance of probabilities that the applicant did intend to use the building for the accommodation of livestock. However, our position is that this is irrelevant, the Prior Approval Notification formally set out the proposed development and it was erected in accordance with that, it only deviated from the Prior Approval Notification when the accommodation of livestock was begun, by which time the planning permission (granted by virtue of Article 3 of the GPDO) been initiated and therefore was extant.

Therefore, the ten year rule applies to enforcement action against the breach of condition, which has not expired as the breach has been ongoing for approximately 6 years.

RECOMMENDATION: Refuse

On the balance of probabilities the existing use of the building for accommodation of livestock is in breach of the condition set out at Schedule 2, Part 6, Class A.2(1)(a) of the General Permitted Development Order 2015 (as amended) and therefore is not lawful.

Application Ref: 22/0167/CEU

Proposal: Certificate of Lawful Use (S.191 Existing Development): Use of agricultural building for livestock.

At: Tower Farm, Gisburn Road, Blacko

On behalf of: Mr J. Kay

REPORT TO BARROWFORD AND WESTERN PARISHES COMMITTEE ON 2ND NOVEMBER 2022

Application Ref: 22/0280/HHO

Proposal: Full: Proposed front and rear dormer, and rear extension.

At 22 Stone Edge Road Barrowford Nelson

On behalf of: Jane Davies

Date Registered: 25.04.2022

Expiry Date: 6/20/2022

Case Officer: Neil Watson

Site Description and Proposal

The application site sits on a row of modern houses on the side of a highway that slopes from east down to the west. The bungalow is a simply designed unit with a front pitched roof projection and a flat roofed garage to the other side.

The area has some bungalows on the lower side of the road. Above it there are two properties that have been extended with dormers. These are two storey dwellings.

Relevant Planning History

No relevant planning history.

Consultee Response

Highways: No objection.

Parish/Town Council:

Concerns: At ground floor filling in at the rear and replacement of flat roofs with a continuous sloped tiled roof could be seen as an improvement but the large dormers to the front and rear could be detrimental to the character and amenity of the current streetscape. The scope of the planning application does not indicate whether this is the only dwelling with large dormers.

Public Response

None

Relevant Planning Policy

Pendle Local Plan Part 1: Core Strategy Policy SDP1 takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Policy ENV1 seeks to ensure a particularly high design standard that preserves or enhances the character and appearance of the area and its setting. It states that the impact of new developments on the natural environment, including biodiversity, should be kept to a minimum. 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. Saved Policy 31 of the Replacement Pendle Local Plan sets out the maximum parking standards

for development. National Planning Policy Framework The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies in the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. The Design Principles Supplementary Planning Document (SPD) applies to extensions and sets out the aspects required for good design.

Officer Comments

The proposal is to erect an extension to the rear of the dwelling that wraps round to the garage which would be converted into a room. The roof would, be raised and a dormer inserted to the front covering over half of the roof length with a full length dormer to the rear elevation.

The development would face a bungalow with windows facing the site on its west side. The garage would be converted into a room, notwithstanding that the proposed floor plan still keeps it as a garage. There would need to be a privacy screen there otherwise there would be direct loss of privacy to the occupants of the neighbour.

The windows looking towards neighbours could also be required to be obscurely glazed to prevent overlooking. The development would not be overbearing on the neighbouring properties.

The main issue is one of design. The existing bungalow is a low key building that site adjacent to other low key buildings. The proposal is to roof lift and then have dormers which stretch to the ridge of the bungalow. Other dormers in the area are located lower down the roof slopes so have a different design impact.

The proposed dormers would dominate the roof of the properties and would dominate the appearance of the building to the detriment of the street scene and locality. The design of the dormers is unacceptable and would constitute poor design.

RECOMMENDATION: Refuse

The development would result in dormers that would be disproportionate to the scale of the existing house and which would be poorly designed and out of character with the host dwelling. The development would thus be contrary to policy ENV2 of the adopted part 1 Local Plan and to paragraph 134 of the National Planning Policy Framework

Application Ref: 22/0280/HHO

Proposal: Full: Proposed front and rear dormer, and rear extension.

At 22 Stone Edge Road Barrowford Nelson

On behalf of: Jane Davies

REPORT TO BARROWFORD AND WESTERN PARISHES COMMITTEE ON 2ND NOVEMBER 2022

Application Ref: 22/0282/HHO

Proposal: Full: Proposed part two storey and single storey side extension.

At Harpers House Harpers Lane Fence

On behalf of: Mr Wiles

Date Registered: 26.04.2022

Expiry Date: 6/21/2022

Case Officer: Neil Watson

Site Description and Proposal

The application site is a large property set in grounds just off Harpers Lane. It adjoins harpers Cottage to the north east and has a gable facing residential units to the south west.

The proposal is to erect a second storey above the existi9sting single storey side extension.

Relevant Planning History

No relevant planning history.

Consultee Response

Highways

Parish/Town Council

United Utilities

Environment Agency

Environment & Conservation

Public Response

None

Relevant Planning Policy

Pendle Local Plan Part 1: Core Strategy Policy SDP1 takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Policy ENV1 seeks to ensure a particularly high design standard that preserves or enhances the character and appearance of the area and its setting. It states that the impact of new developments on the natural environment, including biodiversity, should be kept to a minimum. 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. Saved Policy 31 of the Replacement Pendle Local Plan sets out the maximum parking standards

for development. National Planning Policy Framework The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies in the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. The Design Principles Supplementary Planning Document (SPD) applies to extensions and sets out the aspects required for good design.

Officer Comments

The application is a large but yet not prominent property set back from the highway in its own grounds.

The proposed extension would extend the first floor of the existing side extension above the single storey side extension. There are a number of windows in the existing elevation facing the properties next door to the south west. These would be altered and one first floor window would be inserted. The relationship does not however bring the windows closer than those existing and the relationship would not be made worse than exists.

The development is far enough away from the existing dwellings to the south west that there would be no impact on the living environment of the occupants of those houses.

The design is simple and adds to what is existing and is acceptable.

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 housing development would accord with Local Planning Policy and would be compliant with the guidance set out in the Framework, subject to compliance with planning conditions. 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 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: 22018-SP, 22018-LP, 22018-04,

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

3. The materials to be used externally on the development hereby permitted shall be as stated on the approved drawings.

Reason: These materials are compatible to the exiting house and would be an appropriate design.

Application Ref: 22/0282/HHO

Proposal: Full: Proposed part two storey and single storey side extension.

At Harpers House Harpers Lane Fence

On behalf of: Mr Wiles

REPORT TO BARROWFORD AND WESTERN PARISHES COMMITTEE ON 2ND NOVEMBER 2022

Application Ref **22/0417/FUL**

Proposal: Full: Conversion and extension of existing outbuilding to create a single dwelling.

At: 147 Wheatley Lane Road, Barrowford

On behalf of: Mr & Mrs Yates

Date Registered: 23/06/2022

Expiry Date: 18/08/2022

Case Officer: Laura Barnes

Site Description and Proposal

The application site is an outbuilding, serving No. 147 Wheatley Lane Road. It is a two storey detached building which sits forward of the front elevation of the dwelling. It is a two storey structure which currently has a garage to the ground floor and storage to the first floor. The application site is located within the settlement boundary and within the Conservation Area.

The proposal is for the conversion and extension of the existing building, to create a single dwellinghouse. The proposed dwelling would comprise three bedrooms.

Relevant Planning History

None relevant

Consultee Response

LCC Highways

Ref: Rev A Drawing no. 6200-P20, RBM, Parking space and bike store added. This is satisfactory.

Barrowford Parish Council

No objection. Although this is within the Carr Hall Road and Wheatley Lane Conservation Area, Barrowford Parish Council has no objection to bringing this former coach house into residential use. The application retains the original configuration of the frontage and sympathetic treatment of the side elevation with perhaps a more traditional style of apex roof to the four first floor dormer windows would create a traditional feel that enhances the streetscape within the Conservation area. The proposed extension to the rear is of a more modern design with siding board surfaces and a large glazed rear elevation. The stepping in of the side elevations should help give a definitive break between the existing materials and the new materials on the side elevations. The rear elevation could be defined as a modern approach to Arts and Crafts design using more sustainable materials.

Public Response

Nearest neighbours notified, one letter of objection has been received raising the following issues:

- The application site is an integral part of the Conservation Area
- The coach house was identified in the Conservation Area Appraisal as making a special contribution to the character of the Conservation Area

- The extension would be visible from Wheatley Lane Road
- The addition of a door and skylight are unsympathetic
- The plot would become overcrowded
- The proposed development would have a negative impact upon the physical and mental health of the neighbours
- There is no need for additional housing here – there are already 500 houses being built at Trough Laithe
- The frontage of the original dwelling would have to alter to make way for car parking
- Danger to ecology & removal of protected trees
- There is a stream running where the extension is to go
- Windows facing the neighbour at No. 149 – plans are inaccurate because they indicate 4 windows
- Sunlight will be blocked from No. 149
- Concerns regarding the foundations of No. 149 being destabilised
- The applicant has already had 2 large houses approved in their rear garden

Officer Comments

Policy

Pendle Local Plan Part 1: Core Strategy

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) requires developments to make a positive contribution to the protection, enhancement, conservation and interpretation of our natural and historic environments.

Policy ENV2 (Achieving Quality in Design and Conservation) sets out the design standards for development within the Borough.

Replacement Pendle Local Plan

Saved Policy 31 'Parking' supports car parking in new developments in line with the Maximum Car and Cycle Parking Standards.

National Planning Policy Framework

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies in the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Paragraph 202 of the Framework sets out that where development proposals would lead to less than substantial harm to the significance of a designated heritage asset, this harm must be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Principle of Development

The application site is located within the settlement boundary, it seeks to reuse an existing building in order to create a new residential dwelling. The principle of development is acceptable, subject to design and amenity issues.

Design & Heritage

The proposed site is located within the Conservation Area. It seeks to extend the existing building with a two storey rear extension. The dwelling would comprise the following accommodation: lounge, ground floor WC, office and kitchen / dining area. To the first floor the accommodation would comprise three bedrooms, one with an ensuite bathroom and a family bathroom. In terms of external alterations, the main addition is to be the two storey rear extension which is to be finished in dark timber cladding to the walls, with a course of red brick carried through. The roof arrangement, detailing and finish would match the existing building and new windows would be in grey aluminium.

In terms of the impact upon the Conservation Area. The proposed development seeks to utilise the existing building, the major alteration to it would be to the rear where a two storey extension is proposed. Although a large extension, the position of it is such that it would not alter the character or appearance from the front elevation. It would result in the re-use of the building which is redundant in terms of its former use (a coach house). Therefore, the impact upon the Conservation Area would be neutral.

Overall, the proposed development accords with policy in this regard.

Residential Amenity

The site is located in a residential area. The report will now focus on each elevation in terms of the window openings. To the front elevation there is no proposed change to the openings. To the north east elevation (side), the proposed development would result in blocking up one ground floor window. The other windows to this elevation are to be obscure glazed. To the rear elevation a first floor window is to be blocked up and would make way for a large glazed section comprising bi-folding doors to the ground floor and a Juliet balcony with windows either side to the first floor. The proposed windows to the rear elevation would overlook the rear garden of the application site. To the south west elevation (side) there are to be two windows, one is a high level secondary source of light into the kitchen / dining area whilst the other is to serve the ensuite. Also to this elevation is a roof light, which is to serve the main family bathroom.

In terms of the impact upon neighbouring amenity, the windows to the front and sides would not result in any unacceptable neighbouring amenity issue. The main reason for this is due to obscure windows to the side closest to No. 149. The obscure glazing could be secured by planning condition. Turning to the windows to the rear elevation, although these would be within close proximity to the neighbouring dwelling at 149 and certainly less than 21m away, the closest window to the proposed development at No. 149 serves a family bathroom and has obscure glazing. To the ground floor, the proposed 2m high close boarded fence along the boundary with No. 149 would screen any views between the properties.

As a result, the proposal would not result in unacceptable amenity impacts on surrounding dwellings and is therefore acceptable in accordance with Policy ENV2 of the Local Plan: Part 1 Core Strategy and the Design Principles SPD.

Highway Safety

Adequate car parking provision and manoeuvring space can be accommodated within the applicant's land ownership. There is no concern raised in relation to highway safety danger.

Trees

There is a protected tree within the curtilage of the dwelling (PBC ref – TPO/No22/1995). Accordingly, tree protection measures have been prepared by Lakeland Tree Consultancy and are

included as part of the application. The applicant has prepared a Tree Protection Plan and arboricultural impact assessment. The proposed approach, which includes no dig methods, construction exclusion zones and the use of protective fencing will ensure that the trees within the site are not harmed during the process of conversion and laying out of the new driveway areas.

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 erection of a holiday let is acceptable in this location in terms of impact on the open countryside subject to appropriate conditions. 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: In order to comply with the requirements of Section 91 of the Town & Country Planning Act 1990 (As Amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan 6200-E20

Proposed Site plan, Elevation Plans and Floor Plans 6200-P20 Rev B

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

3. Prior to the commencement of the development samples of all the external materials to be used in the development, including roofing, elevations, doors and windows shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved details.

Reason: To enable the Local Planning Authority to control the materials to be used on the proposed development and ensure that they are appropriate for this location.

4. Prior to the commencement of development details of a scheme of disposal of foul and surface water shall be 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 plans before the unit is first occupied.

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

5. Notwithstanding the provisions of Article 3 and Parts 1 and 2 of the Second Schedule of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no development as specified in Classes A,B,C,D and F of Part 1 and Classes A,B and C of Part 2 of Schedule 2 of that

Order shall be carried out without the 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 protect residential amenity.

6. The side elevation windows (closest to No. 149 Wheatley Lane Road) of the development hereby permitted shall at all times be fitted with obscure glazing to at least level 4 or above unless otherwise agreed in writing by the Local Planning Authority. Any replacement glazing shall be of an equal degree or above. The window shall be hung in such a way as to prevent the effect of the obscure glazing being negated by way of opening.

Reason: To ensure an adequate level of privacy to adjacent residential properties.

7. The development hereby approved shall be carried out in strict accordance with the arboricultural impact assessment prepared by Lakeland Tree Consultancy (February 2021) and Tree Protection plan (received on 23/06/2022).

Reason: In order to provide appropriate protection to the trees on site, during the construction process.

8. Prior to occupation of the development hereby approved, provision shall be made for the secure storage of cycles.

Reason: To allow for the effective use of the parking areas and the promotion of sustainable forms of transport and aid social inclusion.

9. All off-street parking shall include provision of an electrical supply suitable for charging an electric motor vehicle.

Reason: To support sustainable transport objectives and to contribute to a reduction in harmful vehicle emissions.

Application Ref **22/0417/FUL**

Proposal: Full: Conversion and extension of existing outbuilding to create a single dwelling.

At: 147 Wheatley Lane Road, Barrowford

On behalf of: Mr & Mrs Yates

REPORT TO BARROWFORD AND WESTERN PARISHES COMMITTEE ON 2ND NOVEMBER 2022

Application Ref: 22/0424/FUL

Proposal: Full: Major: Demolition of existing buildings and erection of 12 dwellinghouses with associated infrastructure.

At Former Roaming Roosters, Fence

On behalf of: Mr Charles McDermott

Date Registered: 29/07/2022

Expiry Date: 28/10/2022

Case Officer: Neil Watson

Site Description and Proposal

The application site sits on the western edge of the settlement of Fence. It lies in the green belt. The site comprises of an existing entrance that served a former mixed use site as a restaurant, shop and farm activity centre.

There is a large single building at the front of the site as exists with car parking to the east and rear of the site with open areas to the front and west of the existing building.

The proposal is to redevelop the site for housing. The proposal is for 12 houses with 6 to the front and 6 to the rear of the site. The entrance arrangements are not proposed to change.

There are three listed buildings located on the opposite side of the bypass at Ashlar Cottage to the east with White Lee, Lower White Lee and Acre House to the south west also across the by-pass.

Relevant Planning History

13/13/0163P. Erection of extensions for livestock. Approved.

13/10/0307P Full: Major: Change of use of 2 no agricultural buildings to form farm educational centre, offices, prep & workspace for management of Roaming Roosters, ancillary Cafe and Shop and formation of car park and wildlife pond. Approved.

Consultee Response

Highways: No objection

Parish/Town Council:

Lancashire Fire & Rescue: The development should meet building regulations.

Environmental Health: Suggest condition relating to the construction phase of the development.

United Utilities: No objection subject to a condition relating to surface water drainage.

LCC Education: The development will led to a need for further education places and would like a contribution of £35,654 for primary places and £24,753 for secondary schools.

Coal Authority. The site falls in the High Risk Area. The risk assessing submitted with the application is acceptable and the Coal Authority has no objection.

Lead Local Flood: Objects based on inadequate sustainable drainage strategy.

United Utilities

Environment & Conservation

Lancashire Badger Group: There are setts in the area and provisions should be put in place to protect badgers

Public Response

There have been letters of objection and support for the application:

Objections

- The application is impertinent as the original application was for farm buildings and a farm shop.
- The site is in green belt. In Holder vs Gedling the court says development there can only be in very special circumstances.
- Enough damage has been caused to the rural agricultural nature of this site.
- The buildings should be demolished and the site restored to its original use.
- Local services are already swamped
- It would damage the setting of the nearby listed buildings
- The villages are already busy and do not need any more traffic.
- There are problems with parking in the village
- Green belt is sacrosanct
- School. Higham school is small and already villagers cannot send their children there.
- The proposed development will be detrimental to the overall look after the current surrounding area and listed buildings
- There is flooding on the bypass
- Although I can understand the development in the proposed location due to its conditions I object to the residential scheme
- More wildlife will be lost.
- It will adversely affect the community
- We understand the developer has bought more land around the site and there may be more development in the future
- There is poor visibility and access to the site and the bypass has fast moving cars.
- There is a lack of public footpaths in the area.
- There are plenty of other properties available in the area

Support

- A brownfield site is the obvious place to build houses
- The development will not produce the volume of traffic the former development did.

Relevant Planning Policy

The law requires applications to be considered in accordance with the development plan unless material considerations indicate otherwise

The Local Plan

Pendle Local Plan Part 1: Core Strategy Policy SDP1 takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy ENV1 seeks to ensure a particularly high design standard that preserves or enhances the character and appearance of the area and its setting. It states that the impact of new developments on the natural environment, including biodiversity, should be kept to a minimum.

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.

Policy LIV 1. Supports housing on sustainable sites on land adjoining but outside of a settlement until the part 2 plan is approved.

National Planning Policy Framework (“the Framework”)

There are three elements to sustainable development which is the purpose of the planning system. There are economic, social and environmental objectives. Applications that accord with the development plan should be approved without delay.

Part 5 relates to housing. The Government’s objective is to significantly boost the supply of housing.

Part 6 identifies the need to build a strong and competitive economy including a prosperous rural economy.

Part 13 relates to the green belt. The purpose of the green belt is to keep land permanently open.

Para 147 In appropriate development is, by definition, harmful to the Green Belt. Inappropriate development should not be approved except in very special circumstances.

Para 149 sets out a number of circumstances where new building is not inappropriate. This includes:

- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
- not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

Para 195 indicates that heritage assets should be identified and any impacts on them assessed according to the degree of impact on their significance.

Officer Comments

The application site lies in the Green belt. It is previously developed land outside of the settlement of Fence. It has a commercial building on it that has been disused for some time and is deteriorating.

Comments have been made by many parties regarding the green belt. Many revolve around the view that the site is in green belt and there should not be any development within it.

Planning policy nationally restricts development in the green belt as being inappropriate. Where inappropriate development is proposed permission should only be granted if there are very special planning circumstances.

Very special planning circumstances are not being advanced with the application. The application falls to be determined on the basis of part g of paragraph 149 of the Framework. The issue for Committee is whether the development is in accordance with part g. This requires the land to be previously developed land and that the development does not lead to a greater impact on openness than the existing development.

Agricultural sites are specifically exclude from being previously developed land under the Framework. The lawful use of the site was for a mixed commercial development which was not agricultural. The site is therefore previously developed. The issue here is whether what is being proposed would affect openness more than the existing development and if it would the development would be inappropriate development harmful to the green belt.

The assessment on whether the development would have a greater impact on openness needs to be taken based on the individual merits of the site and its surroundings.

Designated Heritage Assets

Ashlar Cottage is grade 2* listed. It is set some way from the site. The building has no physical or historical relationship with the site and is not visually linked. Its setting is not affected.

Lower White Lee is grade 2 listed. It is the nearest of the listed buildings. It is set back from the bypass and is located 80m from the nearest point of the built form. It has a bypass in front of it and is off set at an angle from the application site which already has a commercial development on it. The application site does not form part of the setting of the listed building and the development will not have any impact on the listed buildings. The listed buildings further to the south west are not affected by the development.

The existing buildings on the site have a similar relationship to the heritage assets as those proposed. Even were there to be an existing detrimental impact, which there is not, the new buildings would not affect the listed buildings in any material way different to what currently exists.

Highways

The application site is served pby an existing access. That has full forward visibility and onto a highway where cars can be seen approaching. The access has served a formerly very busy commercial enterprise which generated significantly more traffic than would be generated by 12 houses.

The site plan has within it a proposed opening to a field to the north west of the site and one to the east. The access to the north west would allow access through the estate to the fields to the north. That would generate traffic that already uses the entrance to access the fields as it does now. This would have no highway implications and would not cause a nuisance to the occupants of the new houses.

The access to the east would link to a single width track and allow movement to and from the site through that by residents or other private users. This would have the potential of allowing the use of a substandard access to the site. This is not acceptable from a highway safety perspective and the developer has been asked to delete this from the scheme.

There would be adequate parking within the site.

There are no highway objections to the development provided the access to the east is blocked off.

Design

The applicants have submitted a detailed design appraisal of how the proposed design has been arrived at and how that has been influenced by other design in the area. The designs are simple and reflective of what can be found elsewhere in the Borough. They represent a visual improvement to what is currently on site and there are no objections in terms of design.

Ecology

The application site has been largely developed previously with peripheral areas of grass. The ecological appraisal confirms that there is nothing of ecological value on the site. There are no objections to the development of the site on ecology grounds.

Drainage

The principle of the drainage arrangements to the site are accepted. Further details have been requested which the applicants are currently working on. Subject to these being acceptable there are no objections on drainage grounds.

Impact on Neighbours

The development is for housing which is not a noise generating use of land. There are no houses that are near to the site that could be affected in terms of loss of privacy or amenity.

Green Belt

The main issue that needs to be determined for this application is the impact on the openness of the green belt. This requires a balanced assessment of the current characteristics of the site and how open it is currently and an assessments against the impact the current scheme has. The courts have indicated that there is no one element that defines the impact and the individual characteristics need to be evaluated. That includes how open the area general is in the locality, if the development is larger than the existing development on site (scale is not the defining factor though and is one of a number of matters that needs to be taken into account) as well as issues such as massing and layout.

The locality is defined by a generally larger buildings set alongside the bypass set in their own grounds. The housing continues for a short distance on the opposite side of the bypass but the application site forms end of the build form on the north side of the bypass.

There is a large building on the site at present. That is a single building but with a bigger massing and presence on site than the buildings proposed.

The proposed scheme has a larger overall cubic volume but is not concentrated in one place and has less of a single massing on site.

The larger massing itself has an impact on the openness of the area. That would be removed and smaller individual masses of building placed on site but over a larger area.

This is a finely balanced issue with the characteristics of openness being differently impacted but the single large building having a larger and more dominating presence affecting openness to the more spread out but less individual impactful development of the house.

On balance the development would be the same in terms of the impact on openness from the existing scheme to that proposed.

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 housing development would accord with Local Planning Policy and would be compliant with the guidance set out in the Framework, subject to compliance with planning conditions. 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: Delegate Grant consent subject to the submission of satisfactory drainage information

Subject to the following conditions as well as other conditions arising from:

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: 21022_PL(20)001, 21022_PL(20)002, 21022_PL(20)003, 21022_PL(20)004, 21022_PL(90)001, 21022_PL(25)001, 21022_PL(25)002, 21022_PL(25)003, 21022_PL(25)004, 21022_PL(25)005, 21022_PL(26)001, 21022_PL(26)001, 21022_PL(26)002, 21022_PL(90)002-B, 21022_PL(90)003-B, 21022_PL(90)001-A, LO1 C, LO 2,

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

3. The materials to be used on the development hereby approved shall be as stated on the application forms and plans.

Reason: These materials are appropriate and compatible with the existing development.

Application Ref: 22/0424/FUL

Proposal: Full: Major: Demolition of existing buildings and erection of 12 dwellinghouses with associated infrastructure.

At Former Roaming Roosters, Fence

On behalf of: Mr Charles McDermott

REPORT TO BARROWFORD AND WESTERN PARISHES COMMITTEE ON 2ND NOVEMBER 2022

Application Ref: 22/0693/CEA

Proposal: Certificate of Lawfulness (S. 192 Proposed Development): Installation of 15 No. replacement UPVC windows.

At Pinfold Cottage, Fence

On behalf of: Miss Siobhan Murphy

Date Registered: 14/10/2022

Expiry Date: 9/12/2022

Case Officer: Neil Watson

Site Description and Proposal

The application is to determine whether the installation of replacement of 15 windows would be lawful.

Relevant Planning History

13/05/0280P – Use of property as two dwellings and extension

Consultee Response

No comments have been received.

Public Response

None

Officer Comments

This is an application to determine if the installation of windows would be lawful.

The Town & Country Planning (General Permitted Development) Order 2015 (“the GDPO”) grants automatic planning permission for certain forms of development. Under Schedule 2, Part 1 Class A permission is given to certain extension as well as “other alteration to a dwelling”. There are certain restrictions on this. Unusually none of which relate to whether a building is listed.

The installation of the 15 windows would therefore be lawful under the terms of the GDPO.

The further question here is whether the development would require listed building consent which is governed by a separate Act of Parliament to the need for planning permission. The issue here is whether the building is listed as if it were listed then the alterations would require listed building consent.

Lyn Cottage is not listed in its own right. It formed part of the listing curtilage of Chapel House Farm which is grade 2 listed.

As detailed above the farm was separated into two dwellings in 2005 under planning permission 13/05/0280P. Since then the property has developed its own curtilage and has been extended.

The curtilages of buildings can be altered over time and curtilage buildings no longer be listed if they are outside of a curtilage. We received advice from our conservation consultants on this which is as follows:

Basically a "listed building" means a building which is included on the list compiled or approved by the Secretary of State and for the purposes of this 1990 P(LBCA) Act includes;

(a) any object or structure fixed to the building;

(b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948. As such the issue at hand is whether Lyn Cottage is considered to lie within the curtilage of the adjacent listed building (Chapel House Farmhouse) and has done so since the 1 July 1948.

Re curtilage structures Planning Case law over the years means that a LPA should apply 3 general tests when considering the extent of curtilage and whether a building forms part of a LB. These being;

- 1. The physical layout of the LB and other buildings*
- 2. The ownership both past and present*
- 3. The buildings uses or function both past and present*

I would point out that such matters are always open to planning judgement and are often far from clear cut. That seems to be the case in point here. From what I could see historically Lyn cottage was likely a small ancillary stable/coach house/store building relating to Chapel House Farmhouse. Historic maps from both 1845 and 1890 clearly show a building on the north side of the LB, which is likely to be what we identify as Lyn Cottage. The 1890's map clearly shows an ancillary building sat on the edge of an angled enclosure, which is still evidenced today as being the garden enclosure to Chapel House Farm. Visually the cottage is closely related to the listed building and appears in construction terms to be contemporary to the mid to late C18 LB. In this respect I would regard the building as lying within the historic curtilage of Chapel House farm and passing the first of the 3 tests above. As such the building could be considered (under criteria b above) to be a curtilage building under the provisions of the Act and as such be form part of the listing for Chapel House Farm.

I note that this ancillary relationship has been accepted by the Council in previous applications affecting the 'Cottage', most recently with the application to extend the cottage in 2012 which was dealt with under a LBC application (13/12/0211P). From the planning record you supplied it seems the cottage was only split from Chapel House Farm in 2005. The red edge on that application (13/05/0311P) clearly showing it as part of the curtilage to the Listed Building. On this basis I do not feel the LPA could be criticised by continuing with that stance and treating the building as being within the curtilage of the adjacent listed building.

However as with such matters, they are rarely 'black and white' and a counter argument can be applied to say that in relation to points 2 and 3 above there has been a clear intention to separate the property from the LB and that as the building is now in a separate ownership and no longer functions as an ancillary building to the listed property, that it can no longer be considered as being a 'curtilage' building. The LPA has been complicit in this by facilitating this separate use and approving substantial extensions to the building. This is further reinforced on site by the fact that the cottage has a separate enclosed garden area. It clearly now functions, as it has done for some years, as an independent dwelling.

The conclusions that are drawn from this is that Lyn Cottage is no longer a curtilage building. As such it does not have the blanket cover of being listed by virtue of being in the curtilage of a listed building. As such listed building consent is not required to alter the windows.

RECOMMENDATION: Issue certificate of development

On the balance of probability the installation of 15 windows would be lawful as it would be permitted development under the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and listed building consent is not required as the building no longer forms part of the curtilage of a listed building.

Application Ref: 22/0693/CEA

Proposal: Certificate of Lawfulness (S. 192 Proposed Development): Installation of 15 No. replacement UPVC windows.

At Pinfold Cottage, Fence

On behalf of: Miss Siobhan Murphy