

**Committee Report****Date: 04.11.2020**

<b>Item Number</b>	<b>03</b>
<b>Application Number</b>	<b>20/00411/FUL</b>
<b>Proposal</b>	<b>Application (retrospective) for the erection of a two-storey building comprising of visitors centre, café/restaurant and hydrotherapy pool</b>
<b>Location</b>	<b>Brickhouse Cottages Brickhouse Lane Hambleton Poulton-Le-Fylde, FY6 9BG</b>
<b>Applicant</b>	<b>Mr Ian Rainford</b>
<b>Correspondence Address</b>	<b>c/o Mr Luke Godden 5 Bobbin Mill Cottages Stubbins Lane Claughton on Brock Preston PR3 0PL United Kingdom</b>
<b>Recommendation</b>	<b>Refuse</b>

**REPORT OF THE HEAD OF PLANNING SERVICES****CASE OFFICER - Mr Rob Clewes**

Site Notice Date: 18.06.2020

**1.0 INTRODUCTION**

1.1 This application is before Members of the Planning Committee at the request of Councillor Julie Robinson. A site visit will help Members to understand the scheme and how it sits within the wider context.

**2.0 SITE DESCRIPTION AND LOCATION**

2.1 The application site is located to the south of Brick House Lane, Hambleton and comprises an existing holiday accommodation complex with lake accessed from Brick House Lane via a single width access track. Beyond the west/north-west boundary of the site is a cluster of residential properties as well as a Public Right of Way. The surrounding area is predominantly open countryside with agricultural fields to the north, east and south. The site is located within the defined Countryside Area on the Local Plan Policies Map and is within flood zone 3. The proposal has already been constructed and is currently operating as per the use applied for.

**3.0 THE PROPOSAL**

3.1 The application seeks retrospective permission for a two-storey building comprising of visitors centre, café/bistro and hydrotherapy pool together with changing rooms. The foot print of the building is asymmetrical with a maximum width of 38m and depth of 19.5m. The building comprises a single storey element and a central two-storey element. The single story part has a height of 4.2m and the two-

storey element has a height of 7.3m. The front elevation primarily consists of curtain wall glazing and the remainder of the elevations consist of facing brick and cladding. The use of the building is proposed to be open to the public and not solely restricted to guests of the holiday cottages.

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

4.1 18/00512/FUL - Erection of two-storey building for hydrotherapy, visitors centre, cafe, office and meeting room. Withdrawn

4.2 18/00268/FULMAJ - Variation of condition 2 (key drawings) on application 15/00758/FULMAJ to allow a first floor to the hydrotherapy pool. Withdrawn

4.3 15/00758/FULMAJ - Erection of 5 holiday units and erection of a building for a hydrotherapy pool, visitors centre and cafe for disabled visitors and carers. Approved

4.4 14/00833 - Erection of 3 holiday units for disabled visitors and carers (resubmission of 14/00666). Approved

4.5 14/00666/FUL - Erection of 3no holiday units. Withdrawn

4.6 12/00782/FUL - Creation of private leisure lake and engineering operations to form landscaped mound. Approved

4.7 12/00176 - Change of use from tile showroom to annex for ancillary accommodation to Brickhouse Farm, extension to existing barn to form a domestic garage, addition of a private swimming pool to existing garage of main dwelling, change of use and conversion of 4 no industrial units into 5 no specialised holiday accommodation for people with disabilities and their carers. 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
- SP4 - Countryside areas
- SP8 - Health and well-being
- CDMP1 - Environmental protection
- CDMP2 - Flood risk and surface water management
- CDMP3 - Design
- CDMP4 - Environmental assets
- CDMP6 - Accessibility and transport

- EP8 - Rural economy

## 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 - Decision-making
- Section 6 - Building a strong, competitive economy
- Section 11 - Making effective use of land
- Section 12 - Achieving well-designed places
- Section 14 - Meeting the challenge of climate change, flooding and coastal change
- Section 15 - Conserving and enhancing the natural environment

## 6.0 CONSULTATION RESPONSES

6.1 STALMINE PARISH COUNCIL - As three of the five councillors present had declared an interest it was not possible to discuss this application.

6.2 LANCASHIRE COUNTY HIGHWAYS - Overall, it is not considered that the additional traffic that the development proposal would generate would have an impact on highway safety although the increased traffic levels may be noticeable to local residents and affect their amenity.

6.3 NATURAL ENGLAND - No objections

6.4 ENVIRONMENT AGENCY - No objections

6.5 HEALTH AND SAFETY EXECUTIVE (HSE) - Does not advise, on safety grounds, against the granting of planning permission in this case.

6.6 GREATER MANCHESTER ECOLOGY UNIT - No comments received

6.7 LANCASHIRE COUNTY PUBLIC RIGHTS OF WAY OFFICER - No comments received

6.8 RAMBLERS ASSOCIATION - No comments received

6.9 WBC HEAD OF ENGINEERING SERVICES (DRAINAGE) - No objections

6.10 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (CONTAMINATION) - See previous 15/00758/FULMAJ and transfer any conditions over.

6.11 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (AMENITY) - No objections

## **7.0 REPRESENTATIONS**

7.1 8 representations received objecting to the application and raising the following matters:

- Proposed building is too big
- Operating in breach of planning and restrictive condition
- Impact to highway safety
- There has been a large increase in vehicular movements since it opened causing conflict between road users
- Why have planning restrictions not been enforced, it makes a mockery of the planning system
- Allowing this would set a precedent for anyone to go ahead and build whatever they want and then just apply retrospectively
- This is another business in this area where the road network cannot handle the amount of traffic and has altered the character of this part of the lane
- Not in keeping with the area
- Proposal not policy compliant
- Applicant should be requested to fund highway improvement works
- Conflict with future proposals down Brickhouse Lane

7.2 10 representations received supporting the application and raising the following matters:

- There are no facilities in the area like this for people that require them
- The changing places facility is able to be used by anyone with a disability
- Hydrotherapy is essential for rehabilitation and physiotherapy
- Site allows for people to be fully included and access all aspects of daily life in confidence and without prejudice
- Restaurant ensures the inclusivity of both disabled and non-disabled patrons
- In general, access to suitably adapted community facilities is poor in the area
- The pool is accessed weekly by numerous people
- Site is an ideal environment
- Staff are well trained and able to assist greatly

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

8.1 Agent contacted on the following matters:

- Validation of application including payment of correct fee
- Description of development
- Town centre sequential test
- Flood risk sequential test

## **9.0 APPLICANTS STATEMENT**

9.1 The applicant has submitted the following statement in support of the proposal:

"Our planning application is to make it possible for all local people to benefit from our accessible, sociable eating area, Changing Place and life changing hydrotherapy pool. We are not just another pool or restaurant, we are somewhere that anyone can come for a meal with their family, whether they have dementia, autism, cerebral palsy, MS or any other challenging condition. We are somewhere that anyone can swim unaided in a hydrotherapy pool so their spasms ease or they can walk for the first time in 12 years since their accident! Why should people have to come on holiday to enjoy this accessible building when people who live so close could benefit so much from being able to use this facility? The "Equality Act 2010" is in place to eliminate discrimination and to advance equality of opportunity...We are striving so much so everyone is equal.

The Hydro Pool was built because after my sister's accident the rehabilitation team said the only way they could get my sister back up and walking would be hydrotherapy. We could not get into a pool anywhere, and we travelled hours to a facility but with the long drive it reversed the benefit it had. My Dad built one at home determined he could get her back on her feet, this cost thousands of pounds but if it helped her walk it was worth every penny. My sister can now walk, why can we not make it possible for others like my sister to be able to use and get the same outcome?

The Bistro is fully accessible. We have feet to raise the tables to a height that is right to someone in an electric wheelchair, we have various allergen-free foods and we blend food for the customers that need it. Accessible cutlery, plates, cups, wide spaces between tables for wheelchairs to turn and so much more to make it a place that no matter what you need we can make it an enjoyable time for all the family. Is there any other restaurant or cafe within this area that has these in place?

The Changing Place was passed in the last application for this building. It was passed but then taken away from the public, "It is now accepted and expected that everyone has a right to live in the community, to move around within it and access all its facilities. Government policy promotes the idea of 'community participation' and 'active citizenship', but for some people with disabilities the lack of a fully accessible toilet is denying them this right." <http://www.changing-places.org>

The large ramp leading into the building is also on this planning application, this needs to be here to help all the new larger wheelchairs which are out there today.

The laundry on the application is deeply needed to run this business better. On a daily basis there is soiled bedding etc. and for us to control infection better this cannot be collected on certain days by an outside laundry business, it needs to be dealt with quickly to carry out the Infection Control Precautions.

Our hydro pool was granted money from the "The European Agricultural Fund for Rural Development: Europe investing in rural areas", this money was invested into something that should be a proud flagship within a rural area, creating much needed employment and offering a unique experience. DEFRA now use us as this intended 'flagship' often bringing businesses from far and wide to experience our inclusivity. We are so proud to encourage businesses to follow great practice however mortified to think that on home turf this recognition of need is not appreciated or understood. The Wyre Council promotes the Wyre Business Awards, which we won last year; however new local planning policies contradicts the unique rural businesses to grow this surely is something you cannot celebrate.

With our support, Access Fylde Coast have received funding to help the local area become more accessible. Why then has our government given money to this area to help local businesses become more accessible when our local planning committee intend to refuse a comparable application... the facility is here ready for your local community to use, we just need to be granted public access.  
<https://www.accessfyldecoast.co.uk>

I have attached a few letters that were forwarded to the planning department from our customers and the benefit they get every time they come to both the pool and the bistro. We could forward you many, many more dozens of emotionally supporting letters. Please take the time to read their sincere gratefulness, they really do bring you to tears.

With public access, this immeasurable change to people's lives is what me and you could do easily on a day-to-day basis.

To help you understand the importance and uniqueness of our facilities we would like to invite you all here."

## **9.2 ISSUES**

9.2.1 The main issues in this application are as follows:

- Principle of the Development
- Visual Impact / Design / Impact on the street scene
- Impact on residential amenity
- Impact to highways
- Flood Risk/drainage
- Ecology

Principle of development

9.3 The starting place for an assessment of any proposal submitted is the development plan. 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 made in accordance with the development plan unless there are material considerations that indicate otherwise.

9.4 The proposal seeks retrospective permission for the erection of a two-storey building which comprises of a visitors centre, café/bistro and hydrotherapy pool together with changing places which are used by guests staying in the holiday cottages as well as by the wider public who are not staying guests.

9.5 The site falls in the countryside as designated within WLP31. Policy SP4 of WLP31 restricts development in the countryside to a limited number of purposes, including the expansion of businesses in rural areas, provided they are in accordance with Policy EP8. Policy SP1 directs development to the settlements unless development in the designated countryside is specifically supported by another policy in the Local Plan.

9.6 The existing business consists of 13 holiday cottages that are specifically designed to cater for visitors with disabilities and their families and/or carers. Planning permission was granted in 2016 (ref: 15/00758/FULMAJ) for a building to be used for a visitors centre, café/restaurant and hydrotherapy pool. The applicants have stated that public access to that proposed facility was taken away via a condition and that it was always the intention to allow public access. However it was made clear by the applicant in the accompanying design and access statement for that application (para 1.1.2) that: "This building will be exclusively available to guests of the lodges on site". As such the Council considered the previously approved building to be an expansion of the existing holiday accommodation business as it would not be available to be used by the non-staying public. It is important to point out that this approved building was not implemented as such the building subject of this application is not established by that consent.

9.7 Policy EP8 of WLP31 allows for the expansion of business in rural areas, provided that any new building and supporting infrastructure is necessary. Therefore it has to be assessed if the proposal can be viewed as an extension to an existing business, and if the building and infrastructure is necessary. In satisfying the first point, the proposal would reasonably need to offer a supporting function to serve the business, otherwise it would be reasonable to assume that it has the potential to be used as an independent facility and therefore form a new independent business in the countryside.

9.8 This proposal seeks to allow the building subject of this application to be open to members of the public that would not be staying at the site as holiday guests. The layout and floor plan provides significantly more hospitality floor space than that approved in the previous application, to a degree that the hydrotherapy pool and changing room facility is now considered to be an ancillary element and the primary function of the building is to operate a bistro and function suite, open to the public. This is in essence an entirely new business independent from the existing holiday accommodation business. When looking at the increase in floor space, much of this is dedicated to the bistro and function suite (open till 10pm), with none of the additional floor space increasing the hydrotherapy pool or changing places facility, and therefore the hospitality floor space now forms the dominant use of the building. It is acknowledged that the building can still be used by the guests of the cottages and that the attached laundry room and its use is linked to the holiday accommodation, however the laundry room is merely attached to the rear of the building not accessed from within it and therefore could have been provided by separate means i.e. detached and located elsewhere in the site. The building is located within the holiday accommodation site, however the overall layout, areas of parking and general operation mean that the building can be easily operated on an independent basis without impacting on the existing holiday accommodation and any linked functionality is only by reason of proximity and the use is not exclusive to the existing business. In addition the building is actively advertised as being able to access / use independently, with the bistro and function suite advertised for all manner of events and the bistro also offering a dedicated takeaway menu. In terms of the increase in size of the hospitality area (i.e. bistro and function suite) no justification, as required by Policy EP8, has been provided as to why this is necessary. As such there is no clear justification as to why the first floor function suite or increased bistro area is required and therefore the proposal fails to satisfy criteria 2.b) of EP8.

9.9 Policy SP8 (Health and Well-being) does support proposals that promote healthy communities and development that helps maximise opportunities to improve quality of life and to make it easier for people in Wyre to lead healthy active lifestyles.

It is acknowledged that the hydrotherapy pool and changing places facility does provide a benefit to those groups that require such a facility and that it contributes to them being able to lead active healthy lives. The letters of support received all provide accounts of how that part of the facility has benefitted them. This is not disputed by the Council and it is clear that the facilities on offer have benefitted those members of the public. It is understood that the hydrotherapy pool and changing places facility provide a specialist facility not readily available elsewhere in the locality and that they are used by members of the public and organisations/schools which is a clear benefit to the community. The provision of the hydrotherapy pool and changing places facility, is therefore considered to be in line with the principles of Policy SP8, however the building must be assessed as a whole. As established above a significant amount of the floor space is dedicated to hospitality and there is insufficient justification for the size of bistro and function suite proposed. It is noted, in particular, that the size of the hydrotherapy pool has not been increased in this application, as compared to that approved previously. Had the building been built as per the development approved via 15/00758/FULMAJ whereby the café/bistro area was much less and seen as a complementary feature to the pool and holiday accommodation then a legitimate argument for the use of the that building by non-paying guests could have potentially been put forward as the main use of the site would have remained for the purposes of holiday accommodation as the bistro/café would have been of a size that would not form a primary use. The use of the building by non-paying guests would have been seen as ancillary and the main use of the site remaining for holiday accommodation purposes. However due to the size of hospitality floor space and the use by non-paying guests and the ability to host events and functions the building cannot be seen as ancillary to the main use of the site. The benefit afforded by the hydrotherapy pool and changing places facility is therefore not considered to out-weigh the policy conflict with SP4 and EP8. It is acknowledged that the bistro is accessible and caters for all, however this part of the building is not considered so unique that it would necessarily add more weight to the considerations of SP8. There are many hospitality places within the borough that can claim to comply with the Equalities Act and provide access for all. With the layout of the building as such it would appear that the main aim of the building is as a bistro and function suite unconnected to the existing holiday accommodation business. Any economic benefit derived from the proposal would merely be a personal one to the applicant and the economic benefit to the borough would be minimal and not considered sufficient to out-weigh the conflict with policy. As such the proposal is not considered to comply with Policies SP4 and EP8 of the WLP31.

9.10 Policy EP5 of WLP31 requires a Town Centre Sequential Test for main town centre uses outside defined centres, to demonstrate that there are no sequentially preferable sites available. This aligns with paragraph 86 of the NPPF. The NPPF defines a main town centre use to include restaurants (which includes cafes/bistros) and leisure facilities. Paragraph 88 states this sequential approach should not be applied to applications for small scale rural development. As there would be the potential to accommodate a sizeable number of people with covers able to be provided on both on the ground floor and first floor, the proposed development is not considered to be small-scale rural development. Furthermore as it is not considered to be ancillary to the existing business, it is not necessary for it to be sited at the application site and therefore the proposal should be sequentially tested for a more suitable site within a defined centre. The applicant has provided a sequential test outlining that there are no other suitable sites within or adjacent the nearby settlements. Policy EP5 requires the developer to apply a sufficiently flexible approach to their requirement in terms of scale, format and car parking provision. In addition there is case law that establishes that it is not reasonable for local planning authorities to expect applicants to disaggregate their schemes where there is a



functional need for them to be integrated or consider sites that would require fundamental changes to what is proposed. The results of the submitted sequential test showed that there were no other sites within the borough available to accommodate this building. Whilst there is no reason to doubt this, a critical factor is the necessity for the size of building. The sequential test exercise therefore carries little weight as there is no justification for the size of building proposed (as established above) or why it has to be one building for the different uses. Therefore it is not possible to conclude that a smaller building for example could not be sited elsewhere within a defined centre. As such the proposal's failure to comply with Policies SP4 and EP8 together with the insufficient sequential test information means that the proposal also fails to comply with the NPPF and Policy EP5 of the WLP31.

9.11 In addition to the above, consideration must also be given to the connectivity and accessibility of the site and whether it would fall to be considered a sustainable location for the proposal, as required by Policy SP2 of WLP31 and the NPPF. As established it is considered that the proposal primarily operates separately from the existing holiday accommodation business and so it does not necessarily have to be located at the same site/area as the existing holiday business. The closest settlement would be Hambleton, approximately 1.3m away. Visitors to the independent bistro and function suite would be unduly reliant on the use of private motor vehicle to access it both in terms of the distance to the nearest settlement and the lack of safe footways on roads which are unlit and are subject to national speed limits. It is therefore considered that the proposal would fail to satisfy policy SP2.

#### Visual Impact / Design / Impact on the street scene

9.12 The design of the building incorporates glazing to help alleviate the building mass however it is nevertheless larger in scale than the building previously approved under permission ref: 15/00758/FULMAJ. The building is considered to be large in scale and there will be views of the building from the wider area having regard to the wider open landscape to the south and east. However it's siting on the western boundary means it will be viewed in the context of the other three buildings on site as well as the group of residential properties to the west and north-west of the site where the landscape is more developed. In addition the existing holiday cottages on the eastern side of the site do provide additional screening when viewed from the east on Carr Lane. Whilst a reduction in the scale and massing of the building would be looked on more favourably, having regard to the long distance views of the buildings from the public vantage points and the scale, design and appearance to the existing buildings on site, on balance it is not considered that there would be an unacceptable visual impact having regard to Policies SP4 and CDMP3. The proposed building is also immediately adjacent to Public Right of Way (PROW) 2-22-FP-11. The proposal does have an impact on the setting of this PROW due to its size and proximity, however the impact is not considered so great that it is unacceptable, especially as this part of the PROW is adjacent to existing built development. As such the appearance, design and visual impact of the development are considered acceptable.

#### Impact on residential Amenity

9.13 Due to the location of the development and its distance from boundaries with neighbouring residential properties it is considered that there will be no detrimental impact to residential amenity including overbearing impact or loss of light from the building itself. It is considered that there would be a greater impact to the amenity of residents living on Brickhouse Lane caused by the increase in vehicular movements and associated noise etc. from patrons using the bistro which is proposed to operate

until 10pm. Whilst this is a legitimate concern it is not considered so detrimental that it is unacceptable in its own right. Therefore the proposal is considered to comply with Policies CDMP1 and CDMP3 of WLP31.

#### Impact on Highway / Parking

9.14 The proposal will use the existing access to the site and additional parking is also proposed. Lancashire County Council Highways department have raised no objection on highway safety grounds and as such the proposal is considered to comply with Policy CDMP6 of WLP31. A requirement of Policy CDMP6 is the provision of Electric Vehicle Charging Points (EVCPs) on developments where there would be an increase in vehicular movements. This could be secured by condition on any permission granted.

#### Flood Risk/Drainage

9.15 The site lies within Flood Zone 3, at the highest risk of flooding, and so a site specific flood risk assessment (FRA) is required. The submitted FRA has been assessed by the Environment Agency who have accepted its conclusions. Notwithstanding the acceptable FRA, as the development results in the creation of a new stand-alone business a flood risk sequential test is required to adequately demonstrate that there are no other suitable sites for the development that are at a lower risk of flooding. A sequential test has been submitted by the applicant which outlines that there are no other suitable sites reasonably available and comparable that are at a lower risk of flooding. Whilst the parameters of the search have been agreed and the results accepted, again like with the town centre sequential test, as the size of the building has not been adequately justified it is not possible to conclude that a smaller building for example could not be sited elsewhere within a lower flood risk area. Taking the above into account it is considered the proposal fails to satisfy the NPPF and Policy CDMP2 of WLP31 with respect to applying the sequential test.

#### Ecology

9.16 No ecology survey has been submitted as part of the application however an Ecological Appraisal including a Phase 1 Habitat survey was submitted with the previous application (ref: 15/00758/FULMAJ) which had been prepared by a suitably qualified ecologist. Overall, the survey indicated there were no significant constraints in relation to the proposed development. GMEU as the Council's ecology advisor accepted the report findings. Notwithstanding the time that has now passed, it is considered that there are no matters that would give rise to concerns over the impact to protected species or protected designated sites. This stance is supported by Natural England's no objection to the proposal. The proposal is therefore considered to comply with Policy CDMP4 of WLP31.

#### Other matters

9.17 Trees - There are trees adjacent to the proposal to the west, however as the proposed development has already been completed and in operation any potential impacts may have occurred already. As such the Council is unable to establish what mitigation may have potentially been necessary.

9.18 Contamination - The Council's environmental health officer responsible for contamination has requested that the same condition be applied to that which was requested for 15/00758/FULMAJ. Due to the nature of the development being retrospective the inclusion of this pre-commencement desk study condition is not

possible. Whilst this proposal is a different development it is nevertheless located on the same piece of land as the development approved under 15/00758/FULMAJ. Further to that permission the contamination condition (No.7) was partially discharged with the results of the watching brief required to be submitted in order to fully discharge the condition. The Council's records do not indicate that this was submitted therefore a condition requiring the submission of the results of the watching brief would be considered reasonable and necessary on any new permission granted.

9.19 In the representations received the following matters were highlighted as concerns:

- Operating in breach of planning and restrictive condition: Whilst the proposal has been built without the benefit of planning permission, as it is not in accordance with the previously approved plans and is sufficiently different for it not to be a minor-material change, this is not a determining factor as to the acceptability of the proposed development now for consideration. All proposals are assessed on their own merits against the relevant planning policies and material considerations.
- Allowing this would set a precedent for anyone to go ahead and build whatever they want and then just apply retrospectively: As outlined above all proposals are assessed on their own merits and as such precedent carries little weight in the assessment of the proposal.
- Conflict with future proposals down Brickhouse Lane: This has no bearing on the assessment of the proposal as any future proposals elsewhere that have yet to be submitted for consideration cannot be a material consideration. Furthermore if any of these future proposals were to involve new business ventures then industry competition is not a material planning consideration.

## **10.0 CONCLUSION**

10.1 If the proposed development was for the sole use of guests using the holiday accommodation or for people who had been referred for health reasons to use the specialist services such as the hydro pool etc. then the development would be acceptable. However, the development as proposed amounts to the creation of a new business in a countryside area which would not be ancillary or incidental to the existing business and as such it is difficult to justify the development. The existing business at the site is for holiday accommodation and the proposal would result in the creation of a building predominantly set out for hospitality purposes (bistro and function room) open to members of the public and not exclusively tied to the operation of the holiday accommodation business. In terms of the necessity for the size of building proposed insufficient justification has been provided as to why it is needed at the size proposed and why the bistro and function room in particular is needed at that scale. In addition as the proposal constitutes the formation of the new business it is not considered to be sited in a sustainable location with poor connectivity and accessibility from public transport and the nearest settlement of Hambleton.

10.2 The proposed primary use of the building is classed as a main town centre use and therefore there is a requirement to sequentially test the proposal in order to establish if there are other sites within defined centres that are sequentially preferable to the application site. As there is insufficient justification for the size of

building proposed it is considered that the proposal fails the town centre sequential test.

10.3 The site is located within Flood Zone 3 and whilst there are no concerns over the proposal in terms of safety from flooding it nevertheless requires a sequential test to demonstrate that there are no other sites that are suitable or available at a lower risk of flooding. As there is insufficient justification for the size of building proposed it is considered that the proposal fails the flood risk sequential test.

10.4 No adverse impacts are identified in terms of design and amenity, highway safety and parking, trees and ecology. It is accepted that the facility does provide a community benefit in the form of providing access to all facilities that are used by local people and organisations and there is some minor economic benefit, these benefits are not out-weighed by the clear development plan policy conflict. On balance, taking all material matters into account the application is therefore recommended for refusal as it is contrary to Policies SP2, SP4, CDMP2, CDMP6, EP5 and EP8 of the WLP31.

## **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 EQUALITIES ACT IMPLICATIONS**

12.1 The public sector equalities duty under s149 of the Equalities Act 2010 requires public authorities to have due regard to:

- the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics include age and disability.

12.2 This legislation has been considered in coming to this recommendation.

## **13.0 RECOMMENDATION**

13.1 Refuse planning permission

### **Recommendation: Refuse**

1. The proposed development would result in the creation of a stand-alone business in an area of countryside as designated in the adopted Wyre Local Plan (2011-2031). It does not constitute either an expansion of an existing business or diversification of an agricultural business and therefore amounts to unjustified development in the countryside. Furthermore the proposed development is located in an unsustainable location and not well-related to the nearest settlement of

Hambleton. As such it is therefore considered contrary to Policies SP2, SP4 and EP8 of the adopted Wyre Local Plan (2011-2031).

2. The proposal is for a main town centre use capable of functioning as an independent planning unit, and therefore requires a sequential test to demonstrate that there are no sequentially preferable sites available for the development in a defined centre. The sequential test provided with the application is insufficient on the basis of the lack of adequate justification for the size of building proposed. This would therefore be contrary to Section 7 of the NPPF and Policy EP5 of the Adopted Wyre Local Plan.

3. The proposed development lies within Flood Zone 3 and therefore it is required to be demonstrated that the proposal cannot be located at a site less vulnerable to flooding. The submitted sequential test has failed to provide sufficient evidence to show that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. This position is further supported by the lack of adequate justification for the size of building proposed. As such this would not steer development to areas with the lowest probability of flooding, thereby increasing the number of people and properties at risk of flooding and failing the sequential test, contrary to the NPPF, the guidance in the NPPG and Policy CDMP2 of the Adopted Wyre Local Plan.