

Committee Report**Date: 06 March 2019**

Item Number	02
Application Number	18/00339/FUL
Proposal	Permanent siting of shipping container for use as rest stop cafe.
Location	Layby Adjacent Preston Lancaster Road A6 Fowler Hill Lane Cabus Lancashire PR3 1AW
Applicant	Mrs K Brooks
Correspondence Address	c/o M L Planning Ltd 5 Bobbin Mill Cottages Stubbins Lane Claughton On Brock Preston PR3 0PL
Recommendation	Permit

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 Balmain. 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 large 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 both the adopted and emerging Wyre Local Plan. The site is presently used for the sale of hot food and drinks although this is via 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. It would be constructed from metal with metal framed double glazed windows and doors. It would be sited opposite the end of Fowler Hill Lane to the west of the hedgerow between the layby and the A6.

4.0 RELEVANT PLANNING HISTORY

4.1 None.

5.0 PLANNING POLICY

5.1 ADOPTED WYRE BOROUGH LOCAL PLAN 1999 (SAVED POLICIES)

5.1.1 The Wyre Borough Local Plan was adopted on the 5th July 1999. The saved Local Plan forms part of the development plan for the borough. Due weight should be given to relevant policies according to their degree of consistency with the Emerging Local Plan and the National Planning Policy Framework (NPPF).

5.1.2 The following policies are considered to be of relevance to the determination of this application:

Policy SP13 - Countryside

Policy SP14 - Standards of design and amenity

Policy EMP12 - Diversification of the Rural Economy

5.2 EMERGING WYRE LOCAL PLAN

5.2.1 The Council has prepared a new Wyre Local Plan (WLP31). Following public consultation on the 'Publication' draft Wyre Local Plan (2011-2031), the Council submitted the draft Local Plan with minor amendments to the Government for examination on the 23rd January 2018. The examination of the WLP31 was completed on 1st February 2019 when the Council received the Inspector's final Report. The Inspector concluded that the WLP31 is sound subject to the main modifications he has recommended. The Local Plan is being considered for Adoption at a special Council meeting arranged for the 28th February 2019.

5.2.2 At the time of compiling this committee report, the WLP31 as recommended to be modified does not have the full weight of an Adopted Local Plan, but is to be afforded significant weight. In the event that the WLP31 is formally adopted at the special Council meeting then full weight should be given to those WLP31 policies and the current adopted policies set out in section 5.1 above would fall away.

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

SP2 - Sustainable Development

SP4 - Countryside Areas

CDMP1 - Environmental Protection

CDMP3 - Design

CDMP6 - Accessibility and Transport

5.3 NATIONAL PLANNING POLICY FRAMEWORK (2018)

5.3.1 The National Planning Policy Framework (NPPF) was published by the Government on the 24th July 2018. 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 following chapters of the NPPF are considered relevant to the determination of this application:

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

5.4 OTHER GUIDANCE

5.4.1 National Planning Practice Guidance (NPPG) - March 2014

6.0 CONSULTATION RESPONSES

6.1 CABUS PARISH COUNCIL 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 would be out of keeping with the local rural area;
- The proposal could lead to more fly-tipping, littering etc.;
- A shipping container that is suitably designed/sympathetic to the area with toilet facilities and improvement of the road surface could improve the state of this layby.

6.2 LANCASHIRE COUNTY COUNCIL (HIGHWAYS) has no objections subject to conditions.

6.3 WYRE COUNCIL HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (AMENITY) has no objections.

6.4 WYRE COUNCIL HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (FOOD) make a number of observations about food safety industry requirements.

7.0 REPRESENTATIONS

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

- There is currently a historical joint arrangement between the applicant and another trader that the applicant would operate Mondays, Wednesdays and alternate Thursdays only with the second trader operating the remaining balance of the time. The application will not allow both to continue trading due to licensing rules which is unfair to the trader who is forced off the site.
- The snack bar is nothing to do with Spencer's fine foods, it is now run by a company called belti beef.

8.0 CONTACTS WITH APPLICANT/AGENT

8.1 Additional details have been provided during the application process to address various concerns. The applicant has served notice on Lancashire County Council who own the land as part of the adopted highway.

9.0 ISSUES

9.1 The main planning issues are:

- Principle of development
- Visual impact / design
- Impact on highway safety / parking

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 (saved policies). Policy SP13 sets out that development (unless justified by other policies within the local plan) will not be permitted within the countryside, as designated on the proposals map, except for:

- A) The essential requirements of agriculture or forestry, suitable forms of tourism and related activities;
- B) Fulfilling a local housing need;
- C) The re-use or refurbishment of listed buildings or institutional buildings;
- D) The conversion of rural buildings; or
- E) The development of a single infill plot within an established frontage of not less than five dwellings.

9.3 The proposed development would fail to meet the criteria set out above nor would the development be justified by other policies within the development plan. Policy SP4 in the emerging Wyre Local Plan (WLP31), which should be given significant weight, states that development which adversely impacts on the open and rural character of the countryside will not be permitted unless it is demonstrated that the harm to the open and rural character is necessary to achieve substantial public benefits that outweigh the harm. The development proposed under this application does not meet any of the specified criteria supported under Policy SP4 and is considered contrary to this policy. In the event that WLP31 is adopted by Full Council before the Planning Committee then full weight should be given to SP4 of the WLP31, and policy SP13 would fall away.

9.4 Whilst it is noted that the proposals do not accord with the provisions of the adopted and emerging Wyre Local Plans given its countryside location, it is 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 and pollution within centres and on smaller arterial routes. It is considered that this would result in some environmental benefit, and would secure 2 part time jobs which would have an economic benefit.

9.6 It is noted that mobile cafes presently operate at the site and the proposal seeks to develop this current operation into a permanent use and whilst the proposal would not strictly accord with Policies within the adopted and emerging Local Plans,

given its minor scale, existing operation of similar uses in the layby 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 / impact on heritage assets

9.7 The shipping container would be sited within the layby area to the west of the A6 and would be behind the well-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 including HGVs and set against a backdrop of landscaping. The Parish Council has objected to the visual appearance of the container and impact on the surrounding area. Whilst the small metal shipping container proposed cannot be said to be of good design, it would not appear incongruous or unusual in a layby such as this where its visual intrusion is considerably reduced by the presence of other vehicles. Furthermore it is sited against a backdrop of established hedges and trees which give a considerable degree of screening. As a result it is considered to have a limited visual impact within the surrounding countryside area, and realistically would only be seen in its immediate vicinity. 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. As the external colour/finish is not specified in the application, it is considered reasonable for a condition to be attached requiring a paint finish to be agreed to ensure it that would be appropriate for the rural setting of the site. On this basis, the application is considered to have an acceptable visual impact and would accord with Policy SP14 of the adopted Local Plan and Policy CDMP3 of the emerging Local Plan.

Impact on highway safety / parking

9.8 The café would be sited within the public highway boundary. Lancashire County Council (LCC) Highways provided an initial response requesting further details for this application. Following submission of updated plans and information, LCC Highways have confirmed that they have no objections to the proposed development subject to conditions.

9.9 The whole of the layby area is within the adopted highway boundary as confirmed by LCC Highways and allows for access to Fowler Lane. LCC do not consider the shipping container as a permanent building as it could be removed from the highway and it is understood that it 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 WBC. 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 amended 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.

9.10 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, highway license requirements or through an agreement between the site owner (LCC Highways) and applicant. An informative could be

added to make the applicant aware of these matters. Street trading and licensing matters would be covered under separate legislation and planning conditions would not be necessary or appropriate. A condition would be appropriate and reasonable in relation to external seating to minimise the loss of the layby area for parking.

9.11 Overall, given no objections are raised by LCC Highways, it is deemed that the proposed development, subject to suitably worded conditions, would not have any significant detrimental impact on highways safety.

Other matters

9.12 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.

9.13 In terms of comments raised by the Parish Council, it is deemed that the provision of a permanent café with facilities including seating, toilet and bins is likely to result in an improvement in terms of reducing litter and other tipping. It is noted that the Council's Environmental Health Team have not raised any objections to the scheme in terms of amenity including noise and odours. Comments were raised in relation to the requirements under separate legislation relating to food safety and hygiene. Whilst not a planning consideration revised plans have been submitted to showing a toilet and bin provision. The applicant has confirmed that bins would be emptied at the end of each day of operation and the contents removed from site. This can be secured by condition. A condition can also 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 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 24th September 2018 including the following plans/documents:

- Revised Location Plan Scale 1:1250, received 10th December 2018;
- Revised Proposed Site Plan & Container, received 10th December 2018.

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 container shall not be brought onto the site 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 SP14 of the Adopted Wyre Borough Local Plan (July 1999). The details are required prior to the container being brought onto the site because they were not submitted with the application.

4. The use hereby permitted shall not operate outside the hours of 07:00 to 15:00 Monday to Friday nor at any time on Saturdays, Sundays, Bank Holidays and Public Holidays.

Reason: In the interests of the amenity of the area in accordance with Policy SP14 of the adopted Wyre Borough Local Plan (July 1999).

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 safeguard the working conditions of the staff employed at the premises and in the interests of visual amenity, in accordance with Policy SP14 of the Adopted Wyre Borough Local Plan (July 1999).

6. No bins shall be provided externally. The internal bins shall be emptied at the end of each day on which the café has been open to the public and waste shall be removed from the site (in accordance with the email from the applicant's agent received by the Local Planning Authority on 8th October 2018).

Reason: To minimise the risk of pollution that may cause harm to the amenity of the surrounding countryside in accordance with Policy SP14 of the Adopted Wyre Borough Local Plan (July 1999).

7. No tables or seating shall be provided externally.

Reason: To ensure there is no reduction in the public parking area and in the interest of pedestrian safety and visual amenity in accordance with saved policy SP14 of the Adopted Wyre Borough Local Plan.

Notes: -

1. The applicant is advised that separate highway and street trader's licences may be required from the local highways authority and local authority. The local highways authority has advised that the scheme would need to 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 would need to 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.

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.