

Application Number:	2020/0136	Application Type:	Full
Proposal:	Show persons site, including erection of 3-bed bungalow, 3no caravans and area for parking & maintenance of fairground vehicles & equipment	Location:	Land opposite the former Deerplay Inn Burnley Road Bacup
Report of:	Planning Unit Manager	Status:	For publication
Report to:	Development Control Committee	Date:	25 May 2021
Applicant:	Mr & Mrs K Street	Determination Expiry Date:	19/05/2020
Agent:	Hartley Planning & Development Associates		

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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	
Member Call-In Name of Member: Reason for Call-In:	
3 or more objections received	
Other (please state):	Due to public interest

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 Permission be refused for the reasons set out in Section 9 of the Report.

2. The Site

The application relates to a parcel of land, of approximately 0.25 in area, which straddles the borough boundary with Burnley. It is situated in the Countryside approximately 700m to the north-west of the Urban Boundary of Weir.

The site is to the opposite side of Burnley Road (A671) to the former Deerplay Inn, having a 20m frontage to the main road (within Burnley) and a 75m frontage to Bacup Old Road (within Rossendale).

Prior to works by the Applicant the site had the appearance of a field used for rough grazing. The grass-cover and topsoil has now been pushed to the site boundaries to form a bund to limit public view into the site from Burnley Road and Bacup Old Road, leaving a gated vehicular access to the latter. This gateway aligns with a public footpath the crosses the site.

The greater part of the site has now been given a stone surface and is being used to keep fairground equipment, half a dozen lorries/vans and a similar number of green-coloured containers having the dimensions of shipping containers, some appearing to be used to stable horses - from Bacup Old Road & fronting the former Deerplay Inn their tops are visible over the bund, whilst virtually their full height is visible from Burnley Road as the site is approached from Burnley (due to the greater height of the road).

3. RELEVANT PLANNING HISTORY

None.

4. PROPOSAL

Permission is sought to :

- Erect a 3-bedroomed bungalow towards the northern end of the site, to possess a slate roof and external walls of coursed natural stone
- Station three caravans towards the southern end of the site
- Between them have a parking & maintenance area for fairground vehicles & equipment

The proposed bungalow will have a footprint of 8m x 15.3m, with an eaves-height of 2.2m and a ridge-height of 4.4m, and is to have a slate roof and external walls of coursed natural stone. The submitted Site Plan indicates that hawthorn and beech bushes will be planted on the bund which has been formed around three sides of the site.

The Planning Statement accompanying the application states :

"The applicant and her family come from a long line of show people. She has 3 adult sons who are all in the business and hence the inclusion of 3 caravans plus one residential bungalow... All need to be together to coordinate their work and to maintain and repair the associated plant and equipment.

While the needs of Show people tend to be included in the same planning policy statements as for gypsies and travellers, there are specific and separate requirements for show persons in terms of provision for the storage and maintenance of circus and similar equipment.

There is no such provision within the Borough for a show persons' site.

The [Local Plan] Inspector has required the Council to consult on the provision of a gypsy and traveller site. The Council has carried out such a consultation exercise with regard to the provision of such a site in a former quarry known as Little Tooter at the Borough boundary with Calderdale Council above Sharneyford, Bacup. Like the application site at the Deerplay, it is outside the Urban Boundary and in an area designated as Countryside. Both sites are comparable distances from schools and other facilities, though the site at the Deerplay is arguably better located in terms of a more certain bus route between Bacup and Burnley... if the Sharneyford is considered to be suitably located by the LPA, then so must be the Deerplay site.

The Council concedes that it cannot demonstrate a 5 year supply of deliverable housing land.

Footpath 254 crosses the site and provision will be made to ensure that it is not affected."

The application is accompanied by documentation to demonstrate that the applicant and her 3 adult sons are show people, including birth certificates, showmen's guild membership cards, integrity & inspection reports for their rides.

5. POLICY CONTEXT

National

National Planning Policy Framework

Section 2	Achieving sustainable development
Section 5	Delivering a sufficient supply of homes
Section 6	Building a strong, competitive economy
Section 9	Promoting sustainable transport
Section 11	Making effective use of land
Section 12	Achieving well-designed places
Section 15	Conserving and enhancing the natural environment

Development Plan Policies

RBC Core Strategy DPD (2011)

AVP2	Area vision for Bacup, Stacksteads, Britannia & Weir
Policy 1	General Development Locations and Principles
Policy 2	Meeting Rossendale's Housing Requirement
Policy 3	Distribution of Additional Housing
Policy 5	Meeting the Needs of Gypsies, Travellers & Travelling Showpeople
Policy 8	Transport (inc Appendix 1 Parking Standards)
Policy 9	Accessibility
Policy 17	Rossendale's Green Infrastructure
Policy 18	Biodiversity, Geodiversity and Landscape Conservation
Policy 21	Supporting the Rural Economy & Its Communities
Policy 23	Promoting High Quality Designed Spaces
Policy 24	Planning Application Requirements

Other Material Planning Policy Considerations

National Planning Practice Guidance

RBC Emerging Local Plan

The Council has been preparing a Local Plan to replace the adopted Core Strategy. On 25/03/19 the Council submitted the Rossendale Local Plan 2019-2034 to the Secretary of State for Housing, Communities & Local Government for examination. On the Proposals Map to accompany the emerging Local Plan the application site continues to be shown as being in the Countryside 700m beyond the Urban Boundary of Weir.

6. CONSULTATION RESPONSES

RBC Environmental Health

No objection.

Recommend an hours condition on the repairing of vehicles as it is in the open and could cause noise problems at anti-social hours. Also recommend a condition requiring approval for any scheme of external lighting, to avoid light nuisance.

LCC Highways

Objection, unless its concerns are allayed.

LCC Archaeology

No objection.

The proposed development site contains one of a number of buildings (a terrace) demolished in the 20th century, that are thought to form part of the settlement known as 'Old Barrack', depicted on the 1st Edition Ordnance Survey 1:10560, surveyed 1844-7, and which are recorded as non-designated heritage assets on the Lancashire Historic Environment Record, PRN 20260.

The application states that a consolidated hard-core surface finish is proposed, but does not whether this will just be built up from the existing ground surface or entail excavation. Building up from existing ground surface would in all likelihood have no adverse impact on any surviving below-ground remains of the former terrace that occupied the site. Excavation would however have the potential to expose or damage any such remains.

In the absence of any details as to the proposed final finished levels of the site a Condition is recommended to ensure a programme of archaeological investigation and recording is undertaken during any groundworks.

Lancashire Fire & Rescue Service

No objection.

The subsequent Building Regulations application will need to fully meet the requirements of Building Regulation Approved Document B, Part B5 'Access and facilities for the Fire Service'.

Burnley BC

No comments.

United Utilities

No objection.

In accordance with the National Planning Policy Framework and the National Planning Practice Guidance, the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

Although water supply in the area is compliant with current regulatory standards, we recommend the applicant provides water storage of 24 hours capacity to guarantee an adequate and constant supply.

According to our records there is an easement crossing the site which is in addition to our

statutory rights for inspection, maintenance and repair. The easement UU Ref:P465 has restrictive covenants that must be adhered to. We need unrestricted access for operating and maintaining the water main that crosses the site; we will not permit development over or in close proximity to the main. We recommend the applicant contacts our Property Services team to discuss how the proposals may interact with the easement.

Coal Authority

Initially objected to the proposal.

On the basis of the Coal Mining Risk Assessment Report subsequently submitted (which shows the proposed bungalow will not straddle a wall left by previous open cast workings), it has now withdrawn its objection.

7. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order neighbours were notified by letter, a press notice published and a site notice posted.

The following Objections have been received :

2 Pleasant View Cottage, Burnley Road

- Detrimental to the locality and will negatively affect my own and others property prices.
- I moved to a rural area for peace and tranquillity.
- This piece of unused land on the fringe of the countryside has been purchased cheaply.
- There are many more suitable commercial sites available locally.
- This development will totally spoil the beauty and peaceful nature of the local area and adversely affect habitats and disturb wildlife, such as birds, badgers, deer and foxes.
- With 3 caravans and a 3-bed bungalow there will be numerous people residing and working at the site, probably with fairground rides departing/returning and being repaired/tested (with music and flashing lights) at all times of the day and night.
- Will adequate the sewerage arrangements be made.

8. ASSESSMENT

The main considerations in this case are as follows:

- 1) Principle; 2) Visual Amenity; 3) Neighbour Amenity; & 4) Access/Parking

Principle

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.

In the case of applications for residential development, the NPPF adds that policies will normally be considered 'out of date' if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing land.

The Council is currently unable to demonstrate a five year supply of deliverable housing land so its Core Strategy policies relating to housing supply are considered to be out of date and can therefore only be afforded limited weight.

The NPPF promotes the integration of development with sustainable modes of transport.

This site is located 700m beyond the Urban Boundary of Weir, although it does have a frontage to a main road along which bus services operate. However, residents of it would be likely to rely on use of the private car to access schools and town centre services and the site is remotely situated in a high moorland plateau location.

Accordingly, the site cannot be considered well-placed for the construction of a permanent dwelling, nor the stationing of 3 caravans for residential purposes. However, Section 5 of the NPPF states :

“To support the government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
(Para 59)

Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). (Para 61)

Government recognises that Gypsies, Travellers & Travelling Show people have particular housing needs and has issued ‘Planning Policy for Traveller Sites’. which sets out how travellers’ housing needs should be assessed.

In this regard Policy 5 of the adopted Core Strategy reads as follows :

Meeting the Needs of Gypsies, Travellers and Travelling Show people
Sufficient housing provision must be made to meet the needs of the whole community.

It is proposed that:

1. Up to 5 Permanent pitches and up to 3 transit pitches are provided.
2. The preferred areas of search are Haslingden, Waterfoot, Stacksteads and Bacup.
3. Sites will be located in places that have access to the road network which is acceptable to the Highway Authority, be within reach of schools, shops and other facilities, should have adequate space for business and storage activities on site or nearby and have reasonable access by foot, cycle or public transport.
4. Sites should be located where they are capable of being served by adequate water and waste infrastructure services.
5. All sites should be well landscaped, be close to “green infrastructure” networks and take into account impact on local residents including noise and light pollution.

As part of the work undertaken to prepare the Local Plan to replace the adopted Core Strategy, the Council has consulted upon the provision of a gypsy and traveller site in the former quarry known as Little Tooter at Sharneyford, Bacup in order to meet an identified need for a Transit site in the Borough. However, a decision on whether the Sharneyford site is deemed suitable as a proposed allocation within the Emerging Local Plan to meet the identified need is awaited from the Local Plan Inspectors as part of their overall response on whether the Emerging Plan can proceed to main modifications.

Notwithstanding that the council does not have a 5 year supply of housing land, the description of the application as submitted is for, a Show persons Residential Site. Therefore, it is submitted by a specific housing sector i.e. Travelling Show People and it is not intended to meet a general housing need. The most up to date evidence which informs the Emerging Local Plan is the Rossendale Gypsy and Traveller Accommodation Assessment (GTAA) 2016 and this assessment of Gypsy and Traveller needs does not identify a need for a Travelling Show person site in the Borough. Therefore, this proposed development is not required to meet an identified need. What the GTAA did is identify a need for a Gypsy Transit site based on the historical number of unauthorised encampments in the Borough from Gypsies Travelling through the Borough.

Within both the GTAA and Central Government policy, Travelling Show people and Gypsies travelling through different boroughs are defined differently, hence, they are recognised as distinct groups. Therefore, as the GTAA did not identify a need for a Travelling Show persons site in the Borough, there is no evidence of need and consequently this application should be refused.

Visual Amenity

The application site is located in Countryside which is at an upland level that fields tend to be bounded by drystone walls and fences rather than hedges and trees. Whilst the proposed bungalow is to be constructed with 'traditional' facing materials - walls of coursed natural stone and a slate roof - it is to be to the south side of Burnley Road, where there are presently no other buildings to break the public view of it.

Notwithstanding this, having regard to the substantial 2-storey building to the other side of the main road (formerly the Deerplay Inn), a matter of even greater concern is the visual intrusion which would arise from the formation of such a large area of hard standing and its use by 3no caravans and for the parking & maintenance of fairground vehicles & equipment.

The greater part of the site has already been given a stone surface and is being used to keep fairground equipment, half a dozen lorries/vans and a similar number of green-coloured containers having the dimensions of shipping containers. From Bacup Old Road, and on the stretch of Burnley Road fronting the former Deerplay Inn, their tops are visible over the bund, whilst virtually their full height is visible from Burnley Road as the site is approached from Burnley (due to the greater height at which the road runs. The bund in itself is an alien feature in the landscape and, although the submitted Site Plan indicates that hawthorn and beech bushes will be planted on the bund, it is questionable whether they will grow sufficiently well to 'soften' the appearance of the bund or further screen the fairground equipment, caravans, lorries/vans and associated activities from public view.

Consequently, it is considered that the combined detrimental landscape and visual harm arising from this proposal would be substantial – as such, the application should be refused.

Neighbour Amenity

The only neighbouring occupied building nearby is the former Deerplay Inn. The Council's Environmental Health Unit is satisfied that its occupiers should not experience unacceptable detriment, so long as Conditions are imposed on any Permission to preclude repair of vehicles and fairground equipment or use external lighting at anti-social hours.

Access/Parking

LCC Highways has objection to the proposal unless its concerns are allayed :
"These concerns centre on the access to the adopted highway being sited close to the junction of Bacup Old Road and Burnley Road A671. Additionally there are concerns

regarding the access to Public Right Of Way 14-1-FP 254. This Public footpath runs across the site and whilst it is referred to in the planning statement there is no supporting evidence as to what, legal representations have been made in order to formally redirect the PROW.

In order to support the application we request that a number of swept path analysis's are undertaken, these should be for vehicles entering and leaving the site, traveling to and from Bacup and Burnley. It is expected that a swept path is produced for the following and any other vehicle combination that could be expected to be present at a Showman's Site.

- Any vehicle towing the double axle caravan (size and weight of both required)*
- An articulated HGV with a standard 12m container*
- An articulated HGV with a standard 12m container and a double axle caravan*
- A 3 axle HGV Box van up to 26 tonne and a double axle caravan as above.*

The junction of Bacup Old Road and Burnley Road is problematic and a known accident hotspot. Burnley Road its self is a high speed road, and the exit onto Bacup Old Road is partly unsighted from Burnley. Particularly, for any vehicle turning right this will by virtue of the lack of forward visibility due to the former Deerplay Inn, being a problematic manoeuvre. It is likely that any HGV will virtually have to come to a near stop, to ensure that there is a sufficient gap in the oncoming traffic to allow for the right turn manoeuvre to be made without causing oncoming traffic to slow down or potentially stop. It is also not know if any likely vehicle combination would be able to pull clear of Burnley Road. As this application is being made by a known showman, the gate should be positioned in order to allow a vehicle combination of up to 22m to pull clear of Burnley Road prior to entering the gated site. Consideration should also be given of the angle of the car or HGV cab in relation to the give way line on Bacup Old Road and the stopping point on Burnley Road in order to turn right into Bacup Old Road should be shown on the plan. This is to ensure that the driver of any vehicle and trailer combination can clearly see in both directions when turning from Bacup Old Road onto Burnley Road.

A 7 day automated traffic count will also be required to ensure that a visibility splay can be achieved - it is unlikely that a traffic count carried out during the current traffic conditions will be considered as a valid count. It is not expected that a traffic count will be accepted as a valid count until most work places are open and all schools including sixth form colleges are open.

Should Rossendale Borough Council wish to support the application we would wish for the opportunity to add to further conditions to this application, relating to the gates and the surfacing of the yard to prevent debris being carried on to the highway. A Section 278 agreement will also be required for the new access onto the adopted highway, and a construction management plan.”

The Agent responded that :

- it is unnecessary to provide the number of swept path analysis's sought as vehicles would not be entering the site from the Burnley direction;*
- the objection is that such vehicles will be hidden from the view of traffic also approaching from Burnley but this would not be the case; &*
- visibility when exiting from Bacup Old Road and when looking right towards Weir has also been significantly improved by recent demolition of old broken down walling*

LCC Highways has most recently commented that :

“The applicant has said that he would only approach the site from one direction, but if working in Burnley it is an extra 10 mile detour through Rawtenstall and Bacup to approach from a different direction.

We have not had any request from the Agent regarding commissioning of the 7 day automated traffic count - Covid restrictions are not such that they would now preclude an automated 7 day traffic count giving a speed indication, which is the main figure of interest."

The applicant has not demonstrated to the satisfaction of LCC Highways that the traffic movements associated with the proposed development will not endanger highway safety, the junction of Bacup Old Road and Burnley Road in any case stated to be "*problematic and a known accident hotspot*". Furthermore, it being questionable whether the Public Footpath which runs across the site could co-exist with the intended site activities the applicant was asked to consider its diversion but have indicated that it can be retained on the existing alignment.

9. RECOMMENDATION

Refusal

REASONS FOR REFUSAL

- 1) Notwithstanding that the Council is unable to demonstrate a 5-year supply of deliverable housing land, the proposed development will have substantial adverse impacts that significantly and demonstrably outweigh any very limited benefits. There is no identified need for Travelling Show persons accommodation in the borough of Rossendale. Therefore, the proposed development is contrary to section 5 of the National Planning Policy Framework and Government policy within 'Planning Policy for Traveller Sites 2015.'
- 2) The proposed development will be unduly detrimental to the essentially open and rural character and appearance of the Countryside at a point on a main road frontage at the Borough boundary. It will also have a substantial detrimental landscape and visual impact, contrary to Section 15 of the National Planning Policy Framework and Policies 18 & 23 of the Council's adopted Core Strategy DPD (2011).
- 3) The Applicant has not adequately demonstrated that the proposed development will not endanger highway safety. The junction of Bacup Old Road and Burnley Road is already identified by Lancashire County Council Highways department as "problematic and a known accident hotspot". Furthermore, it has not been adequately demonstrated that the Public Footpath which runs across the site can co-exist with the intended site activities on its existing alignment. Therefore, the proposed development is contrary to policies 1, 5 and 23 of the Council's adopted Core Strategy DPD (2011).