

**Item 4j**                    **13/00848/FUL**

**Case Officer**            **Mr Matthew Banks**

**Ward**                      **Wheelton And Withnell**

**Proposal**                **Section 73 Application to vary condition 6 (junction improvements with Briars Brow) of planning approval 08/00934/FUL to alter the previously approved sightlines.**

**Location**                **South Miry Fold Farm Briars Brow Wheelton ChorleyPR6 8JN**

**Applicant**               **Acland Banks**

**Consultation expiry: 29 October 2013**

**Application expiry: 21 November 2013**

**Consultation expiry date: 29<sup>th</sup> October 2013**

**Decision date: 21<sup>st</sup> November 2013**

### **Proposal**

1. Section 73 Application to vary condition 6 (junction improvements with Briars Brow) of planning approval 08/00934/FUL to alter the previously approved sightlines.

### **Recommendation**

2. It is recommended that this application is granted full conditional planning approval.

### **Main Issues**

3. The main issues for consideration in respect of this planning application are:
  - Status of emerging Local Plan (2012-2026);
  - Background information;
  - Impact on highway safety.

### **Representations**

4. To date, no letters of representation have been received concerning this application.

### **Consultations**

5. **Parish Council** – no objections.
6. **Lancashire County Council Highways** – Raise no objection to the reduction in visibility. However, they consider that the Local Planning Authority should be satisfied that the visibility can be implemented and retained. LCC Highways have also shown concern for various discrepancies on the submitted plans which need to be clarified or amended before a positive recommendation could be reached.

### **Assessment**

#### Status of emerging Local Plan (2012-2026)

7. It is relevant to note that on 25<sup>th</sup> October, the Inspector issued her Partial Report on her findings into the soundness of the Chorley Local Plan which is a material consideration in the consideration of any planning application.
8. In summary, the plan is considered to be legally compliant. In relation to soundness, the plan is considered sound, with the exception of matters relating to Gypsies & Travellers. The examination of the local plan remains open, and the Inspector will reconvene the examination in April 2014 to consider Gypsy & Traveller Matters, which would enable adoption of the local plan by September 2014, following a supplementary report.

9. Paragraph 18 of the Partial Report states: *“For the avoidance of doubt, the Plan may not be adopted until it has been changed in accordance with all of the main modifications set out in the Appendix to this partial report and any which may be specified in the Appendix of my forthcoming supplementary report. However, because of the very advanced stage in the examination process that the main modifications set out in the attached Appendix have reached, significant weight should be attached to all policies and proposals of the Plan that are amended accordingly, where necessary, except for matters relating to Gypsies and Travellers.”*
10. It is therefore considered significant weight should be afforded to the policies and proposals of the submitted Local Plan, as amended by the main modifications.

#### Background information

11. The original consent at South Miry Fold Farm (08/00934/FUL) secured planning permission for the conversion of an existing barn and coach house into 2no. dwellings. Condition 6 of that approval required access improvements at the junction of the access track serving the site with Briers Brow. This condition was imposed with the original permission to secure the conversion and long term future of the traditional stone built barn and to overcome the original concerns raised by Lancashire County Council (LCC) Highways. The condition was considered an appropriate resolution at the time in order to achieve the required highway visibility. Condition 6 of planning approval 08/00934/FUL reads:

*No development shall take place until a plan has been submitted detailing improvements to the junction of the access track with Briers Brow showing the access track widened to a width of 4.5m for a distance of 10m from the adopted highway, visibility splays of 2.4m by 60m, traffic calming measures and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall be carried out in accordance with the approved scheme before the first occupation of the new dwellings.*

*Reason: In the interests of highway safety and in accordance with Policy TR4 of the Adopted Chorley Borough Local Plan Review.*

12. In response to discharging the requirements of Condition 6, a plan was submitted by the applicant to the Council (on the 15<sup>th</sup> January 2009) and consequently approved (on the 13<sup>th</sup> February 2009) showing the required access alterations. The works were then to be undertaken in accordance with the approved plan before first occupation of the new dwellings.
13. Since submission and approval of the highway plan, the Council has become aware of historic landownership disputes at the site which have made securing the access alterations and in particular visibility splays difficult. This issue was identified in early 2012 by the Council when dealing with the application 12/00037/FUL which sought permission to vary the approved plans from the original application.
14. The Council sought to try and resolve the highway/land ownership issues by informally engaging with the applicant and LCC Highways. Despite such discussions, an agreement could not be reached between the applicant and LCC Highways and so the applicant instructed the Council to determine the application 12/00037/FUL on the basis of not formally considering the information submitted in respect of Condition 6.
15. As such, Condition 6 was not formally varied and the condition was re-imposed in the interests of openness and transparency, whilst taking account of the fact that work had commenced on site and that the highway details had already been discharged. The highway condition attached to planning approval 12/00037/FUL reads as follows:
- No new dwelling hereby permitted shall be occupied until the approved highway alterations (received 15<sup>th</sup> January 2009, Drawing no. AD 01; Title: access detail) have been completed in entirety.*
- Reason: In the interests of highway safety and in accordance with Policy TR4 of the Adopted Chorley Borough Local Plan Review.*
16. The current application seeks to formally vary condition 6 as a result of the land ownership issues now being resolved. Additionally, in the period between determination of the application

12/00037/FUL and submission of the current application, discussions have been undertaken between the applicant, LCC Highways and officers to explore possible solutions to the achieving an agreeable visibility standard. Such discussions were supported by a traffic survey carried out in January 2013 by LCC Highways which indicated that speeds on Briars Brow were lower than initially thought. LCC Highways advised that they would be in a position to reduce the speeds to 36mph and 31mph respectively.

17. Therefore, with reference to the Manual for Streets recommended Sight Stopping Distances a visibility of 56m in an eastbound direction and 45m in a westbound direction would be adequate for this site.
18. LCC Highways advised that the visibility splays could be reduced to 2.4m by 56m in an eastbound direction and 2.4m by 45m in a westbound direction. This is a reduction from 2.4m by 60m in both directions shown on the approved plan for the application 08/00934/FUL,
19. As such, the information submitted by the applicant with the current application reflects the guidance given by LCC Highways at pre-application stage.

#### Impact on highway safety

20. In respect of highway safety, The Framework states that development should only be prevented or refused on transport grounds where the residual cumulative impact of development is severe.
21. This site and the associated access alterations have been the subject of extensive discussions with both Chorley Council and Lancashire County Council (LCC) Highways, following approval of the original application (08/00934/FUL) in 2008.
22. Following approval of the application 08/00934/FUL, officers are advised that the historic land ownership issues at this site have now been resolved and the parties involved have reached a civil agreement. This civil agreement has resulted in a barn, which previously belonged to Miry Fold Farm, being transferred into the ownership of South Miry Fold Farm, meaning that Miry Fold Farm now has 2no. dwellings and South Miry Fold Farm has 4no. dwellings.
23. LCC Highways have noted that the addition of a further dwelling to South Miry Fold Farm (since approval of the applications 08/00934/FUL and 12/00037/FUL) will result in a slight increase in the number of vehicles using the access, however, in highway terms this is not considered to lead to any major highway concerns.
24. Under the original application 08/00934/FUL, LCC Highways agreed to a visibility splay of 2.4m by 60m in both directions at the site access which was to be implemented in accordance with the approved plan, prior to occupation of the converted barn and coach house.
25. However, following a traffic survey carried out in January 2013, the prevailing speed on this section of Briars Brow was established as being between 33mph and 38mph, which was lower than originally thought. LCC Highways therefore advised that the required visibility could be reduced to 2.4m by 45m (to the left) and 2.4m by 56m (to the right) when exiting the site, after a wet weather reduction was applied.
26. The site plan submitted with this application shows the required visibility splay cannot be achieved within the limits of the applicant's boundary and so the requisite notice has been served on all other land owners with an interest in the land. The submitted site plan shows sections of hedgerow in front of the adjacent fields to be removed and re-planted to achieve the required visibility sightlines.
27. LCC Highways have shown concern in respect of the proposed site plan as this appears not to show adequate inter-visibility between vehicles on the main road and those leaving the site. In addition, the submitted plan does not appear to include the gap between the access track to Miry Fold and the start of the proposed hedgerow. As such, LCC Highways have shown concern that in the event of any planting or structure being erected within this area, the sightline will be affected.

28. LCC Highways also note that the submitted plan appears to show the access to South Miry Fold to be delineated by radius kerbs. If this is the case LCC Highways note that such alterations should not extend onto the access to Miry Fold Farm for safety reasons.
29. The applicant is aware of the above issues and has advised they will provide an amended plan which resolves/addresses the above points. This will be addressed on the addendum.
30. In terms of considering the access alterations as a whole, whilst it has been noted that a Grampian style condition could be imposed at the site securing the relevant highway alterations, it is not considered possible to extend such a condition to include retention of the visibility splays thereafter. This is because the land to which the visibility splays relate are outwith the sole ownership of the applicant.
31. However, the importance of maintaining the visibility at this site has been highlighted with the applicant and they have advised they will acknowledge this on the amended plan. Additionally, should permission be granted for the alterations, an informative would be added to the planning permission highlighting the importance of maintaining the visibility splays in the future.
32. Finally, it should be noted that whilst the visibility splays would be reduced in the case of this application (to which there is no highway objection), visibility splays measuring 2.4m by 60m (in both directions) have been previously approved with the applications 08/00934/FUL and 12/00037/FUL which presents a valid fall-back position in the determination of this application.
33. As such, it is not considered reasonable to refuse the application on highway grounds given the valid fall-back position in this case and the efforts made by the applicant to recognise the importance of maintaining the visibility at this site.

### **Overall Conclusion**

34. On the basis of the above, this application is accordingly recommended for approval subject to conditions.

### **Planning Policies**

National Planning Policy Framework

Central Lancashire Core Strategy

Policy 17

Adopted Chorley Borough Local Plan Review

Policies GN1, GN5, HS4 and TR4

Emerging Local Plan (2012-2026)

Policies: ST4 and BNE1

Central Lancashire Rural Development Supplementary Planning Document

### **Planning History**

The site history of the property is as follows:

<b>Ref:</b>	02/00519/FUL	<b>Decision:</b>	PERFPP	<b>Decision Date:</b>	31 July
	2002				
<b>Description:</b>	First floor rear extension, alterations to outbuilding to create two garages and change of use of agricultural land to domestic curtilage,				
<b>Ref:</b>	02/00520/FUL	<b>Decision:</b>	WDN	<b>Decision Date:</b>	26 July
	2002				
<b>Description:</b>	Conversion of farm buildings (barn, stables and sheep pens) into two dwellings,				

<b>Ref:</b>	03/00581/FUL	<b>Decision:</b> REFFPP	<b>Decision Date:</b> 18 August 2003
<b>Description:</b>	Re-submission of 02/520 for conversion of farm buildings (barn, stables and sheep pen) into 2 dwellings,		
<b>Ref:</b>	05/00301/FUL	<b>Decision:</b> REFFPP	<b>Decision Date:</b> 25 May 2005
<b>Description:</b>	Formation of hardstanding and retention of previously constructed earth bund		
<b>Ref:</b>	05/00576/FUL	<b>Decision:</b> REFFPP	<b>Decision Date:</b> 31 August 2005
<b>Description:</b>	Revised application for provision of hardstanding for unloading and storage of palletised materials and fodder bales for farm use (approx 250m2)		
<b>Ref:</b>	08/00934/FUL	<b>Decision:</b> PERFPP	<b>Decision Date:</b> 21 November 2008
<b>Description:</b>	Conversion of existing barn and coach house to 2 No dwellings including landscaping		
<b>Ref:</b>	11/00742/DIS	<b>Decision:</b> PEDISZ	<b>Decision Date:</b> 12 September 2011
<b>Description:</b>	Discharge of conditions 3 (materials), 4 (roof lights), 5 (windows and doors) & 7 (hard ground surfacing) for planning approval (08/00934/FUL) for the conversion of barn and coach house to 2 dwellings		
<b>Ref:</b>	12/00037/FUL	<b>Decision:</b> PERFPP	<b>Decision Date:</b> 31 October 2012
<b>Description:</b>	Section 73 application to vary the approved plans from the application 08/00934/FUL to include: 2 additional garage doors to the west elevation of previously approved garage; first floor extension above existing ground floor office to form additional bedroom; first floor side facing window in west elevation to serve bedroom 4; first floor side facing window in east elevation to serve bedroom 3 and; additional hardstanding to link existing access to proposed garage doors.		

**Recommendation: Permit Full Planning Permission Conditions**

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (Schedule 2, Part 1, Classes A to E), or any Order amending or revoking and re-enacting that Order, no alterations or extensions shall be undertaken to the dwellings hereby permitted, or any garage, shed or other outbuilding erected (other than those expressly authorised by this permission). *Reason: To protect the appearance of the locality and in accordance with the Central Lancashire Rural Development Supplementary Planning Document (2012).*
2. The development hereby permitted shall only be carried out in accordance with the slate and stone samples as submitted and viewed on site with the discharge application 11/00742/DIS. *Reason: To ensure that the materials used are visually appropriate to the locality and in accordance with Policy No. GN5 of the Adopted Chorley Borough Local Plan Review and Policy BNE1 of the emerging Local Plan (2012-2026).*
3. The development hereby permitted shall only be carried out using 'flush' fitting roof lights as shown on the plan (610.P0103) approved with the discharge application 11/00742/DIS. *Reason: To protect the character and appearance of the building and in accordance with Policy No. GN5 of the Adopted Chorley Borough Local Plan Review and Policy BNE1 of the emerging Local Plan (2012-2026).*

4. The development hereby permitted shall only be carried out in accordance with the window and door details shown on the plans 610.P0100, 610.P.101 and 610.P.102 approved with the discharge application 11/00742/DIS. *Reason: In the interests of the character and appearance of the building and in accordance with Policy No. GN5 of the Adopted Chorley Borough Local Plan Review and Policy BNE1 of the emerging Local Plan (2012-2026).*

5. No new dwelling hereby permitted shall be occupied until the approved highway alterations (indexed: 27/09/2013; drawing no: 1304.P.04; title: Proposed access detail) have been completed in entirety. *Reason: In the interests of highway safety and in accordance with the National Planning Policy Framework, Policy TR4 of the Adopted Chorley Borough Local Plan Review and Policy ST4 of the emerging Local Plan (2012-2026).*

6. The development hereby permitted shall only be carried out in accordance with the hard ground-surfacing materials shown on the plan 610.611.p.s. approved with the discharge application 11/00742/DIS. *Reason: To ensure a satisfactory form of development in the interest of the visual amenity of the area and in accordance with Policy No. GN5 of the Adopted Chorley Borough Local Plan Review and Policy BNE1 of the emerging Local Plan (2012-2026).*