

Application Number:	2011/376	Application Type:	Full
Proposal:	Construction of Managers Dwelling, 3-bedroomed Bed & Breakfast , 10-bay Stables, Manege and altered Access Road	Location:	Fishermans Retreat, Off Bury Old Road, Shuttleworth
Report of:	Planning Unit Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	15 November 2011
Applicant:	Mrs S Robinson	Determination Expiry Date:	23 September 2011
Agent:	Tom Myerscough & Co		

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REASON FOR REPORTING

Tick Box

Outside Officer Scheme of Delegation

Member Call-In

Name of Member:

Councillor Anne Cheetham

Reason for Call-In:

The scheme would provide tourism for the Valley. The application is to improve the healthy lifestyle of people and the Fisherman's Retreat is a family business.

3 or more objections received

Other (please state):

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.

RECOMMENDATION(S)
Refuse for the reasons detailed in Section 6 of the Report.

1. BACKGROUND

This application was deferred at the meeting of Committee on 13 September to allow officers and the applicant to clarify the proposal in relation to the proposed dwelling and access, and give the applicant the opportunity to further justify the scheme (most particularly the 4-bedroomed house being proposed). The previous Officer Report and Update Report can be found in **Appendix A**.

2. POINTS OF CLARIFICATION

The applicant has proposed two possible locations for the house and B&B. Both options form a part of the planning application and, therefore, either could be approved as part of this application should they be considered acceptable.

- The first location (hereby termed Site 1) is the preferred location of the applicant, measuring approximately 0.7 hectares in area and situated near to a confluence of narrow lanes close to the drive up to the restaurant. The land is predominantly level and largely free of vegetation on account of long ago having been tipped upon. There is a gated access into the site from Bury Old Road at its western end and it has a level approximately 5m lower than the lane at its eastern end. Due to this difference in levels and the mature boundary hedge/trees on its north side, views into the site from the lane are very limited. To the east of the site the land falls steeply away and is well wooded, whilst to the south and west mature boundary hedge/trees go some way towards breaking views into it from the fields rising around it. The applicant has proposed a second access point to the east to be used in conjunction with the existing western access. Site 2 was also edged in red as the applicant wished to offer removal of the existing caravans upon it as part of their justification for the development being proposed for Site 1 and enable the Council to attach a Condition to ensure this occurred.
- The second location (hereby termed Site 2) is situated to the south of the restaurant and in close proximity to it, separated by the access road to the parking area and large conifers. The site is currently occupied by two static caravans used as one residential unit, with some decking to its south side. The area has an existing access and the land slopes upwards to the east and south. Although it is not the applicants wish to do so, they have indicated the dwelling and B&B could be sited roughly in the position of the two caravans to be removed and would face north/north westerly towards the access point. Five car parking spaces would be located in front of the buildings with the existing access and hardstanding being retained. All boundary treatments as existing would be retained. The stables and manege would still be located on Site 1.

Since the previous Committee meeting the applicant has provided :

- 3 statutory declarations regarding the caravans which state the applicant and her family have lived in the caravans in excess of 7 years and both this and 3 other caravans have been lived in on site by various family members and employees since 1985.
- letters of support from the National Farmers Union (NFU), the British Horse Society (BHS) and the Forest of Rossendale Bridleways Association (FORBA) along with the West Pennine Moors Bridleway Strategy. A Business Plan has also been provided.

The applicant remains of the view that the most appropriate place for the house and B&B is on Site 1, next to the Livery use, for three reasons:

- 1) That the dwelling is next to the B&B use
- 2) For the security of the Horses that are stabled there
- 3) Rossendale's Policy does not allow restaurants or food outlets to be next door to residential uses.

3. RELEVANT PLANNING HISTORY

- 2008/573 Erection of a detached meat refrigeration unit to consist of a carcass storage cold room and meat preparation area and the removal of 3 caravans with associated decking, and a refrigeration trailer unit
Withdrawn
- 2008/815 Erection of a detached meat refrigeration unit
Approved
- 2010/612 Erection of a two storey extension (retrospective)
Approved

4. POLICY CONTEXT

National

- PPS1 Sustainable Development
PPG2 Green Belts
PPS3 Housing
PPS4 Economic Growth
PPS7 Rural Areas
PPG13 Transport
PPG17 Open Space, Sport & Recreation
PPS23 Pollution Control
PPG24 Noise

Development Plan

Regional Spatial Strategy for the NW of England (2008)

- DP1-9 Spatial Principles
RDF1 Spatial Priorities
RDF2 Rural Areas
RDF4 Green Belt
W1 Strengthening the Regional Economy
W6 Tourism & the Visitor Economy
RT2 Managing Travel Demand
RT4 Management of the Highway Network
EM1 Environmental Assets

RBC Core Strategy DPD (2011)

- Policy 1 General Development Locations and Principles
Policy 8 Transport

Policy 9	Accessibility
Policy 10	Provision for Employment
Policy 14	Tourism
Policy 15	Overnight Visitor Accommodation
Policy 17	Rossendale's Green Infrastructure
Policy 18	Biodiversity, Geodiversity and Landscape Conservation
Policy 21	Supporting the Rural Economy and it's Communities
Policy 23	Promoting High Quality Designed Spaces
Policy 24	Planning Application Requirements

Other Material Planning Considerations

Draft National Planning Policy Framework (2011)

5. ASSESSMENT

This assessment amplifies on Officer's views as documented in the previous Committee Report/Update Report, with particular reference to Annex A of PPS7, a copy of which is appended as **Appendix B**.

With respect to the proposed dwelling, PPS7 states that isolated new housing in the countryside will require special justification for planning permission to be granted. Where the special justification relates to the essential need for a worker to live permanently at or near their place of work in the countryside, planning authorities should follow the advice within Annex A (appended as **Appendix B**). Also appended to this report (as **Appendix C**) is an Inspector's decision to dismiss an appeal against an enforcement notice for the residential occupation of a mobile home at Carter Place Stables, a long-established equine business, where the Inspector addressed similar issues to those of the current application at Fisherman's Retreat

It will be seen that Annex A of PPS7 says it will often be as convenient and more sustainable to live in nearby towns and villages or suitable existing dwelling, so avoiding new and potentially intrusive development in the countryside. There will be some cases where the nature and demands of the work concerned make it essential, however, whether this is essential will in any particular case ***"depend on the needs of the enterprise concerned and not on the personal preferences or circumstances of any of the individuals involved."***

The criterion Annex A sets out to make a case for a permanent dwelling (as proposed) are included below with comments provided pertinent to the application:

The first criterion is that it is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times.

Whilst it would obviously be preferable for the applicant to live on site to look after the horses, and for security, it is considered that in this instance it is clearly not **essential**. The applicant already resides in a caravan only 250m away from the proposed livery business and would, therefore, be readily available from their current residence. Horses do not need to be looked after 24 hours a day and other forms of security and monitoring could be made available should they be necessary, for instance CCTV systems and alarms, which have been included in the applicant's business plan.

Notwithstanding the above, even if it was considered essential, Annex A of PPS7 makes it clear that the need for a worker to live on site would "depend on the needs of the enterprise

and not on the personal preferences or circumstances of any of the individuals involved.” The 4 bedroom house has been designed for the applicant and her family and not to a significant extent in terms of its scale or form for the enterprise. This is stated within the applicant’s supporting information : “*The nature of the proposed dwelling being a four bedroom dwelling would be commensurate with the size of accommodation needed by the applicant and her husband and three children.*” The house, therefore, being a size not required for the enterprise renders it unacceptable.

The second criterion is that the need relates to a full time worker, or one who is primarily employed in the enterprise, and does not relate to a part time requirement. The applicant states that the stables and the B&B would necessitate a full time worker, and has provided calculations to show that the enterprise would require up to 12 hours of work per day. However, the applicant’s Business Plan states that the applicant “*will continue to work at Fisherman’s Retreat alongside this project.*” Again, whilst I consider that it would be more convenient for the applicant to live on-site in order to undertake the work in relation to the new enterprise they wish to establish, I do not consider it **essential**, particularly so given the siting of their caravan only 250m away.

The third criterion for a permanent dwelling is that the enterprise concerned has been established for at least three years, has been profitable for at least one of them, is currently financially sound, and has a clear prospect of remaining so. The scheme is clearly contrary to this criterion as business to justify the permanent dwelling proposed has not yet been established.

Para 12 of Annex A states that if the new dwelling is essential to support a new enterprise it should normally for the first 3 years be provided by a caravan, a wooden structure which can be easily dismantled or other temporary accommodation. Even then it makes it clear that “the proposed enterprise has been planned on a sound financial basis”. The Business Plan does not adequately demonstrate that the stables and B&B stays associated with it will provide the financial return for the size of the dwelling proposed and have a reasonable prospect of sustaining it. The Business Plan indicates that of the stabling for 10 horses being proposed 6/7 of the stable will be used as livery by local people. Thus 3/4 would be used by B&B guests. It acknowledges that the horse riding season is from April to October, anticipated occupancy rates for the B&B rooms of 57% in the first year and 71% in the second year attained by marketing to guests visiting the area for business, weddings, functions, etc. The submitted figures do not seek to indicate what income will be generated by B&B guests who are holidaying with their horses. Nor do I consider this site sufficiently close and accessible from the Pennine Bridleway and Mary Towneley Loop that other establishment of this type necessary provide a good comparable.

The fourth criterion is that the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned. There has been no assessment of the availability of permanent dwellings in the area. Crucially, the applicant already resides in a caravan adjacent to the Fisherman’s Retreat which they consider to be lawful. The applicant states that a new house is needed to be close to the livery business but also that the existing caravan is not suitable for herself and her family. As previously discussed, it is considered that there is no reason why the applicant could not reside in the existing caravan and Annex A makes it clear that the personal preferences or circumstances of any of the individuals involved are not relevant, it is the requirements of the enterprise that are key. Accordingly, the application is considered not to meet this criteria.

The fifth criterion is that other planning requirements, e.g. in relation to access, or impact on

the countryside, are satisfied. PPG2 sets out Government guidance in respect of Green Belts. It states that : *“The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness.”*

It sets out a general presumption against inappropriate development within the Green Belt. Paragraphs 3.1 and 3.2 state that such development should not be approved unless the applicant can demonstrate the very special circumstances to clearly outweigh the harm by reason of inappropriateness and any other harm. Additionally, Paragraph 3.15 states that the visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green Belt which, although they would not prejudice the purposes of including land in Green Belts, might be visually detrimental by reason of their siting, materials or design.

PPG2 makes it clear that the quality of the landscape is not relevant to the inclusion of land within Green Belts. Therefore a site of low quality within the Green Belt should be afforded the same protection as any other.

The issue of appropriateness is addressed immediately below, whilst the impact of the proposal in terms of visual amenity is considered in the following Section of the report.

PPG2 states that essential facilities for outdoor sport and outdoor recreation and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it, for example “small stables”, are not considered inappropriate. The proposed stables building cannot be said to be small scale. However, it is not necessarily of disproportionate size in relation to the 80-acre estate it lies within. It is also in its favour that it is intended for outdoor sport & outdoor recreation and will help diversify the rural economy.

The construction of a new dwelling and new bed and breakfast facility within the Green Belt constitute inappropriate development. This is accepted by the applicants.

Looked at in totality, therefore, the scheme is considered inappropriate development within the Green Belt. Even if it were concluded that the proposal would not be injurious to the visual amenities of the Green Belt it would nevertheless still be inappropriate development requiring very special circumstances to justify it.

The development of tourism and other related facilities are supported in the Council’s Core Strategy DPD. Policy 15 – Overnight Visitor Accommodation of the DPD states it will be expected that use will be made of existing buildings. Such developments should also not conflict with other Policies (eg. Green Belt Policy). To conclude, I am not satisfied that the house is necessary or essential for tourism in this instance. Whether the house and B&B building would cause unacceptable harm in terms of visual amenity is considered below.

The proposed dwelling would not fulfil the criteria within Annex A of PPS7. In particular, there is not a clearly established existing functional need; the activity concerned has not been established for at least three years; the applicant already resides in a property close to the site and it has not been demonstrated that there are no other suitable properties available; it has not been demonstrated that it is **essential** for a worker to be on-site; and it is considered that even if there was an established functional requirement, the size of the dwelling proposed would not be commensurate with it.

Accordingly, the application is considered unacceptable in principle.

Visual Amenity/Countryside Impact

The proposed buildings, most particularly the house and B&B building, are considered to be detrimental to the Countryside and Green Belt within either of the proposed locations. Although the applicant's have provided declarations to state the caravans are lawful, they are caravans, and the proposed dwelling would be significantly larger, more prominent and have a greater degree of permanence.

I remain of the view that in relation to Site 1, the degree to which the buildings will impact on visual amenity and will erode the essentially open and rural character of the area is greater by reason of creation of the new vehicular access and the new access has not been shown to be necessary. Formation of this access would provide additional and elevated views into the site and of the proposed house and bed & breakfast, whereas the existing access point is at a lower level with existing trees that significantly reduce views into the site. The applicant's have indicated that there is an existing secondary access, however, this is not now in use.

The off-site highway works to the north east do not unduly affect the openness or visual amenity of the Countryside/Green Belt.

Overall, the scheme is considered to unacceptably and unnecessarily erode the essentially open and rural character of countryside/green belt.

6. REASON:

The proposed development is considered inappropriate development within the Countryside/Green Belt and the applicant has not demonstrated very special circumstances that would outweigh this finding. In addition the scheme, most particularly by reason of the siting/size/design of the proposed house and B&B building and with the formation of the easterly access point will give views of them, and would detract to an unacceptable and unnecessary extent from the essentially open and rural character of the Countryside and the Green Belt. Therefore, it is considered that the proposed development is contrary to the provision of PPS1 / PPG2 / PPS3 / PPS4 / PPS7, Policies DP1-9 / RDF1 / RDF2 / RDF4 / EM1 of the Regional Spatial Strategy for the NW of England (2008), Policy DS3 of the Rossendale District Local Plan (1995) and Policies 1, 14, 15, 17, 21, 23 and 24 of Rossendale Borough Council's Core Strategy DPD (2011).

Background Papers

Document Details	Appendix Number
Committee Report and Update Report 13 September	Appendix A
Annex A of PPS7	Appendix B
Carter Hall Stables Appeal Decision	Appendix C