

Committee Report**Date: 03.07.19**

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| Item Number | 04 |
| Application Number | 19/00286/FUL |
| Proposal | Permanent siting of a shipping container to be used as a rest stop cafe (resubmission of planning application 18/00339/FUL) |
| Location | Layby Adjacent Preston Lancaster Road A6 Fowler Hill Lane Cabus Lancashire PR3 1AW |
| Applicant | Mrs Karen 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****1.0 INTRODUCTION**

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

2.0 SITE DESCRIPTION AND LOCATION

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

3.0 THE PROPOSAL

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

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

4.0 RELEVANT PLANNING HISTORY

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

5.0 PLANNING POLICY

5.1 ADOPTED WYRE BOROUGH LOCAL PLAN

5.1.1 The Wyre Local Plan 2011-2031 (WLP31) was adopted on 28 February 2019 and forms the development plan for Wyre. To the extent that development plan policies are material to the application, and in accordance with the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise.

5.1.2 The following policies contained within the WLP 2031 are of most relevance:

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

5.2 NATIONAL PLANNING POLICY FRAMEWORK (2019)

5.2.1 The revised National Planning Policy Framework (NPPF) was published by the Government on the 19th February 2019. It sets out the planning policies for England and how these should be applied in the determination of planning applications and the preparation of development plans. At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). The policies in the 2019 NPPF are material considerations which should also be taken into account for the purposes of decision taking.

5.2.2 The following sections / policies set out within the NPPF are relevant to the determination of this application:

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

6.0 CONSULTATION RESPONSES

6.1 CABUS PARISH COUNCIL

6.1.1 objects to the application on the following grounds:

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

6.2 UNITED UTILITIES

6.2.1 Refers to current standing advice.

6.3 LANCASHIRE COUNTY COUNCIL (HIGHWAYS)

6.3.1 No objections subject to conditions.

6.4 THE HEALTH AND SAFETY EXECUTIVE

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

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

6.5.1 No objections.

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

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

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

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

7.0 REPRESENTATIONS

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

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

8.0 CONTACTS WITH APPLICANT/AGENT

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

9.0 ISSUES

9.1 The main planning issues are:

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

Principle of development and Policy compliance

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

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

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

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

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

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

Visual Impact / Design

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

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

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

Impact on residential amenity

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

Impact on highway safety / parking

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

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

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

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

Flood risk/drainage

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

Other matters

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

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

10.0 CONCLUSION

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

11.0 HUMAN RIGHTS ACT IMPLICATIONS

11.1 ARTICLE 8 - Right to respect the private and family life has been considered in coming to this recommendation.

11.2 ARTICLE 1 of the First Protocol Protection of Property has been considered in coming to this recommendation.

12.0 RECOMMENDATION

12.1 Grant full planning permission subject to conditions.

Recommendation: Permit

Conditions: -

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

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

2. The development shall be carried out, except where modified by the conditions to this permission, in accordance with the Planning Application received by the Local Planning Authority on 22nd March 2019 including the following plans/documents:

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

The development shall be retained hereafter in accordance with this detail.

Reason: For the avoidance of doubt and so that the Local Planning Authority shall be satisfied as to the details.

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

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

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

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

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

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

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

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

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

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

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

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

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

Notes: -

1. The applicant shall comply with the requirements set out in the following guidance: "Items on the highway (Code of practice for the control and placing of)". Should access by the Highway Authority or any statutory undertaker or licensed telecommunications operator be required in the future, the container will be removed at the cost to the applicant. The applicant should contact highways@lancashire.gov.uk 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.