

<b>Item 3c</b>	<b>16/00152/FUL</b>
<b>Case Officer</b>	<b>Helen Lowe</b>
<b>Ward</b>	<b>Chisnall</b>
<b>Proposal</b>	<b>Re-positioning of dwelling approved under application 14/00982/FUL and lawful barn under lawful development certificate 15/00340/CLEUD and 3 bay stable block.</b>
<b>Location</b>	<b>Town Lane Farm, Town Lane, Whittle le Woods</b>
<b>Applicant</b>	<b>Mr Howard Rose</b>
<b>Consultation expiry:</b>	<b>14<sup>th</sup> April 2016</b>
<b>Decision due by:</b>	<b>20<sup>th</sup> April 2016</b>
<b>Recommendation</b>	<b>Approve subject to a legal agreement</b>
<b>Executive Summary</b>	<b>The application seeks to relocate, within the site, a number of buildings that presently have extant planning consent. The application site is within the Green Belt. Taking into consideration the extant consent and the provisions of the Framework it is considered that the proposals would not be inappropriate and would not have an unduly harmful impact on the openness of the Green Belt.</b>

## **Representations**

**Heskin Parish Council** Since 2008 there have been no fewer than 13 applications for schemes on this site. Some have been withdrawn, some have been re submitted. It's almost as if the applicant is unsure of what exactly he wants or is perhaps seeking to confuse.

The Parish Council note that this application is to reposition a dwelling and a barn and a stable block. The Council understood that the dwelling was to replace a redundant existing barn and wonder why indeed there is a need for a new barn. A similar query could be made for a stable block.

It is also noted that this application is being made whilst an appeal against the refusal of two dwellings is still pending. Does this mean that the appeal has been withdrawn or is it a case of "lets see what we can get away with and make more money"

The Parish Council are concerned that if this application is approved , in the not too distant future there will be other applications to build a) a second house in place of the new barn and b) a third house in place of the new stable block ,especially in view of the Councils ( in the Parish Councils view "unwise" ) recent decision regarding Horsemans Farm Stables

If you are mindful to approve this application the Parish Council would like assurances that it will go to Committee for a decision , that (a) and (b ) above will not be allowed to happen ,that facing materials and foul disposal matters would be the subject of your approval in writing (and the Parish Council would like to be consulted before you approve them )

One dwelling is approved already, in the Green Belt. This application should not be allowed to lead to 3 dwellings

Further comments have been received from the Parish Council stating that they do not wish to see more than one dwelling on the site and request that the decision on the application is postponed until the results of the appeal decision is known.

**Cllr Whittaker** There is still a great deal of confusion and concern about what is actually being sought here. The new application whilst the appeal is being heard is deliberately obfuscating the situation. Dwellings are being repositioned, stables are being repositioned, barns are being relocated, all it seems to me to get more development in the Green Belt were none is justified.

Request that the application be determined at Development Control Committee

**In total three representations have been received which are summarised below**

### **Objection**

- There have been numerous amended applications, with a view to increasing the number of buildings on the site for both residential and equine use;

- The Council should consider carefully how much this will impact upon Green Belt and set a precedent for even more such development and erosion of the countryside;
- It is Green Belt land
- The re-positioning of the dwelling to a more prominent position reduces the openness of the Green Belt land from adjacent Town Lane and Millennium Park as it will be directly visible from both;
- The lawful barn has never been constructed and at the moment there is no stable block other than the existing barn. They are concerned the all the buildings together may exceed the current footprint of the existing barn, which is being demolished;
- Although some of these buildings may have been given approval historically as individual buildings, they now need assessing as a group. As a group they will greatly affect the openness of the Green Belt;
- The three large buildings are being individually spread out over the site resulting in a greater impact to the rural aspect and openness;
- The barn and its location could in the future be subject to further development /conversion to yet another dwelling;
- The number of planning applications on the site stands at thirteen over recent years. The site remains unchanged during this period with no obvious sign of any new construction. They believe this is being done on purpose to cause confusion and cloud the site redevelopment for maximum profit, with little regard for the rural openness and maintaining the Green Belt.
- It is development of Green Belt land, repositioning of the dwelling reduces the openness;
- Overlooking and loss of privacy
- They provided permitted access for the existing barn, however now that the application to construct a single dwelling to replace the barn has been approved with its new separate access from Town Lane we insist the access is withdrawn and should be amended on the plans. This will give sole control over their gated access;

### **Consultees**

<b>Consultee</b>	<b>Summary of Comments received</b>
Greater Manchester Ecology Unit	There are no known ecological reasons why the buildings cannot be re-sited.
LCC Highways	Have stated that they have no objections to the proposals.

## **Assessment**

### **Background**

1. The application site consists of a yard that comprises livery stables, with a number of storage, shipping containers, a sand paddock and a large area of hardstanding. There is presently an access track that provides vehicular access to Town Lane which runs across land not owned by the applicant.
2. The current application proposes the re-siting of a number of buildings that all have an extant planning consent. These comprise:
  - A barn, granted approval under application 09/00065/FUL. A certificate of lawfulness was granted in 2015 (ref. 15/00340/CLEUD) to confirm that a lawful start on the development has taken place. The permission therefore remains extant and work could re-commence at any time;
  - A cottage and stables, both granted approval under application 14/00982/FUL. The principal of the development was considered to be acceptable as it constitutes the redevelopment of a previously developed site within the Green Belt that would not have a greater impact on the openness of the Green Belt than the existing site. The volume of the buildings to be demolished is approximately the same as the proposed buildings. The existing building to be demolished is a livery stables. At the time of the site visit the use of this building appeared to have ceased and the roof had been removed.
3. The applicant has provided the following comments in response to the third party comments received:
  - It is the right of anyone to submit an application as and when they see fit, and only the LPA have the right to turn any such application away subject to a strict set of criteria, none of which apply in this instance. The question for the LPA is one of 'harm' as in what is the harm that is caused by this proposal? If there is no harm then as the NPPF makes clear, sustainable development should be approved without delay.
  - Whatever route the applicant takes next will probably last for the next hundred years. Whilst they have the opportunity they have tried to make the best layout for the whole site.
  - From the road the most prominent buildings would be the stables and the agricultural barn. We felt it would be a lot better if the house was there. People visiting the house would not have to go via the stables, barn, and yard to get to it. In addition it would be far more secure from animals escaping.
  - By putting the house in the proposed position it would be South West facing as opposed to west facing which would be better for solar panels.
  - The proposed position of the house is further away from the neighbours, It doesn't look overlook anybody else's land or property, as requested. Given that the objector raised the proximity issue with the first application it is illogical for him to object now on relocation further from his property.
  - The proposed position of the barn screens our yard from the neighbours as requested with the original application.
  - Both the stables and the barn are closer to the fields. This is obviously far more desirable and efficient, for the movement of animals and farm machinery, and creates a more logical use of land.
  - The yard is more contained and separated from the house.
  - The yard will be totally screened from the road which has lots of benefits both ascetically and for security.
  - With reference to the objection letters received, most of the points have already been dealt with in previous applications. The fact that the applicant has submitted 13 planning applications over the years is because they are exploring all their options for the site, which as stated above is their right. In reality the same person keeps complaining about everything that they do, and in most cases contradicting themselves.

### **Principle of the development**

4. The application site is located within the Green Belt, where development is strictly controlled. The Framework states that the construction of new buildings should be regarded as inappropriate in

the Green Belt, except in a limited number of specific circumstances. The fact that an extant consent exists for all the buildings proposed is considered to be a material consideration to which significant weight should be attached.

5. At present the approved plans locate the proposed stables within the south east corner of an existing sand paddock which bounds Town Lane. The barn is located just to the south of these stables (although a lawful start has been made, there is little visible above ground work, the commencement consisted primarily of the excavation for steel stanchions, steel reinforcement placement for steel stanchions and pouring of concrete basis for steel stanchions). The approved proposed cottage would be located just to the west of the livery stable to be demolished. It is understood that the dwelling was not located directly on the footprint of the building to be demolished in order to protect the amenities of the occupants of Walmsley's Barn to the east.
6. The current proposals would re-locate the proposed cottage within the sand paddock (which would then become the residential curtilage), the barn approximately on the footprint of the livery stables that are to be demolished and the stables to the south west corner of the application site.
7. Members will note that an appeal has been lodged in respect of the refusal for two dwellings at the site (ref: 15/01133/FUL). The position of the dwelling proposed as part of this application is the same as one of the dwellings which is currently subject to the appeal with the other dwelling subject to the appeal located in the same location as approved dwelling on this site (Ref:14/00982/FUL).
8. In addition to the fact that consent exists for both the stables and barn elsewhere within the application site, it is considered that both buildings would not constitute inappropriate development within the Green Belt under the Framework. The stables are small scale and to be constructed from timber, in accordance with the Council's guidance in the Rural Development SPD and the barn is for agricultural purposes (storage of equipment). As neither of these elements of the proposal constitute inappropriate development within the Green Belt these two elements are considered to be acceptable in principle.
9. In respect of the new dwelling proposed as part of this application the construction of the new dwellings constitutes inappropriate development unless one of the exceptions in the Framework is engaged. To benefit from the relevant exception in the case of this site, the applicant must demonstrate that the construction of the new buildings constitute:
  - The partial or complete redevelopment of previously developed land;
  - Which would not have a greater impact on the "openness" of the Green Belt; and
  - Which would not have a greater impact on the purposes of including land in the Green Belt.
10. Whilst the test for sites such as this relates to the impact on openness it is important to note that the Framework contains no specific definition of 'openness'.
11. It is considered that in respect of the Framework the existing site has an impact on the openness of the Green Belt. However it is important to note that merely the presence of an existing building on the application site currently does not justify any new buildings. The new buildings must also not "have a greater impact on the openness of the Green Belt".
12. The definition of previously developed land is set out in the Framework as land which is or was occupied by a permanent structure, including the curtilage of the developed land. Land that is or has been occupied by agricultural or forestry buildings is excluded from the definition and it is also emphasised that it should not be assumed that the whole of the curtilage should be developed.
13. Whether the proposed dwellings will have a greater impact on openness is a subjective judgment which is considered further below. Objective criteria could include the volume of the existing buildings, the footprint of the existing building and the height of the existing buildings although it is important to note that the Framework does not include such an allowance or capacity test. To engage with the exceptions of paragraph 89 of the Framework, which is reflected in policy BNE5 of the Local Plan, the test relates to the existing development. The openness of an area is clearly

affected by the erection or positioning of any object within it no matter whether the object is clearly visible or not. The openness test relates to the whole of the application site.

14. The principle of a dwelling on the application site has been established by the previous grant of planning permission. The new dwellinghouse will be higher than the existing buildings on site however the width of the dwelling compared to the existing building will be smaller and the proposed dwelling will not have a greater volume than the existing building on site. Whilst the revised proposal would result in the dwelling being located further away from the footprint of the livery stables that are to be demolished when compared to the approved scheme, the revised location takes the dwelling closer to Town Lane with the associated residential curtilage occupying an area of land which has already seen some alterations (the sand paddock). This location does not result in the incursion of further built development into the open Green Belt land to the south and ensures that the built form on the site is retained within the existing established curtilage. Taking these factors into consideration, it is not considered that the proposed development will have a greater impact on the "openness" of the Green Belt or have a greater impact on the purposes of including land in the Green Belt.
15. It has been noted that, if the current application were to be approved, it would be possible to implement both application 14/00982/FUL and the current application in part, potentially resulting in two dwellings being erected on the site. This can be overcome by attaching a legal agreement to the decision, whereby the applicant agrees not to implement both permissions. The applicant has indicated that they are willing to sign up to such an agreement and any positive recommendation would be subject to this legal agreement.

#### Neighbour Amenity

16. The nearest residential property is Walmsley's Barn, located to the south east of the application site. The proposed revised siting would result in the proposed cottage being located further from this property. The south east facing elevation of the proposed dwelling would be approximately 40m from the front elevation (north facing) of Walmsleys Barn.
17. The proposed stables would be located approximately 34m from Walmsley's Barn. This is in accordance with the guidance set out in the Council's Rural Development SPD.
18. The proposed access from Town Lane is to be located within the same position as previously approved under application 14/00982/FUL. With regard to the access over neighbouring land this is a private matter between the neighbour and the applicant.

#### Section 106

19. There is a requirement for a financial contribution towards equipped play space, casual/informal play space and playing fields for all new housing planning permissions in the Borough irrespective of size. This is set out in policies HS4A and HS4B of the Local Plan.
20. In September 2013 the Council adopted The Open Space and Playing Pitch Supplementary Planning Document. The Council's requests for financial contributions towards the provision and improvement of public open space within the Borough are therefore now based upon the standards within Local Plan Policies HS4A and HS4B and the approach in the SPD. The Council has also produced an Open Space Study and Playing Pitch Strategy which provides detailed information on local needs, deficits and surpluses, therefore such requests for contributions are based on a robust and up to date assessment on the level of need and existing provision in the local area.
21. An open space commuted sum was paid in lieu of a section 106 agreement for planning permission 14/00982/FUL. Confirmation from the planning policy section that no further contribution is required is awaited and will be reported on the addendum.

#### CIL

22. The Chorley CIL Infrastructure Charging Schedule provides a specific amount for development. The CIL Charging Schedule was adopted on 16 July 2013 and charging commenced on 1 September 2013. The proposed development will be a chargeable development and the charge is subject to indexation in accordance with the Council's Charging Schedule.

### Sustainable Resources

23. Policy 27 of the Core Strategy currently requires dwellinghouses to be built to meet Code for Sustainable Homes Level 6. However, the 2015 Deregulation Bill received Royal Assent on Thursday 26th March 2015 which effectively removes Code for Sustainable Homes. The Bill does include transitional provisions which include:

*“For the specific issue of energy performance, local planning authorities will continue to be able to set and apply policies in their Local Plans which require compliance with energy performance standards that exceed the energy requirements of Building Regulations until commencement of amendments to the [Planning and Energy Act 2008](#) in the Deregulation Bill 2015. This is expected to happen alongside the introduction of zero carbon homes policy in late 2016. The government has stated that, from then, the energy performance requirements in Building Regulations will be set at a level equivalent to the (outgoing) Code for Sustainable Homes Level 4. Until the amendment is commenced, we would expect local planning authorities to take this statement of the government’s intention into account in applying existing policies and not set conditions with requirements above a Code Level 4 equivalent.”*

*“Where there is an existing plan policy which references the Code for Sustainable Homes, authorities may continue to apply a requirement for a water efficiency standard equivalent to the new national technical standard, or in the case of energy a standard consistent with the policy set out in the earlier paragraph in this statement, concerning energy performance.”*

24. As such there will be a requirement for the dwellings to achieve a minimum Dwelling Emission Rate of 19% above 2013 Building Regulations in accordance with the above provisions.

### **Overall Conclusion**

25. It is not considered that the proposed changes to the layout of the site would cause a significant degree of harm to the openness and character of the Green Belt, in comparison with the layout as previously approved. Subject to a legal agreement being attached to the consent to prevent the partial implementation of both the current application and application 14/00982/FUL, the application is accordingly recommended for approval.

### **Planning Policies**

In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/ guidance considerations are contained within the body of the report.

### **Planning History**

Reference	Description	Decision	Date
16/00084/DIS	Application to discharge conditions 3 (drainage details), 9 (House Sparrow mitigation), 11 (Barn Owl survey), 13 and 16 (external facing materials), 17 (hard landscaping details), 18 (levels), 19 (landscaping details), 20 (Dwelling Emission Rate details) and 22 (scheme for the containment and storage of manure) attached to planning approval 14/00982/FUL	Conditions discharged	3 March 2016
15/01133/FUL	Demolition of existing stables and storage buildings and erection of two dwellings	Refused Awaiting appeal	20 January 2016

	(resubmission of application 14/00982/FUL)	decision	
15/00340/CLEUD	That a meaningful start has been made to planning permission reference number 09/00065/FUL for the erection of an agricultural storage building (amended re-submission of application number 08/01208/FUL) by the setting out and excavation of foundations and the laying of steel stanchion bases.	Certificate granted	11 June 2015
14/00982/FUL	Demolition of existing stables and erection of detached dwelling, formation of new access and erection of stable block	Approved	8 September 2015
12/01105/FUL	Application to remove condition no. 6 (which prohibited the business,trade and livery use of the building) of planning permission no. 11/00713/FUL (which permitted the erection of a replacement stable building following demolition of existing stable building) to enable the building to be used as a livery stables	Approved	16 January 2013
12/00274/DIS	Discharge of condition no. 2 (colour, form, texture of external materials including painting) of planning permission no.09/00065/FUL	Conditions discharged	3 April 2012
11/01101/CLEUD	Application for a Certificate of Lawfulness for use of existing building as livery stables	Certificate Granted	29 May 2012
11/00713/FUL	Erection of replacement stable building following demolition of existing stable building (Re-submission of application no. 11/00069/FUL)	Approved	5 October 2011
11/00069/FUL	Proposed demolition of existing stables to be replaced by new stables.	Withdrawn	1 April 2011
09/00065/FUL	Erection of an agricultural storage building (amended re-submission of application no. 08/01208/FUL)	Approved	30 March 2009
08/01208/FUL	Erection of a 3 bay agricultural building	Withdrawn	26 January 2009
08/00824/AGR	Erection of agricultural building for storage of hay and machinery,	Withdrawn	31 July 2008