

APPLICATION REPORT – 16/01097/FUL

Validation Date: 1 June 2016

Ward: Heath Charnock And Rivington

Type of Application: Full Planning

Proposal: Application for erection of a marquee from May to September inclusive each year on the former playground area at the site, to be used for wedding receptions on Fridays and Saturdays only (with a maximum capacity of 80 guests), as well as for the continued use of the cafe/gallery already permitted on other days of the week.

Location: Spring Cottage Rivington Lane Rivington Bolton BL6 7SB

Case Officer: Caron Taylor

Applicant: Mr David Jones

Agent: N/A

Consultation expiry: 10th January 2017

Decision due by: 5th February 2017

RECOMMENDATION

1. That the application is refused.

SITE DESCRIPTION

2. The application site is a two-storey building and its grounds situated approximately 200m outside the village of Rivington within the Green Belt and within the boundaries of Lever Park. It is accessed via a private track off Rivington Lane. There is limited visibility of the building from the road as it is surrounded by trees with a small car park to the front.

DESCRIPTION OF PROPOSED DEVELOPMENT

3. The application is for the temporary erection of a marquee from mid-April to 13th September 2016 (marquee already erected) on the former playground area at the site, to be used for wedding receptions on Fridays and Saturdays only (with a maximum capacity of 80 guests), as well as for the continued use of the cafe/gallery already permitted on other days of the week.

RELEVANT HISTORY OF THE SITE

4. In 2010 (re: 10/00487/FUL) planning permission was granted to use the building as part living accommodation and part café/gallery. Prior to this the building was used as a nursery school since 1990, with various planning applications relating to this use. Before this it was a dwelling.
5. Members will recall a similar application was reported to committee in September 2016. At that time the marquee had been erected and was being used to hold a limited number of wedding receptions.
6. The application was recommended for refusal on three grounds:

Green Belt

Although some weight was given in favour of the application in relation to the economic benefits of the proposal, it was not considered that there were very special circumstances sufficient to outweigh the harm to the Green Belt caused by the inappropriateness of the marquee. The proposal was therefore considered contrary to the National Planning Policy Framework.

Noise

The Council were not satisfied, without an appropriate noise assessment being undertaken that sound from the venue will not have an unacceptable impact on residential properties or the character of the area. The proposal is therefore considered contrary to Policy EP3 and BNE1 of the Chorley Local Plan 2012-2026.

Parking

The Council were not satisfied that there is sufficient off-road parking for the venue within the boundaries of the application site for the number of guests proposed and this may lead to parking on surrounding roads where parking is already at a premium, especially at weekends, or on surrounding tracks not within the control of the applicant. The proposal is therefore considered contrary to Policy EP3 and BNE1 of the Chorley Local Plan 2012-2026.

7. However, Members of the committee will recall that no decision was made on the previous application as they voted equally to approve and refuse the application. The application was subsequently withdrawn.
8. No wedding receptions have been held since September 2016 and the marquee has been taken down.
9. The current application is for the same proposal and includes a noise assessment.

REPRESENTATIONS

Ten letters of support have been received on the following grounds:

- It is an excellent venue, having an affordable venue will bring visitors to the area;
- The marquee does not affect the land at all as it is on tarmac;
- Parking has never been an issue as there is a lot of space to park so it doesn't affect local residents;
- Noise could not be heard from 300yds away;
- The property has been renovated after having been derelict;
- The family that run it are local people and they would not do anything to be disrespectful to the area of their neighbours;
- Over the summer the noise was extremely low consider how near they were to it with the windows open and there were not extra cars on the road;
- It would be a great and unique addition to Rivington;
- The marquee is sympathetic to its surrounding;
- The Council should support a thriving business;
- Any noise is no more significant than from the Barns of the Bowling Green;
- It is a unique venue to allow people visiting to experience and embrace the beauty of the area;
- It provides employment.

Two letters of objection have been received on the following grounds:

- The traffic in Rivington is very busy, especially at weekends and public holidays;
- Parking is at a minimum and is getting to be a nightmare;
- There are enough venues for cafes and weddings already. Rivington is a beautiful area but it is in danger of being over commercialised;
- Another night time events business disrupts the quality of life for Rivington residents and changes the character of the area;

- Noise is the main concern – from May to September 2016 they could not sit outside in their garden or keep their windows open on Friday or Saturday nights when Spring Cottage had an event on without the booming sound of party music. They can already hear Rivington Hall Barn and Rivington Bowling Green conducting night time functions and whilst they can hear them (the latter having fewer) this is tolerable, partly because the music is indoors instead of in a tent but also because the Barn is further away from the road and the Bowling Green is at the bottom of the hill, with both having natural obstructions blocking out some of the noise. With Spring Cottage, which is nearer, it is not only the extremely loud DJ and music that causes disturbance but the shrieking, singing and merriment of their guests;
- This is a residential area without street lighting, traffic disturbance and parking is a major issue. Transport and guests arriving to and from the venue causes disturbance late into the night;
- Unlike the Barn and Bowling Green, Spring Cottage has no facility for parking and therefore their guest's park along Rivington Lane and in front of the Chapel. Once the event has finished there are car doors banging, and the noise of drunken people having had a good time waiting for taxis/minibuses;
- Since their last event metal barriers have been placed across some of the paths (presumably by United Utilities) next to Spring Cottage where many of their guests parked, so this will mean even more traffic parked in the dark along Rivington Lane. In such a small village, a further 80 guests every Friday and Saturday night in a tent with no sound proofing is inappropriate and unacceptable.

CONSULTATIONS

10. Environmental Health

See body of report.

11. Lancashire Highway Services

See body of report.

12. The Gardens Trust

The application affects Lever Park, an historic designed landscape of national importance which is included by Historic England on the Register of Parks and Gardens of Special Historic Interest at Grade II. They have considered the information provided in support of the above application and on the basis of this do not wish to comment on the proposals at this stage. They would however emphasise that this does not in any way signify either their approval or disapproval of the proposal.

PLANNING CONSIDERATIONS

Principle of the Development

13. The site is in the Green Belt outside Rivington village.
14. The proposal would involve the erection of a marquee on an area of hard standing to the rear of the building with a bar available within the building itself (the marquee would not be attached to the building).
15. The change of use of a building of permanent and substantial construction in the Green Belt is not inappropriate providing it preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt. The use of the existing building associated with weddings is, therefore, considered acceptable in principle.
16. The marquee would be erected on an area of hardstanding elevated approximately 2m above the level of the building on a former playground (the building in the past has been used as a nursery). The application is to erect the marquee from May to September inclusive.
17. Marquees can be considered a building operation in planning terms. Each case needs to be considered on its own merits considering its size, permanence and physical attachment as to whether a building operation has occurred or it is merely the placing of a 'chattel' on land.

18. The marquee measures 12m by 8m and 4.4m high so is of substantial size. Cases of marquees that have been found to be development demonstrate that a marquee does not have to be on site all year round when considering its permanence. It is proposed to site the marquee for five months each year. The marquee is fixed to the ground via a metal pad that is screwed into the ground that holds the uprights for the marquee. Internally a wooden interlocking floor would lay over the existing tarmac. Considering these factors together, it is considered the marquee does not have a fleeting character but falls to be considered as a building.
19. In accordance with the National Planning Policy Framework (the Framework) new buildings are inappropriate in the Green Belt unless they fall within one of the exceptions listed, which this would not. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
20. The applicant has put forward a case in support of the application.

Applicant's case in support of the application in the Green Belt:

21. *They argue it is a temporary structure, it will create summer jobs for local people of the Chorley area (they hope to recruit 13 staff during the summer). They also hope to support other aspects of Rivington Village such as making couples aware of the local church and chapel in the village. They will also be recommending local taxi services and local places for guests to use including hotels and bed and breakfast accommodation.*
22. *Prior to them taking on Spring Cottage, the building and surrounding land had been stood dormant and was near derelict. The house was dangerous in some areas and falling down. Over the years they have renovated Spring Cottage and put in a lot of work to restore and bring to life the wonderful building that is Spring Cottage. This not only includes the building itself, but also the woodland surrounding it. As a family, they have grown up in Rivington, and are very respectful of the setting surrounding us. They understand why the land is Green Belt and support this. Ways in which they do wish to support this is through educating children and young people about nature and teaching them ways to respect and take care of the wildlife. They have been in discussion with a qualified forestry teacher from the local area who attended Rivington Primary School and have also had discussions with United Utilities regarding this. They hope that they can work with local schools and host small children's parties, for example a birthday party, to teach children how they can look after their surroundings - the marquee will act as classroom for these children. After spending a morning out in the woods, they can come back, enjoy refreshments and discuss all they have learnt that day. They have also discussed the possibility of using the marquee as a craft room for local children in the summer holidays, where they can explore and learn in a wonderful natural setting. The education of woodland and wildlife is vital for children in ensuring that they grow up to respect the natural setting around them. One of the staff members, Judith Gilgun has a history in education and therefore would love to take lead on this service.*
23. *In addition to weddings and the education of children, they would also hope that local business may wish to use the marquee as a 'hub', and a meeting point. They will certainly encourage this for business men and women who are looking for a relaxed area for an informal business meeting. In addition, they also have links to community groups, such as the Women's Institute who would also be welcome to use the marquee for discussions. They are currently hosting meetings for Rivington Heritage Trust for discussion on restoration of the Japanese Gardens.*

24. *No land will be damaged as the marquee will be situated on a former children's play area which has foundations and a tarmac base and this area has already had 3 metre high chain link fence surrounding it. The marquee would be made of white canvas material and the structure is made up of a steel frame. Internally, the marquee would be decorated with ivory lining to the ceiling and walls. The floor will be made up of wooden slats which will interlink. On the top of this, the flooring will then be topped with a carpet. Lighting will be fairy lights, fed through the ceiling and plugged into the electrical point in the marquee. There will be no 'rigs' in place within the marquee. The marquee is a professional structure and therefore it would take a team of people a day to erect and 3 hours to dismantle.*
25. *In addition, the marquee will not touch any part of Spring Cottage's building as the plot in which permission is sought sits around 2 metres higher than ground level and, therefore, is not visibly dominant. It is set back from the main road and furthermore, it is also set back from the main entrance gates of Spring Cottage. The marquee plot is surrounded by woodland and this should, therefore, offer some cover to the eye also.*
26. *They believe that with the agreement to erect the marquee from May to September, they will offer a fantastic unique service that they don't believe is offered anywhere else locally. They love Rivington, and its beauty and wish to share this with others. With the marquee being set back from the road and out of eye sight, on an area already based with tarmac and currently having no use, they hope that agreement will be given to Spring Cottage.*
27. It is accepted that the proposal is a new business and the Council always try to support new businesses where possible, both in planning terms and through its economic development team. The proposal would bring some economic benefits to the area. Approximately thirteen members of staff would be employed over the summer on top of family members as well as supporting other local businesses who will be suppliers. This is given weight in the planning balance as are the other matters put forward above, but unfortunately these are not considered, either individually or when considered together, to amount to very special circumstances that would outweigh the harm to the Green Belt.

Design and Layout

28. The marquee is of a standard rectangular design with dual-pitched roof, constructed of white PVC type material and large windows. The design is considered acceptable and the marquee is not readily visible from outside the site.

Layout and Neighbour Amenity

29. Noise is the main issue in this respect. The site is set within woodland approximately 200m outside the village of Rivington, which is considered likely to have low background noise levels particularly in the evening when weddings receptions are taking place.
30. Following the previous application a noise assessment has now been submitted as the Council were concerned that noise levels would disturb nearby residents and if so if mitigation could be put in place to prevent this. The assessment shows that at the closest residential properties music would be at a clearly audible level with the lower frequency bass beat being most clearly audible. It recommended mitigation is needed to reduce the risk of disturbance.
31. The noise assessment has been reviewed by the Council's Environmental Health Officer who advises that the report suggests that noise mitigation measures are required to prevent a disturbance to nearby noise sensitive properties and has highlighted options to be considered.

32. One of the options is management control of sound levels, however they do not recommend this as a suitable mitigation measure as the operators would require a certain level of training, understanding of acoustic controls and have the time to carry out the monitoring throughout any event they have. This would be an ad hoc control measure which has the potential for disturbance being caused at nearby properties due to the likely varied type of music throughout the events.
33. The other option put forward is electronic sound limiters. The Environmental Health Officer advises these systems are very effective if installed by a competent engineer who has considered all of the factors in relation to the marquee, the location (of venue and proximity to nearby noise sensitive properties) and the type of events that will be held. They advise the applicant installs a fixed speaker/amplified system with a sound limiter attached in the marquee. All of the performing acts should plug ALL of their instruments into it throughout the event. They warn that any acoustic instruments, such as a traditional drum kit, would bypass the power supply/limiter and add to the noise level without control. They advise noise levels for the limiting device should be agreed and fixed by officers from Environmental Health prior to the first event.
34. The applicant advises that any entertainment would be required to plug into Spring Cottage's sound system and this will have a sound limiting device to ensure entertainers cannot increase their music levels. Neighbours would have a number to contact should they feel music is too loud and they state they will ensure to work in partnership with all neighbours and entertainers. Neighbours have shown their support for the proposed development. They also state they are aware that noise is not only measured by music and that they also need to make sure their guests are respectful to their neighbours when exiting each event. Music will be toned down from 11pm onwards to encourage guests to start getting ready to leave. As advised above, guests will be recommended to use taxis to leave Spring Cottage. Guests will be asked to leave quietly and will be reminded to be respectful to neighbours in the village should they pass through.
35. They state the site has a premises licence which is inclusive of recorded and live music.
36. As a noise assessment has now been done which shows that mitigation is needed and this this can be controlled through a sound limiting device it is considered that noise disturbance from music/entertainment can be satisfactorily controlled to prevent unacceptable disturbance to nearby properties. The applicant is aware that ALL music and entertainment will need to be controlled in this way so any live band will have to have electronic instruments as otherwise live entertainment would by-pass the sound limiting system. They have advised this is acceptable to them and workable for the business. It is, therefore, considered to meet the tests for conditions set out in the Framework and a condition could control this. Subject to this, the proposal is considered acceptable in relation to Policies EP3 and BNE1 of the Chorley Local Plan 2012-2026 which seeks, amongst other things, to ensure that proposals do not cause an unacceptable degree of noise disturbance to surrounding land uses.

Highways

37. The access and parking arrangements remain unchanged from the previous application on which Lancashire County Council Highways advised that the existing site access is a Bridleway (BW7), which seems narrow but with good visibility and given its short distance from Rivington Lane, they advise that additional traffic due the proposal is of no major highway concern. They also advise taking the current level of traffic flows on Rivington Lane and the surrounding highway network into account, it is not considered the proposal would negatively impact the highway network in terms of capacity and traffic generation.
38. The site has a small car park in front of the existing building. Policy ST4 of the Local Plan sets out the Council's parking standards, however the proposed use does not fall within any of the categories set out in the policy.

39. The application proposed the use of the venue for up to 80 guests. The site allows parking for approximately 20 cars.
40. The applicant states that with weddings being a planned function they have the ability to control any vehicles being brought onto the property prior to each event. At present they can accommodate up to twenty cars in their car park, as detailed on the plan. They state no additional car parking will be required. They will be advising all couples to ensure they relay to their guests to car share in taxis or a minibus and arrange pickup. If required, parking attendants can be on hand to guide people to safely park their vehicles and reduce public nuisance. They state they can evidence that there is no issue with parking as they hosted 13 weddings throughout 2016. There has not been parking issues at any of these functions and no cars have needed to park on Rivington Lane.

Although it is noted that the applicant advises that they use measures to encourage car sharing and the use of minibuses, and it is accepted that some guests will use taxis to and from the venue as they will be drinking, the Council cannot control or enforce this through conditions and it is likely that many guests will use private vehicles to attend the venue.

The applicant cannot prevent people attending the venue arriving in their own vehicle. Parking in the immediate area of the venue is at a premium as the area is very popular with walkers and other visitors, throughout the week, but particularly at weekends. It is considered that the amount of parking available to the venue in relation to the capacity applied for will lead to a risk of visitors parking on surrounding roads and tracks outside the application site where parking is already at a premium. In addition many of the tracks around the site are owned by United Utilities (as is the application site), rather than being adopted highway (though Rivington Lane is an adopted C-road), so the use of the surrounding tracks for parking could be prevented by the landowner. It should be noted that a metal gate/barrier has been erected close to the access point of the track adjacent to the site which would allow United Utilities to close the track off and prevent parking here.

41. The applicant states that parking is not a problem as thirteen weddings have already taken place with no issues. They state they recently had a meeting with United Utilities and put forward the idea of a parking overflow onto the gated track in the very unlikely event that it would be needed. If the planning application succeeds then they consider United Utilities would agree to this.
42. The comments regarding parking at weddings that have taken place already are noted, however, whatever the good intentions of the applicant, they cannot insist that their customers use taxis/minibuses as the main form of transport to and from the venue and this cannot be controlled by a planning condition. Therefore, although it is noted that LCC Highways do not object to the proposal, parking around the site is already problematic and at an absolute premium, particularly on Saturdays during the summer months and the Council would not want to introduce a new use that would exacerbate this in any way when it is considered that the application is to allow the weddings for up to eighty people.
43. It is, therefore, considered that there is not sufficient off-road parking for the venue within the boundaries of the application site given the capacity of the venue. The proposal is, therefore, contrary to Policy EP3 and BNE1 of the Local Plan 2012-2026.

CONCLUSION

44. The Council are now satisfied, following the submission of a noise assessment that noise can be controlled so as to not cause an unacceptable disturbance to the surrounding properties or change the character of the area to an unacceptable degree.
45. Although some weight is given in favour of the application in relation to the economic benefits of the proposal, it is not considered that the case put forward amounts to very

special circumstances sufficient to outweigh the harm to the Green Belt caused by the inappropriateness of the marquee.

46. In terms of parking, the venue has limited parking for the number of guests expected to attend and the Council cannot control through conditions (and the applicant cannot prevent) that guests do not visit the venue in private cars, or must car share. The Council are not, therefore, satisfied that there is sufficient off-road parking for the venue within the boundaries of the application site and this may lead to parking on surrounding roads, where parking is already at a premium, especially at weekends or on surrounding tracks not within the control of the applicant.
47. It should be noted, if Members are minded to approve the application contrary to officer recommended, that the applicant has agreed to accept a temporary permission of five years restricted to the current tenant of the building only, so the business could not be sold on to be run by someone else.
48. The National Planning Practice Guidance (NPPG) states that conditions can be used to grant planning permission for a use for a temporary period only. Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area, therefore, it is considered a condition could be imposed to allow the business to run for a temporary period of five years as suggested by the applicant.
49. With regards to restricting it to the current tenant of the building, the NPPG states that planning permission runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where granting planning permission for development that would not normally be permitted on the site could be justified on planning grounds because of who would benefit from the permission.
50. It is not considered that in this case restricting it to the current tenant could be justified as the use should be acceptable or not based on the facts of the application, rather than who is running it, however it is considered a condition restricting it to a five year temporary permission could be justified.
51. **RELEVANT POLICIES: In accordance with S.38 (6) Planning and Compulsory Purchase Act (2004), the application has been determined in accordance with the development plan [the Central Lancashire Core Strategy (2012) and the Chorley Local Plan 2012-2026 unless material considerations indicate otherwise. Consideration of the proposals has also had regard to guidance contained with the National Planning Policy Framework (the Framework). The specific policies/guidance considerations are contained within the body of the report.**

Reasons for Refusal

1. Although some weight is given in favour of the application in relation to the economic benefits of the proposal, it is not considered that there are very special circumstances sufficient to outweigh the harm to the Green Belt caused by the inappropriateness of the marquee. The proposal is, therefore, contrary to the National Planning Policy Framework.
2. The Council are not satisfied that there is sufficient off-road parking for the venue within the boundaries of the application site for the number of guests proposed and this may lead to parking on surrounding roads where parking is already at a premium, especially at weekends, or on surrounding tracks not within the control of the applicant. The proposal is, therefore, contrary to Policy EP3 and BNE1 of the Chorley Local Plan 2012-2026.