

APPLICATION REPORT – 16/00737/FUL

Validation Date: 15 August 2016

Ward: Chisnall

Type of Application: Full Planning

Proposal: Re-positioning of dwelling and 3 bay stable block approved under application 14/00982/FUL, and Lawful Barn under application 15/00340/CLEUD

Location: Town Lane Farm Town Lane Heskin Chorley PR7 5QA

Case Officer: Mrs Helen Lowe

Authorising Officer:

Applicant: Mr Howard Rose

Agent: Mr Chris Weetman

Consultation expiry: 6 September 2016

Decision due by: 10 October 2016

RECOMMENDATION

1. Approve subject to conditions and legal agreement

SITE DESCRIPTION

2. 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.

DESCRIPTION OF PROPOSED DEVELOPMENT

3. 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.

CONSTRAINTS

Coal consultation zone
Green Belt
Parish
Wind turbine consultation zone

RELEVANT HISTORY OF THE SITE

Ref: 08/00824/AGR Decision: WDLPA Decision Date: 31 July 2008
Description: Erection of agricultural building for storage of hay and machinery,

Ref: 08/01208/FUL Decision: WDN Decision Date: 26 January 2009
Description: Erection of a 3 bay agricultural building

Ref: 09/00065/FUL Decision: PERFPP Decision Date: 30 March 2009
Description: Erection of an agricultural storage building (amended re-submission of application no. 08/01208/FUL)

Ref: 11/00069/FUL Decision: WDN Decision Date: 1 April 2011
Description: Proposed demolition of existing stables to be replaced by new stables.

Ref: 11/00713/FUL Decision: PERFPP Decision Date: 5 October 2011
Description: Erection of replacement stable building following demolition of existing stable building (Re-submission of application no. 11/00069/FUL)

Ref: 11/01101/CLEUD Decision: PEREUD Decision Date: 29 May 2012
Description: Application for a Certificate of Lawfulness for use of existing building as livery stables

Ref: 12/00274/DIS Decision: PEDISZ Decision Date: 3 April 2012
Description: Discharge of condition no. 2 (colour, form, texture of external materials including painting) of planning permission no.09/00065/FUL

Ref: 12/01105/FUL Decision: PERFPP Decision Date: 16 January 2013
Description: 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

Ref: 14/00982/FUL Decision: PERFPP Decision Date: 8 September 2015
Description: Demolition of existing stables and erection of detached dwelling, formation of new access and erection of stable block

Ref: 15/00340/CLEUD Decision: PEREUD Decision Date: 11 June 2015
Description: 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.

Ref: 15/01133/FUL Decision: REFFPP Decision Date: 20 January 2016

Description: Demolition of existing stables and storage buildings and erection of two dwellings (resubmission of application 14/00982/FUL)

An appeal against the refusal of this application has been dismissed.

Ref: 16/00084/DIS Decision: PEDISZ Decision Date: 3 March 2016
Description: 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

Ref: 16/00152/FUL Decision: PDE Decision Date:
Description: 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.

An appeal against non-determination of application 16/00152/FUL has been submitted and is currently awaiting determination. Members made a resolution following submission of the appeal that they would be minded to approve the application.

REPRESENTATIONS

4. Cllr Whittaker has made the following comments on the application:
 - *Siting of the stable.* The proposed siting is on a slightly elevated position in relation to the existing barn conversion, shown as THE Barn on the plans. This is visually intrusive to the residents of The Barn. Equally the manure created by the horses will presumably be "stored" adjacent to the barn with subsequent smell and fly nuisance. This is perhaps why the applicant is wanting to move it from the original siting ie away from the new (presumably his) property. It seems to me that the proposed stables could be easily located on the opposite side of the field access ie further away or indeed in the adjacent field.
 - *Height of the stable block.* I have scaled off the height of the stable block and it appears to be 16 M or 20ft approx to the ridge. This makes it very intrusive to The Barn and to the original farmhouse, again exaggerated by the higher ground on which it is proposed to be sited. I would wish to know why does it need to be so high. Other stables in the locality are much lower. Again I wonder why and I am cynical about future use ie conversion to a property as CBC have allowed at Horsemans Farm nearby. As we are aware the applicant has previously sought more than one dwelling on the site
 - *Drainage and foul.* The plan that I have seen is very confusing. How is the foul sewage and surface water going to be disposed of. Presumably there will be water/toilet in the proposed new barn and in the stable block. Please send me a detail of the proposals so I can discuss them with residents.

5. Two letters of objection have been received from neighbouring residents. They make the following comments:
 - Repositioning the stables may
 - When the stables are swilled out will there be adequate drainage which will prevent foul water flowing onto their land;
 - The drainage information submitted shows two dwellings;
 - Is the location of the septic tank acceptable?
 - The height of the stables is inappropriate;
 - The lawful barn has never been constructed, and at the moment there is no stable block other than the existing barn. All three buildings together may exceed the current footprint of the existing barn which is being demolished;
 - The three new buildings may have been given approval before as individual buildings, they now need assessing as a group. As a group because they are spaced out around the site, they will greatly affect the openness of the Green Belt and rural aspect;
 - The spacing of the buildings suggests that future development into residential dwellings may occur;

- Object to the permitted access which has still not been removed from the current planning application. As the applicant now has approved plans for its own access from Town Lane this will give them sole control of their gated access.
- Is this an appropriate application? An appeal is being considered by the Planning Inspectorate for the same application, the application duplicates what the Inspectorate are already considering.
- The re-positioning of the proposed stables to this more prominent position reduces the openness of the Green Belt Land from Walmsley's Farmhouse and Walmsleys Farm Barn reducing the amenity;
- It is a permanent building where no previous structure existed;
- The new position of the stables is closer to two existing dwellings than previously submitted;
- The area is not secure for livestock;
- Are the approved applications on this site still within the timescale for commencement and therefore still valid?

CONSULTATIONS

Lancashire Highway Services Planning Policy

Planning Policy (Open Space) A commuted sum of £1,754 was paid in lieu of a s106 for application 14/00982/FUL. No further contribution towards open space is required.

Parish Council

PLANNING CONSIDERATIONS

6. It should be noted that this application is exactly the same as that submitted under application 16/00152/FUL. An appeal has been lodged with the Planning Inspectorate against the non-determination of this application within the target time period. This appeal has not yet been determined. Application 16/00152/FUL was reported to the development control committee in May, and then again in June following a member site visit. At that committee Members made a resolution that they would be minded to approve the application.

PRINCIPLE OF THE DEVELOPMENT

7. 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.
8. 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.
9. 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.
10. 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).

11. 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.
12. 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.
13. 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'.
14. 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".
15. 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.
16. 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.
17. 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.

18. 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

19. 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.
20. The proposed stables would be located approximately 34m from Walmsley's Barn and approximately 45m from Walmsley's Farm. This is in accordance with the guidance set out in the Council's Rural Development SPD. The stables would be adjacent to the boundary of land that appears to form part of the curtilage of Walmsleys's Farm, however, the property is surrounded by a significant amount of land and as stated above the stables would be a significant distance from the dwelling
21. A topographical survey of the existing site submitted with the previous application shows (16/00152/FUL) that the difference in ground levels between the area where the stables are proposed to be sited and immediately adjacent to Walmsley's Barn is approximately 0.6m. The proposed height of the stables is 4.6m. As this was considered to be acceptable under application 14/00982/FUL, it is not considered that the stables could be refused on this basis.
22. 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.
23. The drainage plan submitted with the application was incorrect. The applicant may choose to provide amended details, however if they do not these matters may be dealt with by way of condition. As can be seen of the proposed manure storage. The position of the septic tank would be dealt with under Building Regulations.

SECTION 106

24. 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.
25. 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.

26. 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

27. 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

28. 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.”

29. 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.

CONCLUSION

30. 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

RELEVANT 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.

Suggested Conditions

1. The proposed development must be begun not later than three years from the date of this permission.

Reason: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the approved plans below:

Reason: For the avoidance of doubt and in the interests of proper planning

Title	Plan Ref	Received On
Location plan		10 August 2016
Site plan	1405 SP 03. 1C	12 August 2016
Cottage Heskin Proposed Floor Plans	1405 P 20	12 August 2016
Stables	1405 ST	10 August 2016
Proposed agricultural building plans and elevations	TLF/PL/08/001C	10 August 2016
Cottage Heskin proposed elevations	1405 P21	10 August 2016

3. The stables hereby permitted shall be used for the stabling of horses and storage of associated equipment and feed only and, in particular, shall not be used for any trade, business or other storage purposes.

Reason: To define the permission and in the interests of the visual amenities and character of the area.

4. Where use of the stables for the authorised purposes ceases for a period exceeding 6 months within 10 years of their substantial completion they, and the associated midden, menage and hardstanding, shall be removed from the field and the land restored to its former condition.

Reason: To avoid the proliferation of buildings in the Green Belt for which there is not a continuing need.

5. The existing livery stables building shall be demolished and all resultant materials removed from the site before development pursuant to this permission is commenced.

Reason: To safeguard the amenity of the locality.

6. Before the access is used for vehicular purposes, any gateposts erected at the access shall be positioned 5m behind the nearside edge of the carriageway and visibility splay fences or walls shall be erected from the gateposts to the existing highway boundary, such splays shall be 45° to the centre line of the access. The gates shall open away from the highway. Should the access remain ungated 45° splays shall be provided between the highway boundary and points on either side of the drive measured 5m back from the nearside edge of the carriageway.

Reason: To permit vehicles to pull clear of the carriageway when entering the site and to assist visibility.

7. The precautionary measures to ensure that impacts on bats are avoided as detailed in section 9.2.1.1 of the Bat, Barn Owl and Nesting Bird Survey at Town Lane Farm, Heskin (Envirotech NW Ltd, August 2014) shall be implemented in full during the course of the development and in accordance with the timescales specified.

Reasons: To ensure the development minimises the potential impact on bats.

8. All trees and hedgerows being retained in or adjacent to the application area shall be adequately protected during construction, in accordance with BS5837: 2012 Trees in relation to design, demolition and construction-Recommendations.

Reason: To safeguard trees and hedgerows during the course of development.

9. All new dwellings are required to achieve a minimum Dwelling Emission Rate of 19% above 2013 Building Regulations.

Reason: Policy 27 of the Adopted Central Lancashire Core Strategy requires new dwellings to be built to Code for Sustainable Homes Level 4 however following the Deregulation Bill 2015 receiving Royal Assent it is no longer possible to set conditions with requirements above a Code

Level 4 equivalent. However as Policy 27 is an adopted Policy it is still possible to secure energy efficiency reduction as part of new residential schemes in the interests of minimising the environmental impact of the development.

10. Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority demonstrating that each dwelling will meet the required Dwelling Emission Rate. The development thereafter shall be completed in accordance with the approved details.

Reason: Policy 27 of the Adopted Central Lancashire Core Strategy requires new dwellings to be built to Code for Sustainable Homes Level 4 however following the Deregulation Bill 2015 receiving Royal Assent it is no longer possible to set conditions with requirements above a Code Level 4 equivalent. However as Policy 27 is an adopted Policy it is still possible to secure energy efficiency reductions as part of new residential schemes in the interests of minimising the environmental impact of the development. This needs to be provided prior to the commencement so it can be assured that the design meets the required dwelling emission rate.

11. No dwelling hereby approved shall be occupied until a SAP assessment (Standard Assessment Procedure), or other alternative proof of compliance (which has been previously agreed in writing by the Local Planning Authority) such as an Energy Performance Certificate, has been submitted to and approved in writing by the Local Planning Authority demonstrating that the dwelling has achieved the required Dwelling Emission Rate.

Reason: Policy 27 of the Adopted Central Lancashire Core Strategy requires new dwellings to be built to Code for Sustainable Homes Level 4 however following the Deregulation Bill 2015 receiving Royal Assent it is no longer possible to set conditions with requirements above a Code Level 4 equivalent. However as Policy 27 is an adopted Policy it is still possible to secure energy efficiency reductions as part of new residential schemes in the interests of minimising the environmental impact of the development.

12. No vegetation clearance works, site preparation works, demolition work or other works that may affect nesting birds shall take place between 1st March and 31st August inclusive, unless surveys have first been carried out by a competent ecologist which shows that nesting birds would not be affected.

Reason: In the interests of safeguarding nesting birds.

13. Prior to the commencement of the development hereby permitted, a scheme details how surface and foul drainage will be dealt with shall have been submitted to and approved in writing by the Local Planning Authority. The development shall only thereafter be carried out in accordance with the approved drainage details.

Reason: To ensure the development has satisfactory drainage.

14. The development shall be implemented in accordance with the replacement nesting opportunities for House Sparrow to be installed in accordance with the letter from Envirotech dated 11th September 2015, received 27th May 2016. The approved details shall thereafter be retained and maintained in accordance with the approved details and timescales contained therein.

Reasons: In the interests of safeguarding nesting opportunities for House Sparrows on the site.

15. Prior to the commencement of development samples of all external facing and roofing materials (notwithstanding any details shown on previously submitted plan(s) and specification) shall be submitted to and approved in writing by the Local Planning Authority. All works shall be undertaken strictly in accordance with the details as approved.

Reason: To ensure that the materials used are visually appropriate to the locality.

16. Before the development hereby permitted is first commenced full details of existing and proposed ground levels and proposed building finished floor levels (all relative to ground levels adjoining the site) shall have been submitted to and approved in writing by the Local Planning

Authority, notwithstanding any such detail shown on previously submitted plan(s). The development shall be carried out strictly in conformity with the approved details.

Reason: To protect the appearance of the locality and in the interests of the amenities of local residents.

17. A scheme for the landscaping of the development and its surroundings shall be submitted to and approved in writing prior to the commencement of the development. Landscaping proposals should comprise only native plant communities appropriate to the natural area. All hard and soft landscape works shall be carried out in accordance with the approved details within the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that a satisfactory landscaping scheme for the development is carried out to mitigate the impact of the development and secure a high quality design.

18. No development approved by this permission shall be commenced until a scheme for the containment and storage of manure has been approved by the Local Planning Authority. Such a scheme shall be constructed and completed in accordance with approved plans and maintained at all times thereafter.

Reason: To prevent the pollution of the water environment.