

REPORT FROM: ASSISTANT DIRECTOR, PLANNING, BUILDING CONTROL
AND REGULATORY SERVICES

TO: COLNE & DISTRICT COMMITTEE

DATE: 02ND NOVEMBER 2023

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO COLNE COMMITTEE 2ND NOVEMBER 2023

Application Ref: 23/0559/CEA

Proposal: Certificate of Lawful Development (S.192 Proposed Development): Proposed use of dwelling (Use Class C3) to provide care and support for 2 no. young persons (Use Class C2).

At: Hey Fold Barn, County Brook Lane, Foulridge

On Behalf of: First Blue Healthcare

Date Registered: 14/08/2023

Expiry Date: 09/10/2023

Case Officer: Laura Barnes

Site Description and Proposal

The application site is a four bedroom dwelling, accessed off County Brook Lane.

This application is for a Lawful Development Certificate for the proposed use of the dwelling as a home to provide care for up to two children.

This application seeks to establish that the existing and proposed uses both fall within Use Class C3 (dwelling house) and as such the proposed use does not represent a material change of use requiring planning permission.

This application was deferred from the previous committee. An error has been made and the decision has been issued. This is not acceptable but lawfully the decision notice stands. The Council now has to determine what it would have done with the application. If it would have approved it then the issuing of the decision will not prejudice any party as that would have been the decision. If Committee would have refused it then the council will need to seek legal advice to seek to revoke the consent.

Planning History

23/0357/CEA: Certificate of Lawful Development (S.192 Proposed Development): Proposed use of dwelling (Use Class C3) to provide care and support for 2 no. young persons (Use Class C2).
Refused

Consultee Comments

None relevant

Public Response

Multiple members of the public have objected to the certificate on the following grounds:

- This would be the second home within this hamlet
- Traffic disruption
- The company are reluctant to share their ofsted reports, which raises concerns

- There are a number of visitors, including family members
- Incorrect information in the statements
- Children do not attend mainstream school
- Anti-social behaviour of the individuals living at the property
- Sense of community will be lost, amongst residents
- There have been a number of incidents over the last few years, which have required the police to attend
- Location Plan is incorrect – it includes land which is not belonging to the applicant
- Isolated location
- The current landlord has control over the type of individual that is accommodated in the current facility. They intend to move so this would not be the case going forward

Officer Comments

The consideration in determining this Lawful Development Certificate is whether the use proposed would constitute a material change of use requiring planning permission. The benefits or desirability of having the facility there are not relevant to this application and cannot be considered as part of the determination. The sole issue is whether the use proposed would or would not be lawful.

The C3 and C2 uses are in separate parts of the use Classes Order. However the courts have effectively said that where a C3 and a C2 use are indistinguishable from each other no material change of use takes place. It is the phrase material which is important in considering these applications. There is case law surrounding the type of use proposed. Although the uses C2 and C3 are in separate use classes, the courts have in effect concluded that no change of use would occur if the nature and character of the use of the premises is indiscernible between the two uses.

The residential property is lawful to be used as a house under Class C3

The onus is on the applicant to provide sufficient information to be able to prove that a certificate should be issued. The applicant has put together a statement which sets out their operational procedures, they have supplemented this with “additional supporting information”. They have included information about the age range of the children who would be receiving care at the facility. They have also set out the typical pattern for education, weekend activities and health care / additional learning requirements which the children may need. Their statement sets out that First Blue, the applicant, has a team which consists of: a registered manager, a deputy manager, team leaders and residential support workers. The statement sets out that there will be six staff employed by the home in addition to one manager. The staff will work on a shift rota on a 24 hour basis, so that there would be two staff at the home at any one time. There would be a maximum of two children on site living in the unit. The statement also sets out that children would be expected to attend mainstream school and the manager’s shift patterns would be set up around school hours.

Having two staff and two children on site during a 24 hour period would be no different to parents and two children living in a house.

The applicant has provided details surrounding the working patterns of the staff and the numbers of staff that would be on site with the children. Up to two children would live at the house at any one time, with two staff members accompanying them. This would not be the main residence for any of the staff. Given that there are to be two staff members this would effectively be the same as a mum & dad looking after children in a typical family setting. Although it is acknowledged that

there would be a change over of staff at certain hours, this would be at a set time each day and would be similar to a parent taking a child to school or setting off to work. It would not result in a discernible difference from that of a C3 Use Class.

There is another care home for children adjacent to the application site which was also granted under a certificate of lawful development (20/0093/CEA). Unless they operated together the existence of another similar unit has no bearing on the characteristics of the use of this house. The applicant stated that these two properties would operate independently and would not share staff etc. The circumstances of neighbouring properties would not have a bearing upon the current application.

Comments have been made about antisocial behaviour of future occupants. There is no evidence that this would occur with two children living at the property. The property is not to be used as a detention centre but as a home for 2 disadvantaged children. Comments relating to the isolated position of the property and the loss of sense of community are not material matters that are relevant to the consideration of whether the use would or would not be lawful and should not be considered.

On the balance of probabilities, the proposed use would not result in a material change of use from the Use Class C3.

Other Matters

Some comments have been received that the red edge on the Location Plan does not accurately indicate a ginnel and part of a wall which has been removed, where there is a right of way for landowners to inspect the spring water supply. The issues raised are of ownership and rights of access, rather than land use planning. As such, they are not a material consideration in the determination of this Certificate of Lawfulness.

Reason for Decision

On the balance of probabilities and in accordance with the submitted details the proposed use would not constitute a material change of use requiring planning permission.

RECOMMENDATION: Approve lawful development certificate

Application Ref: 23/0559/CEA

Proposal: Certificate of Lawful Development (S.192 Proposed Development): Proposed use of dwelling (Use Class C3) to provide care and support for 2 no. young persons (Use Class C2).

At: Hey Fold Barn, County Brook Lane, Foulridge

On Behalf of: First Blue Healthcare

REPORT TO COLNE AREA COMMITTEE 2ND NOVEMBER 2023

Application Ref: 23/0601/FUL

Proposal: Full: Refurbishment and extension of the existing market hall and first floor apartments, including demolition of the existing glazed canopy and rear garages, the construction of a new stair and lift tower and the formation of 2no. 1 bedroom apartments through material change of use with ancillary external works to form a new public car park and bus stop.

At: Market Hall, Market Street, Colne

On behalf of: PEARL2 Limited

Date Registered: 20/09/2023

Expiry Date: 15/11/2023

Case Officer: Laura Barnes

Site Description and Proposal

The application site sits at the heart of Colne's Town Centre, on Market Street. The existing building has been in situ since the early 1970's and is in need of refurbishments. The application site is located within the defined Town Centre boundary and is within the settlement boundary. It is directly adjacent to a Conservation Area and a Listed Building.

The proposal seeks to re-clad the existing building as well as remove a section of the canopy / entrance building to the front elevation. There is also to be a reorganisation of the stair well / lift and loading area to the rear of the building as well as the introduction of an additional two flats. There are currently nine vacant flats within the upper floor of the building. The proposed development would see the re-occupation of these flats as well as two additional ones. Internally, the proposal is to comprise a food hall and market stall area, whilst the upper floor is to accommodate eleven dwellings.

Relevant Planning History

None relevant

Consultee Response

LCC Highways

An area of planting has been added to the eastern elevation side of the building at the bottom of the steps on Nineveh Street which is adopted highway. This needs to be removed from the scheme. An extract of our record with the adopted highway highlighted green is shown below. A zebra crossing marking is shown across the exit of the resident car park/service yard. This needs to be removed from the scheme as this is adopted highway and doesn't comply with highway regulations.

This leads to a section of footway which is shown as repaved. This also is adopted highway and needs to be laid to Lancashire County Council specification or removed from the scheme. If it remains in the scheme it would leave a short section of tarmac footway in between sections of block paving, ideally the short section would be included in the new paving scheme.

There is a 'new crossing' shown on Craddock Road to the west side of the junction of Nineveh Street. There is an existing signalised crossing on Craddock Road located approximately 30m to the west of this location therefore a new crossing is not considered necessary.

The proposed highway works are anticipated to form part of the wider works planned for Colne Town Centre and will be carried out under a S278 agreement with the works constructed to Lancashire County Councils specification.

Parking

The Pendle Borough Council parking standards would require a maximum of 14 car parking spaces for the residential element and 56 spaces for the retail Market.

There are 26 car parking spaces retained for the Market users.

There are 12 resident parking spaces proposed including 1 disabled parking bay and 2 electric vehicle charging points.

The site is located within Colne Town Centre and adjacent to the Bus Station therefore it is considered highly accessible and can support travel by sustainable modes.

Secure, covered cycle parking should be provided for the residents, market employees and customers.

Conclusion

Lancashire County Council acting as the Highway Authority does not raise an objection regarding the proposed development, subject to the minor amendments on Nineveh Street and provision of cycle parking are described above and are of the opinion that the proposed development will not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site.

Should the application be approved a condition is requested to submit technical details of the proposed highway works.

1. The highway works proposed on Nineveh Street shall be constructed to Lancashire County Councils specification and under an appropriate agreement.
2. The car and cycle parking shall be provided prior to the first occupation of the development hereby permitted.

Informative note

The grant of planning permission will require the applicant to enter into a S278 Agreement, with the County Council as Highway Authority. The Highway Authority hereby reserves the right to provide the highway works within the highway associated with this proposal. Provision of the highway works includes design, procurement of the work by contract and supervision of the works. The applicant should be advised to contact Lancashire County Council for further information by emailing the Highway Development Control Section at developeras@lancashire.gov.uk

Cadent

No objection, informative note required.

Lancashire Fire and Rescue Service

The proposed development must meet with current Building Regulations.

Lancashire Constabulary

Advocate the Secure by Design principles

Colne Town Council

Comments awaited

Public Response

Nearest neighbours notified, a site & press notice have been posted.

Multiple objections have been received, raising the following points:

- Poor design
- Council are allowing the destruction of the town
- The town is full of history, it is a shame to have such an ugly building at the centre which does not reflect the local character
- There is no colour or vibrancy to the proposals
- The building needs a re-paint and does not require £4 million spending. This would be better spent on green spaces
- This demonstrates a lack of ideas
- The interior could have been refurbished without spending this amount of money
- Money would be better spent on the health care system
- Langroyd Hall would benefit from this money instead
- It should be focused on young people
- Traders have already started to leave the market because of rumours surrounding these plans

One person has also written in support, stating:

- In support of improving the market hall but the lettering on the signage should be a darker colour, not red

Officer Comments

Policy

Pendle Local Plan Part 1: Core Strategy

Policy SDP1 (Presumption in Favour of Sustainable Development) takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy SPD5 (Retail Distribution) sets out that new retailing proposals should accord with the retail hierarchy, which favours town centres.

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) seeks to protect and enhance heritage assets and proposals which would impact upon them.

Policy ENV2 (Achieving Quality in Design and Conservation) 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 ENV4 (Promoting Sustainable Travel) sets out that proposals should minimise the need to travel by car. It also states that proposals for new development should have regard to the potential impacts they may cause to the highways network.

Policy LIV5 (Designing Better Places to Live) sets out the Council's aspiration for new dwellings to be built in a sustainable way, increasing energy efficiency and reducing the amount of carbon dioxide emissions.

Policy WRK1 (Strengthening the Local Economy) sets out that opportunities for economic growth should help to strengthen and diversify the local economy. Proposals which will result in an increased number of jobs, promote entrepreneurial activity, and sustainable working practices will be encouraged.

Policy WRK4 (Retailing and Town Centres) reiterates that town centres are the primary focus for retail development. It promotes a sequential approach to development.

Policy SUP4 (Designing Better Public Places) seeks to ensure that buildings are designed to be multi-use to be adaptable both now and in the future.

Colne Neighbourhood Plan

Policy CNDP1 (Colne Market Town) sets out that wherever possible developments in the Town Centre should have a focus on gateways, greening and biodiversity, the inclusion of public art, creating an accessible town centre and including public conveniences. Further, it sets out the importance of active frontages, retaining the market, central open space, repositioning the existing car parking, and respond positively to the heritage assets.

Policy CNDP2 (Shopfronts) requires proposals for new shop fronts to complement the overall building, respond to the building's proportions, the shopfront should not extend the full width of the building.

Replacement Pendle Local Plan

Saved Policy 31 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 of 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.

Principle of Development

The main issue for consideration here is the re-cladding of the building and the introduction of two additional apartments. Comments have been made regarding the spend on the project and whether the money could be spent elsewhere. The issues to be considered here are those of the external design of the building and any impacts that has as well as relating to the reconfiguration of the rear area. How this is financed is irrelevant to the planning issues.

There is a small amount of re-organisation to the rear of the building which relates to the servicing yard. The principle of retail development in this location is well established. Similarly, the consumption of food and drink on the premises would also be a suitable town centre use. The principle of development is acceptable, subject to accordance with design and amenity policies.

Design & Visual Amenity

The proposed development is a re-fit and re-cladding of an existing building. The design of the building is to remain largely the same, with the cladding introducing a modern material to the external walls of the upper floor and a timber cladding to the lower walls. The materials are to be LUNAwood which is a pressure treated timber cladding with UV protection surface treatment. This is a dark brown colour. The upper walls are to be clad in a zinc vertical standing seam material, in pigment brown. The exact materials could be secured by way of planning condition.

One of the major benefits of the scheme is the removal of the glass house style entrance and display unit to the front of the Market which currently detracts from the streetscene. Although the proposed development does not incorporate traditional shopfronts, these are not characteristic of the existing building at present. The proposed re-cladding and modernisation would provide a refresh to the building, making it more visually attractive than at present. It would open out the market rather than hiding it behind the glazed advertisement area and entrance walkway / canopy. This would improve the overall appearance of the building and contribute to an improvement to the street scene.

The Colne Neighbourhood Plan expects that proposed development within the Town Centre will provide areas of greening and biodiversity. The proposed development is not a new building but re-cladding of an existing one. However, it does seek to provide some street trees along Market Street and Craddock Street, which make a contribution to biodiversity. The test is that it should not reduce biodiversity which it will not.

There is also an expectation that new development will focus on creating gateways to the Town Centre. The proposed development would bring the building up to modern day standards in terms of the external appearance and would host a modern market hall, with a food court at its heart, along with modernised dwellings to the first floor. Although the frontage of the building would not create traditional timber shop frontages, these are not present with the existing building and the policy in the NP says that the development should reflect its surroundings. It is acknowledged that the existing building dates from the 1970's and is not traditional in terms of the other independent shop frontages in the Town Centre. However, the proposed development would de-clutter some of the frontage of the Market making it more accessible and modernising the area with a more contemporary design.

To the rear of the building, closest to Craddock Street, there are some alterations in the form of a modest two storey extension to contain a stairwell. This extension is to be constructed with a natural random coursed sandstone to the lower wall with zinc vertical standing seam cladding to the upper wall (in pigment red). This would contrast with the main part of the building and would be read as an extension. Again, the exact materials could be subject to a planning condition.

In terms of the proposed dwellings, there are to be an additional two apartments. Although the existing nine apartments are currently vacant, the proposed development would bring them back into use. The introduction of two apartments would not result in any major change to the fenestration.

The proposed development accords with Policy ENV2 of the Local Plan: Part 1 Core Strategy in this regard.

Heritage

The proposed development is not within a Conservation Area but is directly adjacent to it. There are also two Listed Building / Structures within close proximity: The Red Lion public house directly

opposite and the War Memorial which is at the corner of the application site. At present there is a canopy / entrance walkway which is entirely glazed to the front elevation of the Market hall, along with a glazed unit which has advertisements and displays throughout the year. The proposed development would see the glazed unit and walkway removed from the front of the building to open it out more and create more space to this side of the building. This would be accompanied by a small space in front of the building which could be used as an events space.

The muted pallet of colours, being a buff colour artificial stone at the ground floor, with timber cladding and a metal cladding in a burnt / brown colour to the first floor would not detract from the character and appearance of the adjacent Conservation Area.

Overall, the proposed development would result in a more sympathetic approach to the Conservation Area which assists in preserving and enhancing it. There would be a positive impact on the setting of the war memorial, the listed public house and the conservation area by the removal of the modern elements currently in situ to the front of the market hall.

Overall, the proposed development accords with Policy ENV1 of the Local Plan: Part 1 Core Strategy.

Highways

The proposed development is to provide nine car parking spaces, two electric vehicle spaces and one disabled space to the rear of the proposed development. This is one more than is currently available. These spaces would be for the use of residents of the dwellings. Whilst this would create a short fall in the number of spaces in accordance with parking policy, the proposed development is in a sustainable location close to the Town Centre. There is access to public transport and a public car park within a very short distance. The Highways Authority have recommended that covered storage for two cycles is provided. This could be secured by condition.

Residential Amenity

The existing building has nine apartment, to the first floor level. The proposed would see this increase to eleven. The proposed dwellings would be no closer to neighbouring premises than the existing apartments are. It is noted that there have been apartments introduced to the upper floors of the premises directly opposite. However, these are positioned so that there is a distance of 24m between the buildings. As such, there would be no unacceptable neighbouring amenity issue. Similarly, in relation to Market Place, the proposed apartments would be no closer to the existing properties than the existing ones. As such, there would be no unacceptable impact upon residential amenity. To the rear, there are no dwellings within a 21m distance. As such, there would be no unacceptable neighbouring amenity issue here.

Overall, the proposed development accords with Policy ENV2 of the Local Plan Part 1 Core Strategy in this regard.

Other Issues

The issues which have been raised by members of the public are not material planning considerations which can be taken into account in the determination of a planning application.

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 would accord with Local Planning Policy and would be

compliant with the guidance set out in the Framework. 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: Location Plan 21.211_01_008_A, Proposed Floor Areas 21.211_01_009_A, Proposed Elevation Plans 21.211_01_005_E, First Floor Plans 21.211_01_003_G, Lower Site Plan and Servicing Area 21.211_01_002_M, Ground Floor Site Plan 21.211_01_001_Q.

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

3. Prior to commencement of the above ground works of the development hereby approved, samples of all external facing materials including descriptions, name of source/quarry shall be submitted to the Local Planning Authority for written approval. The development shall be carried out using only the agreed materials.

Reason: In order that the Local Planning Authority can assess the materials in the interest of the visual amenity of the area.

4. No customers shall remain on the premises outside the hours of 08:00 and 20:00 Monday to Friday inclusive and between the hours of 08:00 and 20:00 on Saturdays. On Sundays & Bank Holidays no customers shall remain on the premises outside of the hours of 09:00 and 20:00.

Reason: In the interest of residential amenity.

5. Prior to first use of the approved development secure, covered cycle storage for at least two cycles shall be provided in accordance with a scheme to be approved by the Local Planning Authority and permanently maintained thereafter.

Reason: To ensure that the development provides the infrastructure to support sustainable forms of transport.

6. Prior to occupation of the development hereby approved, the car parking shall be provided in accordance with the details on the proposed site plan and shall remain available for the parking of vehicles at all times.

Reason: In the interests of highway safety.

7. Prior to commencement of the development hereby approved, details of the highway works on Ninevah Street shall be submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the agreed details.

Reason: In the interests of highway safety.

Application Ref: 23/0601/FUL

Proposal: Full: Refurbishment and extension of the existing market hall and first floor apartments, including demolition of the existing glazed canopy and rear garages, the construction of a new stair and lift tower and the formation of 2no. 1 bedroom apartments through material change of use with ancillary external works to form a new public car park and bus stop.

At: Market Hall, Market Street, Colne

On behalf of: PEARL2 Limited

LIST OF BACKGROUND PAPERS

Planning Applications

NPW/MP

Date: 06th October 2023