

Committee Report

Date: 04.09.2024

Item Number	01
Application Number	24/00428/FUL
Proposal	Retention of a temporary shipping container for use as a rest stop café
Location	Layby Adjacent Preston Lancaster Road (A6) And Fowler Hill Lane Cabus Lancashire PR3 1AW
Applicant	Ms Karen Brooks
Correspondence Address	c/o Mrs Sarah Pope Office A Bradley Hill Farm Claughton On Brock Preston PR3 0GA
Recommendation	Permit

REPORT OF THE HEAD OF PLANNING SERVICES

CASE OFFICER - Mrs Hannah Hale

Site Notice Date: 25.06.2024

Press Notice Date: N/A

1.0 INTRODUCTION

- 1.1 This application is before Members at the request of Councillor Lady Atkins citing concerns that the proposal is visually intrusive and inappropriate to the area. 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 shipping container is already in situ but subject to a temporary time condition.

3.0 THE PROPOSAL

- 3.1 The proposal is for the permanent siting of a shipping container, already in situ, used as a rest stop cafe. It measures 12.1m in length and 3.65m in width with a maximum height of 2.59m. It has three windows and an access door in the west facing elevation and a window within the north and south facing (side) elevations. There is a vent within the east facing (rear) elevation. The external walls of the shipping container are clad with composite cladding with a timber effect appearance, and UPVC window frames with

timber shutters. A portable toilet is provided externally, adjacent to the north-west corner of the container. It is sited opposite the end of Fowler Hill Lane, to the west of the hedgerow between the layby and the A6.

- 3.2 This application follows application 19/00286/FUL which was previously approved by Members of the Planning Committee on 3rd July 2019. This permission came with a 5-year temporary condition attached.
- 3.3 An appeal against a condition was allowed under planning application 21/00379/FUL, extending the permitted operating hours of the café to between 07:00-22:00 any day of the week.
- 3.4 Relevant advertisement consent has also been applied for under application reference 24/00429/ADV.

4.0 RELEVANT PLANNING HISTORY

- 4.1 18/00339/FUL - Permanent siting of shipping container for use as rest stop café - Refused
- 4.2 19/00286/FUL - Permanent siting of a shipping container to be used as a rest stop cafe (resubmission of planning application 18/00339/FUL) - Approved
- 4.3 19/00286/DIS - Discharge of conditions 03 (materials), 05 (ventilation details) and 07 (outdoor seating) on application 19/00286/FUL - Accepted
- 4.4 21/00379/FUL - 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) - Approved (an appeal was allowed on this permission allowing operating hours until 22:00 daily)

5.0 PLANNING POLICY

- 5.1.1 The Wyre Local Plan (2011-2031) (incorporating partial update of 2022) (WLPPU31) was adopted on 26 January 2023 and forms the development plan for Wyre. The Barton Neighbourhood Plan (2019-2030) was adopted on 30 November 2023 and forms part of the development plan for Wyre, where decisions are made within the Barton Neighbourhood area. 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 WLPPU 2031 are of most relevance:

- SP1 - Development Strategy
- SP2 - Sustainable Development
- SP4 - Development in the Countryside
- CDMP1 - Environmental Protection
- CDMP3 - Design
- CDMP6 - Accessibility & Transport

5.2 NATIONAL PLANNING POLICY FRAMEWORK 2023

5.2.1 The revised National Planning Policy Framework (NPPF) was published by the Government on 19th December 2023. 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 2023 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 and beautiful 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:

- Pedestrian safety. There is no footpath or road markings. Parking of large vehicles within the layby means pedestrians are required to move into the centre of the road to access Fowlers Lane.
- Motorists safety. Motorists need to go around parked vehicles to go down Fowlers Lane and their line of sight is obscured. Owing to the lane being so narrow, this could lead to head on collisions.
- Litter. The site around the café is not kept litter free. Litter is strewn around the litter bin and in the hedgerow.
- Out of keeping. The large images of food displayed on the outside of the container are not in keeping with the surrounding rural area.
- Permanency. The temporary condition expires/expired on 03.07.2024. Do not wish this container to be a permanent fixture at the site for the reasons above.

6.2 UNITED UTILITIES

6.2.1 No response received for this application. Standard advice given for previous application (19/00286/FUL).

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 ASSISTANT DIRECTOR OF PUBLIC PROTECTION (AMENITY)

6.5.1 No response received at the time of compiling this report

6.6 WBC ASSISTANT DIRECTOR OF PUBLIC PROTECTION (FOOD SAFETY)

6.6.1 No response received at the time of compiling this report

6.7 WBC ASSISTANT DIRECTOR OF PUBLIC PROTECTION (LICENSING)

6.7.1 No response received at the time of compiling this report

7.0 REPRESENTATIONS

7.1 Two public comments have been received at the time of compiling this report which neither support or object to the proposal. A summary of these with the comments summarised as follows:

- The nature of roadside cafes means there is room for large vehicles (HGVs) to park up at night. Space is now tight in the area at night with lorries having to drive off when they cannot find adequate room to park up. If this business is to be permanent it needs to show that it is financially viable to ensure it is adding to the local economy. If so, it should be supported.
- How can this cladded shipping container be permanent one when it can't be towed away every evening. If it is permitted, can everyone with a street trading license apply to have a cladded container put permanently in their trading place. The point of these licenses is that they can be moved about

8.0 CONTACTS WITH APPLICANT/AGENT

8.1 An extension of time was agreed and confirmation that a further 5 year temporary use condition being applied is acceptable

9.0 ISSUES

9.1 The main planning issues are:

- Principle of Development and Policy Compliance
- Visual Impact / Design
- Impact on highway safety / parking
- Flood Risk/Drainage

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.88 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.89 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 retain some environmental benefit to the area, along with the retention of two jobs which have some economic benefit.
- 9.6 The mobile café was previously approved by the Planning Committee on the 3rd July 2019 and was subject to an additional condition which restricted the siting of the container for a temporary period of 5 years (Condition 9 of application 19/00286/FUL). 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 88 and 89 of the NPPF and overall, the proposed development is considered to be acceptable in principle.

Visual Impact / Design

- 9.7 The shipping container is sited within the layby area to the west of the A6 and behind the established boundary hedgerow and trees. Given the low height of the shipping container, it is screened from views from the A6. Whilst the container is clearly visible from the end of Fowler Lane, it is set in the context of other parked vehicles in the layby and set against a backdrop of landscaping.
- 9.8 The container is finished in timber wood grain effect cladding which gives it a reasonably 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, overall, to have a limited visual impact within the surrounding countryside area, and realistically can only be seen in its immediate vicinity. As deemed acceptable under the previous application, the materials are not considered to result in any significant harm in visual terms given the

aforementioned screening and context of the surrounding area. Advertisement consent for the signage is under consideration through application 24/00429/ADV.

- 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. Although the Council's Environmental Health Officer has not commented on this application at the time of compiling this report, they raised no objections to the previous application for the same development. Therefore, there are no concerns in relation to amenity and no new unacceptable impacts have been identified. An appeal against a condition was allowed under planning application 21/00379/FUL, extending the permitted operating hours of the café to between 07:00-22:00 any day of the week and these operating hours are to remain the same. The Inspector for this appeal concluded that these operating hours would not harm the living conditions of nearby residents with regard to noise and disturbance.

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, as per the previous application, they 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. As such, it is reasonable to apply the temporary condition that was imposed on the previous permission, requiring the container and associated structures to be removed after 5 years unless planning permission is reinstated. In this instance the applicant has agreed to a further 5-year temporary permission condition being added. This condition is reasonable given the temporary nature of the structure in this location.
- 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 the applicant and are therefore not appropriate or reasonable 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. The advertisements are being considered under a separate application.
- 9.13 Overall, it is deemed that the proposed development, subject to suitably worded conditions, would not have any significant detrimental impact on highway 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 have not responded to this application. It is noted that relevant consents in respect of licencing were requested under the previous application and will again be required as necessary. The applicant would be responsible to ensure they are compliant with other relevant legislation and these matters would not be considered under this current planning application.
- 9.16 The Council's Food Safety Team has raised some questions in relation to power supply, food safety, drainage, sanitation and maintenance and ventilation. As the container has already been in situ and operating as the proposed use for a number of years, there are no new concerns. The use is still considered to be temporary in nature. The applicant would be responsible to ensure they are compliant with relevant legislation and these matters would not be considered under the current planning application.
- 9.17 In relation to concerns received from the Parish Council regarding litter, it is deemed that the proposal, which again includes an external toilet and bins, is unlikely to result in an increase to the amount of litter and other tipping and should therefore not negatively impact 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. As per the previous application, a condition can be imposed requiring the bins to be emptied and the contents removed from the site each day.

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 the business has been running from the site for 5 years. It is therefore 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 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 28th May 2024 including the following plans/documents:

- Site Location Plan, Drg. No SP/KB/4218.
- Existing and Proposed Site Plan, Drg.No SP/KB/4219.
- Existing and Proposed Plans and Elevations, Drg.No. SP/KB/4220

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 on the approved plan ref.SP/KB/4220 unless other minor variations are submitted to and approved in writing by the Local Planning Authority after the date of this permission and before implementation.

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, Monday to Sunday inclusive.

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

4. 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).

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 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.

7. The premises shall be used for cafe and restaurant use (Use Class E(b)) 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 4th September 2029, 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 cafe and restaurant use shall cease operating within the permitted five year time period, 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 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.

Reasons: -

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 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.