

Applic No : 2008/752

Application Type: Full

Proposal : . Log-cabin summer house/
garden store and wildlife pond

Location: Land to east side of 16
Graver Weir Terrace,
Burnley Road East,
Waterfoot

Report of : Planning Unit Manager

Status: For Publication

Report to : Development Control
Committee

Date: 20/1/09

Applicant : Miss H Kane

Determination Expiry Date:
12/1/09

REASON FOR REPORTING

Tick Box

Outside Officer Scheme of Delegation NO

Member Call-In : NO

3 or more objections received : YES

Other : NO

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.

APPLICATION DETAILS

1. THE SITE

The applicant resides at 16 Graver Weir Terrace, an end-terraced back-to-back property situated to the east side of Burnley Road East (B6238), in the Countyside Area near to the Borough boundary.

Whilst land immediately to the rear of 16 Graver Weir Terrace and the other properties in the terrace forms part of a communal garden area, the land immediately to the east is owned by the applicant. It is this land which is the subject of the current application.

The application site has a 70m frontage to Burnley Road East and a depth of 80m, straddling Whitewell Brook. The site slopes down quite steeply from the main road towards the brook. A number of the mature trees within it have been afforded the protection of a Tree Preservation Order. There is a dog-kennel situated in that corner of the site nearest to the applicants house and a dilapidated shed nearer to the brook.

2. RELEVANT PLANNING HISTORY

2007/608 - Car park and turning area and formation of new vehicular access to Burnley Road East

This application from the occupier of 16 Graver Weir Terrace sought permission to form a vehicular access to the main road and off-street parking/turning area in that corner of the application site nearest to the house. The scheme would have entailed works raising ground levels and loss of trees and frontage hedge. The application was refused on 27/11/07.

Complaint - In September 2008 complaint was received about formation of a vehicular access and an area of hardstanding within the heart of the site. Upon investigation it was established that the hardstanding being formed was intended to accommodate a log-cabin summer house/garden store and the temporary vehicular access was to facilitate this and not to remain. It was also intended to form a wildlife pond to the other side of the brook and its formation had been discussed with the Environment Agency.

The applicant was advised that they ought not to proceed with this project as to do so would be a breach of planning control.

They were further advised that permission was unlikely to be granted for the siting of the log-cabin in the position they intended by reason of its visual intrusion and the harm formation of the hardstanding to accommodate it was likely to have upon the roots of trees within the TPO. Works duly stopped.

3. THE PROPOSAL

The application which has now been submitted seeks permission for the log-cabin to be sited not within the heart of the site, but immediately adjacent to the communal garden serving Graver Weir Terrace. The log-cabin is to measure 5m x 6m, with a

gutter-height of 2.15m and a ridge-height of 3.15m. It is intended as a summerhouse and for incidental residential storage.

Permission is also sought to form a wildlife pond to the south-east side of the brook, which is to measure 6.5m x 9m, with a maximum depth of approximately 1m.

The accompanying drawings/documents propose :

- Re-instatement of the hedge fronting the main road
- Planting of a hawthorn hedge on the boundary between the site and the communal garden used by residents of Graver Weir Terrace
- Removal of the dilapidated outbuilding presently to be seen on the site
- Re-instatement of the area in the heart of the site where works were begun on the formation of the hardstanding for the log-cabin.

4. POLICY CONTEXT

National

PPS1

PPS7

PPS9

Development Plan

Regional Spatial Strategy for the NW of England (2008)

DP1-9

RDF2

EM1

Rossendale District Local Plan (1995)

DS1 - Development Outside the Urban Boundary & Green Belt

DC1 - Development Criteria

E4 - Tree Preservation

Other Material Planning Considerations

LCC - Landscape Strategy for Lancashire

5. CONSULTATION RESPONSES

LCC (Highways)

No objection. Seeks re-instatement of grass-verge to the front of the site

Environment Agency

No objection in principle. Advises that works within 8m of bank-top of the brook will require its consent, as too will abstraction of water from the brook to fill the pond.

6. REPRESENTATIONS

The application was publicised by way of letters to 16 properties in the vicinity of the site and a site notice.

Five letters have been received from neighbours objecting/expressing concerns about the proposal, most particularly that the log-cabin/field it is to be within will be used for business purposes, namely a dog walking and grooming business.

Other points are made in respect of :

- The application not proposing the log-cabin in the position of the hardstanding the applicant began to construct.
- The log-cabin having its rear elevation facing towards the communal garden.
- Removal/cutting back of part of the hawthorn hedge that fronted the site, thereby exposing their communal garden to public view from the main road.
- Removal of trees that may occur.
- The intention to form a wildlife pond is commendable, but where will the water come from ?
- The submission containing many inconsistencies/discrepancies and untruths regarding the number/condition of buildings on the site prior to the applicant acquiring it and the extent to which they consulted neighbours about the application proposal.

7. ASSESSMENT

In dealing with this application the main issues to be considered are :

1) Principle; 2) Visual Amenity; 3) Neighbour Amenity; & 4) Traffic/Parking.

Principle

In the adopted Local Plan the site is identified as being within a Countryside Area, wherein Policy DS5 precludes development other than for agriculture, forestry and other uses appropriate to a rural area.

Whilst creation of a wildlife pond accords with Policy DS1, the log-cabin is intended for purposes that do not fully accord with this policy. However, I am mindful that the applicant is proposing to remove a dilapidated building presently on the site and, when the site was formerly used in part as an allotment, there were other buildings upon it. Furthermore, the log-cabin is not being erected upon the land and of permanent construction, but is being stationed upon the land. If permission is granted to this application it will not change the use of the site to that of 'domestic curtilage', to which permitted development rights for further outbuildings and hardstandings would be conferred.

Visual Amenity

It is proposed that the log-cabin be sited immediately adjacent to the communal garden serving Graver Weir Terrace, well back from the main road and at a level well below that of the main road. So long as the frontage hedge is properly re-instated, and the dilapidated building is removed, I do not consider the proposal will detract significantly from the essentially open and rural character of the areas viewed by the public. Nor is it likely to result in harm to any of the mature trees within the site or in the vicinity of it. To further reduce the visual impact of the log-cabin it would be desirable that it is dark-stained. Conditions are also recommended to ensure appropriate landscaping/boundary treatment is undertaken.

Neighbour Amenity

Version Number:	DS001	Page:	4 of 6
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It is proposed that a hawthorn hedge be planted on the boundary between the application site and the communal garden serving Graver Weir Terrace. I am satisfied that the log-cabin will not detract to an unacceptable extent from the amenities neighbours could reasonably expect to enjoy, so long as it is used for the intended purposes. It is considered appropriate to preclude by condition its use for the keeping of dogs or for business purposes.

Traffic/Parking

The Highway Authority has no objection in principle to the proposal. Implementation of the appropriate scheme of landscaping/boundary treatment will secure closure of the unauthorised vehicular access formed to the main road.

8. SUMMARY REASON FOR APPROVAL

The proposed development will retain the essentially open and rural character of the site and enhance its wildlife interest without unacceptable detriment to trees, visual and neighbour amenity or highway safety. As such, the application is considered to accord with the provisions of PPS1 / PPS7 / PPS9, Policies DP1-9 / RDF2 / Em1 of the Regional Spatial Strategy, and saved Policies DS1 / E4 and the criteria of saved Policy DC1 of the Rossendale District Local Plan.

9. RECOMMENDATION

That Permission be granted subject to the following conditions :

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason : Required by Section 51 of the Planning and Compulsory Purchase 2004 Act.
2. The log-cabin hereby permitted shall be used for purposes incidental residential purposes by the occupiers of 16 Graver Weir Terrace, as referred to in the submitted Planning Support Statement / Design & Access Statement, and shall not be used for the keeping of dogs or for business purposes. Reason : To protect the essentially open and rural character of the area and the amenities of neighbours, in accordance with the provisions of PPS1 / PPS7 / PPS9, Policies DP1-9 / RDF2 / EM1 of the Regional Spatial Strategy, and saved Policies DS1 / E4 and the criteria of saved Policy DC1 of the Rossendale District Local Plan.
3. Within two months of first use of the log-cabin hereby permitted it shall be stained a dark-brown colour and the dilapidated within the site shall be removed, unless the Local Planning Authority has first agreed in writing a variation. Reason : To protect the essentially open and rural character of the area and the amenities of neighbours, in accordance with the provisions of PPS1 / PPS7 , Policies DP1-9 / RDF2 / EM1 of the Regional Spatial Strategy, and saved Policies DS1 / E4 and the criteria of saved Policy DC1 of the Rossendale District Local Plan.

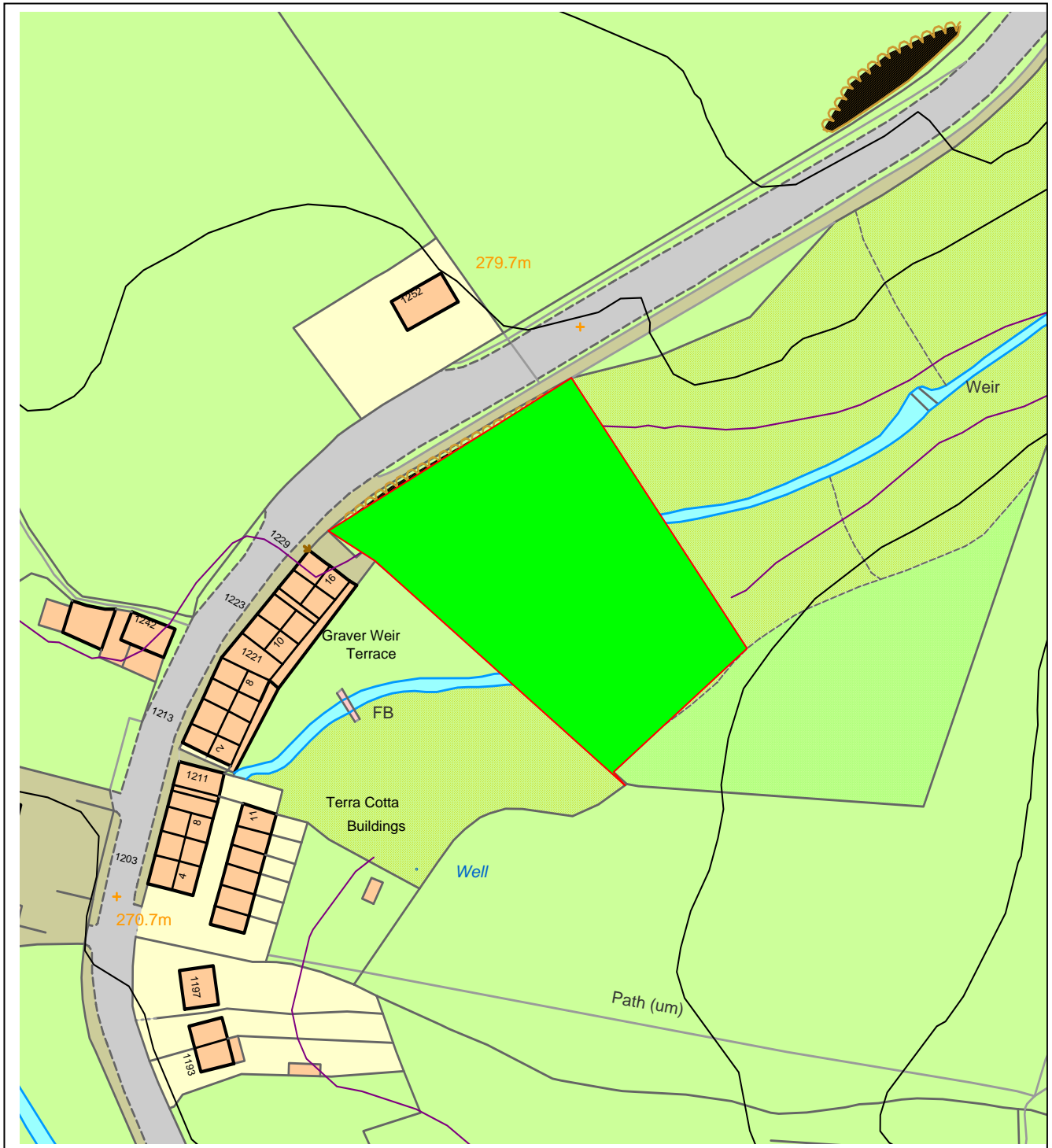
4. Notwithstanding the submitted details, prior to the commencement of development full details for a scheme of landscaping/boundary treatment shall be submitted to and agreed in writing by the Local Planning Authority, together with a timetable for its implementation. The approved scheme shall be implemented in accordance with the approved timetable, and any trees or plants which within a period of five years of planting die, are removed or become diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives consent to any variation. Reason : To protect the essentially open and rural character of the area, ecological interest and the amenities of neighbours, in accordance with the provisions of PPS1 / PPS7 / PPS9, Policies DP1-9 / RDF2 / EM1 of the Regional Spatial Strategy, and saved Policies DS1 / E4 and the criteria of saved Policy DC1 of the Rossendale District Local Plan.

5. The permission hereby granted does not confer or imply approval for a change of use of the land to 'domestic curtilage' or for other outbuildings or hardstandings to be provided upon it. Reason : To protect the essentially open and rural character of the area, ecological interest and the amenities of neighbours, in accordance with the provisions of PPS1 / PPS7 / PPS9, Policies DP1-9 / RDF2 / EM1 of the Regional Spatial Strategy, and saved Policies DS1 / E4 and the criteria of saved Policy DC1 of the Rossendale District Local Plan.

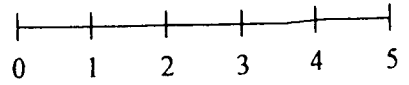
6. Any construction works associated with the development hereby approved shall not take place except between the hours of 8:00 am and 7:00 pm Monday to Friday and 8:00 am and 1:00 pm on Saturdays. No construction works shall take place on Sundays, Good Friday, Christmas Day or Bank Holidays. Reason : To safeguard the amenities of neighbours, in accordance with the criteria of saved Policy DC1 of the adopted Rossendale District Local Plan.

Contact Officer	
Name	Neil Birtles
Position	Principal Planning Officer
Service / Team	Development Control
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2008/0752 Location Plan



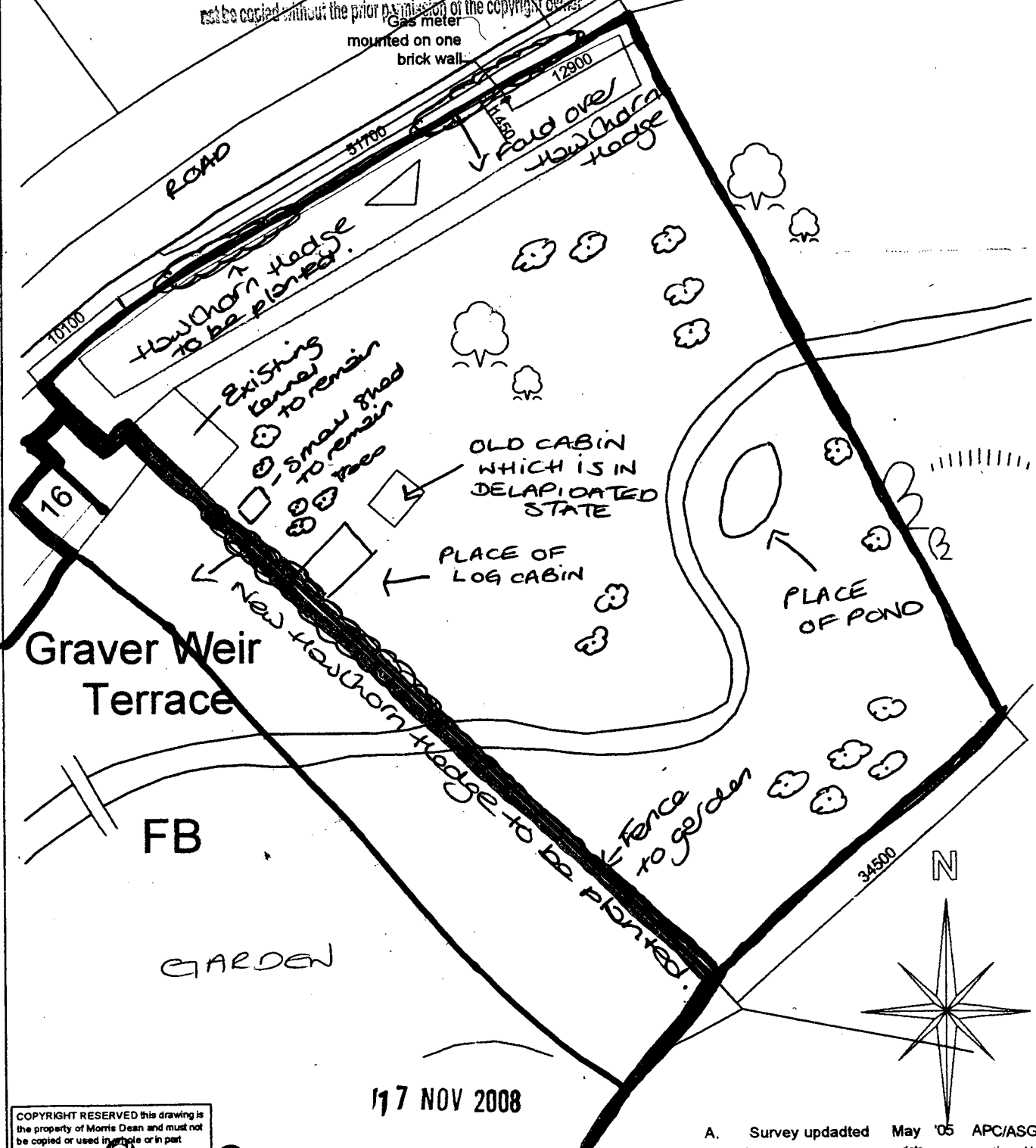
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Graver Weir Terrace

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GARDEN

17 NOV 2008

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PROJECT
MEASURED SURVEY
LAND ADJACENT GRATER
WIER TERRACE, WATER

2008 / MORRIS DEAN

DRAWING
BOUNDARY PLAN

CLIENT
MR & MRS PORTER

CHARTERED BUILDING SURVEYORS
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A. Survey updated May '05 APC/ASG
revisions date sig. chkd.

SCALE 1:500 DATE MAY '05 DRAWN APC CHKD ASG

PROJECT NO. 71084 DRAWING NO. SU001 REVISION A

* ALL LAND MARKED IN RED OWNED BY ME.