

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

**TO: WEST CRAVEN COMMITTEE**

**DATE: 26TH MARCH 2024**

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## **PLANNING APPLICATIONS**

### **PURPOSE OF REPORT**

To determine the attached planning application.

## REPORT TO WEST CRAVEN AREA COMMITTEE 26<sup>TH</sup> MARCH 2024

**Application Ref:** 24/0060/FUL

**Proposal:** Full: Retention of vehicle display/sales area with associated boundary fencing.

**At:** Land to the East of Struntley Bank, Colne Road, Kelbrook

**On behalf of:** Kelbrook Car Sales

**Date Registered:** 01/02/2024

**Expiry Date:** 28/03/2024

**Case Officer:** Laura Barnes

This application is before Members due to the level of public interest.

### **Site Description and Proposal**

The application site is located within the settlement boundary, there are no other statutory designations affecting the site. Part of the site (an L-shape running along the Colne Road length of the site) is listed in the Open Space Audit as AG240 as Amenity Greenspace.

The proposed development is for the retention of a car sales area adjacent to an existing car sales. This includes the erection of a 1m high palisade fencing around two sides of the perimeter.

### **Relevant Planning History**

None relevant

### **Consultee Response**

#### **LCC Highways**

Having reviewed the documents submitted, Lancashire County Council acting as the Local Highway Authority does not raise an objection regarding the above retrospective development and are of the opinion that the development will not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site. The following conditions should be applied to any formal planning approval granted.

Conditions have been suggested relating to the use of the site being for the car sales only and not having vehicles for sale parked on the surrounding street, causing a highway safety danger, and the lighting should be positioned so as not to dazzle drivers.

#### **Environmental Health**

No comments received

#### **Environment Agency**

We note that the supporting statement states “fencing was erected to the eastern and southern boundaries for additional security and to protect higher value stock.”. We note

that drawing 3923/2 dated Jan 2024 shows a fence on the Western edge of the property close to the top of the bank of Kelbrook Beck. We presume from the information in the application that this is an existing fence and is not part of the current application. We therefore have no objection to this application on flood risk grounds. If this is not the case, we request to be reconsulted.

### Environment Officer (Trees)

The introduction of the fence will have had a very minimal impact upon a well-established tree such as this. It is highly unlikely that any roots will have been damaged during the installation, so I have no real concerns.

The introduction of new surfacing materials can be problematic to a tree especially if a sub-surface material has been introduced. The tree does not appear to have suffered too much from changes as far back as 2018 when it was mostly a grassed area. The immediate land around the tree has been hardstanding for quite some time and it still has a relatively healthy crown. A tree of this age should be inspected annually to monitor for any changes in health.

### **Public Response**

Neighbours have been notified by letter. Multiple objections and letters of support have been received. The objections raise the following issues:

- Loss of privacy to garden adjacent
- Impact upon trees and wildlife
- Safety concerns with electrical extension leads across a driveway
- Road safety, moving caravans around
- Contrary to Kelbrook and Sough Neighbourhood Plan
- Fencing is not in keeping with the village
- Opening times are being extended
- Civil matter relating to rights of access
- Noise issues
- Some screening should be put up
- Cars from the business should not be parked on the highway
- Loss of Millennium Gardens
- Increase in traffic and exhaust fumes
- This would be replicated at the existing car sales site
- No consultation with neighbours took place prior to this happening

Whilst in support of the application, the following comments have been received:

- The Millenium Gardens were not well used by the public and were neglected
- Great business for the local area
- The car sales area looks much tidier than what was there previously
- The standard of caravans is high and not an eye sore
- The pub will be benefiting from when people come to view caravans and stay in the village for a meal
- The previous use of the site was dilapidated garages
- It is seen in the context of Euravia next door

## **Officer Comments**

### **Policy**

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

Policy SDP1 (Presumption in Favour of Sustainable Development) echoes the presumption in favour of development set out in the Framework.

Policy SDP2 (Spatial Development Principles) sets out the position which Kelbrook takes up within the settlement hierarchy. It is defined as a Rural Service Centre.

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) 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 (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 the Council's approach to sustainable transport

Policy WRK1 (Strengthening the Local Economy) Encourages proposals which would help to strengthen and diversify the local economy.

#### **Replacement Pendle Local Plan**

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.

### Kelbrook & Sough Neighbourhood Plan

KS DEV1 (Protecting and Enhancing the Character of Kelbrook & Sough) set out that development should respond positively to the character and heritage of the natural and built environment.

### **Principle of Development**

The application site seeks to introduce a commercial use to a piece of land which had previously been used as open space. It is acknowledged that the application site is located within the settlement boundary and a built up residential area. Part of the area of land appears in the Council's Open Space Audit as AG240, which is classified as amenity green space.

Paragraph 103 of the Framework states the following:

*Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.*

The application is accompanied by a supporting statement which addresses the issue of this site being within the Open Space Audit. The Audit identifies that there is a surplus of 0.13ha of amenity green space in this particular ward. The application would result in the loss of 0.049ha. As such, were the application to be approved, this would not result in a loss of green space which would take it under the acceptable level (0.4ha for this typology of space per 1,000 population) identified in the Open Space Audit.

The Framework requires that an assessment is undertaken to show that the open space would be surplus to requirements. In this case, the applicant has submitted an assessment which indicates that it is very finely balanced but overall there would be a surplus of this type of open space, even if the application site were to be developed. As such, it meets the requirement and the principle of development is acceptable, subject to conformity with design and amenity policies.

The applicant's case also sets out that the Parish Council have had the opportunity to identify and protect any green spaces through the recent neighbourhood plan process. This opportunity has not been taken up, unlike neighbourhood plans elsewhere in the borough. It is the applicant's case that this adds weight to the argument that this green space was not identified as having a high value in the context of the local area. They also note that the use has been operational for around 18 months and went unreported, further adding weight to the argument that this local green space was not well used by local people. This is disputed by comments from members of the public.

Also a matter of principle for Members to be reminded of is that Permitted Development rights extend to this site, which would allow for a 1m high fence / boundary to be erected adjacent to the highway.

### **Design**

Initially, the applicant was applying to retain the 2.4m high palisade fencing which has unlawfully been erected. However, during the course of the application the applicant has amended their plans and intends to remove the existing fencing, replacing this with a 1m high palisade fence. As set out, permitted development rights would allow for a 1m high fence or boundary around the perimeter of the site, without the need for planning permission. In this case the applicant has applied due to the existing unlawful fencing. However, the scheme which is now before the Council for consideration would allow control of the colour of the fencing to be erected. It is recommended that the fencing would be powder coated in a dark green colour as this would be much more recessive than the existing silver / galvanised fencing and would be more in keeping with the character and appearance of the street scene.

As such, the amended proposal accords with Policy ENV2 of the Local Plan: Part 1 Core Strategy and the Kelbrook and Sough Neighbourhood Plan.

### **Residential Amenity**

In terms of the proposed development, the main difference to neighbouring amenity from the previous use would be the introduction of customers to the site and potential for noise / disturbance. Given that the site had previously been open to the public to enter and use for recreational purposes, there would be no change in terms of the loss of privacy to the garden. This is because the site formerly had public access and would retain public access in terms of members of the public viewing vehicles. It is likely that the numbers of people visiting the open space compared with the vehicular sales business would be comparable and to this extent there would be no unacceptable impact. The closest dwelling is 35m to the west and there is to be no habitable accommodation as part of the proposals. As such, it would not result in an unacceptable impact in terms of privacy. In terms of noise disturbance, the Environmental Health Officer has not raised any concerns but it is noted that members of the public have raised this. Again, the previous use of the site would allow public access, so there could be gatherings of people speaking in much the same way that people may gather around a vehicle to discuss the sale of it. There is no evidence to suggest that the use of the site for car sales would result in an unacceptable impact in terms of nuisance and disturbance to then neighbouring properties.

Some residents have raised concerns about the operating hours of the proposed development. The application form is clear that the proposed development would be operational during the following:

Monday – Friday  
09:00-18:00

Saturday  
09:00 – 18:00

Sunday / Bank Holiday  
09:00-18:00

These are not anti-social hours and would be compatible with a residential area.

In terms of the design of the fencing, several members of the public raised concerns about its appearance. The fencing which was on site at the time of the visit was a 2.4m high palisade fence. However, as set out above the proposal is now for 1m high fencing. As such, this would not have an unacceptable impact upon neighbouring amenity.

### **Access and Parking**

The Highways Authority have not raised any concerns about the proposed use from a highway safety perspective. The proposed plan is clear that the area marked out with hardstanding would be used for the vehicle sales area. This would be contained within the site and there is no indication that vehicles associated with this business are being left on the highway for long periods of time. As such, from a highway safety perspective, there is no unacceptable issue with the use of this site for car sales.

## **Trees**

There is a tree to the corner of the site which is the subject of a TPO and there is a ground of trees running along the water course which are also the subject of a group TPO. However, the Council's Environment Officer is content that the proposed change of use would not have an unacceptable impact upon the tree. The group TPO is outside the site boundary and again, is not likely to be adversely affected by the proposed development for car sales. As such, the proposed development accords with Policy ENV1 in this regard.

## **Flood Risk**

The application site is in Flood Zone 1 but does lie next to a main river. The Environment Agency initially raised concerns about the fencing which runs along the rear of the site boundary but this is fencing which has been erected under permitted development rights and if it requires an environmental permit, this is not a material planning consideration. The agent has been informed of the comment from the Environment Agency regarding the need for an environmental permit and this is something they are in discussions with the Environment Agency on. It does not form part of the consideration of this 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 3923/ Drawing 1, Proposed Site Plan with fencing detail 3923/ Drawing 2A.

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

3. Samples of the boundary fencing including colour and finishing shall be submitted to the Local Planning Authority for written approval prior to commencement of above ground level works. 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 operation shall take place outside the hours of 0900 and 1800 on weekdays, Saturdays, Sundays, Bank or Public Holidays.

Reason: In the interests of neighbouring amenity.

5. All vehicles for sale shall be within the car sales area only. No vehicles shall be placed for sale within the surrounding public highway network.

Reason: To ensure that the use does not unacceptably impact upon the availability of on-road parking in the interest of highway safety.

6. Any external source of lighting shall be effectively screened from the view of a driver on the adjoining public highway.

Reason: To avoid glare, dazzle or distraction to passing motorists.

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**On behalf of:** Kelbrook Car Sales

## **LIST OF BACKGROUND PAPERS**

Planning Applications

**NPW/MP**

**Date:** 22nd February 2024