

Application Number:	2013/0550	Application Type:	Full
Proposal:	Change of use of land and associated buildings from agriculture with stables to mixed use for agriculture and as a petting farm, creation of vehicular passing point on Newchurch Old Road and associated works (Retrospective)	Location:	Animal Quackers Huttock Top Farm, Newchurch Old Road, Bacup
Report of:	Planning Unit Manager	Status:	For publication
Report to:	Development Control Committee	Date:	25 March 2014
Applicant:	Mr T Bork	Determination Expiry Date:	29 April 2014
Agent:	Steven Jackson		

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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	Major
Member Call-In Name of Member: Reason for Call-In:	
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.

1. RECOMMENDATION

That Committee grant planning permission subject to the conditions set out in section 10 of the report.

2. SITE

The application site relates to Huttock Top Farm which has an area of approximately 14.4 hectares. Lying to the rear of the residential properties fronting Bankside Lane, it fronts Newchurch Old Road, which is an adopted highway maintained by Lancashire County Council as a lowly trafficked route. This track is of single-vehicle width.

The farm comprises a farm house, stone barn attached to a former cottage, framed-barn, former stable-block and loose boxes, ménage, yards and a couple of fields. Its access is located approximately 100 m south west of the junction of Newchurch Old Road with Bankside Lane. The site is understood to be in use both as an agricultural holding and as a petting farm. The application pertains to the whole site but is primarily focussed on seeking to regularise the latter use.

Whilst the residential area to the east of the application site is within the Urban Boundary of Bacup, the site itself is in Countryside. It should also be noted that Newchurch Old Road is a Valley Way.

3. RELEVANT PLANNING HISTORY

2008/594 Provision of visitor facilities with existing building for incidental use as petting farm
Refused 31/08/10 on highway safety grounds due to inadequate access

2011/481 Provision of visitor facilities within existing building and creation of parking area
Refused 14/12/11 for the following highway reasons :

1

Newchurch Old Road is maintained only as a lowly-trafficked no-through road. The proposed development is likely to increase the amount of vehicular traffic visiting the premises and, as a consequence, both the pedestrian and vehicular traffic using that part of Newchurch Old Road between Bankside Lane and the site. The proposal fails to provide for improvement of the full length of this section of Newchurch Old Road to the satisfaction of the Highway Authority and the Borough Council. The proposal is therefore considered likely to exacerbate problems that can arise with the parking of visitors vehicles on Bankside Lane, unsafe and unsatisfactory manoeuvring of vehicles on Newchurch Old Road and in the vicinity of its junction with Bankside Lane, to the detriment of safety and inconvenience of pedestrians and other road users and local residents, contrary to the provisions of PPG13 and Policy 8 of the adopted Core Strategy DPD 2011.

2

The proposal would facilitate the intensification of the petting farm function at the site and lead to increased traffic flows that would have a detrimental impact on users of the Valley Way (Newchurch Old Road) contrary to Policy 1 within the adopted Core Strategy DPD as illustrated by C10 on the LDF proposals map 2011

2013/0128 Change of use of land and associated buildings from agriculture with stabling to use as a petting farm and creation of vehicular passing point on Newchurch Old Road and associated works (retrospective)
Refused for the following reason:

Notwithstanding the hours stated in the application form submitted, the applicant confirmed at the committee meeting that he could not operate and did not intend to operate the petting farm within the hours identified or solely for the use as a petting

farm as stated on the application form and which the case officer and highway authority had formed their recommendations on. Furthermore, it is considered that the proposal will lead to the increased vehicular use of Newchurch Old Road, an unmade single track highway that in part adjoins residential properties and which is not considered suitable for increased use, particularly by the larger vehicles used by some of the local schools and other groups who could be anticipated to visit the site. Furthermore due to the state of the highway, it is considered the proposal will also lead to additional 'on- street' parking along Bankside Lane due to visitors not travelling up Newchurch Old Road. By reason of Bankside Lane experiencing significant levels of on street parking, particularly at evenings, weekends and Bank holidays the road is often narrowed significantly. It is therefore considered that the proposal would adversely affect highway safety in the area and would have a detrimental effect upon the amenities local residents could reasonably expect to enjoy. The proposal is therefore contrary to sections 4 and 7 of the National Planning Policy Framework (NPPF) and policies 1 and 24 of the adopted Core Strategy.

Enforcement Action On 13/9/13 an Enforcement Notice was issued in respect of Huttock Top Farm alleging the following breach of planning control :

The unauthorised change of use of the Land from mixed use comprising of agriculture and stables to mixed use comprising of agriculture and stables and petting farm with provision of visitor facilities and entertainment use.

Also, the unauthorised siting of a static caravan on the Land and its use for residential purposes.

An Appeal against the Notice, and its requirements that the Petting Farm/Entertainment Use cease and the Caravan be removed, was lodged. The subsequent enforcement appeal was dismissed, but the compliance period varied on the notice. The variation requires the ceasing of the unauthorised change of use of the Land from mixed use comprising of agriculture and stables to mixed use comprising of agriculture and stables and petting farm with provision of visitor facilities and entertainment use by the 23rd March 2014 and removal of the static caravan by the 23rd June 2014.

Failure to comply can lead to prosecution or other legal action being undertaken.

4. PROPOSAL

The application site is currently used in part as a petting farm ('Animal Quakers') without the benefit of planning permission.

The revised proposals still seek to:

- continue using the south western portion of the site, and the buildings within the farmyard, in conjunction both with the agricultural holding and the petting farm
- to alter one of the farmyard buildings to provide ancillary visitor facilities for the latter (namely a café, toilets and a teaching and activity area)
- to create a visitor parking area within the site.
- to create a vehicular passing point on Newchurch Old Road

There are, however, some revisions to the layout. The car parking layout has been revised, though there is little change in the number of spaces proposed in total. A ménage has also been

introduced as has 4 loose boxes. The dog kennels have been removed and landscaping previously shown to the southern boundary is not shown on the latest submission. In addition, the proposed passing place on the access track is now shown as part of the formal submission.

Additionally, the applicant proposes that when out of season, the site will gain a small income from the breeding and sale of animals. This proposal did not form part of the previous submission though this is potentially possible through the existing use in any event.

In light of the previous reason for refusal, the applicant has submitted two supporting statements, one which seeks to address the previous reasons for refusal and another statement which sets out why the proposal should be considered compliant with national and local planning policy.

In short the applicant:

- Indicates they do not consider the proposal will create significant noise
- Proposes slightly revised operating times from the previous submission of 10am to 4pm at weekends, bank holidays and school holidays from Easter through to Autumn half term.
- Considers the site will attract a maximum of 20 cars per every 3 hour visit which equates to an average of 6-7 cars per hour which the applicant considers Bankside Lane will be able to cope with without significant detrimental affect
- Will not accept school parties but will instead undertake school roadshows negating the need for larger vehicles to visit the site
- Will also undertake the road show approach in respect of other institutions and community ventures
- Has offered to surface the track with road planings subject to agreement with LCC
- Will impose a 5mph speed limit and the access will be marshalled and direction signed.
- Supports the economy – has received up to 40,000 visitors over the last 5 years, will provide tourism potential, seasonal jobs, agricultural animal husbandry training and veterinary and possible horticulture training in line with the NPPF and Core Strategy policies and will help regenerate Bacup
- Will use the business's website to provide information on how the site is accessible by walking, cycling and public transport provision to Bacup to promote the site's sustainability. A travel plan is not submitted this time.
- Will improve the appearance of the current site
- Will use a contractor to take away septic tank and animal waste
- Will introduce a requirement that the waste contractor will provide a method to deal with the short term storage and removal of silage which has been a source of previous complaint
- Will provide additional hand wash facilities
- Has created an additional pond to encourage flora and fauna to the site
- Use will be of less nuisance than potential agriculture use which doesn't need planning permission, such as pig farming which will increase larger vehicle traffic

5. POLICY CONTEXT

National Planning Guidance

National Planning Policy Framework (2012)

Section 1	Building a Strong, Competitive Economy
Section 3	Supporting a Prosperous Rural Economy
Section 4	Promoting Sustainable Transport
Section 7	Requiring Good Design
Section 11	Conserving and Enhancing the Natural Environment

Development Plan Policies

RBC Core Strategy (2011)

AVP2	Strategy for Bacup, Stacksteads, Britannia and Weir
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- Policy 1 General Development Locations and Principles
- Policy 8 Transport
- Policy 9 Accessibility
- Policy 10 Provision for Employment
- Policy 14 Tourism
- Policy 17 Rossendale's Green Infrastructure
- Policy 18 Biodiversity, Geodiversity and Landscape Conservation
- Policy 21 Supporting the Rural Economy and its Communities
- Policy 23 Promoting High Quality Design and Spaces
- Policy 24 Planning Application Requirements

Other

RBC Conversion and re-use of Buildings in the Countryside SPD (2010)

6. CONSULTATION RESPONSES

LCC (Highways)

As with the previous application (2013/0128) the Highway Authority has raised a number of concerns with proposals at this site to create a petting farm. These have centred around the access to the site and the issue of parking for visitors to the site. In this current application work has been done to address some of these issues and these are looked at below:

Newchurch Old Road is a lightly trafficked adopted highway, serving a small number of properties. As an adopted highway the maintenance of the road is the responsibility of the Highway Authority.

The road is narrow (approximately 3 metres wide) and only suitable for low numbers of vehicle movements. One of the concerns raised previously was that this would mean that 2 vehicles could not pass on the lane, necessitating a significant reversing manoeuvre should 2 vehicles meet. This has been addressed through the proposed creation of a passing place on the road. Currently the passing bay is 7.5 metres and will be a minimum of 2.1 metres wide for its full length creating a total road width of 5.1 metres which is sufficient to enable 2 cars to pass each other. The passing place will have to be constructed of a suitable material.

There is sufficient car parking area within the site to cope with day to day visitor levels. There is also sufficient room within the site to allow vehicles to manoeuvre so that they can enter and leave the site in forward gear.

The access and car parking are not, however, suitable for large vehicles, although it is recognised that farm vehicles do access the site along Newchurch Old Road. The previous proposal for school parties visiting the site has been withdrawn and there is no longer any mention in the submission of the large scale events that were proposed.

Given that these elements no longer appear to be included in the proposals there is no reason why visitor traffic coming to the site should be anything other than cars. There will be some larger vehicles that come to the site as part of the day to day operation of the farm but numbers will be limited.

The latest submission includes proposals for limited opening hours which will minimise the impact on the highway network. This is welcomed.

Given the above, subject to the issues that have been identified being addressed I would have no objection to this application on highway grounds.

RBC (Environmental Health)

Environmental Health do not have any objections in principle to the existence of such a proposal.

The basis of our concerns relates to how the business will be run given our dealings with the owner. The owner has been prosecuted by the Council for failure to adhere to health and safety requirements despite repeated visits to the premise. As a matter of last resort we successfully took action to close the premises for a period of 6 weeks in 2012 as a result of the owners refusal to implement measures designed to protect members of the public.

Based on previous history we have concerns as to how business will be run should this application get approved. Committee should be aware that there are a number of regulatory powers available to EH to address any health and safety or food safety issues relating to his business should they occur.

7. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order a site notice was posted on 4/9/13 and letters were sent to the relevant neighbours on 15/8/13.

Comments have been received from one objector who states they speak for most residents of Bankside Lane, and whilst they consider the use to be a great idea, they raise the following objections related to the use of the site:

- Animals have been allowed to roam free and have caused damage to residents properties
- Land drains have been damaged causing properties to flood and causing water to run on to pavements and will probably cause damage to property foundations.
- Mounds of animal manure directly behind people's property which prevents residents from using their gardens in the summer
- Constant barking from dogs in shed / barn causing sleepless nights for residents
- Health and safety concerns as he has had to be told to put in hand wash facilities
- Noise from his Halloween party which went late into the night

8. ASSESSMENT

The main issues for consideration in this instance are:-

- a) Principle
- b) Visual Amenity
- c) Neighbour Amenity; &
- d) Access/Parking.

Principle

Given the nature of the proposed development, and its location within a Countryside Area, it is considered that it needs to be judged initially against the requirements of Policies of the Core Strategy referred to above and the Council's adopted 'Conversion and re-use of Buildings in the Countryside SPD'. In accordance with the National Planning Policy Framework, they seek to strike the appropriate balance between encouraging economic development/job creation and protection of the character & appearance of the area, neighbour amenity, highway safety, etc.

The proposal is considered to be acceptable in principle, having regard to planning policy, for the following reasons:

- a) the development is considered to be sustainable in so far as it entails conversion/re-use of existing farm buildings
- b) the development has the potential to create local employment

- c) a petting-farm is a use that requires an extensive site and is tourism-related - whether ancillary to the existing agricultural holding or not, it represents a form of development that is appropriate in a rural area.

Visual Amenity

The building to be used to provide the associated visitor facilities is a prominent structure which is fully visible from Newchurch Old Road. It is not considered to be ideal in design terms as it is clad using metal sheeting. Nevertheless, it already exists, there are no proposals to alter its size or design (other than to refurbish it by way of repainting or re-cladding), and there are other similarly designed buildings on the site. In view of this, and as other buildings on the site are to be re-used without alteration, it is considered that a refusal of this proposal on either design or scale grounds could not reasonably be sustained in this instance.

Neighbour Amenity

The site is located near to residential properties and the use therefore has the potential to unduly disturb local residents by reason of noise associated with on-site activities and movements to and from the site.

The main on-site activities are to take place away from neighbouring residential properties, largely within the farmyard area and inside the converted 'visitor facility' building abutting Newchurch Old Road. Furthermore, whilst it is proposed to open to the public on Saturdays, Sundays, Bank Holidays and school holidays the (applicant has indicated that the) use is to be operated solely between the hours of 10am and 4pm, hours that are considered to be reasonable. Subject therefore to conditions making it clear that the permission granted relates solely to use as a petting farm, and requiring it to operate as described in the applicant's submission in terms of the hours it is open to the public, undue noise disturbance for neighbours is not considered likely. These conditions are also considered appropriate in order to adequately mitigate noise disturbance that might otherwise be caused to residential neighbours by reason of movement of people and vehicles to and from the site.

A use of this nature also has the potential to disturb local residents by reason of smell, flies, etc. However, subject to appropriate siting/construction/management of waste facilities there is no reason why the petting farm should impact on neighbours to a greater extent than if the site were to continue to be used solely for agricultural purposes. A condition is recommended in respect of the storage and disposal of animal waste.

The points of objection by a resident are noted as are the concerns of Environmental Health , however, these matters can controlled by other regulatory controls, or can be dealt with by condition /appropriate enforcement action where it is expedient and there is evidence to take action.

Access/Parking

The revised parking layout still appears to indicate that 21 car parking spaces are to be provided within the site (though the supporting literature indicates 22), with further spaces available for use by farm vehicles. These are to be accessed from Newchurch Old Road by way of a 'one-way' system, with separate points of access/exit being created to and from the site.

These arrangements have been considered by County Highways who consider them to be acceptable allowing for a suitable level of parking in conjunction with the development, adequate space for the 'on site' manoeuvring of vehicles and a satisfactory means of accessing and exiting the site.

Vehicular access to/exit from the site is to be gained from Bankside Lane via a length of approximately 170m of Newchurch Old Road. Whilst this is an adopted highway it is currently only wide enough to allow 'one-way' traffic. The application proposes the creation of a vehicular passing place at the northern end of the site (60m from Bankside Lane. LCC Highways advise that it needs to be completed in accordance with the submitted details and properly surfaced. A condition to secure completion of the passing-place is recommended.

On this basis, LCC Highways considers the proposed parking facilities within the site to be adequate and also the proposed means of accessing/exiting the site, despite previous concerns in respect of the latter.

In relation to the previous reason for refusal by RBC, there was significant concern that the applicant could not and did not intend to operate the petting farm within the hours identified or solely for the use as a petting farm.

Separately, there was concern that the proposal would lead to the increased vehicular use of Newchurch Old Road, not considered suitable for increased use, particularly by the larger vehicles that could be anticipated to visit the site. Increased parking on Bankside Lane due to the uninviting nature of Newchurch Road for vehicular traffic was also a concern. Finally, there was concern due to significant levels of on street parking, particularly at evenings, weekends and bank holidays that the road is often narrowed and therefore it was considered the proposal would adversely affect the highway safety of the area and is detrimental to the amenities local residents could reasonably expect to enjoy.

In relation to the above, the application has to be determined on the submission made. The applicant has not sought to extend the hours of operation and in fact has reduced the closing time by an hour. There is also no indication in the proposals for the occasional evening entertainment activities or for children's parties or other petting farm activities outside of the hours applied for, that in the past have led to significant highway congestion difficulties for local residents. In addition, the applicant has indicated visits from schools or other groups will no longer be undertaken and the applicant has offered to improve the surface of Newchurch Old Road to encourage parking away from Bankside Lane.

Accordingly, the applicant does appear willing to make changes both physical and in the way they operate which will mitigate to a degree against the previous reasons for refusal and the cause of concern from residents. The comments from LCC highways reflect these revisions and they do not object to the application. The Council, separately also does have planning enforcement powers to use where it is expedient should any breaches occur both in terms of use or hours of operation. In relation to the surface improvements proposed to Old Newchurch Road, LCC comments remain silent on the matter, neither, supporting or objecting on this aspect. Nevertheless this is in the Borough Council's view an important aspect if parking for the facility is to be encouraged away from Bankside Lane and on to the site. Accordingly, if approved by the committee a condition would need proposed which would require details to be submitted and then implemented so that the work would be acceptable to Rossendale BC and the highway authority.

However, I do remain concerned that notwithstanding the revisions made that there is an inherent conflict between the hours the petting farm operates and when there is likely to be the higher levels of on street parking ie at weekends and at bank holidays. Accordingly, the key consideration is whether the levels of vehicular traffic proposed are considered acceptable having regard to the constraints of Bankside Lane. On balance officers are of the view in light of the low levels of traffic proposed, the mitigation measures put in place and the comments of the highway authority that a refusal on highway grounds could no longer be sustained in this respect.

Implications for the Enforcement Notice

The requirements of the notice are:

- a) Cease the use of the land for petting farm and visitor and entertainment activities;
- b) remove the catering facilities, toilets, play equipment, entertainment facilities, tables and all seating equipment from within the barn located on the land;
- c) Cease the use of the land for residential purposes; and
- d) Remove the static caravan from the land.

As the appeal in respect of this notice was dismissed, the applicant has until the 23rd March to comply with elements a) and b) and has until the 23rd June to comply with elements c) and d).

If the latest application is approved, then the applicant will not be required to cease the petting farm and the visitor element part of criteria a) or remove the facilities within the barn related to the petting farm use though revisions would need to be made to be in accordance with this consent. The enforcement notice would, however, still 'bite' in relation to any entertainment activities not related to the petting farm use and outside of its authorized hours and in relation to elements of the notice c) and d). Accordingly, if there were breaches in these respects, the Council could still pursue prosecution and if appropriate other measures such as applying to the courts for an injunction.

Conditions have been attached as set out below which further amplify and provide clarity for the use applied for.

9. SUMMARY REASON FOR APPROVAL

The proposed use is considered to be acceptable in principle in the Countryside and, subject to the conditions, will not detract to an unacceptable extent from visual and neighbour amenity or highway safety. It is therefore considered to accord with the relevant provisions of the National Planning Policy Framework, and Policies AVP2 / 1 / 14 / 17 / 21 / 23 / 24 of the Council's adopted Core Strategy DPD (2011).

10. RECOMMENDATION

That Permission be granted subject to the following conditions.

Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason : To accord with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. This permission relates to the Location Plan (which includes the pond) and the Site Layout Plan and Proposed Elevations received by the Local Planning Authority on 27/1/14. Any variation to the approved drawings may require the approval of the Local Planning Authority.
Reason : For the avoidance of doubt, in accordance with the requirements of Policies 1, 23 and 24 of the Council's adopted Core Strategy DPD (2011).
3. Details of the colour that it is proposed to paint the cladding, and/or of the colour of any replacement cladding to be installed, on the 'Visitor Facility' building shall be submitted to and approved in writing by the Local Planning Authority within one month of the date of this

approval. The building shall be painted the approved colour, and/or the approved cladding shall be installed, within three months of the date of this approval.

Reason : In the interests of visual amenity, in accordance with the requirements of Policies 1, 23 and 24 of the Council's adopted Core Strategy DPD (2011).

4. Details of the proposed treatment of the site boundaries and landscaping and boundary treatment in respect of the proposed visitor car park shall be submitted to and approved in writing by the Local Planning Authority within one month of the date of this approval and will be implemented in accordance with the approved details within three months of the date of this approval.

Reason: In the interests of visual amenity, in accordance with the requirements of Policies 1, 23 and 24 of the Council's adopted Core Strategy DPD (2011).

5. Notwithstanding what is shown on the submitted drawings, the wall around the passing place will be constructed of local natural stone of a height and design to match the existing wall in the position shown on the approved Site Layout Plan. The approved boundary treatment shall be completed in accordance with the approved details within three months of the date of this approval.

Reason : In the interests of visual amenity, in accordance with the requirements of Policies 1, 23 and 24 of the Council's adopted Core Strategy DPD (2011).

6. Notwithstanding what is shown on the proposed drawings, details of the materials to be used to construct /surface all areas to be used by vehicles and pedestrians (including the proposed passing place and resurfacing of Newchurch Old Road) shall be submitted to and approved in writing by the Local Planning Authority within one month of the date of this approval. These areas shall be constructed/surfaced using the approved materials, and shall be laid out in the manner shown on the approved Site Layout Plan with the approved parking spaces clearly marked out, within three months of the date of this approval. These areas shall thereafter be kept freely available for use as such.

Reason : In the interests of highway and pedestrian safety, in accordance with the requirements of Policies 1, 23 and 24 of the Council's adopted Core Strategy DPD (2011).

7. Unless otherwise agreed in writing, the use hereby permitted shall be open to the public solely between the hours of 10am and 4pm on Saturdays, Sundays, Bank Holidays and the (Half Term) school holidays specified within the application.

Reason : In order to safeguard the amenities of adjoining residents from noise at unsocial hours, in accordance with the requirements of Policy 1 and 24 of the Council's adopted Core Strategy DPD (2011).

8. The use hereby permitted (as a petting farm) shall be operated solely in accordance with the details outlined in the application form, the document entitled 'statement of use / intention' and Site Plan.

Reason : In order to enable the Local Planning Authority to retain a degree of control over the development, in the interests of safeguarding the neighbour amenity and highway safety, in accordance with the requirements of Policies 1, 14, 23 and 24 of the Council's adopted Core Strategy DPD (2011).

9. Details of the proposed measures for storing and disposing of animal waste from the development shall be submitted to and approved in writing by the Local Planning Authority

within one month of the date of this approval. The approved measures shall be implemented in full within three months of the date of this approval and shall thereafter be retained at times for the duration of the use.

Reason : In order to safeguard the amenities of adjoining residents from undue odour, in accordance with the requirements of Policy 24 of the Council's adopted Council Core Strategy DPD (2011).

10. Notwithstanding the details given in the submitted application form, within one month of the date of this approval details of the proposed means of disposing of surface water from the site shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in full within three months of the date of this approval and shall thereafter be satisfactorily retained at all times.

Reason : In the interests of the satisfactory drainage of the site, in accordance with the requirements of Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).