

Committee Report**Date: 05.02.2020**

Item Number	02
Application Number	19/01228/FUL
Proposal	Removal of existing residential caravan and erection of one dwelling
Location	Torbant Lodge Brick House Lane Hambleton Poulton-Le-Fylde Lancashire FY6 9BG
Applicant	Ms Bamber
Correspondence Address	c/o Mrs Melanie Lawrenson 5 Bobbin Mill Cottages Stubbins Lane Claughton On Brock Preston PR3 0PL United Kingdom
Recommendation	Refuse

REPORT OF THE HEAD OF PLANNING SERVICES**CASE OFFICER - Mr Rob Clewes****1.0 INTRODUCTION**

1.1 This application is before Members of the Planning Committee at the request of Councillor Julie Robinson. A site visit is recommended to enable Members to understand the proposal beyond the plans submitted and the photos taken by the Case Officer.

2.0 SITE DESCRIPTION AND LOCATION

2.1 The application site is a parcel of land located to the west of Brickhouse Lane and is situated in an area designated as countryside as defined by the adopted Wyre Local Plan (2011-2031) (WLP31). The existing static caravan is located to the west of the site adjacent a stable building at Torbant Farm currently unused due to fire damage. Between the caravan and the application site is the applicant's stable block. To the east of the site there is a manege, belonging to the applicant. There are nearby neighbouring residential properties with Brickhouse Farm, Brook Farm Cottage and Brook Farm to the south and Torbant Farm to the north. Access to the site is off a private driveway which connects to Brickhouse Lane to the east.

3.0 THE PROPOSAL

3.1 The proposed dwelling is situated on a piece of land to the east of the existing static caravan with its front elevation facing westwards. The property has a foot print measuring 16m by 9.8m (excluding the front porch). It has a dual-pitched gable ended roof with an eaves height of 5.03m and ridge height of 7.83m. There is an attached single storey side element which also has a gable ended pitched roof with an eaves height of 2.56m and ridge height of 5.67m. The property has a

curtilage and a rear garden that spans 10.5m back from the rear elevation. Access is to be taken off an existing driveway to the southeast which leads to Brickhouse Lane.

4.0 RELEVANT PLANNING HISTORY

4.1 10/00028/LAWE - Lawful Development Certificate for existing use of part of agricultural building as a residential dwelling and siting of a caravan for residential use. Lawful

4.2 16/00249/FUL - Construction of a fenced all weather sand arena/manege for personal equestrian use. 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
- CDMP1 - Environmental Protection
- CDMP2 - Flood Risk and Surface Water Management
- CDMP3 - Design
- CDMP4 - Environmental Assets
- CDMP6 - Accessibility and Transport
- HP5 - Residential curtilages
- HP6 - Replacement dwellings in the countryside

5.1.3 National planning policy allows local authorities to confirm their annual five year housing land supply through the publication of an Annual Position Statement (APS). In line with the process established by National Planning Practice Guidance, the Council published the APS to the Planning Inspectorate on 31 July 2019. The Planning Inspectorate has now considered the evidence and representations submitted. The Planning Inspectors report confirms that Wyre has a 5 year housing supply of deliverable housing sites for one year, i.e. until 31 October 2020. The APS forms the most up to date position on the five year housing land supply.

5.2 NATIONAL PLANNING POLICY FRAMEWORK 2019

5.2.1 The revised National Planning Policy Framework (NPPF) was published by the Government on the 19 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 5 - Delivering a sufficient supply of homes
- 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

OTHER MATERIAL CONSIDERATIONS

5.3 WYRE SUPPLEMENTARY PLANNING GUIDANCE

5.3.1 SPG4: Spacing Guidance for New Housing Layouts

6.0 CONSULTATION RESPONSES

6.1 STALMINE PARISH COUNCIL - The Parish Council were unable to provide comments due to 3 of the 5 members of their planning committee residing on Brick House Lane which was deemed to create a prejudicial interest.

6.2 LANCASHIRE COUNTY HIGHWAYS - No objections

6.3 ENVIRONMENT AGENCY - Awaiting comments

6.4 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (CONTAMINATION) - Pre-commencement phase 1 desk study condition requested.

6.5 WBC HEAD OF ENGINEERING SERVICES (DRAINAGE) - No objection in principle. Foul and surface water drainage plans are required to be submitted.

6.6 WBC HEAD OF ENVIRONMENTAL HEALTH AND COMMUNITY SAFETY (AMENITY) - Given the location of the site and the nature of the adjacent land uses a noise impact assessment is required.

7.0 REPRESENTATIONS

7.1 Two representations received raising objections on the following matters:

- Proposal is accessed from neighbouring land which is privately owned.
- Land forming part of the application has a restrictive covenant stating that no buildings should be erected on the land.
- There are flooding issues in the area and the development will make this situation worse.
- Impact to wildlife.
- Increase in noise and air pollution.
- Loss of views from neighbouring properties.

- Damage to driveway and property from construction vehicles.
- Loss of value of neighbouring properties.

8.0 CONTACTS WITH APPLICANT/AGENT

8.1 Agent contacted over the issue of the correct certificates being completed on the application form. Agent to provide clarity.

9.0 ISSUES

9.1 The main issues in this application are as follows:

- Principle of development
- Visual Impact / Design / Impact on the street scene
- Impact on residential Amenity
- Impact on Highway / Parking
- Flood Risk and drainage
- Ecology
- Contamination

Principle of development

9.2 The application site falls in an area designated as countryside as defined by the adopted Wyre Local Plan (2011-2031) (WLP31). Policy SP4 of the WLP31 is in accordance with the NPPF by restricting development in the countryside to a limited range of appropriate rural uses, with market housing not falling within any of these identified uses. The proposal would result in the development of a new dwelling in the countryside.

9.3 Policy HP6 allows for the replacement of existing dwellings in the countryside however this would not be for a replacement dwelling, as there is not a dwelling on the site to be replaced. A Certificate of Lawfulness was granted on land to the west of the application site for the siting of a caravan for residential use in 2010 (ref: 10/00028/LAWE). This caravan is in place and is in use for residential purposes. A caravan is defined in the Caravan Sites and Control of Development Act 1960, as supplemented by sec.13 of the Caravan Sites Act 1968. The 1960 Act at sec. 29 states that "a caravan" means "any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any other motor vehicle so designed or adapted, but does not include a) any railway rolling stock which is for the time being on rails forming part of a railway system, or b) any tent". In the case of the existing caravan on site, this is a moveable structure (without foundations etc.) which falls within the definition of a caravan as set out above. Therefore even where a Certificate of Lawfulness has been granted for the use of the land to site a caravan, as is the case here, it does not necessarily follow that it is acceptable to replace it with a more permanent structure.

9.4 A certificate of lawfulness application seeks to establish whether a development has, through the passage of time, become immune from enforcement action, and therefore is considered lawful. In order to qualify for a replacement dwelling, the building to be replaced has to exhibit all the characteristics of a dwelling. It is considered that the existing residential caravan on site is not a permanent dwelling (i.e. a building) and therefore does not comply with the criteria for replacement under HP6 of the Local Plan and is unacceptable in principle.

9.5 Furthermore as the proposal does not comply with any of the exceptions identified within policy SP4 and is not required in relation to either agriculture, horticulture, forestry or other functional need, nor meet any locally identified housing need the proposal is considered unjustified development in the countryside contrary to policy SP4 of the WLP31.

9.6 In addition to the above, consideration must also be given to the location and accessibility of the site and whether it contributes to its sustainability. The site is not considered to be a suitable sustainable location for a new dwelling, as required by Policy SP2 and the NPPF. The occupants of the dwelling would be unduly reliant on the use of a private car to access shops and services. The closest settlement with some facilities and bus stops would be Hambleton, approximately 1.3m away. From the site, this settlement would be highly inaccessible on foot, both in terms of the distance 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 form an isolated dwelling in the countryside.

9.7 Although there is a current lawful residential use on the adjacent land with the siting of a caravan, regard should be taken to the scale and permanency of the proposed dwelling. A four bedroom dwelling is proposed, therefore considered to be a large scale family home with a need for access to schools, medical services, facilities etc. It is considered that this would have a significantly greater demand for services than from the occupants of the relatively small caravan that is authorised. Therefore, this reaffirms that the isolated location of the dwelling would be unacceptable and is therefore considered to be located in an unsustainable location contrary to policy SP2 of the WLP31 and the NPPF.

Visual Impact / Design / Impact on the street scene

9.8 Policies SP4 and CDMP3 along with the provision of the NPPF require decision makers to recognise the intrinsic character and beauty of the countryside. Policy HP6 of the WLP31 outline the parameters of replacement dwellings however as it has been established that the proposal is not a replacement dwelling the provisions of this policy do not apply. Policy SP4 does not allow development that would adversely impact 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 proposed dwelling is predominantly one and a half storey with lowered eaves. The general design approach is considered appropriate for the area however notwithstanding this the proposed location of the proposal would result in a dwelling that would be in a more open aspect than the current position of the static caravan which is well screened by adjacent buildings. Although the general design approach is not inappropriate the proposed dwelling is substantially larger than the caravan and would result in a permanent and sizable addition to the area. Taking these factors into account the proposal would introduce a development of a permanent and significant built form which would be more visible in the surrounding area including roads, public rights of way and across open fields.

9.9 Policy HP5 of the WLP31 allows for the extension of residential curtilages in the countryside although not an existing property the principles of HP5 can be applied. The proposed curtilage is modest and not considered unreasonable in size. However it nevertheless would result in encroachment of domestic curtilage to an area of land where there currently is none and its modest size does not mitigate the harm from the overall size and location of the proposal. As such it is considered that

the proposal would result in an unacceptable impact to the open and rural character of this part of the countryside to the detriment of the visual amenity of the area contrary to policy SP4 of the WLP31.

Impact on residential Amenity

9.10 The proposed dwelling itself would benefit from appropriate levels of amenity space including a 10.5m length rear garden which satisfies SPG4 and therefore is acceptable in this regard. In addition due to the location and orientation of the proposed dwelling there will be no detrimental impact to the amenity of neighbouring properties. Although the impact to the amenity of the neighbours is considered acceptable the Council's Environmental Health Officer responsible for amenity has requested a noise impact assessment to show that the proposed development would not suffer from unacceptable levels of noise, in particular from the adjacent Torbant Farm. Although the reasoning for this request is understandable in this circumstance it is not considered necessary. This is because Torbant Farm is not a working farm but rather an equestrian centre which is considered to be less intensive. Additionally residential properties within countryside areas should expect certain types and levels of noise associated with rural activities. As such the proposal complies with Policies CDMP1 and CDMP3 of the WLP31. Concerns have been raised by neighbours over the potential loss of view from their properties however this does not fall within amenity and is not considered a material planning consideration.

Impact on Highway / Parking

9.11 The site is accessed off a private driveway which itself leads to Brickhouse Lane. LCC Highways have raised no objection to the proposal on highway safety or amenity grounds. As such it is considered that the proposal complies with Policy CDMP6 of the WLP31. In the representations received concern was raised that access was proposed to be gained from a driveway that was not in the ownership of the applicant. Whether or not the applicant owns this driveway or has a right of use is not a material planning consideration as this is a private legal matter. However the application form for the application has been submitted with a completed Certificate A, meaning that the applicant is claiming all the land within the red edge is theirs. Due to the counter claim in the representation the LPA has asked the applicant (via their agent) to clarify this matter. Should the driveway not be in the ownership of the applicant then they will be required to submit a revised certificate (Certificate B) demonstrating that notification has been given to all relevant land owners.

Flood Risk and drainage

9.12 The site lies within Flood Zone 3 and therefore a site specific Flood Risk Assessment (FRA) has been submitted. The Environment Agency have yet to provide comments on the appropriateness of the FRA however it is anticipated that these comments will be available before planning committee and reported on the update sheet.

9.13 Notwithstanding the above as the proposal is for a new build dwelling in Flood Zone 3 it should be subject to a Sequential Test (ST). No sequential test has been submitted and so it has not been proven that there are no other reasonably available sites within the borough at a lower risk of flooding that could accommodate the proposed development. As the Council does not consider the Sequential Test to be passed then it is not appropriate or necessary to move on to consider whether the Exceptions Test is passed. Taking the above into account it is

considered that the proposal fails to comply with Policy CDMP2 of the WLP31 and NPPF.

9.14 The proposal does not contain any details relating to drainage, both foul and surface water. Notwithstanding this it is considered that an appropriately worded condition requiring a drainage scheme to be agreed could be attached to any subsequent permission.

Ecology

9.15 The application site is located within a SSSI Impact Risk Zone (IRZ) as such consideration needs to be given to any potential impact to protected species. The site is located close to adjacent existing built development, to the west, northwest and south, and is not close to any potentially sensitive areas such as Biological Heritage Sites (BHS) and is over 500m from the SSSI itself. As such it is considered that there will be limited issues with regards to ecology. The site does not contain any hedges or trees which could potentially provide some habitat for wildlife. Furthermore as the land is currently used for equestrian purposes it is considered that there is little opportunity for protected species to set up habitats within or adjacent the site. As such it is considered that there will be no detrimental impact on ecological matters.

Contamination

9.16 The Council's Environmental Health Department have requested a pre-commencement condition requiring the submission of a contamination desk study. This request is considered reasonable when taking into account the nature of the site and it being adjacent other uses which could result in contamination issues.

Other Issues

9.17 The representations received raised concerns over restrictive covenants on the land, damage to neighbouring land and loss of value of neighbouring properties. None of these matters are material planning considerations and are private/legal matters between the relevant parties. As such they carry no weight in this assessment.

Applicant's Case

9.18 The applicant has outlined the reason for making the application which is due to a large amount of the neighbouring stable yard (Torbant Farm) burning down earlier this year. One of the damaged buildings is immediately adjacent to the existing caravan, and this has led to the realisation that a young family living in a caravan on a stable yard is far from ideal. For this reason, the applicant now intends to remove the caravan and erect a house for her family to live in. Whilst it is acknowledged that this would benefit the applicant it does not override the concerns identified above and the clear policy conflict of the proposal.

10.0 CONCLUSION

10.1 A Certificate of Lawfulness was granted at Brook Farm under App. ref: 10/00028/LAWE for the siting of a residential caravan on the land. Notwithstanding that a caravan is sited lawfully on that land, it would be unacceptable in principle to replace a caravan with a permanent dwelling and therefore the proposal does not comply with the criteria for replacement dwellings under HP6 of the adopted Wyre Local Plan (2011-2031). Furthermore the proposal does not meet any other of the

exceptions under Policy SP4 of the Local Plan for development in the countryside, therefore, would form unjustified development in the countryside. Additionally, by reason of its location away from a settlement, services and public transport, the proposal would form an isolated dwelling in the countryside, which would be unsustainable and contrary to the requirements of the NPPF and is therefore considered unacceptable in principle.

10.2 It is considered that the replacement of the authorised caravan with a dwelling would result in significant encroachment on the openness of the countryside, by reason of the dwelling's scale and siting over that of the caravan. There would also be further encroachment by the provision of a domestic curtilage to the dwelling, where presently there is none. Overall, it is considered that there would be an unacceptable impact on the visual appearance of this area of countryside due to the encroachment on the openness of the countryside from this proposal. This would be contrary to policy SP4 and the NPPF, which aims to protect the character and beauty of the countryside.

10.3 The application site is located within Flood Zone 3 and as it has been established that the proposal is not for a replacement dwelling a sequential test is required demonstrating that there are no other reasonably available sites within the borough at a lower risk of flooding that could accommodate the proposed development. As no sequential test has been supplied the proposal fails to meet the provisions of paragraph 158 of the NPPF.

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 REFUSE planning permission

Recommendation: Refuse

1. The proposed development by reason of the location of the application site outside a defined settlement boundary and not within an adopted housing allocation would introduce residential development into an undeveloped area of countryside, and this would represent an unacceptable and unnecessary encroachment/projection into the countryside area where no justification for such development exists. As a consequence, the proposal would be contrary to Policies SP1 and SP4 of the Wyre Local Plan 2011-31 and to the provisions of the NPPF. There are no material considerations to out-weigh the conflict of the proposal with the development plan and the NPPF with respect to restricting development in the countryside.

2. The application site is located within the countryside and the development would involve the creation of a residential development in a poorly accessible location detached from the nearest settlement. The site would be accessed via unlit, winding rural roads, subject to national speed limits, with no pedestrian footpaths. Future users of the proposal would be heavily reliant on the use of a private motor vehicle to access the site with no opportunity to access the site via alternative sustainable travel modes. The proposed development is considered to be sited in an

unsustainable and socially inaccessible location which would increase the need to travel by car and fail to contribute towards creating a sustainable community. The proposal is therefore contrary to locational guidance contained within the NPPF, in particular Paragraphs 8 and 102 and contrary to Policy SP1, SP2 and CDMP6 of the Wyre Local Plan 2011-31.

3. The proposed residential development, by reason of the proposal's scale, siting and provision of a domestic curtilage, would result in a reduction in the open character of the countryside which would be visually detrimental to the appearance of this area of countryside. This would be contrary to Policy SP4 and CDMP3 of the Wyre Local Plan 2011-31 and the NPPF.

4. The proposed development would constitute inappropriate development in an area at risk of flooding as the proposed application site falls within Flood Zone 3 and inadequate evidence has been submitted to show that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. This would not steer development to areas with the lowest probability of flooding, thereby increasing the number of people and properties at risk from flooding and fail the Sequential Test, which is contrary to Section 14 of the NPPF and the National Planning Policy Guidance 'Flood Risk and Coastal Change, and Policy CDMP2 of the Wyre Local Plan 2011-31.