



Planning Committee Agenda

Wyre Borough Council
Date of Publication: 30 March 2022
Please ask for : Daphne Courtenage
Assistant Democratic Services Officer
Tel: 01253 887476

Planning Committee meeting on Wednesday, 6 April 2022 at 2.00 pm in the

1. Apologies for absence

2. Declarations of interest

Members will disclose any pecuniary and any other significant interests they may have in relation to the matters under consideration.

3. Confirmation of minutes

To confirm as a correct record the minutes of the Planning Committee meeting held on 02 March 2022 (already circulated by email).

4. Appeals

(Pages 3 - 26)

The Schedule of Appeals lodged and decided between 15 February – 15 March 2022, is attached.

5. Planning applications

Background Papers:

In preparing the reports on this agenda the following documents have been used:

1. The Wyre Borough Local Plan (2011-2031)
2. Draft Revised Joint Lancashire Minerals and Waste Local Plan
3. Joint Lancashire Minerals and Waste Local Plan
4. Statements of Government Policy/guidance (NPPF, NPPG, Ministerial Statements etc.)
5. Supplementary Planning Guidance and evidence base documents specifically referred to in the reports
6. The application file (as per the number at the head of each report)
7. The forms, plans, committee reports and decisions as

appropriate for the historic applications specifically referred to in the reports

8. Any additional information specifically referred to in each report.

These background documents are available on line, or for inspection by a written request to Planning Services, Civic Centre, Breck Road, Poulton-le-Fylde, FY6 7PU.

Reports of the Head of Planning Services on planning applications to be determined at this meeting:

- (a) Application A - Land to the rear of 4 Vicarage Road, Poulton-le-Fylde, Lancashire, FY6 7BE (21/01196/OUT) Outline application for the erection of one dwelling with access applied for off Vicarage Road (all other matters reserved). (Pages 27 - 40)

6. **Wyre Council Tree Preservation Order No 1 of 2022: Rose Cottage, Head Dyke Lane, Pilling, Lancashire, PR3 6SJ** (Pages 41 - 58)

Report of the Corporate Director Environment.

PLEASE NOTE:

Due to the location of the one site visit, members are asked to meet at the Civic Centre at 11.45am and make their way to the application site.

APPEALS LODGED AND DECIDED

Appeals Lodged between –15th February – 15th March 2022

Application Number	Location	Proposal	Com/Del decision	Appeal Type	Date Lodged
20/01175/FULMAJ	Land Off Stricklands Lane Stalmine Lancashire	Hybrid planning application for two 80 bed care homes with landscaping and associated works (full application), and up to 50 dwellings with access (outline application)	Committee	Written Representations	23rd February 2022
21/00981/FULMAJ	Land Off Stricklands Lane Stalmine Lancashire	Hybrid planning application for two 80 bed care homes with landscaping and associated works (full application), and up to 50 dwellings with access (outline application) (resubmission of 20/01175/FULMAJ)	Committee	Written Representations	24 th February 2022
21/00557/FUL	Middle Holly Field Forton Lancashire PR3 1AH	Erection of a replacement B8 storage and distribution building following the demolition of an existing building (resubmission of 20/00504/FUL)	Delegated	Written Representations	24 th February 2022
19/00615/OULMAJ	Land South Of Blackpool Road Poulton-Le-Fylde	Outline application for the erection of up to 330 dwellings and associated infrastructure (all matters reserved)	Committee	Hearing	1 st March 2022
21/01397/COUQ	Weavers Farm Weavers Lane Cabus Preston Lancashire PR3 1AJ	Prior approval for proposed change of use of agricultural building to a dwelling house (C3) with building operations under Class Q of the GDPO	Delegated	Written Representations	1 st March 2022

21/00379/FUL	Layby Adjacent Preston Lancaster Road A6 Fowler Hill Lane Cabus Lancashire PR3 1AW	Permanent siting of a shipping container to be used as a rest stop cafe (resubmission of planning application 18/00339/FUL) (pursuant to variation of condition 4 (operating hours) on permission ref. 19/00286/FUL)	Committee	Written Representations	1 st March 2022
21/00151/FUL	Ashleigh Farm 6 Head Dyke Lane Pilling Poulton-Le- Fylde Lancashire FY6 0PG	Erection of a single self-build dwelling (following demolition of the existing buildings)	Delegated	Written Representations	2 nd March 2022
21/01253/FUL	Hambleton Hall Barn Mill Lane Hambleton Lancashire FY6 9DE	Single storey rear extension (re- submission of 21/00581/FUL)	Delegated	Fast track appeal	3 rd March 2022
21/00341/FULMAJ	Land West Of Broadway Fleetwood Lancashire	Erection of 44 residential dwellings with associated highway and landscaping infrastructure	Committee	Written Representations	8 th March 2022
21/00861/FUL	13 Fairsnape Drive Garstang Preston Lancashire PR3 1WH	Change of use from a residential dwelling (C3) to a residential children's home (C2) and erection of a 1.8m high perimeter fence, with widened access and removal of front wall (resubmission of 21/00250/FUL)	Delegated	Written Representations	11 th March 2022

Application Number	Location	Proposal	Com/Del decision	Decision	Date Decided
21/00544/FUL	29 Ringway Thornton Cleveleys Lancashire FY5 2NJ	Retrospective application for the erection of a 1.82m high close boarded timber fence to northern and eastern boundaries, including 1.82m high access gates within eastern elevation	Delegated	Dismissed	16 th February 2022
21/00620/FUL	The Conifers 29A Alder Grove Poulton-Le-Fylde Lancashire FY6 8EJ	Erection of a first floor side extension	Delegated	Dismissed	16 th February 2022
21/00625/FUL	Holly Barn Winder Lane Forton Preston Lancashire PR3 0AX	Single storey rear extension	Delegated	Dismissed	16 th February 2022
21/00394/FUL	Kelbrick Farm Strickens Lane Barnacre-With-Bonds Preston Lancashire PR3 1UE	Change of use of an existing agricultural building to form pet crematorium (sui generis)	Delegated	Dismissed	8 th March 2022
20/01241/FUL	Stables At The Bays Field New Road Stalmine-With-Staynall Lancashire FY6 9DT	Change of use of land to allow the siting of 2 holiday chalets (resubmission of 20/00843/FUL)	Delegated	Dismissed	9 th March 2022

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Appeal Decision

Site visit made on 1 February 2022

by Julie Dale Clark BA (Hons) DipTP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th February 2022

Appeal Ref: APP/U2370/D/21/3286481
29 Ringway, Cleveleys, Lancashire FY5 2NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Debra Evans against the decision of Wyre Borough Council.
 - The application Ref 21/00544/FUL, dated 14 April 2021, was refused by notice dated 20 August 2021.
 - The development proposed is to erect a 2 metre fence and gate to the front elevation. Replacing existing damaged and unsafe 2 metre fence.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On the decision notice the development is described as a retrospective application for the erection of a 1.82m high close boarded fence to the northern and eastern boundaries, including 1.82m high access gates within eastern elevation. The appellant points out that the location in this description is wrongly stated and the northern and eastern boundaries should read the northern and western boundaries. The Council agree that this is an error. For the avoidance of doubt, I have considered this appeal on the basis of the description as corrected from the decision notice, changing northern and eastern boundaries to northern and western boundaries. This change is for clarification only and does not alter my assessment of the main issues identified below.

Main Issues

3. I consider that the main issues are the effect of the fence on:
 - the character and appearance of the area; and
 - highway safety.

Reasons

Character and Appearance

4. The appeal site is a semi-detached dwelling located on a bend in the road and the fence and gates subject to this appeal have already been erected. The appellant states that they replaced previous damaged fencing. The gates and a

section of the fence are adjacent to the pavement to the west of the dwelling. There is also a section of fence linking this fence with the western elevation of the dwelling itself and another section running from the gates along the northern boundary of the site.

5. Due to the location of the fence and gates close to a bend in the road, they are very prominent in the street scene. It is especially noticeable because most of the other dwellings in the area have low walls/fences and therefore that at No 29 is higher than the boundary treatments that generally characterise the area. The residential properties are also mainly bungalows although some have dormer windows. The low eaves of the dwellings in the area contributes to the prominent appearance of the fence and gates at No 29.
6. I appreciate that there was a previous wall and fence and the appellant has sought to replace this. However, it is not the purpose of this Section 78 appeal to determine what may or may not have been permitted development and so I have considered the appeal on the basis of the scheme before me.
7. Local Plan¹ policy CDMP3 seeks to achieve a high standard of design and amongst other things, requires development to make a positive contribution to the local area. The gates and fence are of a height and location where they appear at odds with the character and appearance of the area. They do not reflect the general low level boundary treatments evident in the immediate area and so stand out as prominent and intrusive. As such they conflict with Local Plan Policy CDMP3.
8. The appellant points to other fences in the area and I saw those at Nos 39 and 41 Ringway. However, whilst they share some similarities with No 29, I have no information about their planning status but in any event, they serve only to demonstrate further the impact on the street scene of taller fencing given the overall general character of low boundary treatments.
9. On this issue therefore, I find that the fencing is harmful to the character and appearance of the area and conflicts with Policy CDMP3.

Highway Safety

10. Due to the location and height of the gates and fence, vehicles leaving the driveway of No 29 and the adjacent driveway at No 27 would not have a clear view of approaching pedestrians and therefore the proposal creates a potential hazard. I note that the consultation response from Lancashire County Council highways department suggests alterations that could overcome these concerns. However, my decision is based on the submitted scheme before me and not how they might be altered.
11. Local Plan Policy CDMP6 indicates that development will be permitted provided it meets a set of criteria. Amongst other things, these include a requirement that road safety and the safe, efficient and convenient movement of all highway users, including pedestrians, is not prejudiced.
12. I consider that the proposal could prejudice the safe movement of pedestrians and therefore it would have a harmful effect on highway safety in conflict with Policy CDMP6.

¹ Wyre Council – Wyre Local Plan (2011 – 2031) February 2019.

Conclusion

13. I have considered all matters raised but none alter my conclusion. I conclude that the gates and fence have a harmful effect on the character and appearance of the area and on highway safety. The development conflicts with Local Plan policies CDMP3 and CDMP6 and therefore the appeal fails.

J D Clark

INSPECTOR

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Appeal Decision

Site visit made on 1 February 2022

by Julie Dale Clark BA (Hons) DipTP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th February 2022

Appeal Ref: APP/U2370/D/21/3284795
29A Alder Grove, Poulton-Le-Fylde FY6 8EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Matthew Broadhurst against the decision of Wyre Borough Council.
 - The application Ref 21/00620/FUL, dated 6 May 2021, was refused by notice dated 27 July 2021.
 - The development proposed is First Floor Side Extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider that the main issues are the effect of the extension on:-
 - the character and appearance of the area; and
 - the living conditions of the occupiers of the neighbouring property, No 31 Alder Grove.

Reasons

Character and Appearance

3. The area comprises a mix of detached houses which whilst there is some uniformity in their general character there are different house types. No 29, 29A and 31 for example are each of a different design. Despite their differences however, there are modest gaps between the houses and although these gaps are closed at ground floor level in a few cases, this is less evident at first floor level.
4. Local Plan Policy CDMP3¹ seeks to ensure that all development is of a high standard of design and will be assessed against a set of criteria. Amongst which is a requirement to respect or enhance the character of the area having regard to matters including layout, height, scale and massing. The National Planning Policy Framework² also supports good design. Supplementary

¹ Wyre Council – Wyre Local Plan (2011 – 2031) February 2019.

² Ministry of Housing, Communities and Local Government National Planning Policy Framework, 2021 (the Framework).

Planning Document, Extending Your Home³ provides further guidance for house extensions and specifically includes advice for first floor side extensions. Amongst other things, the SPD advises that extensions should not dominate the original dwelling and should complement the general character of the surrounding area. The SPD also advises against the loss of a visual gap between properties in particular to avoid the appearance of linking semi-detached or detached dwellings.

5. The proposed first floor extension would enlarge the property up to the side boundary and thereby remove the existing space at first floor level between Nos 29A and 31. The extension would represent a substantial enlargement of the house which together with the resulting loss of space between the houses would be out of character with the surrounding area. As such, it would conflict with the objectives of Policy CDMP3, the SPD and the Framework.
6. I therefore find that on this issue, the proposed first floor side extension would have a harmful effect on the character and appearance of the area.

Living Conditions

7. The appeal site is a detached house with a flat roofed garage to the side. The proposed first floor extension would be above the garage and so would extend the house up to its boundary with the adjoining house, No 31. There are no first floor windows on the side elevation of No 31 and the garage already has an impact on ground floor windows and the side passage to No 31. Given the depth of the proposed extension and its roof design, I do not consider that it is likely that the occupiers would experience a loss of light. However, extending the house at first floor level so close to the shared boundary would have an enclosing impact and make the section of passage alongside the garage quite oppressive.
8. Included in the criteria for assessing a high standard of design, Policy CDMP3 requires that development must not have an unacceptably adverse impact on the amenity of the occupants and users of surrounding or nearby properties. The SPD also notes that extensions can have a noticeable impact on the amenities of neighbours by being overbearing and having an enclosing impact.
9. The proposal would have some impact on the occupiers of the adjacent property but it would be unlikely to result in a loss of light and any enclosing or overbearing impact would be limited to the area to the side of the house. In itself I do not consider that this is of a scale to warrant refusing permission. Having said this, the impact although modest would add weight against the proposal when taken with the harm that I have identified to the character and appearance of the area.
10. In this issue therefore, I conclude that the harm caused to the occupiers of the adjoining property, No 31, would be limited but adds weight against the proposal.

³ Extending Your Home Supplementary Planning Document Local Development Framework, Adopted November 2007 – Blackpool Council, Fylde Borough Council and Wyre Borough Council.

Other Matters and Conclusion

11. The appellant refers to other examples of other dwellings which have been extended at first floor level up to the side boundary and whilst I note these, they do not change my view that the character of the area is still largely that of dwellings spaced apart. I have considered all other matters raised but none alter my conclusion.
12. Whilst I have found that the extension would have some impact on the living conditions of the occupiers of No 31, that impact would be minimal and insufficient alone to reject this proposal. However, I have found that the extension would have a harmful effect on the character and appearance of the area and the impact on the neighbours would add weight against the proposal.
13. I conclude that the proposal would conflict with Local Plan Policy CDMP3, the SPD and the Framework especially with regard to its harmful effect on the character and appearance of the area. The appeal therefore fails.

J D Clark

INSPECTOR

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Appeal Decision

Site visit made on 1 February 2022

by Julie Dale Clark BA (Hons) DipTP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16TH February 2022

Appeal Ref: APP/U2370/D/21/3288528
Holly Barn, Winder Lane, Forton PR3 0AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Rowat against the decision of Wyre Borough Council.
 - The application Ref 21/00625/FUL, dated 7 May 2021, was refused by notice dated 27 October 2021.
 - The development proposed is erection of 2 storey rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. I consider that the main issue is the effect of the extension on the character and appearance of the existing building and the area.

Reasons

3. The appeal site is a former stone barn that has been converted to a dwelling. It is located close to Winder Lane amongst a grouping of stone buildings. Holly Barn has only a small area of amenity space to the rear with its main outdoor amenity area to the front of the dwelling. The proposed extension would be single storey and shaped to fit the irregular boundary at the rear of the property.
4. Local Plan Policy CDMP3¹ seeks to ensure that all development is of a high standard of design that responds positively to the character and form of its surroundings. The National Planning Policy Framework² also supports good design. Supplementary Planning Document, Extending Your Home³ sets out further design principles including ensuring that an extension reflects and complements the main design features and architecture of the original property and complements the general character of the surrounding area. Local Plan Policy SP4 notes that the open and rural character of the countryside is intrinsic to the identity and 'sense of place' in Wyre and the policy seeks to protect the countryside.

¹ Wyre Council – Wyre Local Plan (2011 – 2031) February 2019.

² Ministry of Housing, Communities and Local Government National Planning Policy Framework, 2021 (the Framework).

³ Extending Your Home Supplementary Planning Document Local Development Framework, Adopted November 2007 – Blackpool Council, Fylde Borough Council and Wyre Borough Council.

5. The position of Holly Barn and its proximity to the road make it very visible from the road. Works to convert the barn have ensured that its traditional form and character have been retained and Holly Barn and the group of building in this immediate area generally reflect their setting in the countryside. However, the proposed extension would detract from the existing building and unlike the original conversion, it would add a feature that would appear out of character with its original form.
6. Despite being built in materials to match the existing house and having a sloping roof, the extension would appear as an addition to the traditional form of the former barn. Its overall size, and irregular shape would appear incongruous and given its prominence, it would also detract from the character of the group of buildings in this rural setting. Due to the sensitivity required for further alterations to buildings such as this one, I consider that the proposal would not meet the expected design standards indicated in the above policies and guidance.
7. I have considered all matters raised but none alter my conclusion. I conclude that the proposal would have a harmful effect on the character of the existing building and the area. It would conflict with Local Plan Policies CDMP3 and SP4, the SPD and the Framework. Therefore, the appeal fails.

J D Clark

INSPECTOR



Appeal Decision

Site visit made on 1 March 2022

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 March 2022

Appeal Ref: APP/U2370/W/21/3287478

Kelbrick Farm, Strickens Lane, Barnacre-With-Bonds, Preston PR3 1UE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Derek Clarke against the decision of Wyre Borough Council.
 - The application Ref 21/00394/FUL, dated 17 March 2021, was refused by notice dated 13 July 2021.
 - The development proposed is change of use of an existing agricultural building to form pet crematorium (*sui generis*).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether, the appeal proposal would constitute an acceptable form of development with particular regard to the provisions of local and national policy in respect of the location of development.

Reasons

3. The appeal site relates to an existing agricultural open framed building within a larger farm complex. It is located outside any identified settlement boundary and is within the Forest of Bowland Area of Natural Beauty (AONB). Therefore, by definition it would be within the countryside.
4. Policy SP1 of the Wyre Local Plan (2011-2031), 2019 (WLP), sets out the Council's overall planning strategy for the Borough and directs new built development to take place within settlement boundaries, unless it is specifically supported by another policy. Policy SP2 requires all development to positively contribute to the overall physical, social environmental and economic character of the area it is located. All developments should be sustainable and contribute to the continuation or creation of sustainable communities in terms of its location and accessibility and ensure accessible places and minimise the need to travel by car.
5. This policy is further supported by WLP Policy CDMP6, accessibility and transport which requires it has been demonstrated that, where appropriate, access by public transport is catered for. Measures are included to encourage access on foot, by bicycle and public transport and reduce car reliance.
6. WLP Policy SP4 aims to protect and manage the countryside, including supporting rural communities and the rural economy. It sets out that development within countryside areas will only be granted if it is for certain

- purposes. Amongst others, this includes at 2a) the diversification of agricultural businesses, and 2h) the expansion of business in rural areas.
7. The criterion at 4) allows the conversion of existing buildings where it meets core development management policies and employment (use class B) uses appropriate to the rural area, or other non-retail commercial uses. Criterion 5) only permits conversion of existing buildings that comply with the sustainability requirements of Policy SP2, or it is demonstrated that it will secure the long-term future significant to its heritage value.
 8. The proposal would be for a pet crematorium including alterations to enclose the existing building with timber cladding and natural stone. Internally the layout of the building would consist of an office, a receiving area and an incinerator room. The appellant sets out that it would be an agricultural diversification project of the existing farm to attract an additional revenue stream. It would therefore meet the purposes of 2a) and 2h) and fall within a other non-retail commercial use in WLP Policy SP4. Nevertheless, the existing building is not of heritage value, therefore the proposal would need to comply with the sustainability requirements of SP2.
 9. In regard to the location, the proposed development would be a considerable distance away from Calder Vale and the key service centre of Garstang. Although, it is within an existing farm complex, its location is physically separated by the vast amounts of open countryside which surround it. Its location means it would be remote from any local services, facilities and any private household customers for the transportation of domestic pets to and from the facility.
 10. The appellant contends that the facility would not be open to the public and that it would offer a pet collection and delivery service to minimise traffic entering the site, whilst trips would be tied into the usual domestic/agricultural journeys from the farm. Nonetheless, this would not significantly reduce the number of trips made to and from the site as this would still be carried out by employees rather than customers.
 11. The appellant's business plan estimates that cremation services would be approx.987 a year / 19 per week of people wanting the service, with a further 20 per week from veterinary practices within a 15-mile radius. This would result in a considerable amount of trip generations throughout the week / yearly, with the proposal being largely reliant on motor vehicles to access those collections / drop offs from both veterinary facilities and private households. I am not satisfied from the evidence that these would all be done through other journeys associated with existing domestic or agricultural activities. There is limited evidence on the actual type / size of vehicle required against the size / number of pets per collection.
 12. Furthermore, the site is not served by public transport, and as I observed at the time of the site visit, roads are narrow, largely unlit and devoid of any footways. There would be no opportunities to access customers within the immediate locality or nearby settlements with sustainable travel modes due to the nature of the proposed use.
 13. Particularly as this would not be a realistic option of employees or even if there were customers coming to the business, having to navigate roads by foot, cycling or public transport for the transportation of deceased pets and any

additional services following the cremation. On this basis, the proposal would lead to the use of unsustainable travel modes and likely to heavily rely on private motor vehicles.

14. Moreover, from the evidence before me, I cannot be certain on the balance of probability that private households/ individuals would not want to drop off / collect remains of pets. This would be a sensitive personal service for many in the disposing of a family pet. Therefore, any condition limiting such trips / use would not meet the tests of being enforceable or reasonable in all other respects in accordance with the National Planning Policy Framework (the Framework) and Planning Practice Guidance¹.
15. I also have no substantive evidence of what happens after the initial service and to what extent this could necessitate additional journeys. Neither have I been provided with any evidence on the number of employees, given that the business plan sets out that there would be a small parking area at the site for staff vehicles.
16. The Framework, at paragraph 84 supports the sustainable growth and expansion of all types of business in rural areas, including the conversion of existing buildings and diversification of agricultural and other land-based rural business. Paragraph 85 recognises that sites to meet local business and community needs in rural areas many have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.
17. Nevertheless, in this case, I have no substantive evidence that it would meet local business and community needs and that such a business has to be located within a countryside location. The additional journeys would likely have an unacceptable impact on local roads, and the proposal fails to exploit any opportunities to make the location more sustainable. I acknowledge there would be some benefits, including the re-use of the building, economic benefits with the purchase of supplies and services to run the facility. However, these would be minimal as the proposal would result in additional commercial vehicle movements to and from the site for the business, largely reliant on the private motor vehicle to access customers.
18. For the reasons given above, I conclude the proposal would not constitute an acceptable form of development within the countryside location. Consequently, the proposal would not accord with the aims of Policies SP1, SP2, SP4 and CDMP6 of the WLP. Taken together, these policies seek to deliver sustainable communities, including ensuring accessible places and minimise the need to travel by car. It would also be at odds with the guidance in the Framework, in regard to achieving sustainable development and Chapter 9, promoting sustainable transport.

Other Matters

19. The appeal site is within the Forest of Bowland AONB, accordingly referring to paragraph 176 of the Framework, great weight should be given to conserving and enhancing landscape and scenic beauty in AONB. The Council have set out the proposal would involve the conversion of an existing building within a farm complex and owing to the scale, context and design it would not result in

¹ Paragraph: 003 Reference ID: 21a-003-20190723

significant visual harm. On this matter, I share their conclusions and the building would not adversely affect the landscape or scenic beauty of the AONB.

20. Although, there are no concerns raised in regard to biodiversity, landscaping, noise, highway safety and residential amenity. These do not outweigh the issues I have raised.

Conclusion

21. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
22. For the reasons given above, I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR



Appeal Decision

Site visit made on 19 January 2022

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 March 2022

Appeal Ref: APP/U2370/W/21/3277792

Bay Stables, Hambleton, Lancashire FY6 9DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Katie Nuttall against the decision of Wyre Borough Council.
 - The application Ref 20/01241/FUL, dated 7 December 2020, was refused by notice dated 2 February 2021.
 - The development proposed is change of use of land to allow the siting of 2 holiday chalets.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development in the banner heading above is taken from the application form. However, the Council considers that the proposed chalets would be permanent buildings, and I agree. I have therefore determined the appeal on the basis that permission is sought for the change of use of land and erection of 2 buildings to be used as holiday accommodation.

Main Issues

3. The main issues are:
 - i) The effect of the proposal on the character and appearance of the area; and
 - ii) Whether the site is suitable for the proposed development, having regard to its accessibility to services and facilities.

Reasons

Character and appearance

4. The principle of new built development for holiday accommodation in countryside areas is accepted in Policies SP4 and EP9 of the Wyre Local Plan 2019 (Local Plan). However, Policy SP4 also recognises the intrinsic character and beauty of the countryside, and resists development which adversely impacts on its open and rural character. This objective is also reflected in part a) of Policy EP9, which requires that proposals for holiday accommodation are of an appropriate scale and appearance to the local landscape.
5. The appeal site is located within an area of gently undulating countryside near to the Wyre Estuary. The area is distinctly rural in character, despite the presence of scattered buildings and other man-made features including pylons.

Hedges, fences and small groups of trees subdivide this equestrian and agricultural landscape, which otherwise feels reasonably open, with views towards the distant Bowland Fells to the north and east. The area is criss-crossed by a network of narrow lanes which are generally lined by hedges.

6. The existing equestrian development at Bay Stables includes two paddocks and a riding arena, with various buildings including stables and a static caravan. The existing buildings are low key, with much of the built form being tucked in behind the hedge which forms the boundary with New Road. As a result, the stables do not appear particularly noticeable or prominent within the wider landscape.
7. The proposed holiday accommodation would be erected on part of a field which is used for grazing horses and is currently free of buildings. The proposed development would extend into the field by a similar distance to the existing long building in the adjacent field, which is perpendicular to the road. However, the position of the proposed buildings, with one sited parallel to New Road, would result in the full width of the paddock being occupied by built form and hardstanding.
8. Although single storey, the proposed buildings would each have a substantial footprint, and with a maximum height of some 3.6 metres, would be clearly visible above the surrounding roadside hedges. The buildings would be visible from a variety of vantage points in the surrounding area, including from the nearby buildings at Tordant Farm, Brook Farm Cottage and Brick House Farm Cottages. Glimpsed views would also be afforded from surrounding lanes, particularly from the north and east where gaps in the hedges provide clear views towards the site.
9. I note the conclusions of the Landscape and Visual Issues Statement that any negative effects of the proposal on surrounding visual receptors, including residents of nearby houses and users of local roads and the Wyre Way footpath, would be, at worst, slight-moderate. However, despite the existing presence of man-made features, the surrounding landscape is fairly open. Further built development has the potential to harmfully erode its rural character, both individually and cumulatively.
10. Whilst the proposals would not cause significant visual harm to any one specific receptor, and would be smaller and lower than the recently constructed accommodation at Wardleys Lane nearby, the development would nonetheless harmfully encroach into the undeveloped countryside. From surrounding vantage points, the proposed holiday accommodation would be seen in the context of existing buildings at the site, but the siting of the units would extend the impression of built development, and their scale and appearance would appear overly prominent compared with the surrounding buildings. Furthermore, the proposed development would reduce the existing open gap between the stables development and the complex of buildings at Torbant Farm and Brickhouse Farm Cottages, contributing to the urbanisation of the appeal site and the area which surrounds it.
11. Additional tree and hedge planting is proposed around the edge of the site and the wider field boundaries, which are currently delineated by post and rail fences. This would help to reduce the visual impact of the proposal, but the new hedges would take time to reach sufficient height and density to provide meaningful screening.

12. Owing to its scale, siting and appearance, the proposed holiday accommodation would contribute to a reduction in openness and an increase in urbanisation within this rural landscape. For these reasons, the proposal would fail to comply with Policy SP4 and part a) of Policy EP9.
13. Policy EP9b) requires that any new buildings and supporting infrastructure are necessary. In this case, the development would involve two units of accommodation and an access road, with no other infrastructure or buildings proposed. I note the contents of the guidance note on Policy EP9 which the Council has provided, but there is nothing in the policy that requires applicants to demonstrate that the number of units proposed is the minimum necessary to make the business viable. I have found that the siting, scale and appearance of the buildings would be harmful to the rural landscape, so the proposal would not meet the requirements of EP9a). However, the quantum of development is not excessive, and I have found no conflict with part b) of the policy.
14. The proposal is supported by a business plan as required by EP9c), and the future viability of the business is not disputed by the Council. I have no reason to disagree with this conclusion.
15. I conclude that the proposal would cause harm to the character and appearance of the area. The proposal would adversely impact on the open and rural character of the countryside but would not achieve substantial public benefits, so would conflict with Local Plan Policy SP4. It would also conflict with Policy EP9a) which is concerned with visual impact, and the requirement contained in paragraph 130 of the National Planning Policy Framework (the Framework) that developments are sympathetic to the surrounding built environment and landscape setting.

Location and access to services

16. Local Plan Policy SP2 requires that all development in Wyre should be sustainable and contribute to the continuation or creation of sustainable communities in terms of its location and accessibility. Part 4 of the policy sets out ways in which the Local Plan seeks to deliver sustainable communities. Amongst others, these considerations include a) facilitating economic growth, including in the rural areas, and f) ensuring accessible places and minimising the need to travel by car.
17. In recognition of the significant contribution that tourism makes to the local economy, policies in the Local Plan allow for new holiday accommodation in countryside areas. By allowing for such development in areas which may not have easy access to services and facilities, or to a range of transport modes, there is implicit acceptance that there will be additional car journeys. In considering individual proposals, it is necessary to balance the objectives of Policy SP2, which may not always fully align.
18. The appeal site is reached via narrow lanes which have no footways or lighting. The nearest settlement with a range of local services and facilities is Hambleton, just over a mile away. I note the Inspector's comments in a recently dismissed appeal for holiday accommodation at Wardleys Lane nearby (ref APP/U2370/W/21/3273598), that the poor locational accessibility of the site weighed against the scheme. In the case before me, as for the Wardleys Lane scheme, the appeal site is not particularly well related to local services and facilities, and visitors may well use their car rather than walk to

- Hambleton. However, the current scheme differs in that it is linked to an existing equestrian development, and the submitted Viability Assessment explains that the business would focus on providing holidays related to horse riding.
19. The extent to which potential holiday makers are likely to access local facilities is very difficult to predict, but by linking the accommodation to an existing activity based at the site, visitors may be less likely to travel by car to destinations further afield, particularly if only staying for short periods.
 20. I acknowledge that there may be other equestrian facilities closer to local services which could provide holiday accommodation, and that it would be difficult to restrict occupancy to equestrian-related visits. However, the appeal site is not particularly remote from local facilities, and there is already a variety of holiday accommodation in the local area, which suggests that this locality is seen as an attractive place to visit in itself. Furthermore, by supporting the diversification of the existing equestrian business, the proposal would benefit the local economy, albeit by a small amount, and would contribute to the Framework objective of supporting a prosperous rural economy (paragraph 84).
 21. The Council has made reference to other appeal decisions in the borough in which locational sustainability was considered, but the scheme at Higham Side Road, Inskip involved industrial development and so was very different to the appeal before me. The appeal at Pool Foot Lane Singleton was for a house, so was also subject to different policies from the appeal before me.
 22. I agree that residential development would not be appropriate in this location, but the proposed development is for holiday accommodation, the viability of which is not disputed. If the proposal was otherwise acceptable, additional control could be provided through a condition to restrict long term stays, as the Council has suggested.
 23. In light of the above considerations, I conclude that in this particular case, the site is suitable for the proposed development, having regard to its accessibility to services and facilities. In terms of its location, the proposal is consistent with the approach to holiday accommodation contained within the Local Plan, and I have found no significant conflict with policies SP1, SP2 or CDMP6.

Other Matters

24. The site is close to the Morecambe Bay and Duddon Estuary Special Protection Area (SPA), Morecambe Bay Ramsar site and Wyre Estuary Site of Special Scientific Interest (SSSI), and has the potential to result in adverse impacts on the qualifying features of the designated sites. I have a statutory duty under the Conservation of Habitats and Species Regulations 2017 (as amended) to consider the potential impacts on the European site in the determination of the appeal.
25. Had I been allowing the appeal, it would have been necessary for me to complete a Habitats Regulation Assessment and Appropriate Assessment for the scheme, to address concerns expressed by Natural England over potential significant impacts which might arise from discharge into watercourses and recreational disturbance. From the evidence provided as part of this appeal, including comments from Natural England, it appears that these matters are

capable of being satisfactorily addressed. However, as I am dismissing the appeal for other reasons, it is not necessary for me to consider these matters any further.

26. An ecological assessment was submitted as part of the application. This concluded that the site comprises of species poor grassland which has relatively limited ecological value. No potential impacts on protected species were identified. The report recommends compensation for any loss of grassland through the introduction of native trees on the site. If the proposal was otherwise acceptable, a scheme of biodiversity mitigation and enhancement could be secured through an appropriate condition.
27. The effect of the scheme on the local highway network would be acceptable, and the proposed internal access and parking arrangements would be satisfactory. Charging points for electric vehicles could be provided on the site.
28. The proposed development would provide opportunities for tourism in a niche sector, and the scheme would have a modest benefit for the local economy. However, even when combined with my findings regarding the accessibility of the site to local services, this would not be sufficient to outweigh the harm I have identified to the character and appearance of the area.

Conclusion

29. For the reasons set out above, the proposal would conflict with the development plan and there are no other considerations which outweigh this finding. The appeal is therefore dismissed.

R. Morgan

INSPECTOR

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Committee Report

Date: 06.04.2022

Item Number	1
Application Number	21/01196/OUT
Proposal	Outline application for the erection of one dwelling with access applied for off Prudy Hill (all other matters reserved)
Location	Land To The Rear Of 4 Vicarage Road Poulton-Le-Fylde Lancashire FY6 7BE
Applicant	Judith Jenkinson
Correspondence Address	c/o Chris Astley 16 Oakwood Close Blackpool FY4 5FD
Recommendation	Permit

Report of the Head of Planning Services

Case Officer - Mrs Charlotte Parkinson

Site Notice Date: 3.12.21

Press Notice: 17.11.21

1.0 Introduction

1.1 This application is before the Planning Committee for consideration at the request of Councillor Henderson. A site visit is recommended to enable the Members to understand the proposal beyond the plans submitted and the photos taken by the Case Officer.

2.0 Site description and location

2.1 The site which forms the subject of this application relates to the rear garden area of 4 Vicarage Road, a two storey semi-detached residential dwelling located on the corner of Vicarage Road and Prudy Hill, close to the town centre of Poulton le Fylde.

2.2 The site is enclosed at the front and side by an established hedge which includes a number of mature trees. There is an adopted highway grass verge adjacent to the side boundary with Prudy Hill which contains a line of 7 trees which are all subject of a Tree Protection Order (TPO 09/2021). To the rear is a long linear garden which extends the full length of Prudy Hill.

2.3 The existing dwelling is served by two vehicular access points, the first is taken from the front off Vicarage Road to a tarmac driveway which continues along the side of the dwelling and provides for 2 car parking spaces, the second is taken from the western boundary off Prudy Hill and provides for access to an existing single storey pitched roof concrete sectional garage in the rear garden area.

2.4 The immediate surrounding area is mixed in character with the north side of Vicarage Road comprising semi-detached residential properties and commercial premises including a restaurant, night club, florists and bar. The south side of Vicarage Road comprises of Jean Stansfield Park, a Multi-Use Games Area (MUGA), the former vicarage, tennis courts and St Chads Church Hall. At the rear of the application site is the Blackpool to Manchester railway line. The application site falls within the Poulton Conservation Area.

3.0 The Proposal

3.1 The application seeks outline planning consent for the erection of one dwelling with only access applied for off Prudy Hill with all other matters reserved (landscaping, appearance, layout and scale). Access is proposed to be taken from the western boundary off Prudy Hill utilising the existing access and dropped kerbs. The existing dwelling would be served by the primary access off Vicarage Road.

3.2 Whilst the application is in outline form with only access applied for the application has been accompanied by an Indicative site plan demonstrating how one dwelling could be sited within the plot.

4.0 Relevant Planning History

4.1 none relevant

5.0 Planning Policy

5.1 Adopted Wyre Borough Local Plan

5.1.1 The Wyre Local Plan 2011-2031 (WLP31) was adopted on 28 February 2019 and forms the development plan for Wyre. To the extent that development plan policies are material to the application, and in accordance with the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise.

5.1.2 The following policies contained within the WLP31 are of most relevance:

- o SP1 - Development Strategy
- o SP2 - Sustainable Development
- o CDMP1 - Environmental Protection
- o CDMP2 - Flood Risk and Surface Water Management
- o CDMP3 - Design
- o CDMP4 - Environmental Assets
- o CDMP 5 Historic Development
- o CDMP6 - Accessibility and Transport

5.2 National Planning Policy Framework 2021

5.2.1 The revised National Planning Policy Framework (NPPF) was published by the Government on 20th July 2021. It sets out the planning policies for England and how these should be applied in the determination of planning applications and the preparation of development plans. At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). The policies in the 2021 NPPF

are material considerations which should also be taken into account for the purposes of decision taking.

5.2.2 The following sections / policies set out within the NPPF are of most relevance:

- o Section 2 - Achieving sustainable development
- o Section 4 - Decision-making
- o Section 5 - Delivering a sufficient supply of homes
- o Section 11 - Making effective use of land
- o Section 12 - Achieving well-designed places
- o Section 14 - Meeting the challenge of climate change, flooding and coastal change
- o Section 16 - Conserving and enhancing the historic environment

5.2.3 In accordance with the National Planning Practice Guidance (PPG) and National Planning Policy Framework (NPPF) §74, the council must be able to demonstrate a 5 year housing land supply position (with a 5% buffer) when dealing with applications and appeals. The latest available evidence on housing delivery is that set out in the council's Housing Implementation Strategy (published 30 September 2021) which demonstrates a deliverable housing land supply position of 6.4 years. The council's position therefore is that it is able to demonstrate a deliverable 5 year housing land supply.

Other Material Considerations

5.3 Wyre Supplementary Planning Guidance

- o Supplementary Planning Guidance 2 - Development and Trees
- o Supplementary Planning Guidance 4 - Spacing guidance for New Housing Layouts

6.0 Consultation Responses

6.1 Lancashire County Council (LCC Highways)

6.1.1. No objections - LCC Highways 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 and have requested a condition that before the access is used for vehicular purposes the part of the proposed access extending from the highway boundary for a minimum distance of 5m be appropriately paved in tarmac, concrete, block pavements or other approved materials to prevent loose surface material from being carried onto the public highway.

6.2 Network Rail

6.2.1. No objection in principle subject to a risk assessment and method statement for all work to be undertaken within 10m of the operational railway to be sent directly to Network Rail. Network Rail have requested conditions.

6.3 United Utilities

6.3.1. United Utilities have provided standard advice that the site should be drained on a separate system with foul water draining to the public sewer and surface water in accordance with the surface water drainage (SUDS) hierarchy.

6.4 Greater Manchester Ecology Unit (GMEU)

6.4.1 No Objections - Advised that there is unlikely to be any impacts upon protected species however an informative should be added highlighting the steps to take should any protected species be encountered during the demolition or construction phase.

6.5 Poulton Historical Society

6.5.1. No observations received at the time of compiling this report

6.6 Wyre Council Head Of Environmental Health And Community Safety (Contamination)

6.6.1. No objections subject to a Phase 1 contaminated land assessment and watching brief condition being attached.

6.7 Wyre Council Head of Environmental Health And Community Safety (Noise)

6.7.1 No Objections - Initially requested a Noise Assessment to be submitted. Following the submission of the Noise Assessment it has been confirmed that there are no objection subject to a conditions requiring the mitigation measure proposed to be undertaken accordingly.

6.8 Wyre Council Head Of Engineering Services (Drainage)

6.8.1. No objection subject to full foul and surface water drainage plans to be submitted for approval.

6.9 Wyre Council Head Of Public Realm And Environmental Sustainability (Tree Officer)

6.9.1. No objections subject to a full BS5837 tree survey and tree protection plan being submitted at reserved matters stage.

7.0 Representations

7.1 At the time of compiling the report 6 letters of objection have been received. The objections primarily relate to the following matters:

- o Concern regarding overlooking from a two storey dwelling
- o Existing parking and traffic problems on Prudy Hill
- o Concern regarding potential works to access main sewer during construction
- o Physical practicability of constructing a dwelling within a small cul de sac
- o Concern that the roots to the TPO trees will be damaged during construction
- o Loss of privacy / overlooking and noise disturbance prior to and after construction
- o Loss of natural light into the front of properties on Prudy Hill
- o The plan states that hedges will be replaced
- o Concern regarding the impact on the Poulton Conservation Area
- o It is not possible to turn around at the end of Prudy Hill

8.0 Contact with Applicant/Agent

8.1 During the course of the application the applicant has been contacted to provide a noise assessment which was submitted on 24.1.22 and agree an extension of time until 7th April 2022

9.0 Issues

9.1 The key considerations in the assessment of this application are:

- o Principle of Development
- o Visual Impact, Design and Impact on the street scene
- o Impact on the Residential Amenity
- o Impact on Highway and Parking
- o Flood Risk and Drainage
- o Trees and Ecology
- o Impact on conservation area

Principle of Development

9.2 The application seeks outline consent for the erection of one detached residential dwelling in the rear garden of number 4 Vicarage Road. The application site is located within the settlement boundary of Poulton le Fylde as identified in the Adopted Wyre Local Plan 2011 - 2031 (WLP 31). Policy SP1 (Development Strategy) of the WLP31 seeks to direct new development in line with the settlement hierarchy. Poulton le Fylde is identified as an Urban Town in the WLP31 where 48.6% of housing growth is expected during the plan period. Therefore, in terms of location the proposed development would be in accordance with the development strategy set out in Policy SP1. The Council has a five year housing supply and this proposal would contribute, albeit by a limited amount, to maintaining this five year housing supply.

9.3 Policy SP2 of the WLP31 requires all development to be sustainable and contribute to the continuation or creation of sustainable communities in terms of location and accessibility. Sustainability is also a material consideration of the NPPF. The application site is located centrally within walking distance of Poulton Town centre where it provides high levels of connectivity with access to services, employment opportunities, schools, public transport and an array of community facilities. On this basis the application site is considered to be in an accessible and sustainable location in line with the requirements of Policy SP2. Whilst the application site is half of an existing residential curtilage the Council do not have any specific policies that resist the principle of developing within an existing residential curtilage. Overall, the principle of the proposed development is considered to be acceptable and would comply with the provisions of Policies SP1 and SP2 of the WLP31 and the principles of the National Planning Policy Framework.

Visual Impact, Design and Impact on the street scene

9.4 The proposed development is submitted for outline approval only with all matters reserved, therefore the precise details and full assessment of the siting, design and appearance of any dwelling would be considered at reserved matters stage should outline permission be granted.

9.5 The surrounding area is mixed in character being on the edge of the Poulton town centre and comprises of a mix of residential, commercial and leisure development. The proposal is for residential development which would be compatible

with adjacent land uses. An indicative site layout plan accompanies the application which identifies how a single dwelling could be accommodated within the site. The application is accompanied by a planning statement which includes an indicative floor layout plan which suggests that a two storey dwelling would be proposed. A number of concerns have been raised in relation to this matter by neighbouring residents. A full assessment of the visual impacts and design would be undertaken at reserved matters stage where compliance with the relevant policies of the WLP31 would be considered.

Impact on the Residential Amenity

9.6 As the application is in outline form with access only applied for the full impacts upon neighbouring amenity can only be fully considered at reserved matters stage. It is noted that objections raised also relate to loss of privacy and overlooking concerns. The indicative layout plan demonstrates that despite the modest size of the plot a dwelling could be designed to ensure that it complies with the required interface distances set out within Supplementary Planning Guidance 4 (SPG4) and would not harm residential amenity whilst providing sufficient amenity space for the proposed dwelling. At reserved matters stage when scale and appearance are applied for the positioning of windows and their impacts upon the privacy of neighbouring properties along with bulk and massing would be fully assessed along with compliance with Policy CDMP3 of the WLP31.

Impact on Highway and Parking

9.7 The proposed dwelling would utilise the existing access on the western boundary of the rear garden, off Prudy Hill. The concerns and observations received in relation to parking and highway safety have been fully acknowledged. Lancashire County Council Highways have been consulted and have raised no objections to the use of this existing access on the grounds of highway safety, capacity or amenity. The highways Officer has requested that a condition be added to any consent granted which would require the first 5m of the access from the highway boundary to be appropriately paved in tarmac, concrete, block pavements or other approved material in order to prevent loose material from spreading onto the highway. The proposed illustrative site plan demonstrates that 2 off street parking spaces could be accommodated within the site. This would comply with the parking standards set out within Appendix B of the WLP31.

9.8 Policy CDMP6 of the WLP31 requires development which included parking provision to make appropriate provision for electric vehicle charging points (EVCP). This can be achieved by including a suitably worded condition. In this instance it is considered that there will be no detrimental impact to highway safety and therefore the proposal is compliant with Policy CDMP6 of the WLP31.

Flood Risk and Drainage

9.9 The application site is located within Flood Zone 1 which is identified as being at low risk of flooding on the Environment Agencies Flood Maps. No drainage details have been submitted with the application which outline how surface and foul water would be disposed of. However as the proposal is outline with access applied for and all other matters reserved it is not considered appropriate to seek to impose a condition requiring the agreement of a drainage strategy prior to any reserved matters application as layout will impact on the drainage layout. Therefore, a suitably worded condition requiring the specific drainage layout for the development to be

submitted at reserved matters stage should be attached to any consent. The proposal is considered to comply with Policy CDMP2 of the WLP31.

Trees and Ecology

9.10 To accommodate the new dwelling the existing detached garage is to be demolished. Given the position of the site in a built up urban location in close proximity to residential properties and as the site is part of an existing residential curtilage it is not considered to be of significant ecological value and as such it is unlikely that there would be any adverse impacts upon protected species. An advice note is to be added to highlight to the applicant that in the event the protected species are encountered during the demolition or construction phase then all works must cease and specialist advice should be sought. Whilst the application site is located within a SSSI Impact Zone and is within 3.5km buffer of Morecambe Bay it would not have any adverse impacts upon European designated specially protected sites given the immediate built up surroundings.

9.11 There is a line of 7 No TPO trees within the adopted highway grass verge adjacent to Prudy Hill which is outside of the application site. A tree survey and protection plan would be required at reserved matters stage to assess potential impacts to these trees from demolition of the existing garage, any widening of the access and construction of the proposed dwelling. The indicative site layout informs that the existing hedge to the front and side of the application site will be retained.

Impact on conservation area

9.12 The application site is located within the Poulton Conservation Area and as such Policy CDMP5 is relevant. The Council's Conservation Officer has advised that a suitably designed dwelling of appropriate scale and using sympathetic materials could be development on this small site such that the appearance of the Poulton le Fylde Conservation Area would be preserved and the significance of this designated heritage asset sustained. This would be assessed at reserved matters stage

Other Matters

9.13 Contamination - The Council's Environmental Health Officer (Contamination) have advised that the site is within 250m of unknown fill and have therefore requested a pre commencement condition requiring a desk study to be submitted in order to produce an assessment of the risk of the potential for onsite contamination. This is considered reasonable and can be achieved by adding a suitably worded condition.

9.14 Noise impacts - Given the site's proximity to the nearby railway line to the north the impacts upon future occupants of the dwelling are to be assessed. The Council's Environmental Health Officer has requested an Acoustic Noise Assessment to be submitted (ANA). The Assessment proposes a number of mitigation measures which could be incorporated in to the construction of the dwelling to ensure there are no adverse impacts this includes the use of appropriate materials and mechanical ventilation for windows and suitable glazing. In this instance an appropriately worded condition requiring the development to comply with specific noise levels is to be attached.

9.15 Network Rail were consulted due to the close proximity of the site to the main railway line to the north. In order to protect this asset they acknowledge the need for a Risk Assessment and Method Statement together with a Basic Asset Protection

Agreement. This is required to be submitted directly to Network Rail and can be added as an informative.

10.0 Conclusion

10.1 The proposal is an outline application with access applied for and all other matters reserved for the erection of a dwelling. It is located within the settlement boundary of Poulton le Fylde, as such it is considered to be a sustainable location due to the proximity of the site to local services. The development would be compatible with adjacent land uses and subject to a suitable design, layout and use of materials it is considered that a dwelling could be erected on the land that would not result in adverse impacts on neighbouring amenity and would not cause harm to the Poulton Conservation Area. All other material planning considerations have been assessed to be acceptable. For the reasons set out within this report the proposal is considered to comply with the relevant policies of the WLP31 and the provisions of the NPPF.

11.0 Human Rights Act Implications

11.1 ARTICLE 8 - Right to respect the private and family life has been considered in coming to this recommendation.

11.2 ARTICLE 1 - of the First Protocol Protection of Property has been considered in coming to this recommendation.

12.0 Recommendation

12.1 Grant outline planning permission subject to conditions

Recommendation: Permit

Conditions: -

1. In the case of any reserved matter, namely appearance, landscaping, layout and scale of the building application for approval must be made before the expiration of three years beginning with the date of this permission; and that the development hereby permitted shall be begun not later than:

the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: This condition is required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the Planning Application received by the Local Planning Authority on 25.09.21 including the following plans/documents:

Site Location Plan received 27 September 2021.

Proposed Site Plan Drawing No OP 02 received 27 September 2021 (For access purpose only)

The development shall be retained hereafter in accordance with this detail.

Reason: For the avoidance of doubt and so that the Local Planning Authority shall be satisfied as to the details.

3. Prior to the submission of the first reserved matters application relating to layout, or simultaneously with that first reserved matters application a drainage scheme, which shall detail measures for the attenuation and the disposal of foul and surface waters, together with details of existing and proposed ground and finished floor levels to achieve the drainage scheme and any flood risk mitigation deemed necessary, shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme shall be in accordance with the hierarchy of drainage options outlined in Policy CDMP2 of the Adopted Local Plan 2011-31 or any equivalent policy in an adopted Local Plan that replicates the existing Local Plan, with evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates to be submitted. For the avoidance of doubt, surface water must drain separate from the foul and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly.

Each reserved matter relating to layout should demonstrate compliance with the agreed drainage scheme

No part of the development shall be occupied or brought into first use until the drainage works and levels have been completed in accordance with the approved scheme. Thereafter the agreed scheme shall be retained, managed and maintained in accordance with the approved details.

Reason: To promote sustainable development using appropriate drainage systems, ensure a safe form of development that poses no unacceptable risk of pollution to water resources or human health, to prevent an undue increase in surface water run-off to reduce the risk of flooding and in the interests of visual and residential amenity in accordance with policies CDMP2 and CDMP3 of the Wyre Local Plan (2011-31) and the National Planning Policy Framework. The condition is required to be approved prior to commencement of development to ensure that full details are provided, that have not been forthcoming with the application, to ensure a suitable form of drainage is provided in that specific area taking into consideration land conditions and proximity to existing services and to ensure that any proposed raising of levels can be assessed and that a coherent approach is taken with regard to the design of drainage and housing layout.

4. Prior to the commencement of development a desk study to investigate and produce an assessment of the risk of the potential for on-site contamination shall be undertaken and submitted to and approved in writing by the Local Planning Authority. If the desk study identifies potential contamination, a detailed site investigation shall be carried out in accordance with a written methodology, which shall first have been submitted to and approved in writing by the Local Planning Authority. If remediation measures are then considered necessary, a scheme for decontamination of the site shall be submitted to, and approved by, the Local Planning Authority in writing and the approved scheme implemented prior to the development of the site, and validation of the approved measures shall be submitted to, and approved by, the Local Planning Authority in writing on completion of the works. Any changes to the approved scheme must be approved in writing by the Local Planning Authority prior to any works being undertaken.

Reason: The development is for a sensitive end use and insufficient information has been submitted with the application as to the potential contamination risks of the site. The potential for contamination must therefore be addressed in order to safeguard the development in accordance with Policy CDMP1 of the Wyre Local Plan (2011-31).

5. The development hereby permitted shall be designed so that the level of noise emitted from the site does not exceed the following levels as assessed in accordance with British Standard 8233 (2014) and WHO guidelines (or any subsequent replacement national standards / guidance) when measured at nearby noise-sensitive premises:

L_{Aeq} 55 dB 16 hours - gardens and outside living areas, daytime (07.00-23.00)

L_{Aeq} 35 dB 16 hours - indoors, daytime (07.00-23.00)

L_{Aeq} 30 dB 8 hours - indoors, night-time (23.00-07.00)

L_{AFmax} 45 dB 8 hours - indoors night-time (23.00-07.00)

L_{AFmax} 45 dB 4 hours - indoors evening (19.00-23.00)*

L_{AFmax} 60 dB 8 hours - façade level night time (23.00-07.00)

L_{AFmax} 60 dB 4 hours - façade level evening (19.00-23.00)

*The evening standard L_{AFmax} will only apply were the evening L_{AFmax} significantly exceeds the L_{Aeq} and the maximum levels reached are regular in occurrence, for example several times per hour.

Alternative levels and monitoring locations may be used subject to the prior written approval of the Local Planning Authority.

Reason: To minimise the risk of noise pollution that may cause nuisance and harm the amenity and/or health of occupiers of nearby buildings, in accordance with Policy CDMP1 of the Wyre Local Plan (2011-31).

6. Before the access is first used for vehicular purposes, that part of the access extending from the highway boundary for a minimum distance of 5m into the site shall be surfaced in tarmacadam, concrete, block pavements, or other permanent hard surfaced material.

Reason: To prevent loose surface material from being carried on to the public highway thus causing a potential source of danger to other road users and in accordance with Policy CDMP6 of the Wyre Local Plan (2011-31).

7. An electric vehicle recharging (EVCP) scheme shall be submitted for all dwellings with parking provision unless it is demonstrated that such provision of EVCP is not practical in communal parking areas or due to other identified site constraints. No dwelling shall be occupied until the electric vehicle recharging point has been provided for the dwelling to which it relates, and such electric vehicle recharging point shall be maintained and retained for that purpose thereafter.

Reason: To ensure the provision of appropriate on-site mitigation to compensate for the impact on air quality caused by the development in the surrounding area in accordance with Policy CDMP6 of the Wyre Local Plan (2011-31).

8. Prior to the submission of a reserved matters application relating to layout, or simultaneously with that reserved matters application, details of the existing and

proposed ground, slab and finished floor levels shall be submitted to and approved in writing by the Local Planning Authority.

The ground, slab and finished floor levels shall be constructed and completed in accordance with the approved details.

Reason: To ensure that the development has a satisfactory visual impact on the streetscene, a satisfactory impact on neighbouring residential amenity and has a minimum risk of flooding in accordance with Policies CDMP2 and CDMP3 of the Wyre Local Plan (2011-31). The condition is required to be approved prior to commencement of development to ensure that full details are provided, that have not been forthcoming with the application.

9. Prior to the commencement of development, including any demolition or tree works, an Arboricultural Impact Assessment, Method Statement and Tree Protection Plan for the retained trees shall be submitted to and approved in writing by the Local Planning Authority. This shall indicate the methods and positioning of tree protection measures such as ground protection (where necessary), Heras protective fencing and details of any specialist demolition or construction methods if appropriate.

The measures contained within the approved Arboricultural Impact Assessment, Method Statement and Tree Protection Plan with respect to those trees shown as being retained shall be implemented in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

Reason: In order to protect trees from damage or loss in the interests of the amenity of the area in accordance with Policies CDMP3 and CDMP4 of the Wyre Local Plan (2011-31) and to ensure compliance with the Wildlife and Countryside Act 1981. The details are required to be approved prior to commencement of development to ensure timely tree protection measures are in place

Notes: -

1. Prior to the commencement of development, a risk assessment and method statement (RAMS) in respect of all works to be undertaken within 10m of the adjacent railway shall be submitted to and agreed in writing with Network Rail to ensure that works on site follow safe methods of working and have taken into consideration any potential impact on Network Rail land and the operational railway. Network Rail Asset Protection should be contacted by email at AssetProtectionLNWNorth@networkrail.co.uk to discuss the RAMS requirements in more detail.

A Party Wall notification (under the Party Wall Act of 1996) should be submitted to Network Rail's Asset Protection team for any works 3 metres or less from the Network Rail boundary (not the railway tracks) and structures. Embankments and cuttings are considered structures by Network Rail. Plans and sections showing the

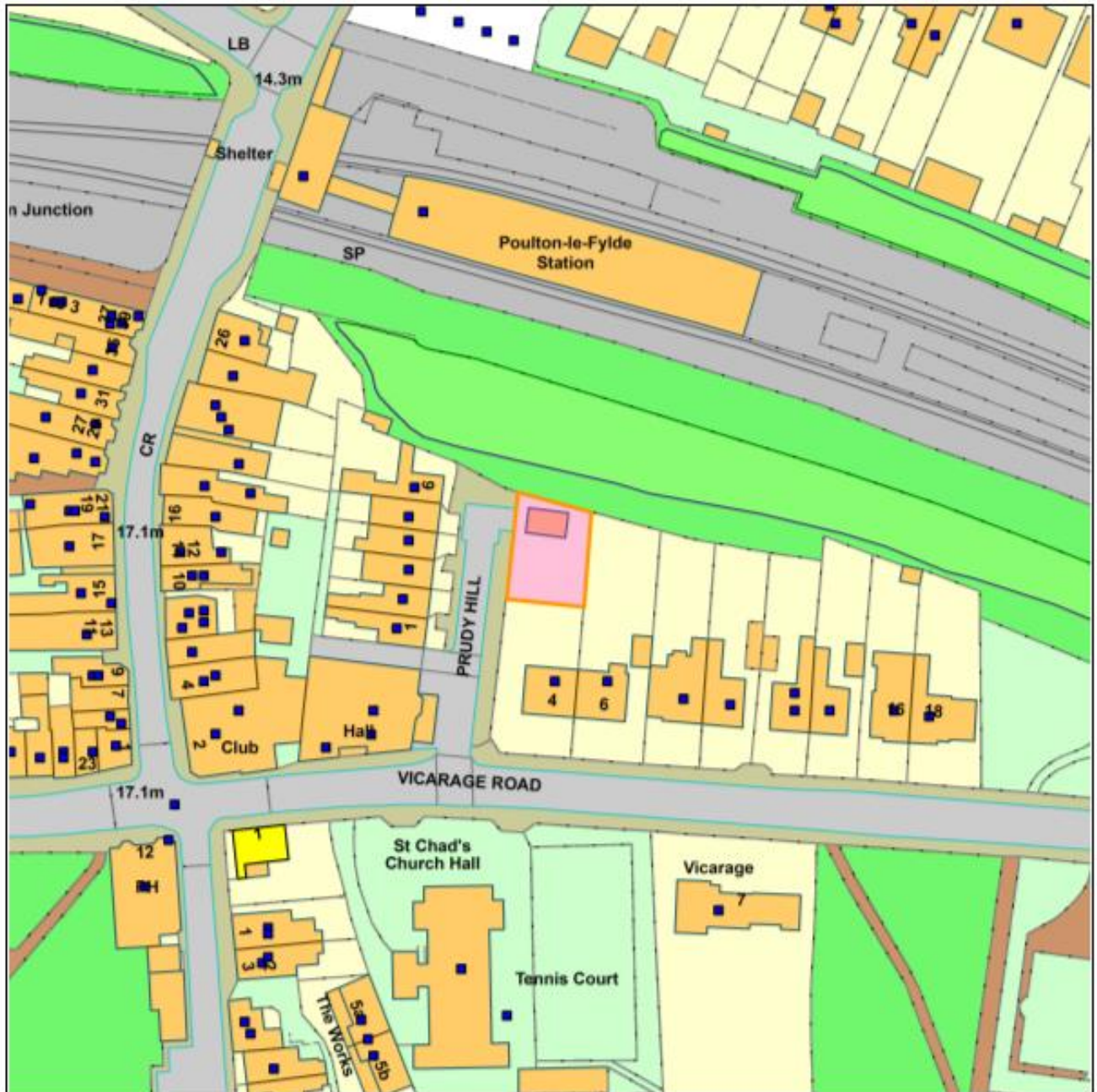
location and depth of the proposed excavations and foundations and the location of the proposed third party building or structure should be included with the notice.

2. It is an offence to disturb, harm or kill any species specifically protected under the Wildlife and Countryside Act 1981. In the event of any such species being unexpectedly encountered before and during site clearance or development work, then work shall stop immediately until specialist advice has been sought from a suitably qualified Ecologist regarding the need for additional survey(s), a license from Natural England and/or the implementation of necessary mitigation measures.

3. As part of the submission of any reserved matters application in relation to scale and appearance the applicant is advised that the dwelling should be designed as to not exceed one or one and a half storeys in height to ensure that the development is of an appropriate scale for the surrounding area and so it does not have any adverse impacts.

Planning Committee

21/01196/OUT - Land to the rear of 4 Vicarage Road Poulton



Scale: 1:982

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Organisation	Wyre Council
Department	Planning Department
Comments	Item 1
Date	16 March 2022
SLA Number	100018720

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Report of:	Meeting	Date	Item No.
Mark Billington Corporate Director Environment	Planning Committee	6 April 2022	

Wyre Council Tree Preservation Order No 1 of 2022: Rose Cottage, Head Dyke Lane, Pilling, Lancashire, PR3 6SJ

1. Purpose of report

- 1.1 To consider the objection to the making of Wyre Council Tree Preservation Order No 1 of 2022: Rose Cottage, Head Dyke Lane, Pilling, Lancashire, PR3 6SJ

2. Outcomes

- 2.1 To determine whether or not to confirm the Wyre Council Tree Preservation Order No 1 of 2022: Rose Cottage, Head Dyke Lane, Pilling, Lancashire, PR3 6SJ
- 2.2 An effective tree preservation order makes it an offence to do any works to the protected trees without first gaining consent from the Local Planning Authority unless such works are covered by an exemption within the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

3. Recommendation

- 3.1 That the Wyre Council Tree Preservation Order No 1 of 2022: Rose Cottage, Head Dyke Lane, Pilling, Lancashire, PR3 6SJ be confirmed.

4. Legislative background to the TPO

- 4.1 Section 198 of The Town and Country Planning Act 1990 (as amended) empowers Local Planning Authorities to protect trees or woodlands in their area in the interests of amenity by making tree preservation orders. Following the introduction of **The Town and Country Planning (Tree Preservation) (England) Regulations 2012**, The Local Planning

Authority is required to confirm a tree preservation order within six months of the issue date if it is to continue to have effect after that period. When an objection is received, a decision on confirmation is usually referred to the Planning Committee.

- 4.2** Tree preservation orders are usually made because it is considered expedient in the interests of amenity to protect the trees from felling or pruning. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make an order as a precaution.
- 4.3** Amenity is not defined in law but the government's advice is that authorities need to exercise judgement when deciding whether it is within their powers to make an Order. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future (GOV.UK, 2014).
- 4.4** Therefore the following criteria should be taken into account when assessing the amenity value of trees:
- **Visibility:** *the extent to which the trees or woodlands can be seen by the general public will inform the LPA's assessment of whether its impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.*
 - **Individual, collective and wider impact:** *public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to it of their characteristics including:*
 - *Size and form;*
 - *Future potential as amenity;*
 - *Rarity or historic value;*
 - *Contribution to, and relationship with, the landscape; and*
 - *Contribution to the character or appearance of a conservation area.*
 - **Other factors:** *where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change, although according to guidance these "Other factors" alone would not warrant the making an order.*

(Source: Tree Preservation Orders and trees in Conservation Areas/Planning Practice Guidance March 2014).

- 4.5** The Regulation 5 notice, which is a legal notice that is served with the tree preservation order documents on the owner and occupier of the land affected by a tree preservation order and also the owner and occupier of the adjoining land, states the reason why the trees have been protected and invites objections or representations to be made to the Local Planning Authority within a 28-day period. The Regulation 5 Notice issued in respect of the land affected by the TPO gave the reason for making the TPO as *“it is expedient in the interest of amenity”*.
- 4.6** Once made, a tree preservation order takes effect provisionally for six months, but must be confirmed by the Local Planning Authority within that period to continue to be effective. If it is not confirmed the tree preservation order ceases to have effect and the trees are unprotected. When objections or representations are received the Council must consider those before any decision is made whether or not to confirm the order. In these cases, referral to Planning Committee is usually appropriate.
- 4.7** Within the framework of a TPO, a Local Planning Authority may classify trees as occurring either as individuals, groups, woodlands, or areas.

5. Background to making the TPO

- 5.1** The Tree Officer visited site on 12 January 2022 and undertook an appropriate tree evaluation method for preservation orders (“TEMPO”) which guided the subsequent decision to make the TPO. The TPO applies to T1 oak tree which is located in the eastern corner of the front garden of Rose Cottage, Head Dyke Lane, Pilling, Lancashire, PR3 6SJ . A copy of the completed TEMPO survey data sheet relating to the TPO along with associated images of the TPO are appended to this report at Appendix 1.
- 5.2** On 7 February 2022 Wyre Council made Tree Preservation Order No 1 of 2022: Rose Cottage, Head Dyke Lane, Pilling, Lancashire, PR3 6SJ. A copy of the TPO plan is appended to this report at Appendix 2.

The Council served correspondence on the owners and occupiers of the land affected by the TPO and on those adjoining, notifying them of the making of the TPO in accordance with Regulation 5 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

- 5.3** The period for any objections and representations to be made to the Council in respect of the TPO ended on 7 March 2022. The Council received an objection dated 28 February 2022. A redacted copy of the letter of objection is appended to this report at Appendix 3.

6. Summary of Objections

1: The Tree Preservation Order is not necessary.

Why has the Planning Authority considered that a Tree Preservation Order is expedient in this case? Also, why has the Tree Preservation Order been made on a precautionary basis. The Planning Authority hasn't properly assessed the potential risk to amenity of intended pruning. The Tree Preservation Order is not required according to the TEMPO evaluation undertaken on 12 January 2022.

2: The tree is a hazard to animal health and welfare.

The confirmation of the Tree Preservation Order would impair the ability to maintain quality pasture as consent to carry out tree works would be required from the Planning Authority.

The confirmation of the Tree Preservation Order would prevent the cutting back of branches to reduce shedding of leaves and fruit which are poisonous to horses and ponies. The application for Tree Preservation Order tree work process presents restrictions.

3: The tree is a hazard to road safety.

The overhang of the oak tree is quite low when compared to the height of high-sided vehicles entering and leaving the parking area to Pilling Pet Store. This makes visibility difficult along the road particularly when the oak tree is in leaf.

The Planning Authority should consult with the highways authority to seek their views on the road safety implications of the Tree Preservation Order.

Leaves shed from the oak tree in Autumn increases road safety risk in the immediate vicinity. The application for Tree Preservation Order tree work process presents restrictions to amelioration of this risk.

4: The awarding of the tree preservation order was on the bases of a contestable TEMPO calculation.

How can the visible amenity of the oak tree be assessed in the middle of winter ?

The tree does not have 'identifiable historic , commemorative or habitat importance'

An arboriculturalist has advised that the oak tree may have a weak branch union approx. four feet above ground level, that may not have been factored in to the TEMPO assessment.

5: The Tree Preservation Order disproportionately limits my amenity from my own property.

The confirmation of the Tree Preservation Order may require the cessation of use of part of the land used for pasture by grazing ponies. The matter of the TPO has caused great concern and anxiety. Moreover, the impact on the objectors health and health of the ponies creates a nuisance as defined under the Environmental Protection Act 1990. Also, detracting from the amenity personally experienced if they must cease using the land for its current lawful purpose.

7.0 Response to Objections 1-5

7.1 1:

The tree officer exercised judgement having regard to Government guidance when deciding to make the TPO. A Tree Evaluation Method for Tree Preservation Orders (TEMPO) was undertaken on 12 January 2022 in respect of the TPO. The TEMPO comprised an amenity assessment in relation to the condition and suitability of the tree along with tree species, size, life expectancy, public visibility, other factors and expediency.

7.2 The Part 2 Expediency Assessment qualified on the bases of it being 'Precautionary only'. The TEMPO assessment showed the making of the TPO to be defensible and the TPO was made 'because expedient in the interest of amenity to protect T1 oak tree. T1 oak tree is in moderate health and in a prominent location from the perspective of public visual amenity. The TPO ensures that tree works that are applied for will only gain consent if in accordance with good arboricultural management.

7.3 For completeness, the TEMPO data sheet relating to T1 oak tree at Appendix 1 undertaken in relation to the TPO shows the amenity and expediency assessments for those aspects of the TPO.

7.4 2:

An application for tree works to T1 oak tree was received from the owner of the land used as pasture on 1st March 2022. On 28 March 2022 the tree officer gave associated formal consent regarding the extent of the crown of T1 oak tree overhanging the land used for pasture – to reduce back secondary lateral branches by no further than 2.5 metres from growing tips to advantageous growing points. No pruning cut is permitted to exceed 150mm diameter.

This consent, if implemented, will assist with reducing risk of illnesses that oak leaves and acorns can cause to ponies. There are other risk reduction measures that the British Horse Society suggest can be taken: <https://www.bhs.org.uk/>

7.5 The application for Tree Preservation Order tree work process can occasionally take up to 8 weeks from receipt to decision however the tree

officer endeavours to expedite decisions as soon as is possible as demonstrated above.

7.6 3:

A Google streetview image captured in June 2021 of the oak tree in full leaf, when looking south west from exiting Pilling Pet Store, shows that at that point in time there was a sufficient degree of crown clearance for high sided vehicles on the public highway. During the growing season it could be deduced from the said image that understorey vegetation located between the road edge and pasture fenceline are contributing to any difficulties experienced regarding sightlines when leaving the parking area at Pilling Pet Store. In any event implementing consent under the TPO as described above combined with any future works deemed necessary under exception by Lancashire County Council for the purposes of highways clearance will improve sightline issues.

7.7 Leaves shed in Autumn from all deciduous trees and shrubs in proximity to public roads can increase road safety risk. Cyclical highways maintenance seeks to address this issue where possible. The tree officer did not consult with the highways authority on this occasion as he considers that there is not presently a significant road safety risk presented by the current growth of T1 oak tree.

7.8 4:

A TEMPO assessment is undertaken when deemed necessary during any season and is scored, amongst other criteria, on size of tree and degree of public visibility.

The tree officer noted during the TEMPO assessment the presence of a tight fork at approx. 4 feet above ground level on the north eastern side of the tree. Whilst it is accepted that there can be structural and physiological issues which may arise from a tight fork and associated union, where in impaired cases the site can be an entry point for bacteria and fungi, there is no current evidence to show that this is the case in this instance. Also implimenting consent for tree works as described above at 7.4 will reduce the end weight of the limb subject to the tight fork thus reducing future wind loading forces experienced at the union.

7.9 The tree officer considers T1 oak tree to be a tree of habitat importance as it is a keystone tree species which is crucial to the ecosystem by supporting an abundance of organisms.

7.10 5:

The tree officer wishes to affirm that the creation of any TPO is never with the intention to cause disquiet to interested parties. The TEMPO evaluation does not cover personal enjoyment of property by its proprietor.

7.11 The shedding of leaves and acorns and their potential impacts on human wellbeing or the health of ponies are not classified as statutory nuisances as defined under the Environmental Protection Act 1990.

7.12 In all the circumstances, officer view is that it is expedient in the interests of amenity to make T1 oak tree subject of a confirmed tree preservation order.

Advice pertaining to Planning Committee and its procedures along with a copy of this report relating to the TPO have been forwarded to the objector in reasonable advance of the meeting of Planning Committee on 6th April 2022.

8.0 Concluding remarks

8.1 It is considered that the TPO has been properly made in the interests of securing the contribution and benefit that the TPO applies to the public amenity in the area. The TPO protects important elements of the local landscape and contributes to the local environment. T1 oak tree presently protected by the TPO has been assessed in a structured and consistent way using an approved method.

8.2 It is considered that the procedural requirements of the legislation have been followed in the creation of the TPO and determinations made using a widely accepted method which includes expediency assessment has occurred in this case. Having regard to the legislation and the Government Guidance, it is considered that the TPO is fully justified in all respects and should be confirmed.

Financial and Legal Implications	
Finance	None.
Legal	Before confirming a Tree Preservation Order, the Local Planning Authority must consider any objections/representations made within the 28-day objection period. If, having considered any objections/representations received, the Local Planning Authority is satisfied that the tree merits a TPO; it may confirm the Order under the Town and Country Planning Act 1990 and supporting Regulations. The LPA may also confirm an Order in modified form, revoke it, or allow it to lapse. However it cannot add to the Schedule references to a tree to which the Order did not previously apply. There is

	no right of appeal to the Secretary of State, but a challenge may be made to the High Court on a point of law.
--	--

Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with an x.

implications	✓ / x
community safety	x
equality and diversity	x
sustainability	✓
health and safety	x

risks/implications	✓ / x
asset management	X
climate change	✓
data protection	X

report author	telephone no.	email	Date
Ryan Arrell BSc (Hons), HND, LANTRA qualified professional tree inspector.	01253 887614	Ryan.Arrell@wyre.gov.uk	

List of background papers:		
name of document	date	where available for inspection
Wyre Council TPO 14 of 2021	7 February 2022	Room 134 or by email to Tree Officer.

List of Appendices

Appendices:

- 1** –TEMPO survey data sheet and also public visibility images of T1 oak tree.
- 2** –TPO plan.
- 3** – Redacted copy of letter of objection.

References List

Tree Preservation Orders and trees in Conservation Areas. GOV.UK, (2014) Accessed Via <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>

(TEMPO) Tree Evaluation Method for Preservation Orders
<http://www.flac.uk.com/wp-content/uploads/2014/12/TEMPO-GN.pdf>

Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Appendix 1

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 12/01/22 Surveyor: R. Arzli

Tree details
 TPO Ref (if applicable):
 Owner (if known):
 Tree/Group No: T1 Species: Oak
 Location: Rose Cottage, Head Dyke Lane

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Pilling

Part 1: Amenity assessment

a) Condition & suitability for TPO

- 5) Good Highly suitable
- 3) Fair/satisfactory Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead/dying/dangerous* Unsuitable

* Applies to existing context and is intended to apply to severe irreparable defects only

Score & Notes
3

b) Retention span (in years) & suitability for TPO

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10* Unsuitable

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

Score & Notes
2

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- 5) Very large trees with some visibility, or prominent large trees Highly suitable
- 4) Large trees, or medium trees clearly visible to the public Suitable
- 3) Medium trees, or large trees with limited view only Suitable
- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

Score & Notes
4

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes
3

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes
1

Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-11 Does not merit TPO
- 12-15 TPO defensible
- 16+ Definitely merits TPO

Add Scores for Total:
13

Decision:
Create TPO.



Above image: View of T1 oak tree when facing north from the southern side of Head Dyke Lane.



Above image: View of the oak tree (image centre) when looking south west from exiting Pilling Pet Store, Head Dyke Lane.

Wyre Council Tree Preservation Order No1 of 2022

Rose Cottage, Head Dyke Lane, Pilling, PR3 6SJ



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Organization	Wyre Council
Department	Planning Department
Comments	Not Set
Date	24 January 2022
SLA Number	100018720

28th February 2022

To whom it may concern,

Objection to Tree Preservation Order 01/2022

I am writing to object to Tree Preservation Order 01/2022 issued on 6th February 2022 in relation to an oak tree located at Rose Cottage, Head Dyke Lane. I am the owner of a neighbouring property to Rose Cottage and I have lived in my property for 27 years. When I moved to my property the oak tree subject to the Tree Preservation Order was relatively small in size and did not significantly overhang my land. Over the years the tree has grown and, in the last two years particularly, the canopy of the tree has extended significantly over my property.

I object to the creation of the Tree Preservation Order on the following grounds;

1. The Tree Preservation Order is not necessary.

The Tree Preservation Order states that it is 'expedient to amenity' to create an order in respect of the oak tree. The Guidance Note 'Tree Preservation Orders and trees in conservation areas' (<https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#expedient-means>) states that "It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area."

I am not aware of any intention to fell the oak tree or damage it in ways which would have a significant impact on the amenity of the area. It is unclear to me, therefore, why the planning authority consider that a Tree Preservation order is expedient in this case. The TEMPO calculation states that the Tree Preservation Order has been created on a 'precautionary only' basis and it is not clear to me why precaution is felt to be appropriate in this case.

In early January 2022 I approached the owner of the tree and, subsequently, the Tree Officer for the planning authority about reducing back the tree for the purposes noted in (2) below. I have no intention that this pruning should present a risk to the health of the tree and have taken professional arboriculturist advice in advance of the proposed work. The Tree Officer created the Tree Preservation Order without discussing with me the extent of the proposed work or visiting the land owned by me which is overhung by the tree. Consequently, I do not believe that the planning authority has properly assessed the potential risk to amenity of this pruning. I do not believe that there is a significant impact on the amenity of the area from the work that I propose to undertake and, therefore, it is not expedient to create the order.

The TEMPO calculation for TPO 01/2022 came to an aggregate score of 13, which is in the lower scores within the 'TPO defensible' category. The score does not fall within the 'definitely merits TPO' category and so the creation of the Tree Preservation Order is not required according to the tree evaluation conducted on 12th January 2022.

2. The tree is a hazard to animal health and welfare.

The area of my land that lies under the canopy of the oak tree has been used for 25 years as pasture for ponies. I currently have two ponies that graze in this area, one of which is a rescue pony owned by World Horse Welfare and, because he was starved by a previous owner, his diet has to be carefully managed.

- a. The canopy of the oak tree now casts a significant shade across this part of my land and this limits the extent of grass growth, which is key to the quality of grazing and to the diet of the ponies. Prior to the creation of the Tree Preservation Order it was possible for me to trim back the overhang of the oak tree when necessary to maintain the quality of the pasture. The granting of a permanent Tree Preservation Order will impair my ability to maintain the quality of pasture because a request for works will be required and there is no guarantee that this would be permitted.
- b. The leaves and fruit of oak trees are poisonous to ponies and horses. There has been significant evidence of the toxicity of oak leaves and acorns to ponies and horses including peer-reviewed studies by Anderson, G. A. et al. (1983) and Smith, S. et al. (2014). The ingestion of acorns and/or oak leaves can cause colic and other serious illnesses to horses and ponies, including death. This is clearly an existential danger to my ponies as well as increasing my exposure to higher vet bills as a consequence.

The risk of poisoning varies from year-to-year dependent upon the amount of fruit produced and the relative shedding of leaves. In recent years the oak tree subject to the Tree Preservation Order has borne an increasing amount of fruit as the tree itself has grown and further extended over my property. Prior to the creation of the Tree Preservation Order it was possible for me to trim back the overhang of the oak tree when necessary to reduce the extent of shedding of leaves and fruit whilst sustaining the health of the tree. The granting of a permanent Tree Preservation Order will prevent me from cutting back the branches of the tree to reduce the shedding of leaves and fruit each autumn because a request for works will be required and there is no guarantee that such work would be permitted. I am also advised that there is an eight-week turnaround for this process, which may mean that pruning is not able to take place on a timely basis. These restrictions pose a significant risk to the health of my ponies.

3. The tree is a hazard to road safety.

Where the tree overhangs the property of Pilling Pet Store there is a car parking area that directly adjoins my driveway and the public highway. This area is a busy junction for vehicles entering and leaving the store and good visibility and road adherence is essential due to the sharp bend in the A588 to the east of my property.

- a. The overhang of the oak tree is already quite low in comparison to the height of traffic entering and leaving the parking area, which includes delivery lorries, vans and tractors. This makes visibility along the road difficult at times depending on the extent of growth of the tree, especially when it is in leaf. I am concerned that

the Tree Preservation Order will impair my ability to react promptly to visibility issues because a request for works will be required and there is an eight-week turnaround for this process. There is also no guarantee that such a request would be granted. Please note that this is not an argument relating to the part of the tree that overhangs the highway as I understand that this is subject to an exemption from the requirement to obtain express permission for pruning and cutting back. However, I do believe that it would be appropriate for the planning authority to consult with the highways authority to obtain their views about the road safety implications of the Tree Preservation Order. There is no indication from the Order that this consultation has taken place.

- b. During autumn and winter the oak tree sheds its leaves onto the car park area and onto the A588 itself. When these become wet the road adherence for vehicles is limited and this adds to the road safety risk on this corner. The granting of a Tree Preservation Order means that an application for works would be required to ameliorate this risk and there is no guarantee that such work would be approved or that it would be granted on a timely basis.

4. The awarding of the Tree Preservation Order was made on the basis of a contestable TEMPO calculation.

As noted previously the TEMPO calculation for TPO 01/2022 came to an aggregate score of 13. This score is inevitably a subjective opinion based on an assessment at a point in time and was conducted on 12th January 2022. It is unclear to me how the visual amenity of the oak tree can be assessed in the middle of winter and so I believe that the TEMPO calculation is contestable.

In particular, the score of 3 for 'other factors' is not justified. The tree does not have 'identifiable historic, commemorative or habitat importance' and is not 'of particularly good form' – indeed the Tree Officer has confirmed that the oak tree is only of 'moderate health' – and so a score of 1 for this element of the TEMPO calculation would be more appropriate. A score of 1 for this category would reduce the overall TEMPO score to 11 which is classified as 'Does not merit TPO' and, for this reason, I believe that the creation of a Tree Preservation Order is neither appropriate nor warranted.

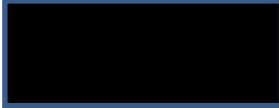
I have also been advised by an arboriculturalist that the oak tree may have a weak branch union approximately four feet above ground level. I believe this may not have been factored into the TEMPO calculation as it may not have been visible to the Tree Officer without visiting my land. This would further lower the TEMPO score because the 'Condition and suitability for TPO' score would reduce to 1 from the current score of 3, and the aggregate score would become 9; 'Does not merit TPO'.

When these considerations are taken with the arguments in (1) above I do not believe that a precautionary Tree Preservation Order is justified as (i) the TEMPO score is contestable and (ii) the existing TEMPO score is marginal and does not warrant a precautionary Order.

5. The Tree Preservation Order disproportionately limits my amenity from my own property.

For the reasons given in (2) above the Tree Preservation Order, if confirmed, will require me to consider whether my own land can be safely used for its current lawful purpose. This may require me to cease using part of the land for grazing my ponies. This is a significant and disproportionate consequence of the Tree Preservation Order and has already caused me great concern and anxiety. I believe that the impact on my health and the health of the ponies creates a nuisance as defined by the Environmental Protection Act 1990. I further believe that this nuisance is a disproportionate limitation on my own amenity from the property that I own, especially if I am required to stop using the land affected for its current lawful purpose.

Yours faithfully,



References:

Anderson, G. A. et al. (1983). [Fetal acorn poisoning in the horse: pathologic findings and diagnostic considerations](#). *Journal of American Veterinary Medicine*. 182 (10) 1105-1110.
Smith, S. et al. (2014). [Suspected acorn toxicity in nine equines](#). *Equine Veterinary Journal*.47(5):568-72

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