



## **Planning Committee Agenda**

**Wyre Borough Council**  
**Date of Publication: 25 June 2019**  
**Please ask for : Carole Leary**  
**Democratic Services Officer**  
**Tel: 01253 887444**

**Planning Committee meeting on Wednesday, 3 July 2019 at 2.00 pm  
in the Council Chamber, Civic Centre, Poulton-le-Fylde**

**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 meeting of the Planning Committee held on 5 June 2019 (already circulated by email).

**4. Appeals** (Pages 1 - 6)

Schedule of Appeals lodged and decided between 20 May 2019 – 15 June 2019, attached.

**5. Planning Applications** (Pages 7 - 60)

Background Papers:

In preparing the following 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 either on line, or for inspection by request at 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:-**

**Item 1, Application No: 19/00429/FULMAJ – Former Garstang Business and Community Centre, High Street, Garstang, Preston, Lancashire, PR3 1F – (Site Visit)**  
Variation of condition 2 (approved Plans) on application 16/00550/FULMAJ for the erection of a three storey building following partial demolition of existing building to provide approx. 1400sqm (gross) of retail floor space (Class A1) and 18 residential apartments with new and re-configured car parking (re-submission of planning application 19/00007/FULMAJ to allow for full demolition and reconstruction of the facade).

**Item 2, Application No: 19/00230/FUL - 34 - 37 High Street, Garstang, Preston, Lancashire, PR3 1EA – (Site Visit)**  
Conversion of first floor to form seven apartments with insertion of new windows, and repositioning of external staircase and provision of wall and fencing.

**Item 3, Application No: 19/00349/FUL - Land at Arthurs Lane, Hambleton, FY6 9AT**  
Proposed erection of Substation in most southern corner of approved development (Application: 16/00217/OULMAJ).

**Item 4, Application No: 19/00286/FUL – Layby Adjacent Preston Lancaster Road A6 Fowler Hill Lane Cabus Lancashire PR3 1AW – (Site Visit)**  
Permanent siting of a shipping container to be used as a rest stop cafe (resubmission of planning application 18/00339/FUL).

**PLEASE NOTE:**

**Transport for the members will leave the Civic Centre, Poulton-Le-Fylde for the three Site Visits at 10.30am.**

## APPEALS LODGED AND DECIDED

### Appeals Lodged between –20<sup>th</sup> May – 15<sup>th</sup> June 2019

Application Number	Location	Proposal	Com/Del decision	Appeal Type	Date Lodged
18/01045/FUL	99 Fleetwood Road Poulton-Le-Fylde Lancashire FY6 7NU	Conversion of rear first floor flat roof to outside children's play area (retrospective)	Delegated	Written Representations	20 <sup>th</sup> May 2019
18/00734/FULMAJ	Land South Of Rosslyn Avenue Preesall	Erection of 39 affordable residential dwellings with associated infrastructure including new pedestrian and vehicular access off Rosslyn Avenue	Committee	Written Representations	23 <sup>rd</sup> May 2019
17/00743/OULMAJ	Westfield Farm Garstang Road Claughton-On-Brock Preston Lancashire PR3 0PU	Outline application for the creation of a retirement village that will provide 200 No. one and two bed assisted living residential dwellings with access applied for off A6 Preston Lancaster New Road (all other matters reserved)	Delegated	Hearing	23 <sup>rd</sup> May 2019
17/00134/OUT	Island Farm Cartmell Lane Nateby Preston Lancashire PR3 0LU	Outline application for the erection of 5 dwellings following demolition of existing buildings (matters of access and layout to be determined)	Delegated	Written Representations	10 <sup>th</sup> June 2019

### Appeals Decided between – 20<sup>th</sup> May – 15<sup>th</sup> June 2019

Application Number	Location	Proposal	Com/Del decision	Decision	Date Decided
18/00427/OUT	Land Adjacent To Lower House Barn Park Lane Forton Preston Lancashire PR3 0JX	Outline application for the erection of up to 2 no. dwellings, with access.	Delegated	Dismissed	31 <sup>st</sup> May 2019

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## Appeal Decision

Site visit made on 15 January 2019

by **Sarah Manchester BSc (Hons) MSc PhD MIEnvSc**

an Inspector appointed by the Secretary of State

Decision date: **31<sup>st</sup> May 2019**

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**Appeal Ref: APP/U2370/W/18/3212723**

**Land adjacent to Lower House Barn, Park Lane, Forton PR3 0JX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs Brown against the decision of Wyre Borough Council.
  - The application Ref 18/00427/OUT, dated 24 April 2018, was refused by notice dated 27 July 2018.
  - The development proposed is described as an outline application for the erection of up to 2 no. dwellings with access.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The planning application was in outline with all matters reserved except for access. The application was supported originally by an indicative Proposed Site Plan (ref 2615/02A) to demonstrate how the scheme could be achieved. Following discussions between the parties, an amended plan (ref 2615/02B) was subsequently accepted and considered by the Council. The appellants have commented to this appeal that they consider the original Plan to be the most appropriate, given the Council's concerns and reasons for refusal. Notwithstanding that the differences between the plans appear minor, Plan ref 2615/02A was not the scheme that was considered by the Council and I cannot therefore be certain that interested parties would not be prejudiced if I were to accept it. Accordingly, I have determined the appeal on the basis of the plans which were determined by the Council.
3. In February 2019, after the Council determined this application, it adopted the Wyre Local Plan 2011-2031 (the Local Plan). Consequently, Policies SP13 and SP14 of the Wyre Borough Local Plan 1991-2006 adopted July 1999 cited in the Council's decision notice have been superseded. They are not therefore relevant to my consideration of the appeal, which must be determined in accordance with the current development plan. From the evidence before me, the relevant policies are SP1, SP2, SP4, CDMP1, CDMP3 and CDMP6.
4. The Local Plan was an advanced stage when the appeal was submitted, and there were no unresolved objections to the aforementioned policies at that time. Notwithstanding that the emerging Local Plan did not carry full weight, both parties were aware of, and had the opportunity to comment on, the policies contained within it and which have now been adopted. I am therefore

satisfied that neither party has been prejudiced by my determination of the appeal on the basis.

### **Main Issues**

5. The main issues are:

- i) whether the appeal site is in a suitable location for new residential development, having regard to local and national policy for the delivery of housing; and
- ii) the effects of the proposed development on the character and appearance of the area.

### **Reasons**

#### *The suitability of the location for residential development*

6. The appeal site is an undeveloped parcel of land on the western side of Park Lane between Lower House Barn and Park Lane Cottage. It is approximately 2.5 kilometres from the rural settlement of Forton and, for the purposes of planning policy, it is in the countryside.
7. Policy SP1 of the Local Plan is the Council's locational strategy. This is based on the hierarchy of settlements in the borough and seeks to focus development in more accessible locations which are better served by facilities and services. In the countryside outside of defined settlement boundaries, proposed development is restricted unless there is specific support from other policies in the Local Plan. This includes Policy SP4 which sets out the types of development that may be acceptable in the countryside beyond defined settlements. In this case, the small cluster of properties at the appeal site location is not a defined rural settlement for the purposes of the locational strategy. Open market dwellings, such as are proposed here, are not one of the types of development that would be supported in the countryside. None of the other listed exceptions apply to the proposed development.
8. Park Lane is a rural road passing through open countryside, with scattered individual dwellings and small groups of properties. The site is not remote from other dwellings and the proposal would not therefore result in the creation of isolated homes in the countryside, which the National Planning Policy Framework (the Framework) seeks to avoid. However, the location is nevertheless remote from services and facilities. Consequently, the need to travel would not be minimised and future occupiers would be heavily reliant on private cars for access to services.
9. The distance from the appeal site to larger settlements with a reasonable range of services and facilities is beyond what could be considered a short or convenient walk. Certainly, close to the appeal site, Park Lane is largely unlit, with a discontinuous and narrow footway, and no apparent speed restrictions. It is not therefore conducive to travel on foot. While Forton would be accessible by bicycle, as would the more distant larger settlements of Garstang and Lancaster, it seems reasonably unlikely that future occupiers would meet their daily needs by bicycle. Moreover, the nearest bus stop is located over 2 km away on the A6 and, as such, there are no realistic opportunities to access public transport from this location. As a result, there would be no reasonable

opportunities for future occupiers to meet their daily needs by sustainable modes of transport.

10. I am aware that proposals for rural housing have previously been approved elsewhere in the district, including on appeal<sup>1</sup>. However, they differ from the current scheme in key respects, including the distance to shops and services, the character of roads and the accessibility of public transport, the re-use of existing buildings, and the benefits associated with the schemes. They were also determined prior to the adoption of the new Local Plan. They are not therefore directly comparable to the scheme before me.
11. Permission has been granted (ref 13/00402/FUL) for conversion of a workshop to a residential dwelling approximately 90 metres to the north east of appeal site. However, not only was that scheme determined in a different policy context, but it also related to the re-use of an existing building. It is therefore not directly comparable with the appeal scheme.
12. I therefore conclude that the appeal site is not in a suitable location for up to 2 new dwellings, having regard to local and national planning policy for the provision of housing. The location is in conflict with the development plan, including policies SP1, SP2, SP4 and CDMP6. These require, amongst other things, that residential development is focused towards existing settlements where it will support the local economy, minimising the need to travel by car and encouraging more sustainable forms of transport. Conversely, away from established settlements, the policies seek to avoid new housing development in the countryside without exceptional justification. It would also conflict with the requirements of the Framework which, among other things, promote accessible locations and require housing to be located where it will contribute to the vitality of rural communities.

#### *Character and appearance*

13. The appeal site is an undeveloped parcel of land extending to approximately 0.1 hectares, accessed from Park Lane between Lower House Barn and Park Lane Cottage. It is within a loosely aggregated and somewhat isolated group of buildings including dwelling houses, barns and converted barns. Buildings tend to have long front elevations in proximity to the road, are unevenly spaced and set in generous plots. The area has a traditional rural character and appearance.
14. While the detailed layout and appearance would be a reserved matter, there is an indicative Proposed Site Plan. This shows 2 dwellings in close proximity to one another and the side boundaries and set back from Park Lane behind the shared access. While the adjacent properties to the south are closely spaced, this is a function of their traditional rural origins as a farm and barn and is therefore in keeping with the surrounding area. Irrespective of the illustrative nature of the Plan, the site layout would be constrained to a large extent by the need to allow vehicles to both enter and leave the site in forward gear. The resulting proposed arrangement of properties set back behind a shared vehicular access, parking and turning areas, would be a more overtly modern and urban arrangement than exhibited by the surrounding properties. Consequently, it would not respect the character of the area or integrate well with the surrounding rural built environment.

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<sup>1</sup> APP/U2370/W/17/3172417 and APP/E2340/W/18/3200240

15. The small size of the gardens would not be consistent with the more generously sized plots elsewhere in the area and would result in an uncharacteristic form of development in this rural setting. The proposed development would appear more prominent as a result of the loss of vegetation to the site boundary with Park Lane, as would be necessary to provide adequate visibility to the highway. While the indicative layout suggests that 2 Scots Pine could be retained adjacent to the road for screening purposes, my impression is that these are relatively poor specimens that would not screen the development from view. Their retention could not in any case be guaranteed to provide a permanent screen.
16. I therefore conclude that the proposed development would significantly harm the character and appearance of the area. It would conflict with the development plan, including policy SP4, CDMP1 and CDMP3 of the Local Plan. These policies seek to avoid harm to the character of the countryside and require development to respect its surroundings and make a positive contribution to the character of the local area. It would also conflict with policies in the Framework, in part as a result of its failure to improve the character and quality of the area.

### **Planning Balance**

17. At the time of determination, the Council was unable to demonstrate a 5 year housing supply (5YHLS). The Council's appeal statement subsequently demonstrated in excess of a 5YHLS. This revised position was accepted by the appellants, although they maintained that the emerging Local Plan did not make sufficient provision for housing and was therefore in conflict with the Framework. However, Paragraph 74 of the Framework states that a 5YHLS can be demonstrated where it has been established in a recently adopted plan. This is the case here. Full weight can now be afforded to the adopted Local Plan policies, and the presumption in favour of sustainable development does not apply.
18. The proposed development would make a small contribution to the supply of housing. Economic benefits would be minimal, primarily associated with the construction phase and therefore short-term. Any social benefits would be significantly limited by its location, as future occupants would be overly reliant on private transport and would consequently make little contribution to the vitality of the scattered rural community. However, the proposal is in a location which is contrary to the Council's spatial strategy. In addition, there would be significant harm to the character and appearance of the area. These harms would clearly outweigh the very limited social and economic benefits of the proposal.

### **Conclusion**

19. I have found that the proposal would conflict with the development plan and there are no other considerations, including the advice of the Framework, that outweigh that conflict. For this reason, the appeal should be dismissed.

*Sarah Manchester*

INSPECTOR



## Committee Report

Date: 03.07.2019

Item Number 01

Application Number 19/00429/FULMAJ

Proposal Variation of condition 2 (approved Plans) on application 16/00550/FULMAJ for the erection of a three storey building following partial demolition of existing building to provide approx. 1400sqm (gross) of retail floor space (Class A1) and 18 residential apartments with new and re-configured car parking (re-submission of planning application 19/00007/FULMAJ to allow for full demolition and reconstruction of the facade)

Location Former Garstang Business And Community Centre High Street Garstang Preston Lancashire PR3 1FU

Applicant Keyworker Homes Ltd

Correspondence Address FAO Miss Danielle Bassi Keyworker Homes Ltd 8B Darwin Court Hawking Place Blackpool FY2 0JN

Recommendation Permit

## REPORT OF THE HEAD OF PLANNING SERVICES

CASE OFFICER - Mr Karl Glover

### 1.0 INTRODUCTION

1.1 This application is before Members of the Planning Committee at the request of Councillor Lady Atkins. Two previous applications in relation to this site / development have also been considered by the Planning Committee. A site visit is recommended to enable Members to understand the proposal and its setting beyond the plans submitted and the photos taken by the Case Officer.

### 2.0 SITE DESCRIPTION AND LOCATION

2.1 The application relates to a 0.7 hectare site that lies immediately to the east of the roundabout at the junction of High Street and Croston Road, Garstang. The site of the former Garstang Business Centre is currently enclosed by security fencing and is occupied by the remains of the former building, public car parking and public conveniences. The majority of the former Business Centre has been demolished with the red Accrington brick front façade and gable ends retained up to first floor level and is surrounded by scaffolding. Within the enclosed construction/demolition zone towards the south stacked on timber pallets is natural stone heads and cills and pallets of Accrington brick which are the materials retained from the remains of the original building. The remainder of the site is characterised as a demolition and construction site with rubble, containers and skips stacked close to the northern boundary of the site. The River Wyre and an area of public open space bound the site to the east and there are residential properties to the north and south. High

Street is one of the main roads through Garstang town centre and is characterised by commercial uses to the south of the application site and residential properties to the north

2.2 There is a grade two listed building immediately opposite the application site on the western side of High Street. With the exception of the landscaped frontage at the western end of the site, the site falls within flood zone 2. The very eastern end of the site closest to the river falls within flood zone 3. The eastern end of the site also falls within a Minerals Safeguarding Area. There are no Biological Heritage Sites within close proximity of the site and no trees subject to Tree Preservation Orders. Two public rights of way bound the site, footpath 2-12-FP-3 runs along the southern boundary with footpath 2-12-FP-1 roughly following the line of the river to the east. The site falls within the defined boundaries of the Garstang Conservation Area and Garstang Town Centre.

### **3.0 THE PROPOSAL**

3.1 This section 73 application seeks consent for the variation of condition 2 (approved plans condition) on previously approved application 16/00550/FULMAJ, which was approved for the erection of a three storey building following partial demolition of the existing building and to provide approx. 1400sqm (gross) of retail floor space (Class A1) and 18 residential apartments with new and re-configured car parking.

3.2 The previous approved scheme under application 16/00550/FULMAJ was for the partial demolition of the existing building (which comprises the original building and a later extension added in the 1960s). The front façade and part of the side elevation of the original part of the building was to be retained, with the new build development wrapping around and projecting to the side and rear. This proposal is to fully dismantle the remaining façade and side elevations in their entirety and to rebuild/replicate the original façade to the same appearance, and using the existing materials. The reasons for seeking to dismantle and rebuild the façade are set out in Paragraph 9.5 of this report. This application is a re submission of application 19/00007/FULMAJ which was refused by Members of the Planning Committee on the 3rd April 2019. The reason for refusal is listed below in paragraph 4.2.

### **4.0 RELEVANT PLANNING HISTORY**

4.1 The site has the following relevant planning history:

4.2 19/00007/FULMAJ - Variation of condition 2 (approved Plans) on application 16/00550/FULMAJ to allow for full demolition of existing building and the erection of a three storey building to provide approx. 1400sqm (gross) of retail floor space (Class A1) and 18 residential apartments with new and re-configured car parking - Refused by Members of the Planning Committee on the 3rd April 2019 for the following reason:

The proposed development to allow the full demolition of the existing building, including the existing front and side facades, would result in unacceptable harm to the heritage value of Garstang Conservation Area contrary to policy CDMP5 of the Wyre Borough Local Plan.

An appeal has been lodged with the Planning Inspectorate in relation to this refusal however at the time of compiling this committee report there has been no appeal start date issued.

4.3 16/00550/FULMAJ - Erection of 3 storey building following partial demolition of existing building to provide approx. 1400sqm (gross) of retail floor space (Class A1) and 18 residential apartments with associated new and reconfigured car parking - Permitted subject to condition and Section 106 Legal Agreement.

4.4 16/00550/DIS - Discharge of conditions 4 (drainage scheme), 5 (drainage management plan), 6 (Natural England licence), 7 (bat method statement), 10 (lighting), 11 (biodiversity enhancement), 12 (highway works), 13 (Construction Management Plan), 14 (travel plan), 15 (desk study), 22 (tree protection) on application 16/00550/FULMAJ - Split decision issued (Additional information required for conditions 10 and 15).

4.5 16/00550/DIS1 - Discharge of conditions 18 (noise report) and 28 (archaeology) on application 16/00550/FULMAJ - Accepted

## **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 WLP 2031 are of most relevance:

- Policy SP1 - Development Strategy
- Policy SP2 - Sustainable Development
- Policy SP7 - Infrastructure Provision and Developer Contribution
- Policy SP8 - Health and Well Being
- Policy CDMP2 - Flood Risk and Surface Water Management
- Policy CDMP3 - Design
- Policy CDMP4 - Environmental Assets
- Policy CDMP5 - Historic Environment
- Policy CDMP6 - Accessibility and Transport
- Policy HP1 - Housing Land Supply
- Policy HP2 - Housing Mix
- Policy HP3 - Affordable Housing
- Policy EP4 - Town, District, Local and Neighbourhood Centres
- Policy EP5 - Main town Centres

5.1.3 The WLP31 identifies a Local Plan housing requirement of 9,200 dwellings or 460 dwellings per annum. Against this figure, the 5 year land supply including 20% buffer, is calculated as 5.19 years. This reflects the most up-to date housing supply position based on the 31 March 2018 figures. Paragraphs 73(b) and 74 of the NPPF and footnote 38 make it clear that where a local authority has a 'recently adopted plan', it is able to demonstrate a 5 year Housing Land Supply (HLS) for the purposes of the NPPF. Footnote 38 would operate in the present case to maintain the WLP31 status as a 'recently adopted plan' until 31st October 2019. The Inspector's Report into the WLP31 confirms that on adoption the Council will be able to demonstrate a

deliverable supply of housing land. This finding is predicated upon the application of a 20% buffer. The effect of the above is that during the period to 31st October 2019 the Council is deemed to be able to demonstrate a deliverable HLS.

## 5.2 NATIONAL PLANNING POLICY FRAMEWORK 2019

5.2.1 The revised National Planning Policy Framework (NPPF) was published by the Government on the 19th February 2019. 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 2019 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:

- Section 2 - Achieving sustainable development
- Section 4 - Promoting sustainable transport
- Section 5 - Delivering a sufficient supply of homes
- Section 8 - Promoting healthy and safe communities
- Section 12 - Achieving well - designed places
- Section 15 - Conserving and enhancing the natural environment
- Section 16 - Conserving and enhancing the historic environment

## 5.3 WYRE SUPPLEMENTARY PLANNING GUIDANCE

- Supplementary Planning Guidance 4 - Spacing Guidelines for New Housing Layouts

## 6.0 CONSULTATION RESPONSES

### 6.1 GARSTANG TOWN COUNCIL

6.1.1 Object to the proposal as the Town Council believe the façade should be retained as set out in the original permission to respect the wishes of the local community, however should the planning committee take the view that on the balance of probability the merit of bringing uncertainty about the buildings stability and an unsightly building site to swift conclusion, then the Parish Council would support the decision subject to conditions relating to careful taking down, cleaning and storing of materials and an exact replica of the windows and frames. Within the Town Councils response a number of other points have been highlighted the primary planning related points raised are:

- The Ground structure reports from the Structural Engineer should be made available
- The submitted structural reports places emphasis on the location of the Millennium Gardens however the shrubbery could be removed, stored and replaced to allow access
- There is several metres from the front façade to the footpath
- Other mechanisms available to structurally support the façade
- Stored Accrington brick appears to be damaged and any new bricks would take time to weather and blend in

- Applicants Heritage Statement sets out the significance of the conservation area and the priorities for conserving the significance, bullet point 1 of which is to maintain the main façade / frontage. Any deviation from this should be avoided.
- The Façade has already been taken down to first floor level and must not be further reduced
- Not comparable to the Tottenham Court Case in terms of reason for refusal
- The Town council is alive to the fact that the unsightly building at present is a concern to local residents

## 6.2 NATEBY PARISH COUNCIL

6.2.1 No objections

## 6.3 LANCASHIRE COUNTY COUNCIL (HIGHWAYS)

6.3.1 Verbally advised that the application proposal does not raise any concerns from a highway and pedestrian safety point of view

## 6.4 LANCASHIRE FIRE AND RESCUE SERVICE

6.4.1 No objections however observations received in relation to building regulation requirements and turning facilities for fire service vehicles

## 6.5 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (LAND CONTAMINATION)

6.5.1 No objections subject to the further information required to satisfy the contaminated land condition previously attached to be carried over to this application

## 6.6 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (NOISE)

6.6.1 No objections subject to the agreed conditions on the previous application and as submitted for the discharge of condition application being re attached

## 6.7 WBC HEAD OF BUILT ENVIRONMENT (BUILDING CONTROL)

6.7.1 No objections to the proposal, advised that it is agreed that the points raised in the technical note/Engineers Structural report submitted and that the safest option would be to deconstruct and reconstruct the façade. This is due to the constraints onsite with ground conditions, new foundation requirements, lack of space and boundary conditions.

## 7.0 REPRESENTATIONS

7.1 At the time of compiling this report there have been 4 letters of objection received and 1 letter of support. The primary planning reasons for objection are:

- Loss of parking to support local business
- Façade should be retained in full as existing
- Loss of shops and completion from other towns
- Possibility building could fall down in current form
- Current façade is in keeping with the surrounding buildings
- Building out of character with the area

7.1.1 The letter of support received sets out that as long as the building can be destructed and re constructed alongside insurance backing then there is no objection.

## **8.0 CONTACTS WITH APPLICANT/AGENT**

8.1 Clarification on the amount of demolition already taken place has been discussed.

## **9.0 ISSUES**

9.1 The main issues in this application are as follows:

- Procedural Matters
- Principle of Development
- Impact upon the Conservation Area & Heritage Assets
- Other Planning Matters
- Conditions and Deed of Variation

### Procedural Matters

9.2 This application has been re submitted under Section 73 of the Town and Country Planning Act 1990 which allows for the variation or removal of conditions attached to previous permissions. In this instance the variation relates to condition 2 attached to permission 16/00550/FULMAJ which requires the development to be carried out in accordance with the list of approved plans. Application 16/00550/FULMAJ permitted an identical scheme to this current proposal however that involved the retention of the front and side facade of the existing building.

9.3 In determining a section 73 application, the local planning authority must only consider the condition/s that is/are the subject of the application and that it is not a complete reconsideration of the application although it must still be determined according to the current development plan and other material conditions. Paragraph 13 of the NPPG states that one of the uses of a Section 73 application is to seek minor material amendments, where there is a relevant condition that can be varied. Concerns have previously been raised under application 19/00007/FULMAJ by residents that the demolition and re-build is not considered to be a minor amendment and that a new full application should be submitted. However an appeal decision for a comparable scheme in Tottenham Court, London is relevant (appeal ref: APP/X5210/A/14/2219830) where the local planning authority there refused an application on similar grounds and circumstances, stating that the demolition and rebuild could not be considered a minor amendment. However the appeal was allowed and planning permission was granted. Within the Inspectors decision, the following paragraph is of particular relevance with regards to the acceptability of the procedure:

"The NPPG provides advice on s73 applications and says that one of the uses of a section 73 application is to seek a minor amendment where a relevant condition can be varied. The application was submitted on the basis that it sought a minor material amendment. The guidance says there is no statutory definition of a minor material amendment but it is likely to include an amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved... I recognise that the Council attach great importance to the

retention of the façade to the great weight that should be attached to the conservation of heritage assets, however I am of the opinion that the proposed variation to fully demolish and rebuild the development does not fundamentally change either the scale or the nature of the permitted scheme, and it is not substantially different from what was approved".

9.4 Having regard to this appeal decision, in this instance, the submission of a section 73 application which, if granted would allow for the proposed demolition and re-build of the building's façade, has been accepted. The submitted plans are identical to the previously approved plans on application 16/00550/FULMAJ with the only exception being that instead of the retention of the front and part of the side elevations, the proposal now seeks full demolition and rebuild. Following on from the refusal of the previous application 19/00007/FULMAJ the applicant has re submitted with additional supporting information by way of a Heritage Addendum and a more detailed Structural Engineers Report in an attempt to overcome the reason for refusal and address the concerns of Members. Since the previous refusal the applicant has submitted an appeal to the Planning Inspectorate, however to date no official start date has been set.

#### Principle of Development

9.5 The principle of the development for the erection of a 3 storey building to provide approximately 1400sqm of retail floor space and 18 residential apartments with new and reconfigured car parking has already been established and approved under application 16/00550/FULMAJ where Members of the Planning Committee resolved to grant planning permission subject to conditions and the signing of a Section 106 legal agreement to secure appropriate financial contributions towards local education, affordable housing and sustainable travel/highway improvements. As set out above in paragraph 9.3, Members are advised as set out in paragraph 9.10 that there is no scope to re visit the matter of the principle of the development, with the main material planning consideration being whether or not it is appropriate for the building's façade to be demolished and rebuilt like for like as an alternative of it being retained as previously approved.

9.6 An additional Structural Engineers report has been submitted with this application to substantiate and justify why the facade could not be retained. Within the supporting information it sets out that following a detailed review the most appropriate way of supporting the proposed building would be to use deep piled foundations due to the existing building being constructed on a strip of foundations believed to be approximately 300mm deep and ground conditions comprising of loose sands and stiff gravelly clay. The report goes on to set out that the safest and most practical construction methodology would be to carefully de construct and re construct the existing facade for the following main reasons:

- Due to the requirement to use pile foundations the internal space of the existing building needs to be clear to allow for the large piling rig as working in close proximity to the existing structures have significantly more risk associated than working on a clear site.
- Due to requiring the internal space to be clear the façade retention system (supporting brace) would need to be designed to be external to the main building. In this instance there are space restrictions due to the adjacent property and Millennium Gardens to the front of the building and consequently large excavations would be required adjacent to the Millennium Gardens and adjacent properties to support the façade retention structure. This would pose an additional health and safety risk

especially given the loose nature of the shallow sands discovered during the site investigation.

9.7 The Council's Building Control section has reviewed the Structural Engineers Technical Note and illustrative diagram and remain in agreement with the findings set out within. They advise that due to the constraints on site with ground conditions, new foundation requirements and lack of space the safest option would be to deconstruct and reconstruct the façade. Based on the supporting information provided and the professional observations from the Building Control section it is recommended that the principle of the works proposed to fully demolish and rebuild is considered to be acceptable. Since the previous application was presented to Members of the Planning Committee on the 3rd April 2019 demolition works have commenced on site in general accordance with the original approval 16/00550/FULMAJ with the only remaining elements of the building being that of the Façade and gable ends of the original building. It is noted that from recent site visits and correspondence with Members of the Town Council that the top section of the façade and gable ends to the tops of the first floor windows has been taken down. The stone heads and cills and window surrounds and the Accrington Brick which made up this top section has been stored on timber pallets and secured within the site. The applicant has advised that this has been undertaken for structural and safety purposes in line with a Structural Engineers advice. A supporting document justifying this has been submitted as part of this application.

#### Impact upon the Conservation Area & Heritage Assets

9.8 Policy CDMP5 of the Wyre Local Plan sets out the Council's overall objective in relation to the historic environment and highlights that designated heritage assets shall be protected, conserved and where appropriate enhanced for their Aesthetic and cultural value and their contribution to local distinctiveness and sense of place. New development shall protect, conserve and enhance the historic environment. This approach is also replicated within the general thrust of Section 16 of the NPPF (Conserving and Enhancing the Historic Environment). On the previous application (19/00007/FULMAJ) Members refused the application due to the harmful impacts upon the heritage value of the Garstang Conservation Area. As part of this application within the neighbour responses there is concern that the demolition and rebuild will have adverse impacts upon the historic integrity of the building and the wider Garstang Conservation Area. As part of this resubmission the applicant has attempted to address the previous reason for refusal by submitting a Heritage Addendum which covers the impacts of the proposal on the Conservation Area and the Significance of the existing structure. This has been assessed by the Council's Conservation Officer who considers the findings of the document are correct.

9.9 Members are advised that the application has been considered with due regard to the duties under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which is to "...pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area". The Conservation Officer has advised that given the relatively low significance of the original, early 20th Century element of the building, the fact that the building has previously been recorded (by Allen Archaeology) to satisfy condition 28 on the previous approval, and considering the information submitted in support of this application (including the Heritage Addendum), the proposed amendment to deconstruct and re build is considered to be acceptable and supports the principles accepted in the previous application. It is considered that the rebuilding of the façade would preserve the appearance of the conservation area and sustain the significance of this designated heritage asset. The supporting information submitted sets out that



the existing materials will be utilised and rebuilt in accordance with the photographic building survey recording submitted and this can be secured by condition.

#### Other Matters

9.10 It is understood that there has been some impacts upon the neighbouring property during the demolition works due to the location of scaffolding on third party land, however this is not a material planning matter. There is considered no additional impact on residential amenity from full demolition and re construction of the façade compared to the extent of demolition that would be undertaken on the previous approved scheme. An approved Construction Environmental Management Plan will protect neighbouring properties during demolition and construction works. As part of the original application (16/00550/FULMAJ) the principle of residential and retail development has been accepted along with matters in relation to design, impacts upon neighbouring amenity, highway safety, access and parking, flood risk/drainage and ecological and environmental matters (noise, pollution, odour). This application is only considering the minor amendment in relation to the building's façade and is not re visiting these elements which have already been assessed and conditioned where necessary in conjunction with any financial obligation necessary to be secured by reason of Section 106 agreement. Having said that, since the previous application the Wyre Local Plan (2011-31) has been formally adopted. It is considered that subject to conditions the proposal fully complies with the policies contained within the newly adopted Local Plan in relation to all other planning matters and that progression from the old polices contained within the former Adopted Wyre Borough Local Plan (1999) does not materially affect this decision.

#### Conditions and Deed of Variation (Section 106 Legal Agreement)

9.11 The local planning authority can grant permission for a Section 73 application unconditionally or subject to different conditions. In this instance an array of pre commencement (and non pre commencement) conditions were imposed on the original application 16/00550/FULMAJ. Since the previous approval two applications have been submitted by the applicant to discharge a number of conditions (ref 16/00550/DIS and 16/00550/DIS1) which cover matters relating to drainage, ecology, lighting, contamination, construction, noise, archaeology and tree protection. The suggested conditions for this pending application have been worded to reflect the proposed variation of the plan drawing number demonstrating the demolition and reconstruction of the façade, along with the details which have been accepted as part of the discharge of condition applications. If Members are mindful to approve the proposal then a Deed of Variation to the previously signed section 106 agreement will be required to ensure that the financial contributions secured towards local education provision, affordable housing, sustainable travel and highway improvement works are carried over to this new permission.

### **10.0 CONCLUSION**

10.1 The proposed variation to condition 2 to allow for the demolition and re construction of the building's façade is not considered to raise any significant concerns upon the character or amenity of the area and is not seen to have any adverse impacts upon the historic character of the Garstang Conservation Area. The additional information submitted in support of this application in an attempt to address the previous reason for refusal has been assessed and considered by both the Council's Conservation Officer and Building Control Officer who agree with the conclusions of the reports. The demolition and rebuild of the facade is considered by professionals to be the safest and most practical procedure from a construction and

structural point of view; and this is considered to preserve the character and historic significance of the Conservation Area. For the reasons set out within this report the proposal is seen to comply with Policy CDMP5 of the Wyre Local Plan 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 That members resolve to grant full planning permission subject to conditions and a deed of variation to the original S106 legal agreement to secure appropriate financial contributions towards local education, affordable housing, sustainable travel and highway improvement works, and that the Head of Planning Services be authorised to issue the decision upon the satisfactory completion of the deed of variation to the S106.

### **Recommendation: Permit**

#### **Conditions: -**

1. The development must be begun not later than the expiration of three years from the 31st July 2018

Reason: This condition is required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development 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 07/05/2019 , including the following plans:

- Location Plan Dwg No. KW/HSG/LP/01 Rev A
- Proposed Site Plan Dwg No. KW/HSG/SP/02 Rev J
- Proposed Colour Site Layout Dwg No. KW/HSG/CSL/01 Rev J
- Proposed Colour Site Layout Dwg No. KW/HSG/CSL/01 Rev J
- Site Sections Dwg No. KW/HSG/SS/01 Rev B
- Proposed Elevations Dwg No. KW/HSG/E/01 Rev F (Varied Plan)
- Proposed Ground and First Floors Plans Dwg No. KW/HSG/PFP/01 Rev J
- Proposed Second Floor and Roof Plan Dwg No. KW/HSG/PFP/02 Rev G
- Boundary Detail Dwg No. KW/HSG/BD/01
- Landscape Strategy Dwg No. 090.3.01 A
- Hardworks Layout Dwg No. 090.3.02 A
- Softworks Layout Dwg No. 090.3.03 A

The development shall be retained thereafter in accordance with the approved details.

Reason: For the avoidance of doubt and so that the local planning authority shall be satisfied as to the details.

3. The development hereby approved shall be carried out in accordance with the approved Flood Risk Assessment (FRA) (Ref: 880917-R1(02)-FRA, dated June 2016) and FRA Addendum (Ref: 880917/L01/KJ, dated 1 August 2016), and the following mitigation measures detailed therein:

- Limiting the surface water run-off generated so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- Demonstration within the FRA that the improvement/protection and maintenance of existing flood defences will be provided.
- Identification and provision
- Finished floor levels are set no lower than 18.87 metres above Ordnance Datum (mAOD).

The mitigation measures shall be fully implemented prior to first occupation shall be fully implemented prior to occupation and any other mitigation measures implemented subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may be agreed in writing by the Local Planning Authority.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site in accordance with Policy CDMP2 of the Wyre Local Plan and the provisions of the NPPF.

4. No part of the development shall be first occupied or brought into first use until the drainage works and levels have been completed in accordance with the approved scheme as submitted in the Scott Hughes Drainage Report (Project number 3396 dated October 2018). Thereafter the approved scheme shall be retained, managed and maintained at all times 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 Policy CDMP2 of the Wyre Local Plan and the National Planning Policy Framework.

5. The development hereby approved shall be implemented in full accordance with the approved Ecological Appraisal (document titled Dusk Survey Results in Relation to Bats, produced by Tyler Ecological Consultants, dated Oct 2018) including all the mitigation measures set out in that report.

Reason: To ensure compliance with the Wildlife and Countryside Act 1981 and section 15 of the National Planning Policy Framework.

6. No tree felling, tree works or works to hedgerows shall take place during the optimum period for bird nesting (March to August inclusive) unless a report, undertaken by a suitably qualified person immediately prior to any clearance, has been submitted to and approved in writing by the Local Planning Authority, demonstrating that nesting / breeding birds have been shown to be absent.

Reason: To protect and prevent unnecessary disturbance of nesting birds in accordance with the provisions of the Wildlife and Countryside Act 1981 and section 15 of the National Planning Policy Framework.

7. Prior to the installation of any external lighting associated with the development (excluding any lighting of the site during construction, which shall be carried out in accordance with the approved Lighting Management Strategy October 2018 received by the Council on the 6th December 2018) a scheme for the provision of such external lighting together with an Artificial Lighting Assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall demonstrate that the lighting will be installed in accordance with the Institution of Lighting Professionals' "Guidance Notes for the Reduction of Obtrusive Light GN01:2011", will be oriented and screened to prevent light spillage onto the adjacent residential dwellings and adjacent river, and appropriate lighting management will be in situ to ensure no active lighting of the wider site at night-time beyond what is considered reasonably necessary. The light intrusion into the windows of any sensitive premises shall not exceed 10 Lux before 23.00, and 2 lux after 23.00 (Environmental Zone E3). The development shall operate in accordance with this approved scheme, which shall thereafter not be varied without the prior written approval of the local planning authority.

Reason: In the interests of public safety whilst protecting the amenity of neighbouring residential properties and nearby ecology in accordance with the provisions of Policy CDMP1 of the Wyre Local Plan and the NPPF.

8. The development hereby approved shall be implemented in full accordance with the approved Ecological Appraisal/Biodiversity Enhancement Scheme (document titled Conditions in respect of planning application 16/00550/FULMAJ produced by Tyler Ecological Consultants dated October 2018) including the approved timescales set out in that report.

Reason: To ensure compliance with the Wildlife and Countryside Act 1981 and section 15 of the National Planning Policy Framework.

9. No part of the development hereby approved shall be first occupied or opened for trading until the site access and the off-site highway works and improvements (namely Main Site access junction on High Street including provision of dropped kerbs for pedestrians; and 2No bus stops to Quality Bus Standard on High Street) have been constructed and completed in accordance with the approved scheme details, as set out within the approved Croft Transport Solutions - Highway Improvements and general arrangements plans (dated October 2018) listed below:

- 2444-D001- General Arrangement
- 2444-D002- Site Clearance
- 2444-D003- Construction Materials
- 2444-D004- Signs and Markings
- 2444-D005- Standard Details

Reason: In order to satisfy the Local Planning Authority that the traffic generated by the development does not exacerbate unsatisfactory highway conditions and that the development encourages sustainable travel in accordance with policy CDMP6 of the Wyre Local Plan and the NPPF.

10. The construction of the development including any demolition works shall be carried out at all times in accordance with the approved Construction Environmental Management Plan (CEMP) (Tritan Construction: Construction Management Plan received by the LPA on the 14th March 2019).

Reason: In the interests of the amenities of surrounding residents, to maintain the operation and safety of the local highway network, to minimise the risk of pollution and to safeguard the character and appearance of the area in accordance with Policies CDMP1 and CDMP3 of the Wyre Local Plan.

11. Prior to commencement of works associated with the construction of the development hereby approved (excluding any demolition works) the written submission of additional gas monitoring results and confirmation of a historic oil spill, as set out within the submitted Geo Environmental Investigation report by Arley Consulting and Nov 18 Addendum report (Submitted March 19th 2019), is required and this shall be agreed in writing by the local planning authority. Validation of the agreed remediation shall then be submitted and agreed in writing by the Local Planning Authority on completion of the works.

Reason: The development is for a sensitive land use. The potential for contamination must therefore be addressed in order to safeguard the development in accordance with Policy CDMP1 of the Wyre Local Plan.

12. The development shall be carried out in accordance with the approved Interim Travel Plan (Croft Transport Solutions received by the Local Planning Authority on the 14th March 2019). The provisions of the Interim Travel Plan shall be implemented in accordance with the timetable contained therein unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development provides sustainable transport options.

13. Prior to first occupation of the residential apartments hereby permitted, the building shall have been constructed or modified to provide effective sound insulation against internally generated noise from the retail use hereby permitted. The sound insulation works shall be in accordance with the maximum noise standards within BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings': Living Rooms 35 dB LAeq,T where T is 16 hours (07.00 to 23.00), and bedrooms 30 dB LAeq,T where T is 8 hours (23.00 to 07.00). Additionally, the sound insulation works shall ensure that the maximum level for single sound events inside bedrooms will not exceed 45 dB LAFmax between the hours of 19.00 and 07.00.

Reason: In order that there is no adverse effect on the health and quality of life of the future occupiers of the proposed dwellings from the retail use, to avoid an unacceptable impact on residential amenity by virtue of noise in accordance with Policy CDMP1 of the Wyre Local Plan and the provisions of the NPPF.

14. The residential apartments hereby permitted shall be designed so that cumulative noise (from industrial, commercial and transportation sources) does not exceed:

- 35dB LAeq (16 hour) from 07.00 to 23.00 within living rooms and 30dB LAeq (8 hour) from 23.00 to 07.00 and 45dB LAFmax from 19.00 to 07.00 for single sound events within bedrooms, or any such level as approved in writing by the Local Planning Authority.

- The evening standard LAFmax will only apply were the evening LAFmax significantly exceeds the LAeq and the maximum levels reached are regular in occurrence, for example several times per hour.
- 50dB LAeq (16 hour) from 07.00 to 23.00 to outdoor living areas, or any such level as approved in writing by the Local Planning Authority.

Reason: In order that there is no adverse effect on the health and quality of life of the future occupiers of the proposed dwellings from cumulative noise from the existing and proposed industrial, commercial and traffic sources, to avoid an unacceptable impact on residential amenity by virtue of noise in accordance with Policy CDMP1 of the Wyre Local Plan and the provisions of the NPPF.

15. Prior to first occupation or first use/ trade of the development hereby approved the approved sound proofing details set out within the approved Noise Assessment report (Agility Acoustics- Noise Assessment AA18-1081-R01v2 Jan 19) shall be installed. The development shall be maintained and retained in accordance with the approved sound proofing details at all times thereafter.

Reason: In order that there is no adverse effect on the health and quality of life of the future occupiers of the proposed dwellings from the retail use, to avoid an unacceptable impact on residential amenity by virtue of noise in accordance with Policy CDMP1 of the Wyre Local Plan and the provisions of the NPPF.

16. (a) There shall be no deliveries or collections of goods (including waste) to or from the retail use hereby permitted outside the hours of 08.00 to 20.00 Monday to Saturday, nor at any time on Sundays, Bank or Public Holidays.

(b) No vehicle delivering to or collecting from the retail use hereby permitted, or waiting within any part of the application site, shall operate the vehicle's engine or any mechanical refrigeration unit other than when entering or leaving the site.

(c) Prior to the retail unit hereby approved being first brought into use, a scheme of signage shall be submitted to and agreed in writing by the Local Planning Authority which shall include clearly legible signs displayed at all times to notify delivery and collection vehicle drivers of the permitted hours for deliveries/collections, the need to switch off vehicle engines and refrigeration equipment, and that they are in a noise sensitive residential area. This agreed signage scheme shall be implemented prior to first use.

Reason: In order that there is no adverse effect on the health and quality of life of the future occupiers of the proposed dwellings or existing residents from the retail use, to avoid an unacceptable impact on residential amenity by virtue of noise in accordance with Policy CDM1 of the Wyre Local Plan and the provisions of the NPPF.

17. Waste compactors used in connection with the retail use hereby permitted shall not be operated between the hours of 20.00 and 08.00 Monday to Saturday, or at any time on Sundays and Public and Bank holidays.

Reason: In order that there is no adverse effect on the health and quality of life of the future occupiers of the proposed dwellings or existing residents from the retail use, to avoid an unacceptable impact on residential amenity by virtue of noise in accordance with Policy CDMP1 of the Wyre Local Plan and the provisions of the NPPF.

18. The retail use hereby permitted shall not be open to customers outside the following times 08.00 to 20.00, Monday to Saturday, and 10.00 to 16.00 on Sundays and Bank and Public Holidays.

Reason: In order that there is no adverse effect on the health and quality of life of the future occupiers of the proposed dwellings or existing residents from the retail use, to avoid an unacceptable impact on residential amenity by virtue of noise in accordance with Policy CDMP1 of the Wyre Local Plan and the provisions of the NPPF.

19. No development or any site activity associated with the development, including site preparation/clearance and demolition, shall commence until the approved scheme of tree/hedge protection (Bowland Tree Consultancy Tree Protection Scheme October 2018) has been fully implemented. The protection measures shall be retained for the duration of the works, and only removed once the development is complete and all machinery and works material has been removed from the site.

Reason: In order to adequately protect the trees to be retained on site in the interests of the appearance of the site and biodiversity in accordance with paragraphs 17 and 118 of the NPPF and Policy CDMP4 of the Wyre Local Plan.

20. The approved hard and soft landscape works as shown on approved plans Landscape Strategy Dwg No. 090.3.01 A, Hardworks Layout Dwg No. 090.3.02 A and Softworks Layout Dwg No. 090.3.03 A, which includes the relocation of T9: Millennium Tree, shall be carried out as approved prior to first occupation or first use of the development hereby approved or on completion of the development (whichever is the sooner) and shall thereafter be retained and maintained.

Any trees or shrubs planted in accordance with this condition which are removed, uprooted, destroyed, die, or become severely damaged or seriously diseased within 5 years of planting, or any trees or shrubs planted as replacements shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the site is satisfactorily landscaped in the interests of visual amenity in accordance with the provisions of Policies CDMP3 and CDMP4 of the Wyre Local Plan.

21. Notwithstanding the information shown on the approved plans and prior to the commencement of construction, details of the materials to be used on the external elevations of the building shall be submitted to and agreed in writing by the Local Planning Authority and the development shall then proceed in full accordance with these agreed details. With regards to the re construction of the front and side facades of the original building, the existing materials (Red Accrington Brick and all Stone work) shall be re used as part of the re construction of the building (in accordance with the approved plans).

Reason: In the interests of the appearance of the site and locality in accordance with the provisions of paragraph 17 of the NPPF and Policy CDMP3 of the Wyre Borough Local Plan.

22. Notwithstanding the information shown on the approved plans, section drawings showing the extent to which the windows and doors would be recessed relative to the elevations in which they are sat along with full materials and profile

sections shall be submitted to and agreed in writing by the Local Planning Authority prior to their installation. The development shall then proceed in full accordance with these agreed details.

Reason: In order to ensure that the building benefits from adequate detailing in the interests of its appearance and visual amenity in accordance with the provisions of paragraph 17 of the NPPF and Policy CDMP3 of the Wyre Local Plan.

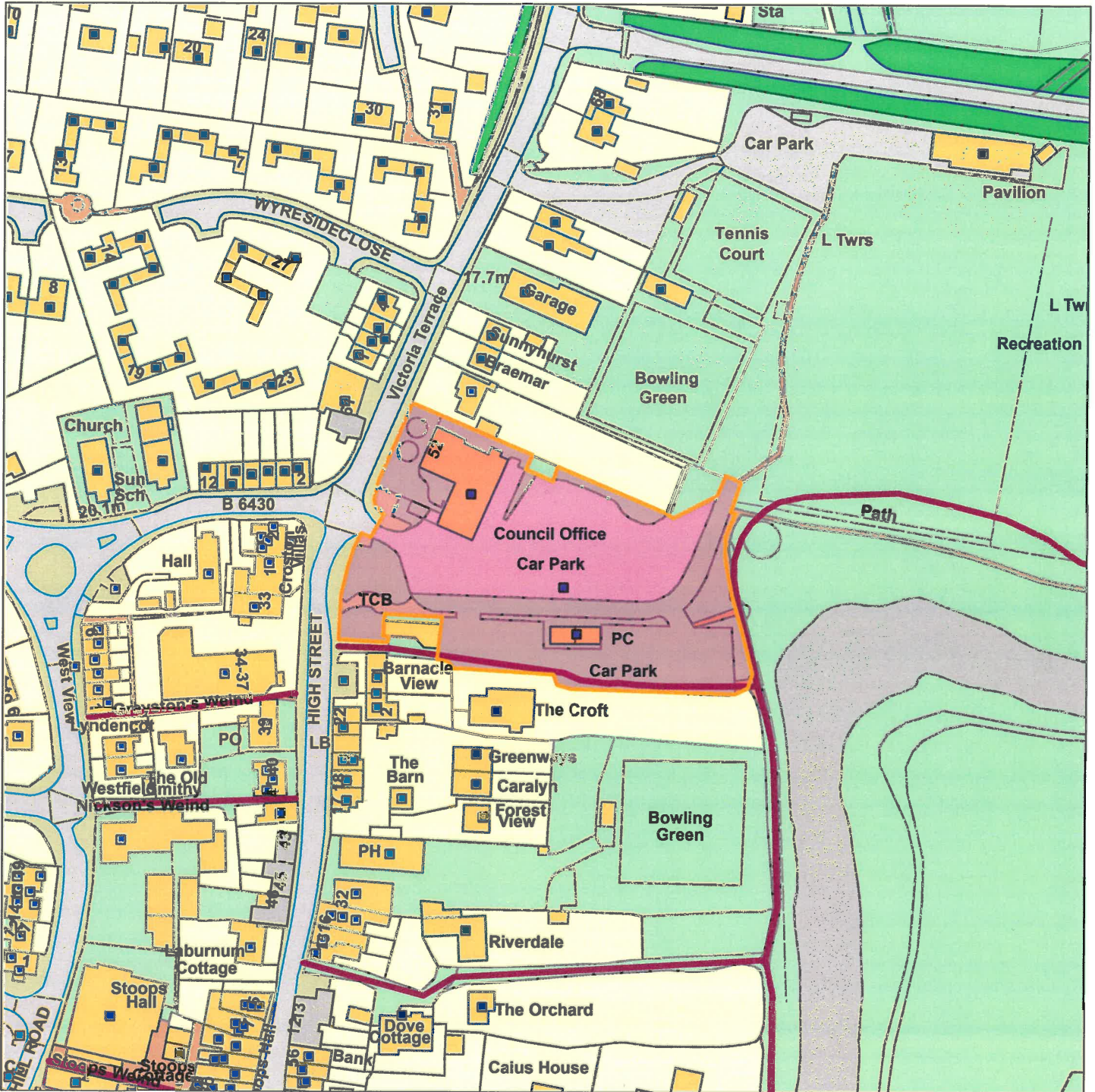
23. Prior to first occupation of the residential development or first use of the commercial development hereby approved, a car park management plan shall be submitted to and approved in writing by the Local Planning Authority detailing the location and amount of car parking spaces to be dedicated for the residential and commercial elements of the development hereby approved and the location and amount of car parking spaces to be made available for general public use, along with details of operational measures to ensure this parking provision will be made available for such users thereafter. The approved plan / management details shall be implemented in accordance with the approved details.

Reason: In order to ensure that adequate car parking provision exists on site in the interests of the appearance of the site and locality, residential amenity and highway safety in accordance with the provisions of paragraph 17 of the NPPF and Policies CDMP3 and CDMP6 of the Wyre Local Plan.

24. The refuse store for the apartments shown on the approved plans shall be provided before the apartments hereby approved are first occupied and shall thereafter be retained. The refuse store for the retail unit shown on the approved plans shall be provided before the retail unit hereby approved is first in use and shall thereafter be retained.

Reason: In order to ensure that adequate provision is available for the storage of refuse in the interests of residential amenity and the appearance of the site in accordance with the provisions of paragraph 17 of the NPPF and Policies CDMP1 and CDMP3 of the Wyre Local Plan.





Scale : 1:1726

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<b>Organisation</b>	Wyre Council
<b>Department</b>	Planning Department
<b>Comments</b>	Item 1
<b>Date</b>	19 June 2019
<b>SLA Number</b>	100018720

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**Committee Report****Date: 03.07.2019**

<b>Item Number</b>	<b>02</b>
<b>Application Number</b>	<b>19/00230/FUL</b>
<b>Proposal</b>	<b>Conversion of first floor to form seven apartments with insertion of new windows, and repositioning of external staircase and provision of wall and fencing</b>
<b>Location</b>	<b>34 - 37 High Street Garstang Preston Lancashire PR3 1EA</b>
<b>Applicant</b>	<b>ND And AN Stores Ltd</b>
<b>Correspondence Address</b>	<b>c/o Mr Kiran Patel 2 Fossdale Moss Leyland Preston Lancashire PR26 7AT</b>
<b>Recommendation</b>	<b>Refuse</b>

**REPORT OF THE HEAD OF PLANNING SERVICES****CASE OFFICER - Miss Lucy Lowcock****1.0 INTRODUCTION**

1.1 This application is to be considered by Planning Committee at the request of Councillor Lady Atkins. A site visit is recommended to enable 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 application site is a supermarket that is situated on the western side of High Street, Garstang. The site is within the Town Centre boundary of Garstang as defined in the Adopted Local Plan. It is also in the Conservation Area of Garstang. The site is in Flood Zone 1.

2.2 The first-floor of the supermarket is currently used for storage, a staff room and plant room. The building is a two-storey detached building with a mainly flat roof. There is a small pitched roof element towards the front. The building is constructed from brick. There are windows in the front of the building facing the High Street. There are existing external stairs on the northern side of the building. There is a first-floor window on the angled part of the rear elevation.

2.3 To the northern side of the building is an access and delivery area for the supermarket. There is a shop ('Car-Care') facing this side of the site with a first-floor store room window facing the site. There is also a detached bungalow with ground floor windows facing the northern side of the site, which serve main rooms. There is a low wall and hedge between the site and this neighbour. From the site the windows in this bungalow can be seen above the wall, as the level of the bungalow is higher than the site. To the rear of the site is a grassed area. Houses on West View have

their main rear elevations and rear gardens facing this western side of the site. A Public Right of Way runs down the southern side of the building. Beyond this, there is a 2m high wall along the boundary with neighbouring properties to the south. These properties facing onto the southern side of the site consist of the main rear elevation of a bungalow 'The Old Smithy', the side elevation of a property fronting West View 'Lyndencot', the garden of No. 39 High Street and an angled view of the rear of this property.

### **3.0 THE PROPOSAL**

3.1 It is proposed to convert the first-floor of the building into 7 self-contained flats. The proposal includes external alterations to the existing building. New windows, including some projecting windows are proposed in the rear and sides of the building. The external staircase would be altered and a 1m high wall erected to separate a walkway to the stairs from the delivery area. Existing vents in the east elevation would be replaced with 3 windows. A ground-floor door is proposed to be inserted to the rear of the north elevation. The flats would be accessed via the external staircase and the new ground-floor door. A fence is proposed to enclose the southern side of the existing rear grassed area, and a path would be created along the back of the building. The grassed area is shown to be used as a garden space for the flats.

### **4.0 RELEVANT PLANNING HISTORY**

4.1 18/00158/ADV - Part retrospective application for the erection of 5 x 'One Stop' (3 x illuminated ) (2x non-illuminated) signs, 1 x 'Post Office' illuminated fascia sign, 4 x non-illuminated direct print panels, and 4 x non-illuminated poster frames – Consent granted

4.2 13/00417/FUL - Two full height replacement windows and installation of ATM machine and window to replace existing entrance door to front elevation - Approved

### **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 WLP 2031 are of most relevance:

- SP1 Development Strategy
- SP2 Sustainable Development
- SP8 Health and Well-being
- CDMP1 Environmental Protection
- CDMP3 Design
- CDMP5 Historic Environment
- CDMP6 Accessibility and transport

- HP1 Housing Land Supply
- EP4 Town, District, Local and Neighbourhood Centres

5.1.3 The WLP31 identifies a Local Plan housing requirement of 9,200 dwellings or 460 dwellings per annum. Against this figure, the 5 year land supply including 20% buffer, is calculated as 5.19 years. This reflects the most up-to date housing supply position based on the 31 March 2018 figures. Paragraphs 73(b) and 74 of the NPPF and footnote 38 make it clear that where a local authority has a 'recently adopted plan', it is able to demonstrate a 5 year Housing Land Supply (HLS) for the purposes of the NPPF. Footnote 38 would operate in the present case to maintain the WLP31 status as a 'recently adopted plan' until 31st October 2019. The Inspector's Report into the WLP31 confirms that on adoption the Council will be able to demonstrate a deliverable supply of housing land. This finding is predicated upon the application of a 20% buffer. The effect of the above is that during the period to 31st October 2019 the Council is deemed to be able to demonstrate a deliverable HLS.

## 5.2 NATIONAL PLANNING POLICY FRAMEWORK (NPPF) 2019

5.2.1 The revised NPPF was published by the Government on the 19th February 2019. 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 2019 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:

- Section 2. Achieving sustainable development
- Section 5. Delivering a sufficient supply of homes
- Section 7. Ensuring the vitality of town centres
- Section 8. Promoting healthy and safe communities
- Section 9. Promoting sustainable transport
- Section 11. Making effective use of land
- Section 12. Achieving well-designed places
- Section 16. Conserving and enhancing the historic environment

## 5.3 WYRE SUPPLEMENTARY PLANNING GUIDANCE

5.3.1 SPG 4: Spacing Guidance for new housing layouts

## 5.4 OTHER RELEVANT CONSIDERATIONS

5.4.1 The Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA), S.66 and S.72;

5.4.2 Historic England, Good Practice Advice in Planning.

## 6.0 CONSULTATION RESPONSES

6.1 GARSTANG TOWN COUNCIL

6.1.1 Objection if points in Appendix 1 are not addressed and a noise survey is not carried out. Appendix 1 issues: overlooking, disturbance, security, no landscaping details, inadequate access to bin storage, impact on water and drainage services, provision of fire escape. Further response to revised plans - uphold objection. Noise assessment is incomplete. Still no comments on the fire escapes.

## 6.2 LANCASHIRE COUNTY COUNCIL (HIGHWAYS)

6.2.1 Initial comments - the principle of a residential development above a retail unit at this location is unlikely to have a significant impact on highway capacity or safety on the location highway network. However, pedestrian access through the loading area of the retail unit raises significant safety issues. There is no car parking associated with the proposal for the 7 apartments however, due to the sustainable location parking is not required. It would be expected that the residents would use sustainable transport. The bin store and the secure and covered cycle storage is location at the rear of the building through the loading bay area. It is requested that the applicant shows the loading and unloading of the large wagons and the staff parking manoeuvres does not interfere with the pedestrian and cycle accesses.

6.2.2 Further response to revised plans - no objection and 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. It is recommended that the applicant installs a bollard approximately in line with the front of the store and at the start of the wall to the external staircase to highlight pedestrian movements. This also assists the reversing store deliveries into the loading bay. The pedestrian access from Grayston's Weind is noted and welcomed. This removes pedestrian movements from the loading bay and car parking area on the north side of the site. Recommend condition about opening gates.

6.3 LANCASHIRE COUNTY COUNCIL (PUBLIC RIGHTS OF WAY) – no comments received.

6.4 THE RAMBLERS – no comments received

## 6.5 WBC HEAD OF ENGINEERING SERVICES (DRAINAGE)

6.5.1 No objection in principle. Requires full foul and surface water plans (same comments on revised plans).

## 6.6 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (NOISE)

6.6.1 Initial comments – concerns about noise from plant room on proposed apartments. Potential noise from deliveries. Requested a noise assessment, including a scheme of noise insulation.

6.6.2 Further response to noise assessment – satisfied that the mitigation as recommended in the assessment complies with noise standards. The mitigation should be implemented and maintained. Requires information on the noise impact from the plant room.

6.6.3 Further response to revised plans – on the basis that the existing plant room is shown to become a store room, no objections and satisfied that there would not be unacceptable noise transfer from the store room to the adjoining apartment.

Requested a condition for details of noise insulation between the proposed flats and the supermarket and that none of the windows should be openable.

## **7.0 REPRESENTATIONS**

7.1 13 letters of objection have been received, points raised are as follows:

- overlooking and loss of privacy from windows and door
- noise and disturbance
- intrusion from lighting
- security of entrances/site
- would not want damage to boundary hedge. It has not been acknowledged in the application and is not protected
- the proposed gate and fencing does not make the site secure
- no indication of how bin storage will operate
- questions validity of noise assessment
- lack of parking is an indication that the application represents over intensive development
- concerns about fire issues
- how will existing water and sewerage cope given that there are already problems with drainage?
- To alter the use of storage areas to residential is out of character with the area.
- it is unclear where the extra parking is to be. Noise, pollution and dust from parking.
- traffic concerns
- saturation of new build housing in Garstang
- not specified what the storeroom will be used for
- overlooking from proposed path
- light intrusion from windows

## **8.0 CONTACTS WITH APPLICANT/AGENT**

8.1 Provided plant specification 10/6/19

8.2 Revised plans to include projecting, partly obscure glazed windows submitted 4/6/19

8.3 Submitted noise impact assessment 30/4/19

8.4 Revised plans submitted 10/4/19

## **9.0 ISSUES**

9.1 The main issues in this application are as follows:

- Principle of development
- Visual Impact / Design / Impact on the street scene
- Impact on the residential amenity
- Impact on Highway / Parking
- Flood Risk
- Drainage

Principle of development

9.2 The site is in the Town Centre of Garstang. It is also in the Conservation Area. The visual impacts on the Conservation Area are discussed in the next section. Policy SP1 of the Adopted Local Plan identifies Garstang as a key service centre and directs development to within settlement boundaries, including Garstang. The proposal would meet the sustainable development goals of Policy SP2 of the Adopted Local Plan, including “maximising the use of previously developed land” and “ensuring accessible places and minimising the need to travel by car”. The site is in an accessible location with services, employment and access to public transport within walking distance of the site. Policy EP4 of the Adopted Local Plan encourages a diversity of uses within defined centres to maximise their vitality and viability. The site is not allocated or protected for a specific use. The proposal would make use of the first-floor of an existing supermarket so would not result in the loss of retail provision in the Town Centre. On this basis it is not considered that the proposal would unacceptably impact on the vitality and viability of the Town Centre and therefore would comply with Policy EP4. Overall, the proposal is considered to be acceptable in principle. A neighbour has objected that there is a ‘saturation of new housing’, but there are no policy reasons to prevent the provision of housing in this location in principle.

9.3 As the proposal would provide 7 dwellings, there is not a Local Plan policy requirement for the provision of Green Infrastructure, affordable housing or contributions towards education for this number of dwellings. As no on-site parking provision is proposed it is not considered reasonable to require an electric vehicle charging point in this case.

#### Visual Impact / Design / Impact on the conservation area

9.4 The site is within the Garstang Conservation Area. The building is existing and is described by the Conservation Officer as ‘a relatively modern retail unit’ and ‘contributes little to the special character and significance of the Conservation Area’. The proposal requires external alterations to the building, including the insertion of windows and a door, alterations to the external staircase and the erection of a wall and fencing. Some of the proposed windows are flush with the wall, and others are proposed as projecting windows. The Council’s Conservation Officer considers all of the external works (proposed on both the original and revised plans) to be acceptable and that the proposed development would preserve the appearance of the Conservation Area and sustain the significance of this designated heritage asset in conformity with S.72 of the PLBCA, section 16 of the NPPF and policy CDMP5 of the Adopted Wyre Local Plan.

9.5 It is considered that the altered external staircase and low wall would be in keeping with the building and would not stand out as obtrusive or be visually harmful to the Conservation Area. The proposed fencing to enclose the rear grassed area is considered to be visually acceptable in terms of its scale, siting and general design. As no material details have been submitted for the proposed wall, pathway, staircase or fencing, these would need to be agreed by condition. It is acknowledged that the building is a modern building and the insertion of windows in the structure would not be unacceptable in itself. However, the general design of the projecting windows is considered to be poor due to their size, extent of projection and wide frames that would give the windows a bulky, heavy appearance. They are irregularly placed on the building with no coherent design concept. There are no similar statement design features on neighbouring buildings. The windows would be at first-floor level, so would be visible from the front, from the Public Right of Way along the Weind to the south of the building and from neighbouring properties that surround the site.



Although the existing building could be viewed as contributing little to the Conservation Area, it is not considered that adding further poor design to this would be visually acceptable. This would fail to comply with Policy CDMP3: Design of the Adopted Wyre Local Plan.

#### Impact on the residential amenity

9.6 Light – as no extensions are proposed to the existing building, there would not be an unacceptable impact on light to neighbours.

9.7 Overlooking – new window openings are proposed in the rear and sides of the building. There are already large windows in the front of the building. The distance between the front windows and the properties on the opposite side of the High Street is at least 30m, so it is not considered that there would be an unacceptable overlooking impact from these front windows serving residential flats.

9.8 Windows are proposed in the southern side elevation. Three are shown to be projecting windows with obscure glazing in the south (main) window to prevent a direct view towards neighbouring properties to the south. It is also considered these would need to be non-opening. However, the six flush windows in this side would be clear glazed, providing a direct view to the south. These would be within 3.8m of the rear boundary with 'The Old Smithy' and 10m away from this neighbour's main rear elevation at an angled view. It is considered that even at an angled view, these separation distances would be insufficient to prevent an unacceptable overlooking impact of this neighbour's main rooms and outdoor amenity space. The proposed windows would be at first-floor level so would provide a view down on this neighbour. There would also be a direct view of the rear garden of No. 39 and an angled view of the rear elevation of this neighbour from the proposed windows in this side. Once again, the separation distances and angle of view to be provided would be insufficient to prevent unacceptable overlooking. The three projecting windows would each have clear glazing to one of their (narrow) sides. Of these, it is considered that the rearmost window with clear glazing in the western side would cause unacceptable overlooking, as it would be 17.4m from the rear elevation of the neighbour to this side on 'West View'. This would not meet the normally required 21m separation distance between main windows set out in SPG4. The plans state that the window would be 'angled to avoid any potential overlooking issues' however, the plans do not show an angled window, so it is unclear how this would be achieved. There would also be an angled view of the rear of 'The Old Smithy' from the projecting windows that could cause unacceptable overlooking.

9.9 Projecting windows are proposed in the rear elevation with obscure glazing in the west (main) window to prevent a direct view in this direction. It is also considered these would need to be non-opening. Each projecting window would have clear glazing to one of the (narrow) sides. The separation distances from the clear glazing in the northernmost and southernmost projecting window to neighbouring properties to the north and south would be insufficient to meet the Council's spacing standards set out in SPG4, where the principle of 10.5m to a rear garden and 21m between main windows is applied. Without adequate separation it is considered that there would be unacceptable overlooking to neighbouring properties to the north and south. There would also be an angled view of the rear of the properties on 'West View' from the clear glass in the side windows, however the angle and separation are considered sufficient to prevent unacceptable overlooking. An existing first floor window is proposed to be retained in the angled part of the rear elevation. This currently serves a staff room and would serve the living room/kitchen of a flat. This is within 3m of the rear boundary of the neighbour to the north and although angled, it is

considered that this would provide a view into the garden of this neighbour. The separation distance would be inadequate to prevent unacceptable overlooking. Although the window is already in place, it is considered that the change of use to a flat would present an intensified potential for overlooking over an ancillary room to a supermarket.

9.10 Two projecting windows and two flush windows are proposed in the northern side of the building. The projecting windows would have obscure glazing in the north (main) window. It is also considered these would need to be non-opening. The slim area of side (east) glazing in these windows would be clear but would be of sufficient angle to not cause unacceptable overlooking on the neighbour in the detached bungalow to the north. The flush windows would have clear glass and be a minimum of 16m from the main rear elevation of this neighbour. With the angle of view to be provided, it is considered that this separation distance would prevent an unacceptable overlooking impact from these windows.

9.11 Three clear glazed windows are proposed in the rear part of the building facing towards the front of the site behind the delivery area. Two of the windows would serve a store room and could be conditioned to be obscure glazed and non-opening to prevent overlooking of the neighbour in the bungalow to the north. The third window would serve a bedroom. This would be approximately 13m to the rear boundary of the neighbour to the north and 14m to the main rear elevation of this neighbour, however, the angle of the view would be sufficient to prevent unacceptable overlooking.

9.12 One first-floor and one ground-floor door each with narrow glazing panel is proposed in the northern side to provide the entrances to the flats. Due to the proximity to the neighbour in the bungalow to the north these glazing panels could be conditioned to be obscure glazed and non-opening to prevent unacceptable overlooking. Users of the stairs and first-floor entrance would have a view of this property to the north, with a separation distance of 13m to the rear elevation of this neighbour. As there is already an external staircase and door in place, there is already the potential for overlooking from this point, and as the nature of the use of the stairs would be for short periods of time, it is not considered that there would be unacceptable overlooking from this. Doors are proposed to the bin store. It is not considered that these would have an overlooking issue.

9.13 Noise/disturbance – the proposed use is residential and it is considered that this would be compatible with the adjacent residential uses. Some neighbours have objected about noise/disturbance, but in this town centre location it is not considered that the proposal would have a significantly greater impact in this regard over the existing situation. There will already be people coming and going, activity at the supermarket delivery yard and general background noise. Residential uses are generally compatible with each other, and if a resident is considered to be unacceptably noisy this would have to be dealt with through separate legislation. A neighbour has concerns about potential intrusion from external lighting. No external lighting is proposed and a condition could be added to ensure that any external lighting is agreed with the Council. Light from within the rooms of the flats would be that typically found in residential situations, and it is not considered that it would be unacceptably intrusive.

9.14 Amenity of occupants – each main room of the flats would have a window, however, some of the rooms would only be served by the projecting first-floor windows. With most of the projecting window obscure glazed (and these would also need to be non-opening), only the slim area of side glazing would have clear glazing.

It is considered that this would provide inadequate outlook to the room to be served. They would also potentially have inadequate means of escape although this would fall under separate legislation and is not a material planning consideration. The occupants would not have a meaningful view out from the room, particularly where the side window would directly face the blank wall/panel of another projecting window. It is considered that this would provide inadequate amenity for the occupants of flats 1,2,3,4 and 6. This would be contrary to Policy CDMP3 of the Adopted Local Plan, which requires the provision of a good standard of amenity for the occupants and users of the development itself. A communal outdoor garden area is proposed to the rear for the users of the flats. This would be adequate outdoor amenity space in a town centre location.

9.15 A bin store has been shown to the rear of the building at ground floor level to serve the flats. It is considered that this would be poorly located for the users of the flats, who would have to drag their bins to either West View or the High Street, which would be a minimum of 48m away. It is considered that this would result in poor amenity for the occupants of the flats and be contrary to Policy CDMP3, which requires all new developments to enable the effective removal of domestic waste.

9.16 A noise assessment has been provided to ensure that there would not be an unacceptable impact on the occupants of the proposed flats from existing uses. The professional qualifications of the writer of the noise assessment have not been provided, however, the Council's Environmental Health Officer considers the noise assessment to be adequate and if the mitigation proposed is implemented that the occupants would not be harmfully impacted on by noise. Conditions would be required to agree the details of the proposed noise mitigation and a noise insulation scheme. Whilst the Environmental Health Officer considers it necessary for all of the windows serving each flat to be non-opening this goes beyond the recommendation in the noise assessment and it is not considered reasonable or necessary to require this, given each flat will experience different noise sources during the day and evening and so there may be period of time during the day or evening where it would be perfectly acceptable for them to open their window(s). Requiring mechanical ventilation to be installed (one of the noise mitigation measures) would enable the windows to be kept shut for periods of time as needed and still provide adequate ventilation. The plans show that the existing first-floor plant room would be replaced with a storage area to overcome any noise concerns. The Environmental Health Officer considers this to be acceptable. To ensure this is implemented and the room used for ancillary storage to the flats this would need to be conditioned. If the supermarket requires new external plant, this would require a separate planning application.

#### Impact on Highway / Parking

9.17 Lancashire County Council (LCC) Highways have been consulted on the application. Initially, there was a requirement from LCC for the submission of further information. Revised plans have been provided showing a pedestrian walkway to the external staircase provided, separated off from the delivery area. LCC Highways have been consulted on this and consider this arrangement to be acceptable. It is therefore considered that occupants of the flats would be able to access them safely on foot. It is recommended that a bollard is installed approximately in line with the front of the store and at the start of the wall to the external staircase to highlight pedestrian movements. This also assists the reversing store deliveries into the loading bay. A condition could be imposed to secure this. Based on the professional highways advice there are no highway safety, traffic or capacity issues arising from the proposal, and therefore it is considered to be acceptable on these matters. Whilst

no on-site parking is proposed, as the site is in the town centre, LCC Highways have no objections to this. It would be expected that residents would use sustainable transport and therefore the lack of parking is considered to be acceptable in this location. A cycle storage area is proposed indoors using part of the ground-floor of the existing building. This could be conditioned to be provided prior to occupation, so as to provide an area where the occupants could securely store cycles to encourage sustainable travel. LCC Highways require a condition that no gates open into the highway. As no on-site car parking is proposed, neighbour concerns about noise, pollution and dust from parking are not a material planning consideration here.

#### Flood Risk

9.18 The site is in Flood Zone 1. The Council's Drainage Engineer has been consulted on the application and has no objections. There are no flood risk concerns with the proposal. A sequential/exception test is not required to be carried out for this development in Flood Zone 1.

#### Drainage

9.19 The Council's Drainage Engineer has been consulted on the application and has no objections to the proposal. There is considered to be a technical means of suitably draining the site. Surface water and foul drainage details are required and these could be conditioned to be provided. This would ensure suitable drainage is utilised and the sustainable urban drainage (SUDs) hierarchy followed.

#### Other Issues

9.20 A Public Right of Way runs along the southern side of the building. LCC Public Right of Way Officer and The Ramblers have been consulted on the application but have not commented. Due to the nature of the proposal there are no concerns about the operation of this route. As a precaution an informative could be used to ensure that the developer is aware that this route should not be blocked.

9.21 Neighbour representations have raised concerns about fire safety. This is not a planning matter, but would be covered by other legislation including building regulations. A neighbour has raised concerns about damage to the boundary hedge. Damage to a person's property is not a material planning consideration. Concerns have been raised about security of the entrances. This would be a private matter that would be the responsibility of the flat owner/occupier.

### **10.0 CONCLUSION**

10.1 In this town centre location it is considered that the proposal is acceptable in principle, providing housing in an accessible location and within the settlement boundary on previously developed land. However, a number of concerns are raised. The design of the first floor projecting windows is considered to be poor and visually harmful to the appearance of the building and its immediate context. The proposal would result in unacceptable overlooking of neighbouring properties from the new windows in the south, west and north elevation. The provision of obscure glazed windows to some of the flats in an attempt to reduce the overlooking impact, would present an unacceptable level of amenity to future occupants of the proposed development by providing inadequate outlook to some of the main rooms. The bin storage proposed to the flats would not be adequately located so as to enable the convenient removal of the domestic waste. The proposal is therefore considered to be of poor design and present poor standards of amenity to existing residents and

future occupiers, in conflict with Policy CDMP3 of the Adopted Local Plan and 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.

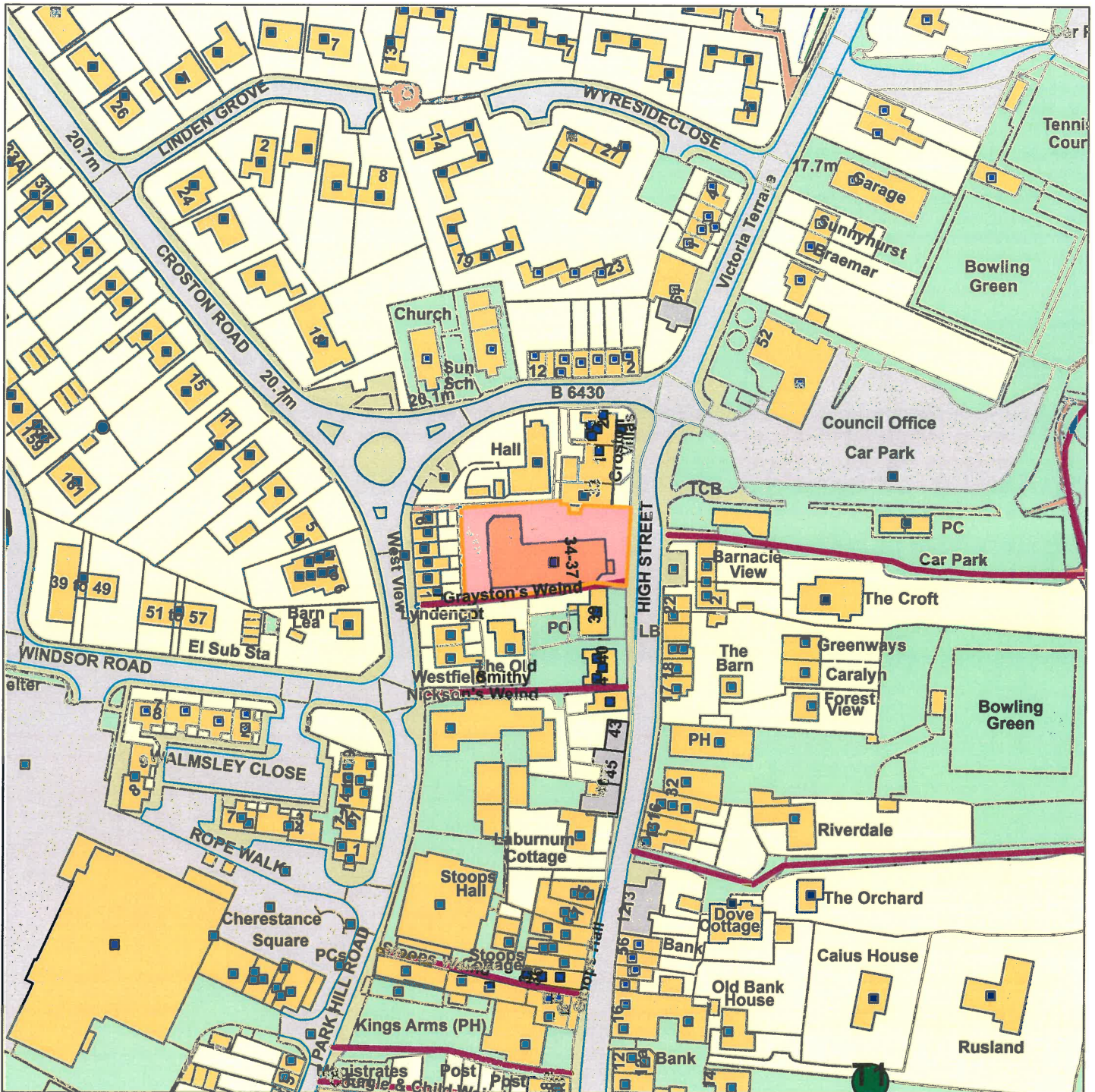
## **12.0 RECOMMENDATION**

12.1 Refuse planning permission

### **Recommendation: Refuse**

1. The proposed windows in the development would have an unacceptable overlooking impact to neighbouring residential properties, to the detriment of their amenity. This would be contrary to the NPPF, Policy CDMP3 of the Adopted Wyre Local Plan and SPG4 Spacing Guidance for New Housing Layouts.
2. A number of main rooms to the proposed flats would have inadequate outlook, which would have an unacceptable impact on the amenity of the occupants. Also, the location of the proposed bin storage to the proposed flats would be inadequate and therefore detrimental to the amenity of the occupants of the proposed flats. This would be contrary to the NPPF and Policy CDMP3 of the Adopted Wyre Local Plan.
3. The proposed projecting windows on the development are considered to be of a poor design that would be visually detrimental to the appearance of the existing building and the wider area. This would be contrary to the NPPF and Policy CDMP3 of the Adopted Wyre Local Plan.

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<b>Organisation</b>	Wyre Council
<b>Department</b>	Planning Department
<b>Comments</b>	Item 2
<b>Date</b>	19 June 2019
<b>SLA Number</b>	100018720

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**Committee Report****Date: 03.07.2019**

<b>Item Number</b>	<b>03</b>
<b>Application Number</b>	<b>19/00349/FUL</b>
<b>Proposal</b>	<b>Proposed erection of Substation in most southern corner of approved development (Application: 16/00217/OULMAJ)</b>
<b>Location</b>	<b>Land At Arthurs Lane Hambleton FY6 9AT</b>
<b>Applicant</b>	<b>Mr Guy Houghton</b>
<b>Correspondence Address</b>	<b>c/o MCK Associated Ltd FAO Mr Elliott Clegg Burnaby Villa 48 Watling Street Road Fulwood Preston PR2 8BP United Kingdom</b>
<b>Recommendation</b>	<b>Permit</b>

**REPORT OF THE HEAD OF PLANNING SERVICES****CASE OFFICER - Mr Robert Clewes****1.0 INTRODUCTION**

1.1 This application was brought before Members of the Planning Committee at the request of Councillor Robinson on 5 June 2019. A site visit was carried out to enable Members to understand the proposal beyond the plans submitted and the photos taken by the Case Officer. The application was deferred by the Planning Committee due to the need for clarity on land levels, location of adjacent trees and boundary treatment. The application is now brought back before committee with the additional information presented. Revised material details are also proposed. Site photos will be displayed to remind Members of the site.

**2.0 SITE DESCRIPTION AND LOCATION**

2.1 The application site is a small piece of land forming part of a much larger site that is a housing allocation designated in the adopted Wyre Local Plan (2011-2031) on the eastern side of Arthurs Lane on the edge of the rural settlement of Hambleton. The site currently forms part of an agricultural field and is immediately adjacent the northern boundary of Hambleton Primary School and directly fronts Arthurs Lane. The front boundary of the site is marked by a well-established hedgerow and there are trees and hedges along the boundary with the school. Facing the site on the opposite side of Arthurs Lane are residential properties.

**3.0 THE PROPOSAL**

3.1 The proposal is for the erection of an electricity sub-station in connection with the approved residential development for 165 dwellings. It is located at the southwestern corner of the development site of 16/00217/OULMAJ, adjacent to the northern boundary of the adjacent primary school. The proposed structure has a

footprint of 3.85m by 3.1m and has a height of 2.44m to eaves level. The structure has a very shallow pitched roof with a height at the ridge of approximately 2.60m. The substation enclosure/cabinet would be constructed from green GRP. It will be open to the road frontage to allow the provision of an access hardstanding and surrounded on the other three sides by a new hedge planted with Hawthorn and Blackthorn.

#### **4.0 RELEVANT PLANNING HISTORY**

4.1 16/00217/OULMAJ - Outline application with all matters other than access reserved for a residential development of up to 165 dwellings with access taken from Arthurs Lane. Approved.

4.2 18/00395/RELMAJ - Reserved matters application (for matters relating to appearance, landscaping, layout and scale) for the erection of 165 dwellings, landscaping and associated works following outline planning permission 16/00217/OULMAJ. Approved.

4.3 18/01200/REM - Reserved matters application (for matters relating to appearance, landscaping, layout and scale) for the erection of 4 dwellings (plots 152, 153, 164 and 165) and associated works following outline planning permission 16/00217/OULMAJ. Approved.

#### **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 WLP 2031 are of most relevance:

- SP2 - Sustainable Development
- CDMP3 - Design
- CDMP6 - Accessibility and Transport
- SA1/10 - Land at Arthurs Lane, Hambleton

##### **5.2 NATIONAL PLANNING POLICY FRAMEWORK 2019**

5.2.1 The revised National Planning Policy Framework (NPPF) was published by the Government on the 19th February 2019. 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 2019 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:

- Section 4 - Decision-making
- Section 12 - Achieving well-designed places

## **6.0 CONSULTATION RESPONSES**

6.1 HAMBLETON PARISH COUNCIL - Object. The substation is due to be built alongside the boundary with the school where there is a Forest School, it is felt that the building would better placed elsewhere on the site. There are concerns that the noise from the substation may cause difficulty with the Forest School.

6.2 LANCASHIRE COUNTY COUNCIL (HIGHWAYS) - No objection

6.3 WYRE BOROUGH COUNCIL PARKS AND OPEN SPACES MANAGER (TREES) - Placing heras fencing along the southern edge of where the new native hedging would go to establish a construction exclusion zone (approx. 3.5m width distance from boundary with the school) would provide for a root protection area which has been compromised by less than 20% overall (which is acceptable). The new native hedge will suitably mitigate for the loss of section of hedgerow (3.5m width indicated) needed for access to the substation. The works should be carried out outside of bird nesting season.

## **7.0 REPRESENTATIONS**

7.1 4 objections received raising the following issues:

- Proposal would be in breach of condition 26 of the outline application
- There should be no encroachment into the approved public open space
- Unacceptable impact on visual amenity as no landscaping proposed and insufficient detail on materials
- Concern about health and safety risks generated by the substation close to a school
- Insufficient detail about access

7.2 1 objection received from Hambleton Community Academy School raising the following issues:

- Substation would be right next to school grounds where we have an outdoor playing field and forest school area
- No indications in the paperwork of any emissions that may result from the electricity sub-station and no information confirming that these emissions will not exist so unable to support the planned location. The estate is sufficiently large to house such a Substation at the other side of the development, away from where the children and adults are outside and adjacent to the fence on a daily basis.
- Locating the Substation directly adjacent to the road/pavement will block the view of children and parents crossing and feel that the location needs to be at the far end of the estate.

## **8.0 CONTACT WITH APPLICANT/AGENT**

8.1 Agent contacted seeking further detail on the proposed materials to be used and the inclusion of a landscaping scheme along the rear and side boundaries of the development. Clarity sought on the location of adjacent trees and levels of proposed development. Additional / amended plans and information have been submitted by the agent addressing the above matters.

## 9.0 ISSUES

### Principle of development and Policy compliance

9.1 The application site is located within the boundary of a housing allocation which was granted outline planning approval under ref: 16/00217/OULMAJ. Subsequent reserved matters applications ref: 18/00395/RELMAJ and 18/01200/REM have agreed the scale, layout, appearance and landscaping of the development. The proposed sub-station is situated at the southwest corner of the site fronting Arthurs Lane within the area of land designated as Public Open Space on a Development Framework / Parameters Plan submitted with outline application 16/00217/OULMAJ. Condition 26 of that outline permission requires that no development shall be located within this area. The intent of this condition is to provide a green buffer between the development and Arthurs Lane and the approved layout in the reserved matters applications have been in general accordance with this. New residential developments of this scale often require a new electricity substation and so this is considered to be a necessary piece of infrastructure required to support the development. It is logical that the utility operator requires this to be sited somewhere allowing ease of access. It is considered that its siting in the very southwest corner fronting Arthurs Lane is appropriate and due to its modest size will not undermine the overall green buffer being provided. Sufficient Public Open Space provision for the development will be retained even with the slight loss in this corner of the site as it is acknowledged that an oversupply of provision was made against Local Plan policy in place at the time the outline permission and reserved matters applications were determined. It is therefore considered that the proposed development is acceptable in principle.

### Visual Impact / Design / Impact on the streetscene

9.2 The proposal fronts onto Arthurs Lane and would require a section of hedgerow to be removed approx. 3.5m in length to facilitate an off street parking space to allow a maintenance vehicle access to the substation (this hedgerow loss was previously indicated to be approx. 5m on the previous plan presented to Planning Committee). The section required to be removed would be small meaning that the sub-station would still be screened from view unless standing directly in front of it.

9.3 Notwithstanding this, the area in which the development is located, is within the designated Public Open Space which is subject to a landscaping condition on the outline permission requiring a landscape scheme to be agreed and implemented. This condition is yet to be discharged. As a result it is not yet certain that the hedgerow fronting Arthurs Lane will be retained although this will be something that the condition will look to retain where practical. It is therefore considered that a simple landscaping scheme along the rear and side boundaries of the substation would assist in assimilating the development in to its surroundings. Such a hedge planting scheme is now shown on a revised plan received following the June 19 Planning Committee and can be secured by an appropriately worded condition. There would be no requirement for additional boundary treatment (e.g. palisade fencing) as confirmed by the applicant. The existing well-established trees within the school grounds adjacent the site would act as a suitable screen when approaching from the south.

9.4 The design of the substation is functional and will be constructed of a green GRP enclosure. This has been amended from the brick originally proposed. Such

small substations are a common feature of residential areas and the external appearance is considered acceptable in the street scene against the existing and with the proposed landscaping.

9.5 The land levels of the development are to be at 14.6m AOD, only slightly higher than the adjacent pavement level of 14.2m AOD. Against existing land levels, as shown on a revised site plan, minimal ground works will be required to provide the development.

#### Impact on residential Amenity

9.6 The proposal would be approximately 18m from the nearest residential property. In terms of overbearing and loss of light the modest size of the sub-station and the as stated separation distance would ensure that there would be no detrimental impact. As the proposal is a structure that only houses equipment and apparatus there would be no loss of privacy. With regards to the loss of view from an individual property, this is not a material planning consideration, however it is considered that whilst it is situated opposite residential properties there will be no detrimental loss of openness due to the modest size of the development. The movement of the substation 2m to the north as shown on the revised plan (further detail set out in paragraph 9.10 below) would have no material impact on neighbouring properties opposite or the School to the south.

#### Impact on Highway / Parking

9.7 The sub-station would be accessed directly off Arthurs Lane however it is not considered that it would create any detrimental impact to highway safety and Lancashire County Council have not raised any objections in this respect. The sub-station would not materially change the number of vehicular movements along Arthurs Lane as it is of a nature that it would not require frequent visits except for maintenance and / or repair.

#### Ecology

9.8 The application site is located within a SSSI Impact Risk Zone (IRZ) as such consideration needs to be given to any potential impact to protected species. The site is located immediately adjacent existing built development, to the east and west, and is not close to any potentially sensitive areas such as ponds, Biological Heritage Sites (BHS) or the nearest SSSI itself. As such it is considered that there will be limited issues with regards to ecology. The site does contain some hedges and trees which could potentially provide some habitat for wildlife and it is indicated that some of these are to be removed to accommodate the development. As such these removals could have impacts upon nesting birds and as such a restrictive condition should be attached to any consent to prevent any removal or works between the months of March and August.

#### Other matters

9.9 Flood Risk - The site is located wholly within Flood Zone 1 and is therefore at the lowest risk of flooding. As such there is no requirement for the submission of a flood risk assessment nor sequential test.

9.10 Trees - It is considered that the development will not have any adverse impact on any trees. Although there are trees adjacent the site to the south the development is not of a nature that would result in unacceptable harm. The revised

plans show the location of the sub-station being moved north a further 2m away from the boundary with the school and the correct position of the trees along the edge of the development site is now shown. The Council's Tree Officer considers this revised siting would not interfere with more than 20% of the root protection area of these trees, which is standard industry practice, and so is acceptable. Tree protection measures during construction works is required to protect these trees, and this could be secured by condition.

9.11 Emissions - The nature of the development means there will be no emission of air pollutants. Any emission of electromagnetic radiation is required to comply with Government policy on exposure guidelines but this falls under separate legislation which would need to be satisfied and is not a material planning consideration for this application.

9.12 Alternative Siting - Whilst there may be alternative locations possible for the substation, Members are advised that it is this proposed siting that has to be considered, and for the reasons outlined in this report, the location proposed is considered acceptable.

## **10.0 CONCLUSION**

10.1 The proposed development is considered to be acceptable in principle as it is within the site allocation for the Arthurs Lane residential development. Although within the area of Public Open Space (POS) fronting Arthurs Lane the proposal is not considered to impact on the required POS provision or undermine the overall requirement for a green buffer and is therefore appropriately located. There is sufficient spacing between the sub-station and neighbouring residential properties to ensure that there is no impact to residential amenity. Revised plans show there to be sufficient spacing between the trees to the south. Conditions can be imposed to ensure an acceptable impact on visual amenity, ecology and trees. Taking the above into account it is considered that the proposal is acceptable and in compliance with Policies SP2, CDMP3, CDMP6 and SA1/10 of the adopted Wyre Local Plan (2011-2031) and 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 planning permission subject to conditions

**Recommendation: Permit**

**Conditions: -**

1. The development must be begun before the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the Planning Application deemed valid by the Local Planning Authority on 10.04.2019 including the following plans/documents:

- Site Location Plan - LP01 Rev A
- Site Plan - SP01 Rev A
- Elevations, Plans and Sections - ENDSS0021H
- Construction Details - ES352-A2-016/02J

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. The development shall be carried out using those materials specified on the email received on 13 June 2019 from MCK Associates.

Reason: To safeguard the visual amenities of the locality and in accordance with Policy CDMP3 of the Wyre Local Plan (2011-31).

4. The landscaping works shall be carried out in accordance with the approved details as shown on plan ref: SP01 Rev A, prior to first use of any part of the development or otherwise in accordance with a programme agreed in writing by the Local Planning Authority and shall thereafter be retained and maintained.

Any trees or shrubs planted in accordance with this condition which are removed, uprooted, destroyed, die, or become severely damaged or seriously diseased within 5 years of planting, or any trees or shrubs planted as replacements shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the site is satisfactorily landscaped in the interests of visual amenity and ecology 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 and section 15 of the National Planning Policy Framework.

5. No tree felling, tree works or works to hedgerows shall take place during the optimum period for bird nesting (March to August inclusive) unless a report, undertaken by a suitably qualified person immediately prior to any clearance, has been submitted to and approved in writing by the Local Planning Authority, demonstrating that nesting / breeding birds have been shown to be absent.

Reason: To protect and prevent unnecessary disturbance of nesting birds in accordance with the provisions of the Wildlife and Countryside Act 1981 and section 15 of the National Planning Policy Framework .

6. Prior to the commencement of development a Tree Protection Plan for the retained tree(s) indicated on the approved site plan SP01Rev A 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 Tree Protection Plan 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.

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





Scale : 1:1036

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<b>Organisation</b>	Wyre Council
<b>Department</b>	Planning Department
<b>Comments</b>	Item 3
<b>Date</b>	20 June 2019
<b>SLA Number</b>	100018720

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**Committee Report****Date: 03.07.19**

<b>Item Number</b>	<b>04</b>
<b>Application Number</b>	<b>19/00286/FUL</b>
<b>Proposal</b>	<b>Permanent siting of a shipping container to be used as a rest stop cafe (resubmission of planning application 18/00339/FUL)</b>
<b>Location</b>	<b>Layby Adjacent Preston Lancaster Road A6 Fowler Hill Lane Cabus Lancashire PR3 1AW</b>
<b>Applicant</b>	<b>Mrs Karen Brooks</b>
<b>Correspondence Address</b>	<b>c/o Miss Jessica Tebay 5 Bobbin Mill Cottages Stubbins Lane Claughton on Brock Preston PR3 0PL United Kingdom</b>
<b>Recommendation</b>	<b>Permit</b>

**REPORT OF THE HEAD OF PLANNING SERVICES****CASE OFFICER - Mr Rob McKillop****1.0 INTRODUCTION**

1.1 This application is before Members at the request of Councillor Lady Atkins. A previous application in relation to this site / development has been considered by the Planning Committee. A site visit is recommended to enable Members to understand the proposal and its setting beyond the plans submitted and the photos taken by the Case Officer.

**2.0 SITE DESCRIPTION AND LOCATION**

2.1 The application site is within a layby on the west side of the A6 in Cabus adjacent to the junction with Fowler Lane. The site is within the countryside as defined on the proposals map to the adopted Wyre Local Plan. The site is presently used for the sale of hot food and drinks although this is provided by a mobile trailer type cafe.

**3.0 THE PROPOSAL**

3.1 The proposal is for the permanent siting of a shipping container for use as rest stop cafe. It would measure 12.1m in length and 3.65m in width with a maximum height of 2.43m. It would have a door for access in the south facing elevation and three windows in the west facing elevation. The external walls of the shipping container would be clad with plastic cladding with a timber effect appearance, and UPVC window frames with timber shutters. It would be sited opposite the end of Fowler Hill Lane to the west of the hedgerow between the layby and the A6.

3.2 This is a resubmission of application 18/00339/FUL which was refused by Members of the Planning Committee on 6 March 2019, with the main differences for this new application being the use of external (timber effect) cladding and the provision of a separate portable toilet immediately adjacent to the southern elevation, rather than an internal toilet.

#### **4.0 RELEVANT PLANNING HISTORY**

4.1 18/00339/FUL - Permanent siting of shipping container for use as rest stop café - Refused by Members of the Planning Committee on 6 March 2019.

#### **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 WLP 2031 are of most relevance:

- SP1 - Development Strategy
- SP2 - Sustainable Development
- SP4 - Development in the Countryside
- CDMP1 - Environmental Protection
- CDMP2 - Flood Risk & Surface Water Management
- CDMP3 - Design
- CDMP6 - Accessibility & Transport

##### **5.2 NATIONAL PLANNING POLICY FRAMEWORK (2019)**

5.2.1 The revised National Planning Policy Framework (NPPF) was published by the Government on the 19th February 2019. 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 2019 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 relevant to the determination of this application:

- Chapter 2 - Achieving sustainable development
- Chapter 4 - Decision-making
- Chapter 6 - Building a strong, competitive economy
- Chapter 8 - Promoting healthy and safe communities
- Chapter 9 - Promoting sustainable transport
- Chapter 12 - Achieving well-designed places
- Chapter 15 - Conserving and enhancing the natural environment

## **6.0 CONSULTATION RESPONSES**

### **6.1 CABUS PARISH COUNCIL**

6.1.1 objects to the application on the following grounds:

- The layby is already in a poor state with poor surfacing/potholes, fly-tipping and rubbish;
- The container does not represent good quality design and its permanent siting would result in unacceptable visual harm that is out of keeping with the area's current rural character;
- The water closet would not be connected to a mains sewer and could result in a build-up of waste leading to environmental problems if the system is not emptied frequently enough;
- Concerns are raised regarding the disposal of wastewater from the dishwasher and the storage and treatment of water for a) the toilet and b) the water butt.

### **6.2 UNITED UTILITIES**

6.2.1 Refers to current standing advice.

### **6.3 LANCASHIRE COUNTY COUNCIL (HIGHWAYS)**

6.3.1 No objections subject to conditions.

### **6.4 THE HEALTH AND SAFETY EXECUTIVE**

6.4.1 Does not advise against the granting of planning permission on safety grounds.

### **6.5 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (NOISE)**

6.5.1 No objections.

### **6.6 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (FOOD SAFETY)**

6.6.1 Commented on matters of waste and hygiene and have raised some queries in relation to potable water.

### **6.7 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (LICENSING)**

6.7.1 No objections and refers to current licensing/street trading advice.

## **7.0 REPRESENTATIONS**

7.1 10 public letters have been received with the objections summarised as follows:

- There is no need for a permanent catering van and the site is presently covered by two portable vans which alternate during the week;
- The development would have a detrimental impact on this rural area if sited permanently;
- The development could be vandalised and lead to litter (attracting rats etc) and other environmental problems could arise from the toilet at the site;
- The application will lead to other similar applications in other laybys in the district;
- A permanent building would attract crime;
- The structure would reduce turning and parking areas for lorries which would cause traffic problems on the A6.

## **8.0 CONTACTS WITH APPLICANT/AGENT**

8.1 Additional details have been provided during the application process to address various concerns. The applicant has consulted Lancashire County Council who own the land.

## **9.0 ISSUES**

9.1 The main planning issues are:

- Principle of development
- Visual Impact / Design
- Impact on highway safety / parking
- Environmental Issues

Principle of development and Policy compliance

9.2 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of this application is the Development Plan which, in this instance, includes the adopted Wyre Local Plan.

9.3 Policy SP4 of the Local Plan sets out the forms of development that are supported within the countryside. The proposed development fails to meet the criteria set out in Policy SP4 and would not be justified by other policies within the development plan.

9.4 It is, however, noted that the NPPF Para.83 states that decisions should, amongst other things, enable the sustainable growth and expansion of all types of rural business in rural areas, both through conversion of existing buildings and well-designed new buildings. Para.84 of the NPPF states that decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements.

9.5 The proposed development represents a small scale rural development and therefore its position outside of a town centre would not require consideration through the sequential test process in line with the NPPF. The site is outside of any settlement with Cabus and Garstang located approximately 1km to the south along the A6. It is noted that whilst some passing trade may come from walkers or cyclists, the majority of custom would come from cars, lorries and vans already travelling along the A6. In these circumstances, the proposed use capitalises on existing vehicular trips rather than generating additional trips in its own right. It is noted that where large delivery vans and lorries can have a break and be catered for without

having to access nearby town centres, this is likely to have some benefit to local residents by way of reducing congestion on smaller arterial routes and within town centres. It is considered that this would result in some environmental benefit, and would secure two part time jobs which would have some economic benefit.

9.6 It is understood that two mobile cafes presently operate at the site and the proposal seeks to develop this current operation into a permanent use. As such, whilst the proposal would not strictly accord with Policy SP4 or the Local Plan, given its minor scale, the regular presence of mobile cafés in the layby operating in a similar manner, and location next to the A6 capitalising on existing passing trade, these material considerations do carry significant weight. Furthermore, the proposal is considered to accord with Paragraphs 83 and 84 of the NPPF and overall, the proposed development is considered to be acceptable in principle.

#### Visual Impact / Design

9.7 The shipping container would be sited within the layby area to the west of the A6 and would be behind the established boundary hedgerow and trees. Given the low height of the shipping container, it would be screened from views from the A6. Whilst the container would be clearly visible from the end of Fowler Lane, it would be set in the context of other parked vehicles in the layby and set against a backdrop of landscaping. The Parish Council has objected to the visual appearance of the building and impact on the surrounding area.

9.8 It is noted that since the refusal of the previous application, the applicant now proposes a plastic cladding (brown colour) timber wood grain effect finish, which would improve the building aesthetically and give it a more rural appearance. Whilst the overall form of the building, including separate portable toilet, water butt and bins, cannot be said to be of good design, given its siting against a backdrop of established hedges and trees, which give a considerable degree of screening, and other vehicles, it is considered to have a limited visual impact within the surrounding countryside area, and realistically would only be seen in its immediate vicinity. The use of timber cladding, rather than timber effect plastic cladding, would be preferable, however on balance what is proposed is not considered to result in any significant harm in visual terms given the aforementioned screening and context of the surrounding area. As the precise external colour / finish is not specified in the application, it is considered reasonable for a condition to be attached requiring this to be agreed. It is understood the terms of the highways license required with LCC would not allow for any signage or banners to be displayed. In any event these would require separate consent.

9.9 Overall, the application is considered to have an acceptable visual impact and would accord with Policy CDMP3 of the Local Plan.

#### Impact on residential amenity

9.10 There are no residential properties in the vicinity of the site. The application has been assessed by the Council's Environmental Health Team who have no objections in relation to amenity and no unacceptable impacts have been identified.

#### Impact on highway safety / parking

9.11 The whole of the layby area is within the adopted highway boundary and allows for access to Fowler Lane. Lancashire County Council (LCC) have been consulted on the application and have advised that they do not consider the shipping

container as a permanent building as it could be removed from the highway and would not be linked to utilities, such as water and electricity. The container would be subject to a licence issued by LCC to be renewed annually in relation to "Placing Items in the Highway". In addition it is understood a street trader's license would be required / issued by Wyre BC. LCC have advised that the container would lead to a permanent reduction of the layby however it would not be worse than the existing mobile hot food trailer (in terms of parking). LCC have confirmed the container location does not appear to interfere with underground utility apparatus and in the event access is required, movement would be at the cost to the applicant.

9.12 LCC Highways have confirmed that the proposed development would not result in any significant impact on highway safety, capacity or amenity in the immediate vicinity of the site. LCC have, therefore, raised no objections to the proposed development subject to conditions. Some of the conditions requested by LCC Highways relate to private matters concerning right of access and damage to the highway which would be covered under other legislation or through an agreement between the site owner (LCC Highways) and applicant and are therefore not appropriate to impose. An informative could be added to any permission granted to make the applicant aware of these matters. A condition would be appropriate and reasonable in relation to external seating to minimise the loss of the layby area for parking.

9.13 Overall, it is deemed that the proposed development, subject to suitably worded conditions, would not have any significant detrimental impact on highways safety.

#### Flood risk/drainage

9.14 The site is within Flood 1 and is at low risk of flooding. The proposal is not considered to result in any additional flood risk.

#### Other matters

9.15 The Council's Licensing Team has not objected to the scheme although relevant consents will be required as necessary. The Council's Food Safety Team has raised some questions in relation to food safety, cleaning and maintenance and waste management arrangements. The applicant would be responsible to ensure they are compliant with other relevant legislation and these matters would not be considered under the current planning application.

9.16 In relation to concerns received from the Parish Council and members of the public about litter, it is deemed that the provision of a permanent café with upgraded facilities, including seating, toilet and bins, is likely to reduce litter and other tipping and generally improve the condition and tidiness of this layby area. It is considered that the application would not affect the way the layby generally functions and is unlikely to result in an increased risk of crime or anti-social behaviour. A condition can be imposed requiring the bins to be emptied and the contents removed from the site each day. The original application proposed a chemical toilet within the container that would have been disposed of each day by the applicant. A separate portable toilet that would have waste removed and water topped up each week, along with a full clean of the unit by a professional company, is now proposed. A condition can require the submission of any ventilation or extraction details which may be necessary.



## **10.0 CONCLUSION**

10.1 The principle of development is contrary to local plan policy although there are material considerations in favour of the development which do carry significant weight. Subject to conditions the application would not result in any significant impacts on the character of the countryside, highways safety or residential amenity. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore considered that in this case other material considerations outweigh the adopted planning policy and it is recommended that the application be approved subject to conditions.

## **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 full planning permission subject to conditions.

### **Recommendation: Permit**

#### **Conditions: -**

1. The development must be begun before the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development 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 22nd March 2019 including the following plans/documents:

- Site Location Plan Scale 1:1250, received 22nd March 2019;
- Existing and Proposed Site Plan and Proposed Shipping Container Plans and Elevations Drg. no. JT/KB/2720, received 22nd March 2019.

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. No development above ground level shall be commenced until details of the external finish and colour (including the external walls, roof, and windows) have first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the visual amenities of the locality and in accordance with Policy CDMP3 of the Wyre Local Plan (2011-31).

4. The use hereby permitted shall not operate outside the hours of 07:00 to 15:00 Monday to Friday. The development shall not operate at any time on Saturdays, Sundays, Bank Holidays and Public Holidays.

Reason: In the interests of the amenity of the surrounding area in accordance with Policy CDMP1 of the Wyre Local Plan (2011-31).

5. Prior to first use or occupation of the development hereby approved, details of the appearance, technical specification and siting of any external ventilation ducting and/or plant shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved details and the ducting/plant shall be in place and in full working order prior to first use of the premises hereby approved and shall thereafter be maintained and retained in accordance with the approved details.

Reason: To ensure any necessary plant is appropriate in design and siting, in accordance with Policy CDMP3 of the Wyre Local Plan (2011-31).

6. The external bins shall be emptied each day the café has been open to the public and waste removed from the site.

Reason: To minimise the risk of pollution that may cause harm to the amenity of the surrounding countryside in accordance with Policy CDMP1 of the Wyre Local Plan (2011-31).

7. No tables and seating shall be provided externally unless details of any proposed tables and seating areas are first submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure there is no reduction in the public parking area and in the interest of pedestrian safety.

8. The premises shall be used for A3 cafe and restaurant use only and for no other purpose.

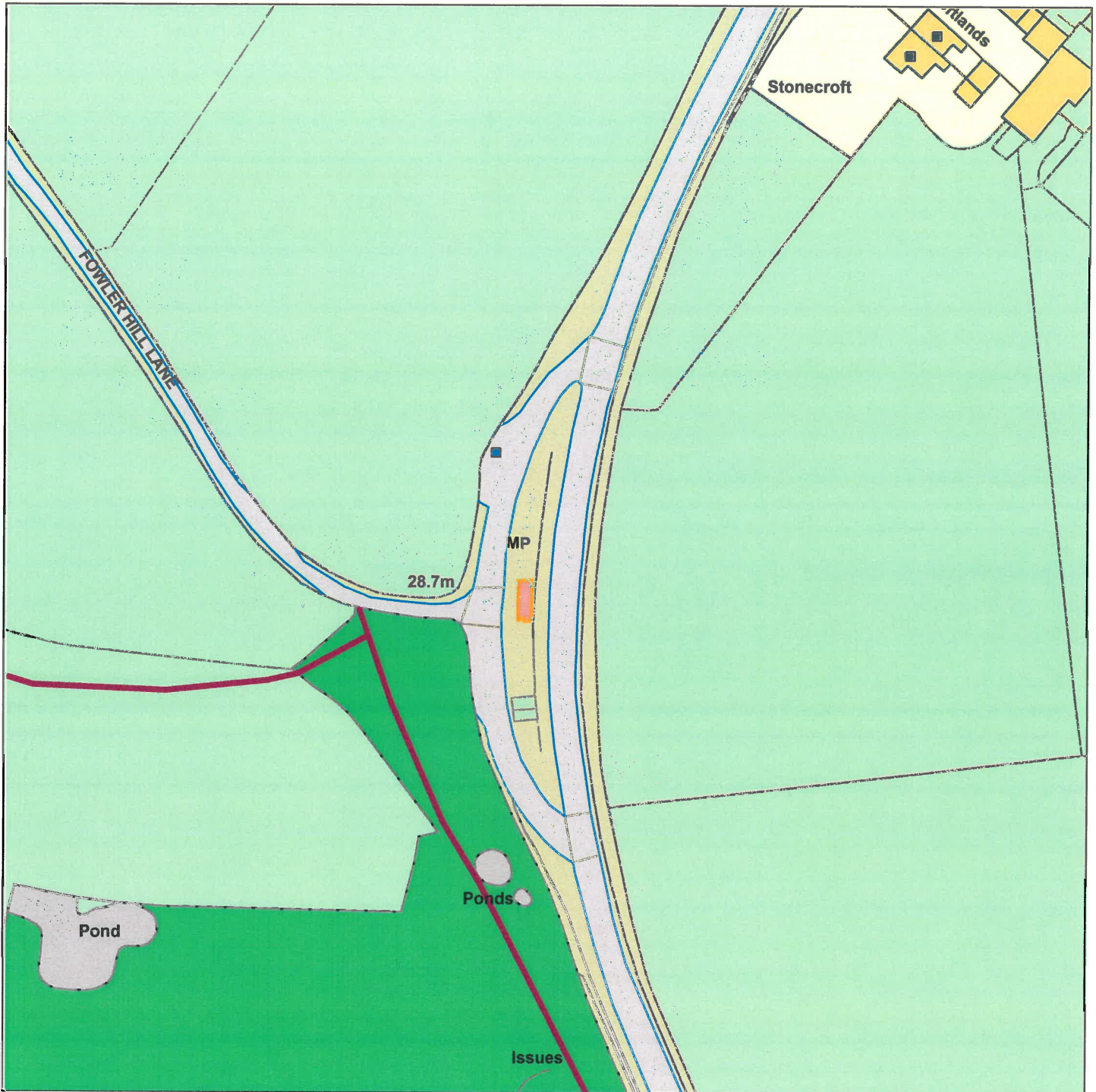
Reason: The use of the premises for any other purpose would require further consideration by the Local Planning Authority in accordance with Policies SP2 and SP4 of the Wyre Local Plan (2011-31).

**Notes: -**

1. The applicant shall comply with the requirements set out in the following guidance: "Items on the highway (Code of practice for the control and placing of)". Should access by the Highway Authority or any statutory undertaker or licensed telecommunications operator be required in the future, the container will be removed at the cost to the applicant. The applicant should contact [highways@lancashire.gov.uk](mailto:highways@lancashire.gov.uk) to discuss the placement of reflective marker posts given the lack of street lighting and potential impact on public/highway safety. This will be at the cost to the applicant. It is the responsibility of the applicant to ensure the area surrounding the container is maintained and is kept free from unnecessary litter and obstruction.

2. This permission does not relate to the display of any advertisements which may require consent under the Town and Country Planning (Control of Advertisements) Regulations 1989.

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<b>Organisation</b>	Wyre Council
<b>Department</b>	Planning Department
<b>Comments</b>	Item 4
<b>Date</b>	19 June 2019
<b>SLA Number</b>	100018720

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