

<b>Application Number:</b>	2019/0226	<b>Application Type:</b>	Outline
<b>Proposal:</b>	Erection of 1 no. bungalow (Outline)	<b>Location:</b>	Lee Farm, Stubbylee Lane, Bacup. Lancashire OL13 0DD
<b>Report of:</b>	Planning Unit Manager	<b>Status:</b>	For publication
<b>Report to:</b>	Development Control Committee	<b>Date:</b>	23/07/2019
<b>Applicant:</b>	Mr. John Thorpe	<b>Determination Expiry Date:</b>	05/08/2019
<b>Agent:</b>	Mr. Steven Hartley		
<b>Contact Officer:</b>	Ian Lunn	<b>Telephone:</b>	01706-252432
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<b>REASON FOR REPORTING</b>	
<b>Outside Officer Scheme of Delegation</b>	No
<b>Member Call-In</b> Name of Member: Reason for Call-In:	<p>The application has been called to Committee for a decision by Councillor Ashworth for the following reason:-</p> <p>‘Whilst I appreciate that the application is contrary to policy in that this site is in the countryside, the applicants are carrying out agricultural activities (sheep rearing which includes lambing) at arms length as it were. They were granted permission for an agricultural building within the site in 2013 but as their residential property is on Lee Rd, lambing time is extremely difficult given the distance from home to the site. There is now an increasing occurrence of dog walkers allowing their dogs off the lead in the vicinity and more time has to be spent preventing the sheep being worried by these dogs. They have tried to deal with the problems by installing a caravan on the site, regrettably without planning permission, and subject to a separate enforcement case, but now the only permanent solution they see is to build a permanent home within the site boundary so that they can spend their whole time there as a family’.</p>

<b>3 or more objections received</b>	No
<b>Other (please state):</b>	N/a

## **HUMAN RIGHTS**

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

### **Article 8**

The right to respect for private and family life, home and correspondence.

### **Article 1 of Protocol 1**

The right of peaceful enjoyment of possessions and protection of property.

## **1. RECOMMENDATION**

That Outline Planning Permission be refused for the reason set out in Section 10.

## **2. SITE**

The application site is an irregularly shaped plot of approximately 0.04 hectares in area. It occupies an elevated position on the side of a north facing hill approximately 600 metres south east of the junction of Newchurch Road and New Line. The land forms part of the open countryside as identified by the Council's adopted Development Plan and currently appears to be in agricultural use.

## **3. PROPOSAL**

This application seeks approval to erect a detached bungalow on this plot. It has been submitted in outline form at this stage but the applicant is seeking formal approval of the proposed layout of the development and of the proposed means of gaining vehicular access to it as part of the proposal.

The agent has submitted a Planning and a Heritage Statement in support of their proposal. These collectively state:-

- a) that the development would meet the requirements of all relevant national and local planning policy.
- b) that a dwelling is required in this location in order to enable the applicant to satisfactorily look after their animals especially during the lambing season. His sheep have, in the past, been harassed and injured by dogs.
- c) that the bungalow would be of a suitable design for the locality, being constructed of natural stone and natural blue slate, and it would not harm the open character of its surroundings.
- d) that the development would be hidden from the nearby grade II listed Lee Farmhouse by the existing agricultural building and would not, therefore, adversely affect its setting.
- e) that this land does not lie within a flood risk area and, given the way it has previously been used, is unlikely to be significantly contaminated.

#### **4. PLANNING HISTORY**

2013/0454 - Erection of agricultural storage building – Approved 04/12/13 (Built)

#### **5. POLICY CONTEXT**

##### **National**

##### **National Planning Policy Framework (2019)**

Section 2 Achieving Sustainable Development  
Section 5 Delivering a Sufficient Supply of Homes  
Section 8 Promoting Healthy and Safe Communities  
Section 9 Promoting Sustainable Transport  
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  
Section 16 Conserving and Enhancing the Historic Environment

##### **Development Plan Policies**

##### **RBC Core Strategy (2011)**

AVP2 Strategy for Bacup, Stacksteads, Britannia and Weir  
Policy 1 General Development Locations and Principles  
Policy 2 Meeting Rossendale's Housing Requirement  
Policy 3 Distribution of Additional Housing  
Policy 9 Accessibility  
Policy 16 Preserving and Enhancing Rossendale's Built Environment  
Policy 18 Biodiversity and Landscape Conservation  
Policy 19 Climate Change and Low & Zero Carbon Sources of Energy  
Policy 21 Supporting the Rural Economy and its Communities  
Policy 23 Promoting High Quality Design and Space  
Policy 24 Planning Application Requirements

##### **Other**

National Planning Practice Guidance  
RBC Strategic Housing Land Availability Assessment (SHLAA) (2017)  
RBC Alterations and Extensions to Residential Properties SPD  
RBC Emerging Local Plan

#### **6. CONSULTATION RESPONSES**

LCC Highways:- No Objections.

LCC Rights of Way:- No observations received.

RBC Conservation Officer:- Consider that subject to the development being of a suitable design and scale it should reasonably preserve and enhance the setting of the nearby Grade II listed Lee Farmhouse.

United Utilities:- No observations received.

Land Contamination Officer:- Consider that there is likely to be a relatively low risk of this land being contaminated. Nevertheless consider that potential sources of contamination need to be identified and investigated. Would be prepared to accept conditions to control this in this instance.

## 7. **NOTIFICATION RESPONSES**

The application was advertised by sending individual notification letters to the surrounding properties, by posting a site notice next to the site, and by inserting an advertisement in a local newspaper. These were sent/posted/inserted on 12<sup>th</sup> 14<sup>th</sup> and 20<sup>th</sup> June respectively giving 21 days to comment. The publicity period has now expired and no representations have since been received.

## 8. **ASSESSMENT**

### **Principle**

#### **Sustainability of the Site's Location**

Paragraph 11 of the National Planning Policy Framework (NPPF) advises that plans and decisions should apply a presumption in favour of sustainable development. It adds, within the same paragraph, that where the policies in the Development Plan, deemed most relevant to the consideration of the proposal in question are out-of-date, the default position is that planning permission should be granted unless:-

- a) policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or
- b) any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

The Framework also promotes the integration of development with sustainable modes of transport, and paragraph 110 states that developments should *“give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas”*.

Paragraph 150 of the Framework states that *“new development should be planned for in ways that can help to reduce greenhouse gas emissions, such as through its location, orientation and design.”*

Policy 1 of the Core Strategy requires that developments:  
*“Maximise access by public transport, walking and cycling in a manner that promotes safe and inclusive communities and promote co-location of services and facilities.”*

Policy 9 of the Core Strategy states that the transport user hierarchy will form the basis of consideration of planning applications, in order to promote sustainable travel and better designed places. The hierarchy is as follows, and consideration is given to the impact of the proposal on users higher up the hierarchy first:

- Pedestrians and mobility impaired users
- Cyclists and equestrians
- Emergency Vehicles and refuse collection
- Public Transport, motorcycles and taxis
- Freight movement

- Private cars

It is considered that the proposed development could not reasonably be viewed as sustainable as:-

- a) it seeks the development of a 'greenfield' site which is located almost 350 metres from the nearest Urban Boundary,
- b) it is located over 600 metres 'as the crow flies' from the nearest bus route on Newchurch Road, along unlit, unsurfaced, narrow and inclined routes.
- c) it would not, in reality, be realistic to access the site using a variety of means of transport. Whilst technically it would be possible to walk or cycle to and from the site, the largely narrow, unmade, steeply sloping and unlit nature of the routes serving it would mean that the occupiers of the new dwelling would be heavily reliant on private motor vehicle journeys.
- d) it is contended that in this relatively isolated position the development would not enhance, maintain or support local services or the vitality of any rural community (the nearest 'built up' area is the urban township of Bacup, not a rural village, and the nearest services and facilities are primarily located almost two kilometres away in Bacup Town Centre).

Having regard to all of the above, it is not considered that the proposed development site is in a sustainable location – and it would not accord with the presumption in favour of sustainable development contained in the Framework.

#### Isolated New Dwellings in the Countryside

Whilst accepting that the dwelling would adjoin an agricultural building with two other residential properties nearby it is also contended, despite the agent's view to the contrary, that when viewed in its overall spatial context it would appear as a relatively isolated form of development in the open countryside. It is also contended that it could reasonably be seen as economically isolated due to its failure to enhance, maintain or support local services or the vitality of any rural community (for reasons outlined above).

With this in mind the requirements of paragraph 79 of the NPPF are triggered. This states that *'planning policies and decisions should avoid the development of isolated homes in the countryside unless'* certain specified circumstance apply. It is contended that the proposal would fail to satisfy any of these as:-

- a) it is contended that it has not been satisfactorily demonstrated that there is an essential need for the applicant to live on this particular site (for reasons set out below),
- b) there are no heritage assets on this site and no evidence has been put forward to demonstrate that the new dwelling would assist in securing the future of any,
- c) the proposal does not involve the re-use of a redundant or disused building,
- d) the proposal does not involve the sub division of an existing dwelling, and
- e) the design of the dwelling is not currently known.

In view of the above it is considered that the proposal would also be contrary to the requirements of Section 5 of the NPPF leading to the creation of a relatively isolated dwelling in the open countryside for which there is currently no demonstrated need.

### *Essential Need*

The agent has stated that the dwelling is required in order to enable their client to live 'on-site' in the interests of the welfare of their animals and of satisfactorily operating their agricultural unit. They have indicated that their client's farming enterprise currently comprises the following:-

- a) 8 hectares (20 acres) of land to the immediate south and east of the application site,
- b) grazing rights for 350 sheep and 75 cattle on the adjoining common land located between this site and Rochdale,
- c) a further 12 hectares (30 acres) of rented land off Green Lane, Stacksteads,
- d) 20 hectares (50 acres) owned by the applicant's mother at Height Barn Farm, New Line.

However:-

- a) 54 Lee Road (the applicant's given address) is located within what is considered to be reasonable walking distance (less than 400 metres) of the application site and there is a public footpath link between the two. It is contended that the applicant has not reasonably demonstrated why constructing a new dwelling such a short distance away would enable them to operate their agricultural unit significantly more efficiently than they could were they to operate it from their current address.
- b) At least one portion of land forming part of the overall agricultural unit (the land off Green Lane) lies marginally nearer to the applicant's current address than the application site.
- c) The agricultural unit is split up into separate land areas at least one of which (the land off Green Lane) is relatively remote from the application site being located some 900 metres away to the south west.
- d) On the basis of the information supplied the agricultural unit is not considered to be unduly large covering in its entirety an overall area of approximately 40 hectares excluding the common land.

Taking these factors into consideration, the proposed scheme fails to accord with any of the exceptions provided in paragraph 79 for isolated new homes in the countryside.

### The Council's 5-Year Housing Land Supply

The Council cannot currently demonstrate a five-year supply of deliverable housing sites, and therefore certain Core Strategy policies concerned with the supply of housing cannot be considered up-to-date (in line with paragraph 11 of the Framework).

However, concerns over the sustainability / accessibility of the site remain, unaffected by the above. The development's non-compliance with paragraph 79 of the Framework also remains unaffected by the above.

### Conclusion

The proposed scheme would not be a sustainable form of development and does not therefore accord with the presumption in favour of sustainable development contained in paragraph 11 of the Framework. The proposed scheme also fails to accord with any of the exceptions provided in paragraph 79 for isolated new homes in the countryside. As such, the scheme is unacceptable in principle.

### **Visual Amenity and Countryside Impact**

Policy 1 of the Core Strategy seeks to *“enhance and protect the countryside”*.

Policy 18 of the Core Strategy states that the Council *“will seek to avoid any harmful impacts of development on all aspects of Rossendale’s natural environment”* and that development proposals should *“safeguard and enhance landscape character”*.

Policy 23 of the Core Strategy seeks to ensure that all new developments *“are of the highest standard of design that respects and responds to local context, distinctiveness and character”*.

Policy 24 of the Core Strategy seeks to ensure any new development is *“compatible with its surroundings in terms of style, siting, layout, orientation, visual impact, local context and views, scale, massing, height, density, materials and detailing”*.

Paragraph 127 of the Framework states that planning decisions should ensure that developments *“are sympathetic to local character and history, including the surrounding built environment and landscape setting”*.

Paragraph 170 of the Framework states that planning decisions should *“contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside”*.

The site lies well outside of the Urban Boundary within a defined Countryside Area and it has a distinctly rural open character with open land to the south, east and west. The site is prominently located, substantially elevated above the land to the north.

It is considered that the construction of a dwelling upon this land (however well designed and appropriately constructed it was), along with the associated ‘trappings’ of residential development (accesses, hardstandings, boundary treatment and gardens), would lead to a harmful loss of its open rural nature rendering it more formal and urbanised. This would be exacerbated by future extensions and outbuildings which would be difficult to resist once approval has been given.

With this in mind it is considered that the development of this site for residential purposes would also result in significant harm to the open rural character of the site and to the character of the wider countryside area in general. The proposal is contrary to Policies 1, 18, 21, 23 and 24 and sections 12 and 15 of the Framework in this respect.

### **Neighbour Amenity**

#### a) Light

Sited in the position proposed the dwelling would stand over 30 metres from the next nearest residential property (Lee Farm Barn) with a substantial agricultural building in

between. Consequently, it is contended that it would not unduly affect the level of light that this, or any other property, currently receives.

b) Overlooking

It is contended that the development would not give rise to unacceptable overlooking of the neighbouring properties either for the same reason.

In view of the above it is considered that the proposal would reasonably safeguard the amenities currently enjoyed by the occupiers of nearby properties. On this basis it is considered that in pure neighbour amenity terms it would be acceptable reasonably satisfying the requirements of Policy 24 of the adopted Core Strategy in this regard.

**Highway Safety**

It is not currently known how many bedrooms are to be provided within the new dwelling. However, given its 'footprint', as shown on the submitted plan, and as it is to be a bungalow, it is considered that it is unlikely to have more than three. This means that there would be a requirement to provide two car parking spaces in conjunction with the development, a level of parking that could, it is considered, reasonably be accommodated within the site along with space for turning.

There are two means of gaining vehicular access to the site, one via Stubbylee Lane and the other via a narrow track leading from Futures Park. Both of these routes are narrow, mostly poorly surfaced and largely unlit, with limited opportunities for vehicles to pass each other.

The proposal has been considered by County Highways who consider it to be acceptable in terms of parking and access into the site. However, officers remain concerned that given the narrow width of the routes leading to the site, and the likelihood of future occupants of the dwelling being car users, it is likely that the development will increase the frequency of vehicles meeting (and having difficulties in passing each other) on the lanes – potentially necessitating difficult and lengthy reversing manoeuvres to resolve.

**Ecology**

The site is not known to be the habitat of any protected flora and fauna. Furthermore, as it is open grassed land that is largely devoid of trees and vegetation it seems unlikely that it will currently be supporting anything of ecological importance. In pure ecological terms, therefore, it is considered that the development would be acceptable reasonably meeting the requirements of Policies 18 and 24 of the Council's adopted Core Strategy DPD (2011) and Section 15 of the National Planning Policy Framework in this regard.

**Drainage**

The applicant has indicated that foul water from the developed site is to be discharged to a septic tank but has not provided any details of the proposed means of draining surface water. United Utilities has been consulted for their views on these proposals but have not yet responded. The application could therefore also be refused on the grounds that the means of draining foul and surface water from the development are not currently agreed. However it seems likely, on the balance of probability, that it would be possible to drain the site in some way that would be deemed acceptable and this could subsequently be controlled by way of a condition in the event of the application being approved. On this



basis it is considered that a further refusal of this application on drainage grounds would be difficult to sustain in this instance.

### **Flood Risk**

The site lies within Flood Zone One. It is therefore contended that future occupiers of the dwelling would not be at significant risk of flooding and that the development would be unlikely to significantly exacerbate problems of flooding elsewhere. With this in mind, it is considered that there are no reasonable flood risk grounds for opposing this development and as such it is contended that it would satisfy the requirements of Section 14 of the NPPF in this regard.

### **Land Contamination**

The proposal has been assessed by the Land Contamination Officer who accepts that the risk from contaminants to the future occupiers of the dwelling is likely to be relatively low. Nevertheless they consider that the actual level of risk posed still needs to be properly established by way of an investigation for contaminants (including soil testing) and radon gas, and that suitable remediation measures need to be put in place if needs be. Ideally they would prefer all of this to be carried out before the application is decided but as an alternative they would be prepared to accept planning conditions to this end. With this in mind, subject to the imposition of such conditions, it is considered that the proposal could be rendered acceptable in pure land contamination terms reasonably meeting the requirements of Policy 24 of the Council's adopted Core Strategy DPD (2011) and Section 15 of the National Planning Policy Framework in this regard.

As such, it is considered that a further refusal of this application on land contamination grounds could not reasonably be sustained in this instance.

### **Conclusion**

The proposed development of this land for residential purposes would be unacceptable in principle and would therefore be contrary to the requirements of Policies 1, 9, 23 and 24 of the Council's adopted Core Strategy and Sections 2, 5, 9, 12 and 15 of the NPPF. It would lead to the creation of a form of unsustainable and isolated development that would significantly harm the open rural character of the site to the detriment of the visual amenity of this designated Countryside Area. Furthermore it is considered that the 'very special circumstances' put forward by the applicant would not sufficiently outweigh this potential harm. Concerns also remain over the suitability of the access to the site for additional vehicular traffic.

## **9. RECOMMENDATION**

That outline planning permission be refused for the reason set out in section 10 below.

## **10. REASONS FOR REFUSAL**

1. The development would be unsustainable having regard to its location and the accessibility of basic services and facilities. The site's lack of accessibility by sustainable modes of transport, and the nature of the access to the site would result in a reliance on private car journeys by occupants of the proposed dwelling to address their basic needs. As such the development does not accord with the presumption in favour of sustainable development contained within Section 2 of the National Planning Policy Framework, fails to address the requirements of Sections 9

and 14 of the National Planning Policy Framework, and is contrary to Policies 1 and 9 of the Core Strategy DPD.

2. The development would result in the creation of an isolated home in the countryside and does not accord with any of the exceptions specified in paragraph 79 of the National Planning Policy Framework. As such, the development is contrary to Section 5 of the National Planning Policy Framework.
3. The proposed scheme would lend an unacceptable domestic appearance to the site, in a prominent exposed location, at odds with its immediate context and the rural character of the surrounding area, and would result in the encroachment of permanent urban development into an area of countryside. As such, the development would conflict with Policies 1, 18, 23 and 24 of the Council's Core Strategy DPD, and Sections 12 and 15 of the National Planning Policy Framework.

### **INFORMATIVE**

The Local Planning Authority has considered whether the concern outlined above could reasonably be overcome either through amendments to the scheme or through the imposition of planning conditions. However given the nature of that concern it is not considered possible to achieve a wholly satisfactory form of development by either means in this instance.