

Committee Report**Date: 04.08.2021**

Item Number 02

Application Number 21/00379/FUL

Proposal Permanent siting of a shipping container to be used as a rest stop cafe (resubmission of planning application 18/00339/FUL) (pursuant to variation of condition 4 (operating hours) on permission ref. 19/00286/FUL)

Location Layby Adjacent Preston Lancaster Road A6 Fowler Hill Lane Cabus Lancashire PR3 1AW

Applicant Mrs K Brooks

Correspondence Address c/o Miss Jessica Tebay
5 Bobbin Mill Cottages Stubbins Lane Claughton on Brock
Preston PR3 0PL United Kingdom

Recommendation Permit

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

Site Notice Displayed: 01.04.2021

1.0 INTRODUCTION

1.1 This application is before Members of the Planning Committee at the request of Councillor Lady Atkins. Two previous applications relating to this site / development have been considered by the Planning Committee. A site visit is recommended to enable Members to understand the proposal and its setting.

2.0 SITE DESCRIPTION AND LOCATION

2.1 The application site is within a large layby (forming part of the adopted highway) on the west side of the A6 in Cabus adjacent to the junction with Fowler Lane. The site is within the countryside as defined by the Wyre Local Plan. A café presently operates at the site for the sale of hot food and drinks as per planning permission ref: 19/00286/FUL granted by Planning Committee in 2019 for the siting of a shipping container to be used as a rest stop café (5 year temporary permission granted until July 2024).

3.0 THE PROPOSAL

3.1 This application seeks to vary condition 4 on permission ref: 19/00286/FUL to allow for extended operating hours. The current approved hours allow the business to operate between 07:00 and 15:00 Monday to Friday, with no operating permitted on Saturdays, Sundays, Bank Holidays and Public Holidays. This

application now proposes opening hours between 07:00 and 22:00 on weekdays, weekends and Bank Holidays and Public Holidays. The applicant has stated that given the Covid-19 pandemic, there has been a reduction in passing trade and the extended opening hours would allow them to serve other customers.

4.0 RELEVANT PLANNING HISTORY

4.1 19/00286/FUL: Permanent siting of a shipping container to be used as a rest stop cafe (resubmission of planning application 18/00339/FUL). Permitted.

4.2 19/00286/DIS: Discharge of conditions 03 (materials), 05 (ventilation details) and 07 (outdoor seating) on application 19/00286/FUL. Agreed.

4.3 18/00339/FUL: Permanent siting of shipping container for use as rest stop cafe. Permitted.

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

OTHER MATERIAL CONSIDERATIONS

5.2 NATIONAL PLANNING POLICY FRAMEWORK 2021

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

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

- 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 has raised the following points of objection:

- There is no justification for the amendments to the opening hours and it contradicts statements previously made by the applicant;
- The layby is in a state of disrepair with a poor surface that is prone to excess water;
- Illegal fly-tipping takes place and rubbish, urine and face masks are at the site despite the availability of rubbish bins;
- Space concerns as the container takes up a substantial amount of space in the busy layby which is intended for lorries to stop;
- Extended hours will attract other local trade looking for evening takeaways which would compromise the available parking further and likely create access problems to Fowler Hill Lane opposite the site;
- The layby is in a generally quiet area of Cabus next to fields and woodlands - the extended opening combined with light, air and noise pollution would be detrimental to the rural character and quality of the environment.

6.2 LANCASHIRE COUNTY COUNCIL (HIGHWAYS) have no objections. The position and siting of the shipping container to be used a rest stop café has been previously agreed.

6.3 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (AMENITY) has not responded during the application.

6.4 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (LICENSING) has confirmed that the current Street Trading Consent would not apply and the applicant would need to register with the food safety team and non-domestic rates as a standard commercial premises.

7.0 REPRESENTATIONS

7.1 10 letters of objection have been received, with points raised summarised as follows:

- Having two vendors on the site would be very dangerous with increased congestion;
- There would not be enough parking spaces for two cafes';
- Social distancing has taken place in at the other café at the layby;
- The current opening hours sustain both businesses keeping more people in employment which appears to be the best outcome rather than closure due to unnecessary competition;
- There is no permanent toilet and no potable water thus there are inadequate facilities for sanitation and hygiene;
- Waste should be managed correctly otherwise vermin would be attracted;

- The increased opening may increase people loitering, littering and anti-social behaviour;
- The existing setup should be maintained to reduce conflict and highway safety issues;
- The layout, with customers on both sides of the layby could be dangerous to users,
- This café should close when the other mobile café is open;
- The parking for lorries would be restricted;
- The business is also selling "frozen meats" which is outrageous given butchers would have to pay rates to sell their products elsewhere - the business should be a café only and not include retail.

7.2 1 neutral letter was received raising the following points:

- A waste collection contract should be secured as there will be significantly more waste from the proposal;
- There is no mains water or sewerage and it will make basic hygiene more difficult.

8.0 CONTACT WITH APPLICANT/AGENT

8.1 None required.

9.0 ISSUES

Principle of development

9.1 The principle of development has been established through the consideration and approval of previous applications. The proposed alternative opening hours would not impact on the principle of the development which remains acceptable.

Visual Impact / Design

9.2 This application would not result in any additional visual impacts. There are no changes proposed to the previously approved plans in terms of siting of the shipping container and supporting facilities (bins to the front and portable toilet, water butt and two tables each with 4 chairs to the sides). The application is therefore considered to remain an acceptable form of development in the countryside in accordance with policy SP4 of the Local Plan (2011-31).

Impact on residential amenity

9.3 10 letters of objection and 1 neutral letter have been received. Some public concerns were raised about noise and anti-social behaviour. There are no residential properties in the vicinity of the site. The previous applications were assessed by the council's Environmental Health Team who raised no objections in relation to amenity and no unacceptable impacts were identified. The extended opening hours are not considered to result in any adverse residential amenity impacts and the application would accord with Policies CDMP1 and CDMP3 of the Local Plan (2011-31).

Impact on Highway Safety / Parking

9.4 A café currently operates from the site. Concerns have been raised by some members of the public about highway safety and reduced availability of parking in the layby. It is accepted that the extended opening hours are likely to result in an increased use of the layby for parking. However, given the nature of the rest stop café, customers are only likely to park for a short time to order and collect/consume food before carrying on their journey. The layby is shared between the applicant and another mobile snack operator and it is accepted that the extended hours would likely result in more instances where both operators are open. It is not considered that this is likely to result in a significant increase in visitors overall given the nature of the businesses. The layby is considered to be large enough to allow for any such increase in use. LCC Highways have confirmed that the position and siting of the container/café have been previously agreed and the variation of opening times proposed is acceptable. Conditions attached to the previous permission, including restriction on outdoor tables, would also be attached to any new permission granted.

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

Drainage and Flood Risk

9.6 There is a portable toilet as approved under permission 19/00286/FUL, to be disposed of each day by the applicant. No alterations to drainage arrangements are proposed and the previously approved drainage arrangements are considered acceptable for the proposed operating hours.

Ecology

9.7 In view of the proposed extended operating hours, a condition would be added to ensure no external lighting is proposed that could result in unacceptable impacts on local wildlife. This would also safeguard visual amenity. No additional impacts on ecology have been identified.

Trees/Landscaping

9.8 No alterations are proposed to the previously agreed details.

Contamination

9.9 No additional impacts identified.

9.9 Other matters

9.10 In respect of points raised by public consultation, the applicant would be responsible for meeting the relevant food hygiene standards and also to secure the appropriate trading license. The extended operating hours would not have any significant impact on waste or anti-social behaviour. Increased competition between other food vendors/operators is not a material consideration and would not represent a reason to refuse the application. One member of the public has suggested that retail (of frozen meat) takes place from the unit. The existing permission allows for use as a café/restaurant and this would not be affected by this application which relates to operating hours.

10.0 CONCLUSION

10.1 The principle of development has already been established. The proposed extended opening hours would not result in any unacceptable impacts in terms of visual impact on the countryside, residential amenity, highway safety, ecology or drainage. No other unacceptable material impacts have been identified. Conditions will be brought across from the previous permission and condition 4 will be amended as appropriate. The application is, therefore, recommended for approval.

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 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 16th March 2021 including the following plans/documents (submitted and approved under original planning permission ref: 19/00286/FUL):

- 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.

2. The development shall be carried out strictly using those materials specified in the "Supporting document for discharge of conditions application in relation to approval 19/00286/FUL", received by the Local Planning Authority 25.01.2020 and approved under permission 19/00286/DIS, unless other minor variations are submitted to and approved in writing by the Local Planning Authority.

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

3. The use hereby permitted shall not operate outside the hours of 07:00 to 22:00 on any day of the week.

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

4. The external ventilation system shall be maintained in full working order in perpetuity in accordance with the details specified in the "Supporting document for discharge of conditions application in relation to approval 19/00286/FUL", received by the Local Planning Authority 25.01.2020 and approved under permission 19/00286/DIS.

Reason: In the interests of surrounding amenity, in accordance with Policies CDMP1 and CDMP3 of the Wyre Local Plan (2011-31).

5. 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).

6. No outdoor tables/seating shall be provided other than those two tables approved in the "Supporting document for discharge of conditions application in relation to approval 19/00286/FUL", received by the Local Planning Authority 25.01.2020 and approved under permission 19/00286/DIS.

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

7. 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).

8. The shipping container and associated structures shown on the approved plans (portable toilet, external bins, water butt) and any supporting structure(s) on which the container is sited shall be removed, and the land restored to its former condition, on or before 3rd July 2024 unless a new planning permission for the development is granted prior to that date.

Reason: The development is such that it would not be permitted as permanent development having regard to Policy SP4, CDMP1 and CDMP3 of the adopted Wyre Borough Local Plan.

9. In the event that the A3 cafe and restaurant use shall cease operating within the permitted time period, the shipping container and associated structures shown on the approved plans (portable toilet, external bins, tables, seating, water butt) and any supporting structure(s) on which the container is sited shall be removed from the site, and the land restored to its former condition, not later than 6 months following cessation of the use, unless it is re-occupied by a new operator prior to the expiry of the 6 month period.

Reason: The development is such that it would not be permitted as development with no active use associated with it having regard to Policy SP4 and CDMP3 of the adopted Wyre Borough Local Plan.

10. Prior to the installation of any external lighting associated with the development hereby approved, a scheme for the provision of 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 (or any subsequent replacement guidance).

The lighting shall be installed and operated in accordance with the approved scheme details, which shall be maintained and retained thereafter.

Reason: To safeguard visual amenity and ecology in accordance with Policies SP4 and CDMP4 of the Wyre Local Plan (2011-31).