

## Planning Committee

Tuesday, 11th January 2022, 6.30 pm

Council Chamber, Town Hall, Chorley and YouTube

I am now able to enclose, for consideration at the above meeting of the Planning Committee, the following reports that were unavailable when the agenda was published.

<b>Agenda No</b>	<b>Item</b>	
<b>3</b>	<b>Planning applications to be determined</b>	
	The Director (Planning and Development) has submitted four items for planning applications to be determined (enclosed).	
	Plans to be considered will be displayed at the meeting or may be viewed in advance by following the links to the current planning applications on our website. <a href="https://planning.chorley.gov.uk/online-applications/search.do?action=simple&amp;searchType=Application">https://planning.chorley.gov.uk/online-applications/search.do?action=simple&amp;searchType=Application</a>	
	<b>21/00674/FUL - Land South Of Red Bank, Scout Hut, Little Carr Lane, Chorley</b>	(Pages 3 - 10)
	<b>21/00688/FUL - Whins Green Kitchen, Whins Lane, Wheelton</b>	(Pages 11 - 18)
	<b>21/01294/FUL - Whins Green Kitchen, Whins Lane, Wheelton</b>	(Pages 19 - 26)
	<b>21/01179/FULHH - 19 Cross Keys Drive, Whittle-Le-Woods, Chorley, PR6 7TF</b>	(Pages 27 - 34)
<b>4</b>	<b>Proposed Confirmation Chorley Borough Council TPO No.7 (Coppull) 2021</b>	(Pages 35 - 42)

Gary Hall  
Chief Executive

Electronic agendas sent to Members of the Planning Committee

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**APPLICATION REPORT – 21/01171/FUL**

**Validation Date: 30 September 2021**

**Ward: Chorley South East And Heath Charnock**

**Type of Application: Full Planning**

**Proposal: Change of use of former pumping station for use as Class B2 and B8 facilities depot and storage facility (retrospective)**

**Location: Land South Of Red Bank Scout Hut Little Carr Lane Chorley**

**Case Officer: Mrs Hannah Roper**

**Applicant: KKC Facilities Management Ltd**

**Agent: Mr Andrew Cunningham, Andrew Cunningham Building Design Ltd**

**Consultation expiry: 2 November 2021**

**Decision due by: 9 December 2021 (Extension of time agreed)**

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**UPDATE**

1. The recommendation remains to approve the application.
  2. Members will recall that consideration of the application was deferred at the Planning Committee on 7 December 2021 to give members the opportunity to visit the site. The original committee report follows on below.
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**ORIGINAL COMMITTEE REPORT****RECOMMENDATION**

1. It is recommended that planning permission is granted subject to conditions.

**SITE DESCRIPTION**

2. The application relates to an area of land located to the south of Red Bank Scout Hut that was formerly occupied by a pumping station. There is new residential development, and its associated carpark, at Duxbury Gardens located to the south and west and on the opposite side of Melrose Way there is a large commercial use.
3. The site is accessed from Melrose Way, via existing gates, and the existing building has is a modest red brick building with roller shutter doors.
4. The land slopes down from the road to the west adjacent to the side elevation of numbers 1-11 Duxbury Gardens.

5. There are several mature trees located on the site and directly adjacent to it, including a tree belt to the north which is protected by a Tree Protection Order.

#### **DESCRIPTION OF PROPOSED DEVELOPMENT**

6. The application seeks planning permission retrospectively for the use of the land for Class B2 and Class B8 purposes.
7. The application form states that the hours of use would be 08:30 until 4:45pm.

#### **REPRESENTATIONS**

8. Five representations received citing the following grounds of objection:
  - Reduction of privacy to neighbouring residents as the fencing is open
  - Parking of vehicles down the rear of properties
  - Storage materials leaning against fencing
  - Noise from unloading, loading, manoeuvring and repairing of vehicles of vehicles at potentially antisocial hours
  - This site is directly adjacent to residential properties
  - Not suitable for B8
  - Being used as a dumping ground for rubbish
  - The site has already been breaching planning for years

#### **CONSULTATIONS**

9. Lancashire County Council Highway Services – Have no objections.
10. Regulatory Services - Environmental Health – Have no objections.
11. Council's Tree Officer – Have raised concerns regarding the surfacing and the impact on tree roots but cannot conclude that there has been harm to the trees.
12. CIL Officers – Comment that the proposal is not CIL liable.

#### **PLANNING CONSIDERATIONS**

##### Principle of the development

13. *The National Planning Policy Framework (The Framework) states that plans and decisions should apply a presumption in favour of sustainable development and for decision making this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.*
14. The application site is located in the core settlement area of Chorley. Policy V2 of the Chorley Local Plan 2012 - 2026 states that within the settlement areas excluded from the Green Belt, and identified on the Policies Map, there is a presumption in favour of appropriate sustainable development.
15. The principle of the proposed development is, therefore, considered to be an acceptable one, subject to material planning considerations.

##### Design and impact on the character of the area

16. *Policy BNE1 of the Chorley Local Plan 2012 – 2026 states that planning permission will be granted for new development, including extensions, conversions and free standing structures, provided that the proposal does not have a significantly detrimental impact on*

*the surrounding area by virtue of its density, siting, layout, building to plot ratio, height, scale and massing, design, orientation and use of materials.*

17. The site slopes down from the road resulting in a natural element of screening for the site, assisted by the surrounding tree belt.
18. Whilst there are residential properties located to the rear, a large commercial building is located on the opposite side of Melrose Way and as such the commercial nature of the site is not out of keeping with the surrounding streetscape. The proposal is, therefore, considered to be acceptable with regard to its impact on the streetscene.

#### Impact on the amenity of neighbouring occupiers

19. *Policy BNE1 of the Chorley Local Plan 2012 – 2026 states that planning permission will be granted for new development, including extensions, conversions and free-standing structures, provided that (amongst other things):*

*b) The development does not cause harm to any neighbouring property by virtue of overlooking, overshadowing or overbearing*

*g) The proposal would not cause an unacceptable degree of noise disturbance to surrounding land uses*

20. The site is located directly adjacent to the north east corner of the gable end of the residential properties along Duxbury Gardens and the front amenity space associated with these properties. The open fence allows views into this space from the site and the bin store which is located to the gable end of these properties.
21. On visiting the site, it was found to be in operation for the storage of vehicles in association with a local commercial use, albeit the application seeks permission for general Class B2 and Class B8 use. The use of the site for this purpose is likely to generate additional comings and goings over and above the previous lawful use and in this case the storage of vehicles is likely to require a number of manoeuvres to move them in and out of the site.
22. Since the previous application the applicant has amended the proposed times of operation of the site to 08:30am - 4:45pm Monday to Friday only. This is the time when surrounding residents would be out at work and where general background noise would be at its highest.
23. In addition, acoustic fencing along the residential boundaries and planting have both been suggested as a means to both improve the visual appearance of the site, reduce visibility between the site and its direct residential neighbours and reduce the transmission of any daytime noise.
24. The fencing would be closest to the gable end of the adjacent residential apartments and the carpark. There are no windows in this gable end and the building is angled away from the application site. As a result, the erection of the 2.5m high fencing would not itself, detrimentally impact of the occupants of the residential apartments.

#### Highway safety

25. Policy BNE1 of the Chorley Local Plan 2012-2026 states that developments must not cause severe residual cumulative highways impact or prejudice highway safety, pedestrian safety, the free flow of traffic, or reduce the number of on-site parking spaces.
26. Concerns have been raised from neighbouring residents regarding the parking of vehicles in close proximity to the site, however LCC Highway Services have assessed the application and have raised no objection to the use of the site for Class B2 and Class B8 purposes. From a highway safety perspective the requirement to move vehicles to access others is not considered detrimental, The proposal is therefore considered to accord with policy.

Impact on trees

27. Policy BNE10 of the Chorley Local Plan 2012-2026 states that proposals which would result in the loss of trees and/or involve inappropriate works to trees which contribute positively to the character of the landscape, a building, a settlement or the setting thereof will not be permitted. Replacement planting will be required where it is considered that the benefit of development outweighs the loss of some of the trees or hedgerows.
28. There are a number of mature trees both on the site and directly to the north of the site including some that are protected by a TPO. The applicant has submitted an Arboricultural Assessment that assesses the trees to the northern boundary.
29. The Council's Tree Officer has viewed the site whilst in use and has commented that the existing trees make a positive visual contribution to the site. Based on the submitted survey the trees do not to date appear to have been impacted despite the retrospective nature of the proposal. Therefore, there is nothing to suggest that the use and the laying of hard standing has impacted detrimentally on the trees. As such the application is in accordance with policy BNE10 of the Chorley Local Plan 2012-2026.

**CONCLUSION**

30. The proposed development would not have an unacceptable adverse impact on the character of the surrounding area or highway safety. Reduced operational hours, acoustic fencing and planting would reduce any noise impact of the proposed use without impacting on residential amenity and appropriate conditions are recommended. The application is therefore recommended for approval.

**RELEVANT HISTORY OF THE SITE**

**Ref:** 21/00674/FUL      **Decision:** WDN      **Decision Date:** 6 September 2021  
**Description:** Change of use of former pumping station for use as Class B2 and B8 facilities depot and storage facility (retrospective)

**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 development hereby permitted shall be carried out in accordance with the approved plans below:

Title	Plan Ref	Received On
Proposed Site Plan	1050_02	5 November 2021
Existing Site Plans	1050_01	30 September 2021

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

2. The uses hereby approved shall only operate between the hours of 08:30am and 4:45pm Monday to Friday with no operation on weekends or public holidays.

*Reason: In the interests of protecting the amenity of neighbouring properties.*

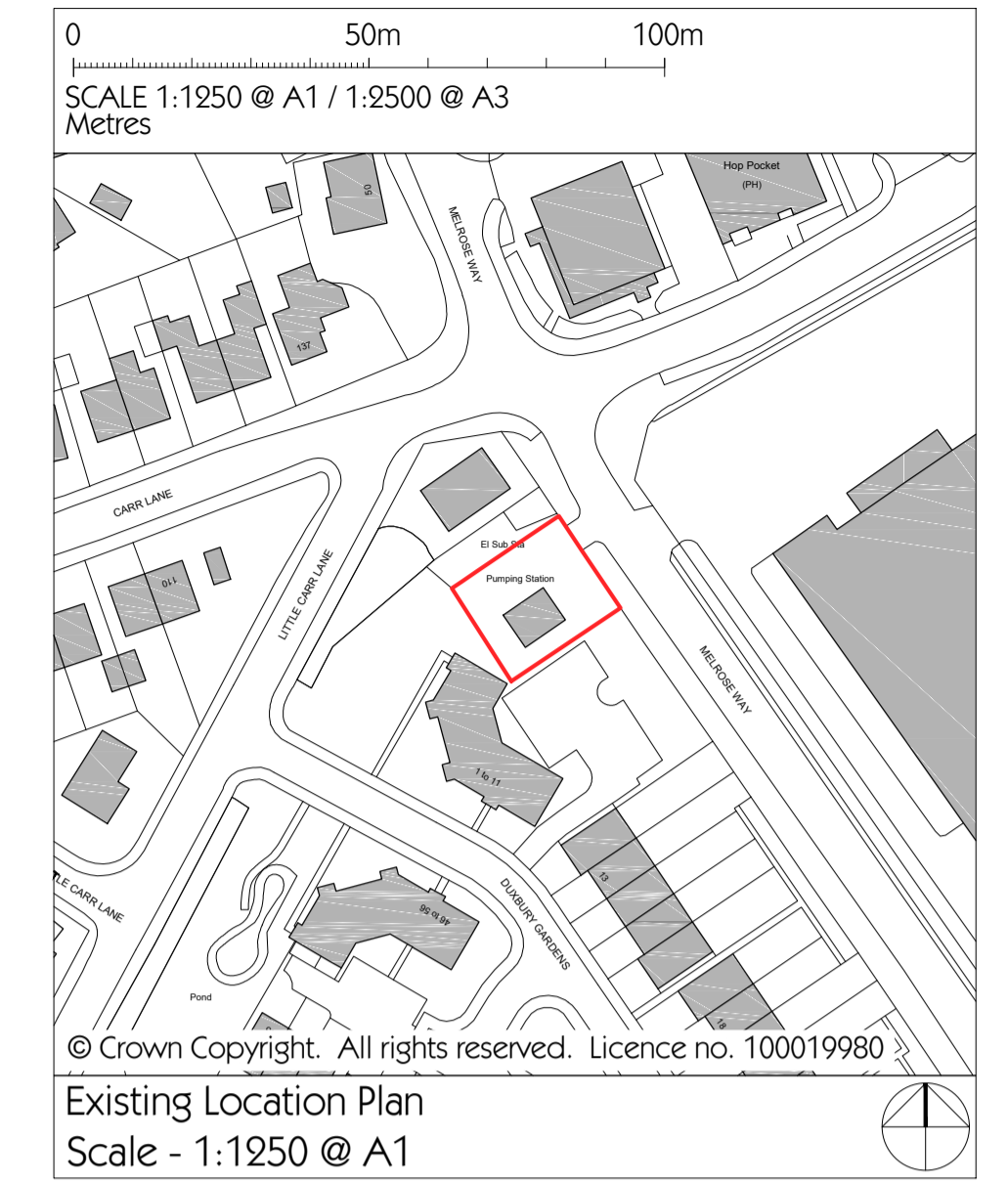
3. Within 6 weeks of the date of this permission the 2.5m high acoustic fencing shown on details 'Jakoustic Reflective' received by the Local Planning Authority on the 5th November 2021, shall be installed in accordance with plan 1050\_02, dated 14.04.2021 and received by the Local


Planning Authority on the 5th November 2021. The fence shall be retained in perpetuity for the lifetime of the use, unless otherwise agreed in writing by the Local Planning Authority.

*Reason: In the interests of protecting the amenity of neighbouring properties.*

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CLIENT Nicholas Quinn			
JOB Carr Lane Pumping Station			
DRAWING Existing Site Plans			
REV	DATE	DESCRIPTION	CD
		Job no. <b>1050_01</b>	Drawing no. 
Scale @ A1 1:50	Status -	Date 14.04.21	Revision -
Scale @ A3 1:100			
<small>COPYRIGHT REMAINS WITH DESIGNER Do not scale from this drawing. Use figured dimensions only. All dimensions to be verified on site before proceeding with works. All levels are nominal; detailed site survey to be carried out to verify positions and level relationships with site features and ordnance survey. This drawing is for design intent only. This drawing is to be read in conjunction with other documentation from the design team, main contractor, employer's agent, size and suitability of foundations and ground bearing pressure to be verified on site by the Building Inspector. Further details may be required on site. The Designer must be notified of any discrepancies.</small>			
Andrew Cunningham Building Design		28 Union Street Southport, PR9 0QE t.f. 01704 533595 m. 07961 815190 studio@acbuildingdesign.com www.acbuildingdesign.com	

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**APPLICATION REPORT – 21/00688/FUL**

**Validation Date: 29 May 2021**

**Ward: Chorley North East**

**Type of Application: Full Planning**

**Proposal: Section 73 application to vary condition no.4 (hours of operation) attached to planning permission 19/01030/FUL (Change of use from holistic spa to holistic spa and cafe) to allow longer opening hours on Fridays and Saturdays to between 09:00 and 23:00 hours**

**Location: Whins Green Kitchen Whins Lane Wheelton Chorley PR6 8HN**

**Case Officer: Mr Iain Crossland**

**Applicant: Lesley Barrow**

**Agent: Mr Doug Purnell, DP Architectural Services Ltd**

**Consultation expiry: 29 June 2021**

**Decision due by: 14 January 2021 (Extension of time agreed)**

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**RECOMMENDATION**

1. It is recommended that planning permission is granted subject to conditions.

**SITE DESCRIPTION**

2. The application site is located in the Green Belt, on Whins Lane, Wheelton. The site consists of a contemporary split level detached building with flat roof that is in use as a holistic spa and café. There is an associated car park, with vehicular access from Whins Lane, between the building and the highway, and an open terrace to the north east side. The building opens out onto open land to the north east, which slopes down away from Whins Lane culminating in an attractive outlook over the valley containing the River Lostock and Leeds Liverpool Canal. As such the building elevation is lower on the eastern side than the west, where it has been designed to overlook the valley in response to the change in levels.
3. There is a converted barn to the south west of the application building that is in the ownership of the applicant, and beyond which are three further dwellings. Other dwellings are located a substantial distance further from the site.
4. The character of the area is largely open agricultural land punctuated by dwellings and buildings of agrarian origins. The lies between and within walking distance of the settlements of Wheelton and Higher Wheelton.

**DESCRIPTION OF PROPOSED DEVELOPMENT**

5. This application seeks consent to vary condition no.4 (hours of operation) attached to planning permission 19/01030/FUL, which was for the change of use from a holistic spa to a holistic spa and café, to allow longer opening hours on Fridays and Saturdays to between 09:00 and 23:00 hours.

6. It is noted that there is a concurrent application (ref. 21/01294/FUL), which reflects this application and seeks to vary condition no.3 (hours of operation) attached to planning permission 20/01337/FUL (Conversion of subterranean void space beneath the existing building and associated construction works to provide cafe / day spa facilities (retrospective)) to allow longer opening hours on Fridays and Saturdays to between 09:00 and 23:00 hours.
7. The applications effectively apply to different parts of the same building and, therefore, it is appropriate that the associated conditions of each application should be addressed simultaneously so as to avoid ambiguity.

### **REPRESENTATIONS**

8. One representation has been received citing the following grounds of objection:
  - Increased disturbance from the existing use of the premises, but opens up the potential for further intensification by allowing scope for evening-type uses including weddings, parties, live performances, outdoor cooking/BBQs etc. In either case the extended hours will inevitably lead to additional noise impact during the quieter evening hours.
  - The application has not been accompanied by any form of acoustic assessment to determine the impact of additional noise during the late evening period. On this basis, no objective determination of the application can be made that the use will not lead to unacceptable noise and disturbance on nearby receptors.
9. Cllr Margaret France has requested that the application be determined by the Planning Committee on the basis that residents have concerns about the late hours of operation attracting more traffic and vehicle noise to what is a very quiet rural cul-de-sac. The initial business as a holistic spa in the daytime didn't cause any concerns, but late opening of the cafe until 11pm on Fridays and Saturdays would probably mean staff leaving later still. The ongoing concern is that the next application might well be for a licence to sell alcohol on the premises, again bringing the prospect of more disturbance to a quiet rural backwater.

### **CONSULTATIONS**

10. Wheelton Parish Council: Have raised concerns about the extra hours, increased traffic, and disruption to neighbours that this change in conditions could bring.
11. Regulatory Services - Environmental Health: Have no objection.

### **PLANNING CONSIDERATIONS**

12. The application building replaced an existing workshop and store, and was granted planning permission under references 18/00357/FUL and 18/01017/FUL, originally to be solely used as a health spa. In December 2019 planning permission was granted to accommodate a café alongside the spa facility under reference 19/01030/FUL, whilst further consent was granted for the use of a void space beneath the building in February 2021 (ref. 20/01337/FUL). The planning history alone demonstrates that the business has diversified and expanded over a fairly short period of time.
13. The success of the business and its diversification to include a café has led to an increased intensity in the use of the site and now the applicant is seeking to manage this increased trade through the current application to extend the opening hours on Fridays and Saturdays later into the evenings on those days.
14. Planning permission 19/01030/FUL, which allowed for the inclusion of a café within the site included a condition that set the hours of operation to between 09:00am and 19:00pm Mondays to Saturdays and 09:00am to 16:00pm on Sundays to safeguard the amenities of local residents. The applicant now seeks to extend this to allow for later opening hours up to 23:00 hours on Fridays and Saturdays.

15. It is noted that the use of the application site includes the possibility of using outdoor areas, and that tables and chairs are set out for customers of the café to use on a terrace area to the north east of the building. The use of this outdoor area has the greatest potential for noise generation from customers of the café. It is also noted that an outdoor seating area has been set out on the land to the north west of the building that is understood to be for customers of the spa to use. The use of this area also has some potential for noise generation and is closer to the nearest dwelling at Whins Farm with no intervening buildings. As such there is the possibility for disturbance to the occupiers of Whins Farm, during those more sensitive times of the day, which this application seeks the ability to use, particularly when residents are using garden areas.
16. Other potential noise sources are from customers leaving and entering the premises and from vehicle movements in the car park. It should, however, be noted that all of these activities already occurs up to 7pm in the evenings and into the weekends at present.
17. The nearest noise sensitive receptor is at Whins Farm to the south west of the site, beyond the dwelling at Whins Barn. This dwelling is shielded from the site to some extent by the neighbouring Whins Barn, although the garden area to Whins Farm is rather more open towards the application site at the rear. The open terrace area where outdoor dining takes place is, however, situated on the opposite side of the application building from Whins Farm and is over 30m away. Given the degree of separation and screening provided by the application building this prevents any adverse privacy impacts, and is also an effective screen from the noise that is currently generated by customers dining on the terrace. The car parking area is well screened from Whins Farm by Whins Barn, which provides a good level of acoustic protection against disturbance from vehicles accessing this area.
18. It is noted that there are concerns regarding noise disturbance from the later operation of the business, and that the requirement for a noise assessment has been suggested. The application has been considered by the Council's environmental health officer (EHO), who confirms that there have been no noise complaints or enquiries relating to this premises from the current use. The extended hours requested for the operation of the site would not extend into the night-time. The Council's EHO considers that the nature of the activity means that the noise levels or any potential perceived disturbance is likely to be very dependent on the clientele on any given day, therefore, noise assessments are of limited value where the noise varies in intensity and duration in any event.
19. Noise assessments are usually only requested where there is a steady volume/source of noise (such as night-clubs where the predominant activity is the playing of music) and noise insulation measures are likely to be required to prevent structural transmission of noise to residential premises. Furthermore, it is noted that the licensing and statutory nuisance regimes are available if disturbance is reported and the investigation determines the need for control measures.
20. The distance of the outdoor terrace area from the nearest dwellings and the screening provided by the application building and Whins Barn are considered to mitigate the impacts from noise disturbance that may be generated through the operation of the site for the authorised uses. The outdoor seating area to the north west of the building and use of this general area is of greater concern from a noise disturbance perspective given the closer proximity and lack of intervening buildings. Although this may operate without complaint at present, the continued evolution of the site and its use into the evenings would have the potential for noise disturbance of nearby residential occupiers in what is a quite rural area, given the proximity.
21. Activities within the building itself are effectively controlled and are not considered to present any potential noise disturbance issues, given the nature of those activities and degree of separation. As a result, it is anticipated that the use of the building into the evening hours proposed could operate without adverse impacts on the amenity of neighbouring occupiers. It is not clear, however, that any unrestricted outdoor use could take place without causing adverse noise disturbances. As such it is considered that the use of the building for later hours as proposed would be acceptable, but that outdoor use during these later times

should be controlled. It is, therefore, recommended that a condition is attached to any grant of planning permission that prevents outdoor use during these later hours.

22. Furthermore, it is clear that the nature of the business and use of the premises is evolving and currently leans more towards to the café and restaurant uses that are enabled at present. As such it is considered that any consent to increase the operating hours of the premises should also be accompanied by a condition preventing the playing of music, given the absence of any noise assessment or associated details, and the potential that this might have for neighbour disturbance should this occur. It is recommended that this be controlled by condition.
23. On the basis of the above assessment it is considered that the proposed variation of condition no.4 of planning permission 19/01030/FUL to enable extended hours of operation would have no unacceptable impact on residential amenity and complies with policies EP3 and BNE1 of the Chorley Local Plan 2012 – 2026, subject to further controlling conditions controlling music and outdoor use.

### CONCLUSION

24. It is recommended that the application is approved and condition no.4 is varied for the reasons set out above.

### RELEVANT HISTORY OF THE SITE

**Ref:** 17/00743/FUL      **Decision:** PERFPP      **Decision Date:** 16 November 2017  
**Description:** Erection of a building for use as a holistic spa following demolition of existing workshop and store, conversion of live/work unit to a dwelling, and associated landscaping and access works

**Ref:** 18/00357/FUL      **Decision:** PERFPP      **Decision Date:** 13 June 2018  
**Description:** Erection of a building for use as a holistic spa following demolition of existing workshop and store, conversion of live/work unit to a dwelling, and associated landscaping and access works (re-submission of previously approved planning application 17/00743/FUL)

**Ref:** 18/01017/FUL      **Decision:** PERFPP      **Decision Date:** 17 December 2018  
**Description:** Erection of single storey side extension to existing holistic spa

**Ref:** 19/01030/FUL      **Decision:** PERFPP      **Decision Date:** 19 December 2019  
**Description:** Change of use from holistic spa to holistic spa and café.

**Ref:** 20/01337/FUL      **Decision:** PERFPP      **Decision Date:** 4 February 2021  
**Description:** Conversion of subterranean void space beneath the existing building and associated construction works to provide cafe/ day spa facilities (retrospective)

**Ref:** 21/01294/FUL      **Decision:** PCO      **Decision Date:** Pending  
**Description:** Section 73 application to vary condition no. 3 (hours of operation) attached to planning permission 20/01337/FUL (Conversion of subterranean void space beneath the existing building and associated construction works to provide cafe / day spa facilities (retrospective)) to allow longer opening hours on Fridays and Saturdays to between 09:00 and 23:00 hours.

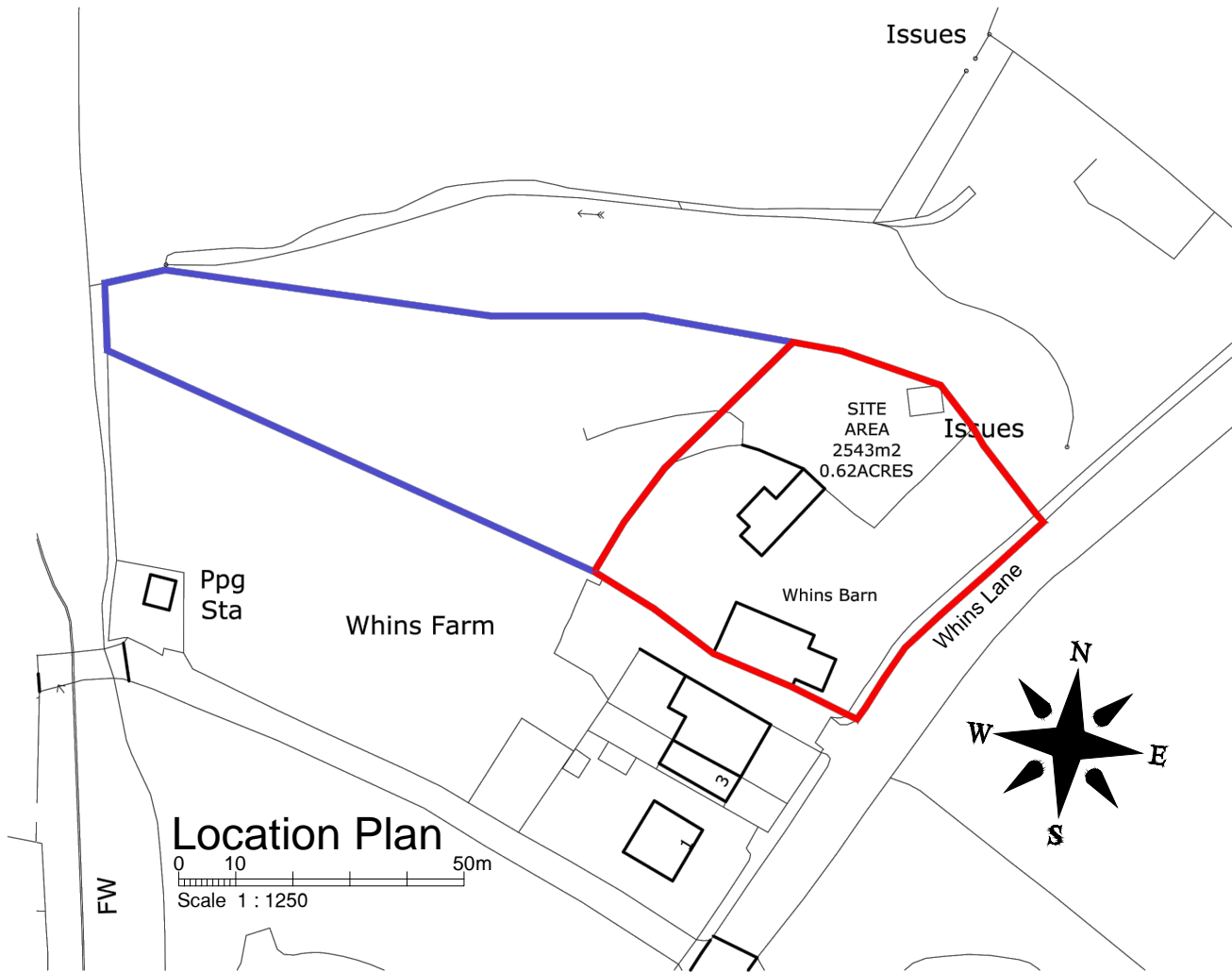
**RELEVANT POLICIES:** In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless 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

No.	Condition												
1.	<p>The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <table border="1" data-bbox="336 371 1313 501"> <thead> <tr> <th data-bbox="336 371 730 398">Title</th> <th data-bbox="730 371 1023 398">Drawing Reference</th> <th data-bbox="1023 371 1313 398">Received date</th> </tr> </thead> <tbody> <tr> <td data-bbox="336 398 730 425">Location plan</td> <td data-bbox="730 398 1023 425">2019-35-L01</td> <td data-bbox="1023 398 1313 425">29 October 2019</td> </tr> <tr> <td data-bbox="336 425 730 452">Proposed site plan</td> <td data-bbox="730 425 1023 452">2019-35-P02</td> <td data-bbox="1023 425 1313 452">29 October 2019</td> </tr> <tr> <td data-bbox="336 452 730 501">Proposed floor plans</td> <td data-bbox="730 452 1023 501">2019-35-P01</td> <td data-bbox="1023 452 1313 501">29 October 2019</td> </tr> </tbody> </table> <p><i>Reason: For the avoidance of doubt and in the interests of proper planning.</i></p>	Title	Drawing Reference	Received date	Location plan	2019-35-L01	29 October 2019	Proposed site plan	2019-35-P02	29 October 2019	Proposed floor plans	2019-35-P01	29 October 2019
Title	Drawing Reference	Received date											
Location plan	2019-35-L01	29 October 2019											
Proposed site plan	2019-35-P02	29 October 2019											
Proposed floor plans	2019-35-P01	29 October 2019											
2.	<p>The holistic spa and café business hereby permitted shall only operate between the hours of 09:00 and 19:00 hours Monday to Thursday, 09:00 and 23:00 hours Friday and Saturday and 09:00 and 16:00 hours on Sundays.</p> <p><i>Reasons: To safeguard the amenities of local residents.</i></p>												
3.	<p>No music of any type shall be played or reproduced in the building or on any part of the site hereby permitted.</p> <p><i>Reason: In the interests of the amenity of the area and nearby residential properties.</i></p>												
4.	<p>No outside use shall take place between 19:00 and 23:00 hours.</p> <p><i>Reason: To minimise the risk of disturbance to the amenity of the occupiers of nearby residential properties.</i></p>												

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<p><b>DP</b> Architectural Services LTD</p> <p>20 Merefield Astley Village Chorley Lancashire PR7 1UR</p> <p>m. 07877 595100 t. 01257 671635 e.dparch69@gmail.com</p>	<p>Client</p> <p>Leslie Barrow Whins Farm Barn Whins Lane Wheulton Chorley PR6 8HN</p>	<p>Project</p> <p>Proposed part change of Use from Holistic spar relaxation area to A3 Cafe</p>	<p>Drawings</p> <p>Location Plan</p>
	<p>Paper size A4</p> <p>Date Oct 2019</p>	<p>Job no 2019-35</p> <p>Scale 1:1250</p>	<p>Drawing no L01</p> <p>Revision .</p>

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**APPLICATION REPORT – 21/01294/FUL**

**Validation Date: 2 November 2021**

**Ward: Chorley North East**

**Type of Application: Full Planning**

**Proposal: Section 73 application to vary condition no.3 (hours of operation) attached to planning permission 20/01337/FUL (Conversion of subterranean void space beneath the existing building and associated construction works to provide cafe / day spa facilities (retrospective)) to allow longer opening hours on Fridays and Saturdays to between 09:00 and 23:00 hours**

**Location: Whins Green Kitchen Whins Lane Wheelton Chorley PR6 8HN**

**Case Officer: Mr Iain Crossland**

**Applicant: Lesley Barrow**

**Agent: Mr Doug Purnell, DP Architectural Services Ltd**

**Consultation expiry: 30 November 2021**

**Decision due by: 14 January 2021 (Extension of time agreed)**

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**RECOMMENDATION**

1. It is recommended that planning permission is granted subject to conditions.

**SITE DESCRIPTION**

2. The application site is located in the Green Belt, on Whins Lane, Wheelton. The site consists of a contemporary split level detached building with flat roof that is in use as a holistic spa and café. There is an associated car park, with vehicular access from Whins Lane, between the building and the highway, and an open terrace to the north east side. The building opens out onto open land to the north east, which slopes down away from Whins Lane culminating in an attractive outlook over the valley containing the River Lostock and Leeds Liverpool Canal. As such the building elevation is lower on the eastern side than the west, where it has been designed to overlook the valley in response to the change in levels.
3. There is a converted barn to the south west of the application building that is in the ownership of the applicant, and beyond which are three further dwellings. Other dwellings are located a substantial distance further from the site.
4. The character of the area is largely open agricultural land punctuated by dwellings and buildings of agrarian origins. The lies between and within walking distance of the settlements of Wheelton and Higher Wheelton.

**DESCRIPTION OF PROPOSED DEVELOPMENT**

5. This application seeks consent to vary condition no.3 (hours of operation) attached to planning permission 20/01337/FUL, which was for the conversion of a subterranean void space beneath the existing building and associated construction works to provide cafe / day spa facilities, to allow longer opening hours on Fridays and Saturdays to between 09:00 and 23:00 hours.

6. It is noted that there is a concurrent application (ref. 21/00688/FUL), which reflects this application and seeks to vary condition no.4 (hours of operation) attached to planning permission 19/01030/FUL, which was for the change of use from a holistic spa to a holistic spa and café, to allow longer opening hours on Fridays and Saturdays to between 09:00 and 23:00 hours.
7. The applications effectively apply to different parts of the same building and, therefore, it is appropriate that the associated conditions of each application should be addressed simultaneously so as to avoid ambiguity.

## **REPRESENTATIONS**

8. One representation has been received citing the following grounds of objection:
  - Increased disturbance from the existing use of the premises, but opens up the potential for further intensification by allowing scope for evening-type uses including weddings, parties, live performances, outdoor cooking/BBQs etc. In either case the extended hours will inevitably lead to additional noise impact during the quieter evening hours.
  - The application has not been accompanied by any form of acoustic assessment to determine the impact of additional noise during the late evening period. On this basis, no objective determination of the application can be made that the use will not lead to unacceptable noise and disturbance on nearby receptors.

## **CONSULTATIONS**

9. Wheelton Parish Council: make no objections but raise the concern that they had already stated concerns around development by stealth. There is an issue with carparking on the provision of having extended business hours meaning that people would be parking outside houses on the road.
10. Regulatory Services - Environmental Health: Have no objections to this application. As an established business there have been no noise complaints regarding the existing activities and the extension applied for is limited to evenings at weekends. A noise assessment would be of limited value in this application so is not requested in this case.

## **PLANNING CONSIDERATIONS**

11. The application building replaced an existing workshop and store, and was granted planning permission under references 18/00357/FUL and 18/01017/FUL, originally to be solely used as a health spa. In December 2019 planning permission was granted to accommodate a café alongside the spa facility under reference 19/01030/FUL, whilst further consent was granted for the use of a void space beneath the building in February 2021 (ref. 20/01337/FUL). The planning history alone demonstrates that the business has diversified and expanded over a fairly short period of time.
12. The success of the business and its diversification to include a café has led to an increased intensity in the use of the site and now the applicant is seeking to manage this increased trade through the current application to extend the opening hours on Fridays and Saturdays later into the evenings on those days.
13. Planning permission 20/01337/FUL, which was for the conversion of a subterranean void space beneath the existing building included a condition that set the hours of operation to between 09:00am and 19:00pm Mondays to Saturdays and 09:00am to 16:00pm on Sundays to safeguard the amenities of local residents. The applicant now seeks to extend this to allow for later opening hours up to 23:00 hours on Fridays and Saturdays.
14. It is noted that the use of the application site includes the possibility of using outdoor areas, and that tables and chairs are set out for customers of the café to use on a terrace area to the north east of the building. The use of this outdoor area has the greatest potential for noise generation from customers of the café. It is also noted that an outdoor seating area

has been set out on the land to the north west of the building that is understood to be for customers of the spa to use. The use of this area also has some potential for noise generation and is closer to the nearest dwelling at Whins Farm with no intervening buildings. As such there is the possibility for disturbance to the occupiers of Whins Farm, during those more sensitive times of the day, which this application seeks the ability to use, particularly when residents are using garden areas.

15. Other potential noise sources are from customers leaving and entering the premises and from vehicle movements in the car park. It should, however, be noted that all of these activities already occurs up to 7pm in the evenings and into the weekends at present.
16. The nearest noise sensitive receptor is at Whins Farm to the south west of the site, beyond the dwelling at Whins Barn. This dwelling is shielded from the site to some extent by the neighbouring Whins Barn, although the garden area to Whins Farm is rather more open towards the application site at the rear. The open terrace area where outdoor dining takes place is, however, situated on the opposite side of the application building from Whins Farm and is over 30m away. Given the degree of separation and screening provided by the application building this prevents any adverse privacy impacts, and is also an effective screen from the noise that is currently generated by customers dining on the terrace. The car parking area is well screened from Whins Farm by Whins Barn, which provides a good level of acoustic protection against disturbance from vehicles accessing this area.
17. It is noted that there are concerns regarding noise disturbance from the later operation of the business, and that the requirement for a noise assessment has been suggested. The application has been considered by the Council's environmental health officer (EHO), who confirms that there have been no noise complaints or enquiries relating to this premises from the current use. The extended hours requested for the operation of the site would not extend into the night-time. The Council's EHO considers that the nature of the activity means that the noise levels or any potential perceived disturbance is likely to be very dependent on the clientele on any given day, therefore, noise assessments are of limited value where the noise varies in intensity and duration in any event.
18. Noise assessments are usually only requested where there is a steady volume/source of noise (such as night-clubs where the predominant activity is the playing of music) and noise insulation measures are likely to be required to prevent structural transmission of noise to residential premises. Furthermore, it is noted that the licensing and statutory nuisance regimes are available if disturbance is reported and the investigation determines the need for control measures.
19. The distance of the outdoor terrace area from the nearest dwellings and the screening provided by the application building and Whins Barn are considered to mitigate the impacts from noise disturbance that may be generated through the operation of the site for the authorised uses. The outdoor seating area to the north west of the building and use of this general area is of greater concern from a noise disturbance perspective given the closer proximity and lack of intervening buildings. Although this may operate without complaint at present, the continued evolution of the site and it's use into the evenings would have the potential for noise disturbance of nearby residential occupiers in what is a quite rural area, given the proximity.
20. Activities within the building itself are effectively controlled and are not considered to present any potential noise disturbance issues, given the nature of those activities and degree of separation. As a result, it is anticipated that the use of the building into the evening hours proposed could operate without adverse impacts on the amenity of neighbouring occupiers. It is not clear, however, that any unrestricted outdoor use could take place without causing adverse noise disturbances. As such it is considered that the use of the building for later hours as proposed would be acceptable, but that outdoor use during these later times should be controlled. It is therefore recommended that a condition is attached to any grant of planning permission that prevents outdoor use during these later hours.

- 21. Furthermore, it is clear that the nature of the business and use of the premises is evolving and currently leans more towards to the café and restaurant uses that are enabled at present. As such it is considered that any consent to increase the operating hours of the premises should also be accompanied by a condition preventing the playing of music, given the absence of any noise assessment or associated details, and the potential that this might have for neighbour disturbance should this occur. It is recommended that this be controlled by condition.
- 22. On the basis of the above assessment it is considered that the proposed variation of condition no.3 of planning permission 20/01337/FUL to enable extended hours of operation would have no unacceptable impact on residential amenity and complies with policies EP3 and BNE1 of the Chorley Local Plan 2012 - 2026, subject to further controlling conditions controlling music and outdoor use.

**CONCLUSION**

- 23. It is recommended that the application is approved and condition no.3 is varied for the reasons set out above.

**RELEVANT HISTORY OF THE SITE**

**Ref:** 17/00743/FUL      **Decision:** PERFPP      **Decision Date:** 16 November 2017  
**Description:** Erection of a building for use as a holistic spa following demolition of existing workshop and store, conversion of live/work unit to a dwelling, and associated landscaping and access works

**Ref:** 18/00357/FUL      **Decision:** PERFPP      **Decision Date:** 13 June 2018  
**Description:** Erection of a building for use as a holistic spa following demolition of existing workshop and store, conversion of live/work unit to a dwelling, and associated landscaping and access works (re-submission of previously approved planning application 17/00743/FUL)

**Ref:** 18/01017/FUL      **Decision:** PERFPP      **Decision Date:** 17 December 2018  
**Description:** Erection of single storey side extension to existing holistic spa

**Ref:** 19/01030/FUL      **Decision:** PERFPP      **Decision Date:** 19 December 2019  
**Description:** Change of use from holistic spa to holistic spa and café.

**Ref:** 20/01337/FUL      **Decision:** PERFPP      **Decision Date:** 4 February 2021  
**Description:** Conversion of subterranean void space beneath the existing building and associated construction works to provide cafe/ day spa facilities (retrospective)

**Ref:** 21/00688/FUL      **Decision:** PDE      **Decision Date:** Pending  
**Description:** Section 73 application to vary condition no. 4 (hours of operation) attached to planning permission 19/01030/FUL (Change of use from holistic spa to holistic spa and cafe) to allow longer opening hours on Fridays and Saturdays to between 09:00 and 23:00 hours.

**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.

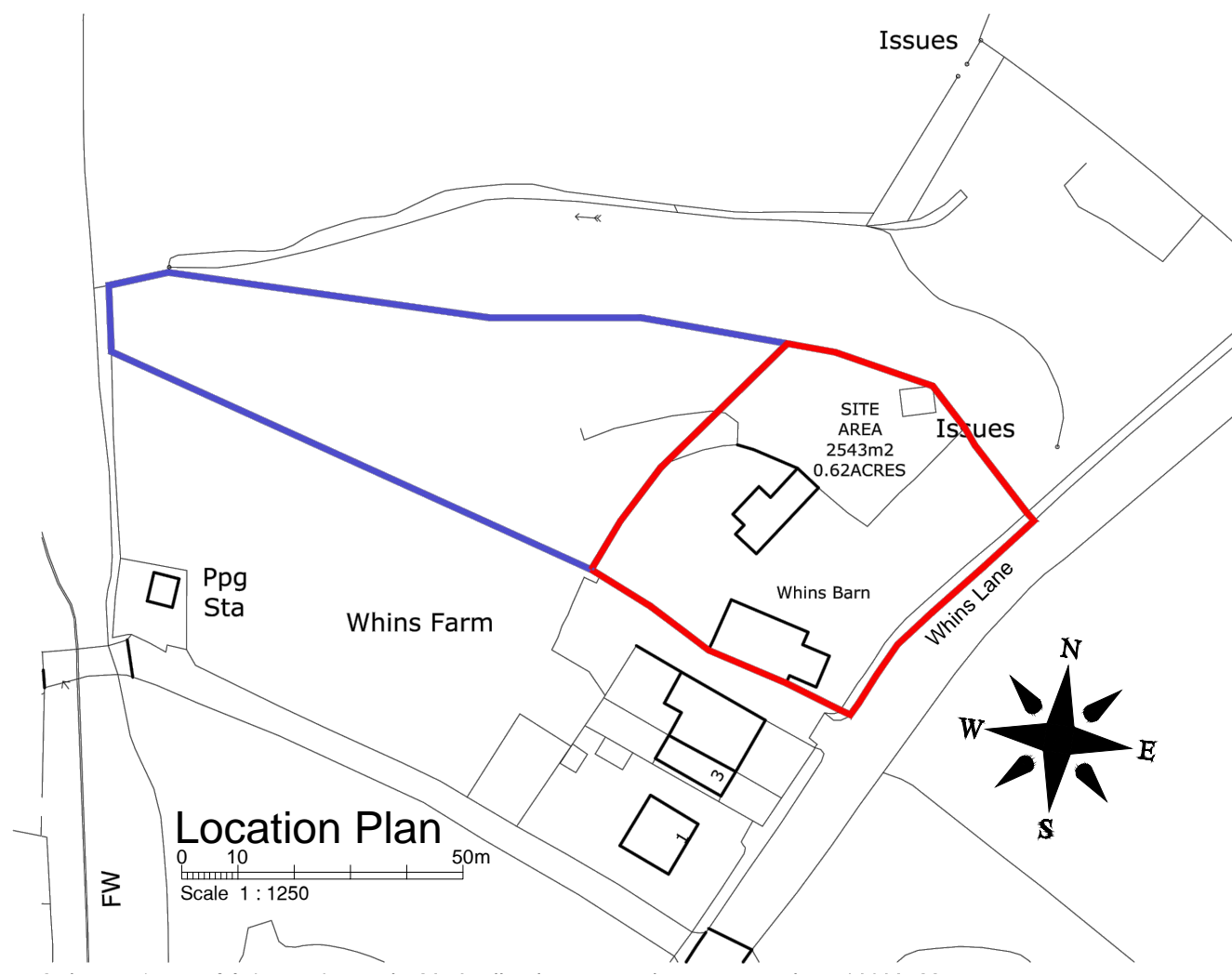
Suggested conditions

No.	Condition
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<p>1.</p>	<p>The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <table border="1" data-bbox="336 277 1321 439"> <thead> <tr> <th data-bbox="336 277 730 309">Title</th> <th data-bbox="730 277 1023 309">Drawing Reference</th> <th data-bbox="1023 277 1321 309">Received date</th> </tr> </thead> <tbody> <tr> <td data-bbox="336 309 730 340">Location plan</td> <td data-bbox="730 309 1023 340">2020-40-L01</td> <td data-bbox="1023 309 1321 340">10 December 2020</td> </tr> <tr> <td data-bbox="336 340 730 371">Site plan</td> <td data-bbox="730 340 1023 371">2020-40-P03</td> <td data-bbox="1023 340 1321 371">10 December 2020</td> </tr> <tr> <td data-bbox="336 371 730 403">Floor plans</td> <td data-bbox="730 371 1023 403">2020-40-P01</td> <td data-bbox="1023 371 1321 403">10 December 2020</td> </tr> <tr> <td data-bbox="336 403 730 434">Elevations</td> <td data-bbox="730 403 1023 434">2020-40-P02</td> <td data-bbox="1023 403 1321 434">10 December 2020</td> </tr> </tbody> </table> <p><i>Reason: For the avoidance of doubt and in the interests of proper planning.</i></p>	Title	Drawing Reference	Received date	Location plan	2020-40-L01	10 December 2020	Site plan	2020-40-P03	10 December 2020	Floor plans	2020-40-P01	10 December 2020	Elevations	2020-40-P02	10 December 2020
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Site plan	2020-40-P03	10 December 2020														
Floor plans	2020-40-P01	10 December 2020														
Elevations	2020-40-P02	10 December 2020														
<p>2.</p>	<p>The holistic spa and café business hereby permitted shall only operate between the hours of 09:00 and 19:00 hours Monday to Thursday, 09:00 and 23:00 hours Friday and Saturday and 09:00 and 16:00 hours on Sundays.</p> <p><i>Reasons: To safeguard the amenities of local residents.</i></p>															
<p>3.</p>	<p>No music of any type shall be played or reproduced in the building or on any part of the site hereby permitted.</p> <p><i>Reason: In the interests of the amenity of the area and nearby residential properties.</i></p>															
<p>4.</p>	<p>No outside use shall take place between 19:00 and 23:00 hours.</p> <p><i>Reason: To minimise the risk of disturbance to the amenity of the occupiers of nearby residential properties.</i></p>															

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<p><b>DP</b> Architectural Services LTD</p> <p>20 Merefield Astley Village Chorley Lancashire PR7 1UR</p> <p>m. 07877 595100 t. 01257 671635 e.dparch69@gmail.com</p>	<p>Client</p> <p>Leslie Barrow Whins Farm Barn Whins Lane Wheulton Chorley PR6 8HN</p>	<p>Project</p> <p>Proposed part change of Use from Holistic spar relaxation area to A3 Cafe</p>	<p>Drawings</p> <p>Location Plan</p>
	<p>Paper size A4 Date Oct 2019</p>	<p>Job no 2019-35 Scale 1:1250</p>	<p>Drawing no L01 Revision .</p>

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**APPLICATION REPORT – 21/01179/FULHH**

**Validation Date: 4 October 2021**

**Ward: Buckshaw And Whittle**

**Type of Application: Householder Application**

**Proposal: Erection of boundary fence and access gate (maximum height 1.82m) to rear boundary of property (retrospective)**

**Location: 19 Cross Keys Drive Whittle-Le-Woods Chorley PR6 7TF**

**Case Officer: Mrs Hannah Roper**

**Applicant: Mr Alastair Mollon**

**Agent: N/A**

**Consultation expiry: 28 October 2021**

**Decision due by: 29 November 2021**

---

**RECOMMENDATION**

1. It is recommended that planning permission is granted subject to conditions.

**SITE DESCRIPTION**

2. The application relates to a detached dwelling located on Cross keys Drive, Whittle-Le-Woods. To the rear, the property backs onto Carwood Lane which is located to the north. The neighbouring property located directly to the east, High View, occupies a raised level compared to the application dwelling and has its front orientated towards the turning head on Carwood Lane. A detached garage sits alongside the common boundary with the application property.
3. On the opposite side of the turning head on Carwood Lane is a pair of semi-detached, grade II listed dwellings.

**DESCRIPTION OF PROPOSED DEVELOPMENT**

4. The application seeks planning permission retrospectively for the erection of a fence, 1.82m in height along the rear boundary of the property and along the eastern boundary of the site adjoining the drive of High View. A pedestrian gate has been included in the fence to the rear boundary.

**REPRESENTATIONS**

5. Five representations have received citing the following grounds of objection:
  - Owners of a listed property now look on a fence without permission
  - The front side of the fence faces into the application property and not onto the road which looks unsightly
  - No other property has access from Carwood Lane and this could set a precedent
  - The owners of listed buildings have to obey listings law and therefore the vista for the listed buildings should be kept. This fence does not do this.

- Highway safety as this could set a precedent for people from Cross Keys Drive to park on Carwood Lane where parking is already difficult
- The materials used do not blend well with the well maintained and planted landscape areas outside the fence and this is opposite two listed buildings
- Further piecemeal proposals do not seem to be the way forward for the residents of Carwood Lane
- The pedestrian gate provides access to a narrow and poorly lit cul-de-sac with limited visibility
- Loss of privacy for facing properties
- Impact on listed buildings as all the owners keep their properties in accordance with listed standards
- No reference made to access path and the service strip should be returned to its original state
- Works completed to garden utilising the access gate. The gate was not necessary, and materials should have been craned over or fence panels removed. Now work is complete the gate should be removed.
- The deeds for properties state that nothing should be built or planted in the service strip which adjoins the plot, should be mown and kept free of rubbish and the that there is no right to extend or alter the hard or soft landscaping strip -the new path that crosses the service strip is in contravention of this point
- There are no parts of the applicant's property beyond the plot boundary that need maintaining
- There is a maintenance obligation for the hedge which is now falling to the residents of Carwood Lane
- Plot boundaries and maintenance obligations are shown in the deeds.
- The road should only be used for access by homeowners here and there should be no reason why it should be access by other neighbouring properties.

## CONSULTATIONS

5. Whittle-le-Woods Parish Council – Have objected to the application on the grounds that the original decision in 1992 for the properties stated that the existing hedge on Carwood Lane should not be uprooted or removed and no pedestrian access formed.
6. Lancashire County Council Highway Services (LCC Highway Services) – Have no objection.
7. CIL Officers – Comment that the proposal is not CIL liable.

## PLANNING CONSIDERATIONS

### Impact on the setting of a listed building and designated heritage asset

8. Paragraph 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the PLBCA) are relevant to the '*Special considerations affecting planning functions*'.

Section 66 states:

*(1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*

*(2) Without prejudice to section 72, in the exercise of the powers of appropriation, disposal and development (including redevelopment) conferred by the provision of sections 232, 233 and 235(1) of the principal Act, a local authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings.*

9. Great weight and importance is attached to this duty.

10. The National Planning Policy Framework 2021 (The Framework) at Chapter 16 deals with conserving and enhancing the historic environment. It recognises that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. The following paragraphs contained therein are considered to be pertinent in this case:

11. The Framework at paragraph 197 states that in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

12. At paragraph 199 the Framework provides that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

13. At paragraph 200 the Framework confirms that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

14. Paragraph 201 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

15. At paragraph 202 the Framework provides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

16. Paragraph 205 sets out that Local Planning Authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

17. The adopted Central Lancashire Core Strategy (2012) policy 16 (Heritage Assets) states: Protect and seek opportunities to enhance the historic environment, heritage assets and their settings by:

Safeguarding heritage assets from inappropriate development that would cause harm to their significances.

- b) Supporting development or other initiatives where they protect and enhance the local character, setting, management and historic significance of heritage assets, with particular

support for initiatives that will improve any assets that are recognised as being in poor condition, or at risk.

c) Identifying and adopting a local list of heritage assets for each Authority.

18. Chorley Local Plan 2012 - 2026 policy BNE8 (Protection and Enhancement of Heritage Assets) states that:

- a) Applications affecting a Heritage Asset or its setting will be granted where it:
  - i. Is in accordance with the Framework and relevant Historic England guidance;
  - ii. Where appropriate, takes full account of the findings and recommendations in the Council's Conservation Area Appraisals and Management Proposals;
  - iii. Is accompanied by a satisfactory Heritage Statement (as defined by Chorley Council's advice on Heritage Statements) and;
- b) Applications will be granted where they sustain, conserve and, where appropriate, enhance the significance, appearance, character and setting of the heritage asset itself and the surrounding historic environment and where they show consideration for the following:
  - i. The conservation of features and elements that contribute to the heritage asset's significance and character. This may include: chimneys, windows and doors, boundary treatments, original roof coverings, earthworks or buried remains, shop fronts or elements of shop fronts in conservation areas, as well as internal features such as fireplaces, plaster cornices, doors, architraves, panelling and any walls in listed buildings;
  - ii. The reinstatement of features and elements that contribute to the heritage asset's significance which have been lost or damaged;
  - iii. The conservation and, where appropriate, the enhancement of the setting of heritage assets;
  - iv. The removal of additions or modifications that are considered harmful to the significance of any heritage asset. This may include the removal of pebbledash, paint from brickwork, nonoriginal style windows, doors, satellite dishes or other equipment;
  - v. The use of the Heritage Asset should be compatible with the conservation of its significance. Whilst the original use of a building is usually the most appropriate one it is recognised that continuance of this use is not always possible. Sensitive and creative adaptation to enable an alternative use can be achieved and innovative design solutions will be positively encouraged;
  - vi. Historical information discovered during the application process shall be submitted to the Lancashire Historic Environment Record.

19. The policy also states that development involving the demolition or removal of significant heritage assets or parts thereof will be granted only in exceptional circumstances which have been clearly and convincingly demonstrated to be in accordance with the requirements of the Framework.

20. The fence is separated from Carwood House Farmhouse, a grade II listed pair of dwellings by Carwood Lane and is located diagonally opposite with the return running away from this building. The significance of the building lies in its aesthetic and historical value as a former 18 century farmhouse.

21. Historic England's Planning Note 3 (second edition) entitled The Setting of Heritage Assets (2017) describes setting as being the surroundings in which a heritage asset is experienced. It discusses how views can contribute to the significance of an asset and the importance of relationships between buildings.

22. The existence of the modern housing estate on the opposite side of Carwood Lane has already compromised the setting of the listed building and as such the contribution made to the setting of it by the surroundings is negligible.

23. The fence would be associated with the existing modern dwelling at no.19 Cross Keys Drive and as such any additional harm to the setting of the listed building would be negligible. As such the fence does not result in any substantive harm to the contribution of the setting to the significance of Carwood House Farmhouse and the application meets the statutory test to 'preserve' the significance of the designated heritage asset and the contribution made to its setting. As such the proposal meets the objectives of Chapter 16 of the Framework and policy BNE8 of the Chorley Local Plan 2012 - 2026.

Design and impact on the streetscene

24. *Policy BNE1 (Design Criteria for New Development) of the Chorley Local Plan 2012 -2026 stipulates that planning permission will be granted for new development, including extensions, conversions and free standing structures, provided the proposal does not have a significantly detrimental impact on the surrounding area by virtue of its density, siting, layout, building to plot ratio, height, scale and massing, design, orientation and use of materials.*

25. *The Householder Design Guidance SPD requires that boundary treatments should be designed in materials and details that respect the surrounding streetscape or area. It also states that boundary treatments must not be oppressive and should allow the building within the site to remain engaged with the wider streetscape.*

26. The fence is located along the rear boundary and is set back off the highway. As the turning head is approached along Carwood Lane, it is screened by the existing hedge and it is not until the corner of the turning head where it is fully visible. Given its set back and that Carwood Lane is not a through road, it is considered that its visual impact is limited and that it is not detrimental to the streetscene.

27. Whilst surrounding residents may prefer a hedge in this location, a close boarded fence is acceptable given the residential character of the surroundings and is not out of keeping with the application property or High View against which is read, which are more modern dwellings. As such, the fence is not considered to be harmful to the locality.

Impact on amenity

28. *Policy BNE1 (Design Criteria for New Development) of the Chorley Local Plan 2012 -2026 stipulates that planning permission will be granted for new development, including extensions, conversions and free standing structures, provided that, where relevant to the development the proposal would not cause harm to any neighbouring property by virtue of overlooking, overshadowing, or by creating an overbearing impact.*

29. *The Householder Design Guidance SPD states that where new boundary treatments are proposed, care must be taken to ensure that proposed walls and fences do not cause detriment to the amenities of neighbours.*

30. The fence is located to the rear boundary of the property and along the eastern boundary with High View which has a garage adjacent the common boundary. As such the fence does not result in any overbearing impact or loss of light to the dwelling.

31. The property at Greengables, located directly facing the fence is located over 12m away and as such there is no resulting harm for the occupiers of this dwelling. As such the fence is considered to accord with policy and is recommended for approval.

Highway safety

32. *Policy BNE1 of the Chorley Local Plan 2012 – 2026 states that planning permission will be granted for new development, including extensions, conversions and free-standing structures, provided that (amongst other things) that the residual cumulative highways impact of the development is not severe, and it would not prejudice highway safety, pedestrian safety, and the free flow of traffic.*

33. LCC Highway Services have raised no concerns in relation to highway safety or capacity in the vicinity of the site as a result of the fence.

34. With regard to the access gate, this property has no access to the rear garden from the front of the property as this was lost when a side extension was constructed. The rear access gate is likely to be assist for garden maintenance and delivery of large items. This occasional use is not considered to be detrimental to highway safety.

35. LCC Highway Services initially requested that highway amenity be considered in relation to the access gate due to a lack of formalised parking at the application property as a S184 Agreement following the grant of planning permission for the side extension had not been entered into. This led to concerns that this may lead to parking on Carwood Lane, which may have resulted in harm.

36. However, during the course of the application the S184 Agreement has been entered into and the kerb dropped to provide in curtilage parking. As such, LCC Highway Services have removed all concerns relating to highway amenity and as such the proposal, including the retention of the pedestrian access gate, is considered to be acceptable.

## CONCLUSION

37. The fence does not result in harm to the setting of the grade II listed Carwood House Farmhouse and does not have an unacceptable adverse impact on the character and appearance of the surrounding area. Nor does it cause any significant harm to the amenity of neighbouring residents or highway safety. It is, therefore, considered that the development accords with S66 of the PLBCA, the Framework, policy 16 of the Core Strategy and policies BNE1 and BNE8 of the Chorley Local Plan 2012 – 2026 and the Householder Design Guidance SPD. Consequently, it is recommended that the application is approved.

## RELEVANT HISTORY OF THE SITE

**Ref:** 13/01130/FUL      **Decision:** PERFPF      **Decision Date:** 21 January 2014  
**Description:** Demolition of garage and erection of single storey side extension

**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

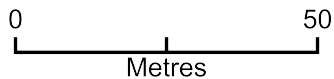
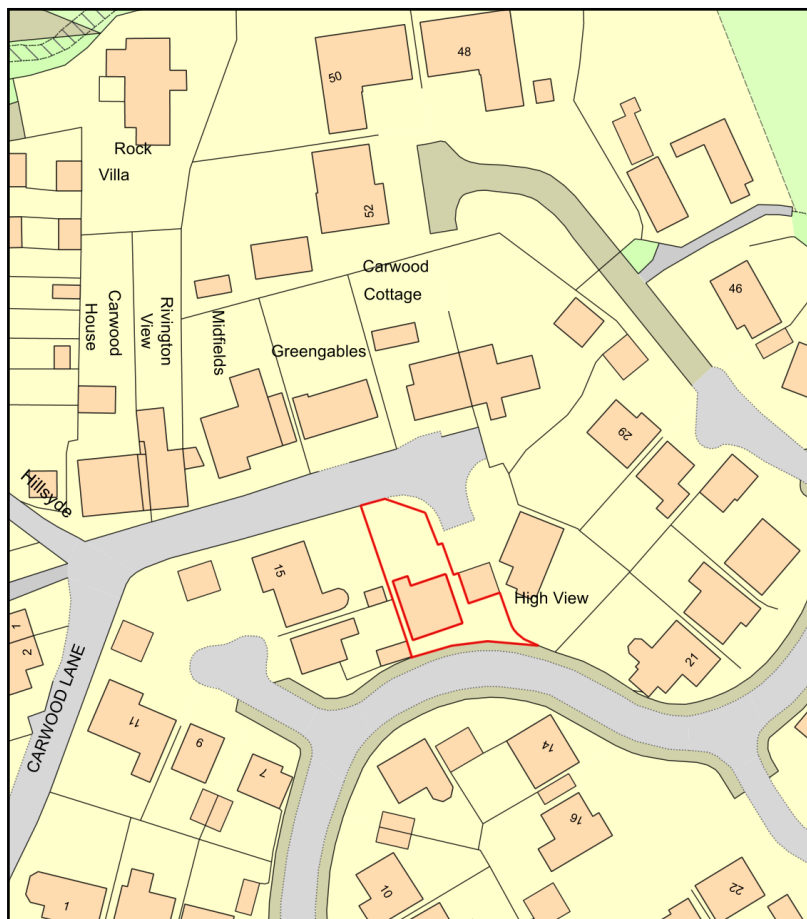
1. The development hereby permitted shall be carried out in accordance with the approved plans below:

Title	Plan Ref	Received On
Site Plan (19 Cross Keys Drive)	TQRQM21275115400606	2 October 2021
Location Plan (19 Cross Keys Drive)	TQRQM21275115154671	2 October 2021
Photos	N/A	2 October 2021

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



### Location Plan (19 Cross Keys Drive)



Plan Produced for: Alastair Mollon  
Date Produced: 02 Oct 2021  
Plan Reference Number: TQRQM21275115154671  
Scale: 1:1250 @ A4

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Report of	Meeting	Date
Director Planning and Development	Planning Committee	11 January 2022

## **PROPOSED CONFIRMATION CHORLEY BOROUGH COUNCIL TPO NO.7 (COPPULL) 2021**

### **PURPOSE OF REPORT**

- To consider formal confirmation of the Chorley Borough Council TPO No.7 (Coppull) 2021.

### **RECOMMENDATION**

- Formal confirmation of the Order with one modification. This affords permanent as opposed to provisional legal protection to the trees covered by the Order.

### **EXECUTIVE SUMMARY OF REPORT**

- Formal confirmation of the Order affords permanent as opposed to provisional legal protection to the tree covered by the Order. Not to confirm the Order would mean allowing the Order, and thereby the protection conferred on the trees covered by the Order to lapse.

<b>Confidential report</b> Please bold as appropriate	Yes	<b>No</b>
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### **CORPORATE PRIORITIES**

- This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all	x	A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	

### **BACKGROUND**

- The Order was made on the 4th August 2021. The Order was made and served along with the statutory notice prescribed in Regulations on all those with an interest in the land on which the trees are situated on the 4<sup>th</sup> August 2021. The Order was made because on the assessment of the Council's Tree Officer the trees make a valuable contribution to the visual amenity of the area, being prominently situated and clearly visible to the public and that their removal would have a significant impact on the environment and its enjoyment by the public.
- No objections have been received.

7. It is proposed to confirm the order with one modification, to correct an error in the species categorisation of T17. It was listed as a Sycamore when it is in fact an Oak tree.
8. It is, therefore, now open to the Council to confirm the above Order with one modification. The effect of formally confirming the Order will be to give permanent legal force to the Order, as opposed to provisional force, thereby making it an offence on a permanent basis to fell or otherwise lop, prune etc, any tree covered by the Order without first having obtained lawful permission.

**IMPLICATIONS OF REPORT**

9. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal		Integrated Impact Assessment required?	
No significant implications in this area	x	Policy and Communications	

**COMMENTS OF THE STATUTORY FINANCE OFFICER**

10. If the tree were to be lopped or pruned or chopped in breach of the order the Council would incur staff costs in any criminal investigation and prosecution. Staff costs in the Planning Department are also involved when dealing with applications for consent to work to protected trees. All costs would be managed within existing budgets.

**COMMENTS OF THE MONITORING OFFICER**

11. The legal effect of the order and the consequences of breach are addressed within the body of the report.

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Bill Whisker	01257 515642	4 January 2022	

**Tree Preservation Order**

**Town and Country Planning Act 1990**

**Chorley Borough Council Tree Preservation Order NO. 7 (COPPULL) 2021**

Chorley Borough Council in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order -

**1. Citation**

This Order may be cited as Chorley Borough Council Tree Preservation Order NO. 7 (COPPULL) 2021

**2. Interpretation**

(1) In this Order "the authority" means Chorley Borough Council.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

**3. Effect**

(1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall —

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

**4. Application to trees to be planted pursuant to a condition**

In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 4<sup>th</sup> day of August 2021

The Common Seal of Chorley Borough Council

was affixed to this Order in the presence of: ]

  
.....  
Authorised Signatory ]



21490

CONFIRMATION OF ORDER

This Order was confirmed by Chorley Borough Council without modification on the [ ] day of [ ]

OR

This Order was confirmed by Chorley Borough Council, subject to the modifications indicated by [ ], on the [ ] day of [ ]

Signed on behalf of the Chorley Borough Council

.....

Authorised by the Council to sign in that behalf

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by Chorley Borough Council on the [ ] day of [ ]

Signed on behalf of the Chorley Borough Council

.....

Authorised by the Council to sign in that behalf

VARIATION OF ORDER

This Order was varied by the Chorley Borough Council on the [ ] day of [ ] by a variation order under reference number [ ] a copy of which is attached.

Signed on behalf of the Chorley Borough Council

.....

Authorised by the Council to sign in that behalf

REVOCATION OF ORDER

[This Order was revoked by Chorley Borough Council on the [ ] day of [ ]

Signed on behalf of the Chorley Borough Council

.....

Authorised by the Council to sign in that behalf

## SCHEDULE

## Specification of trees

**Trees specified individually**

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Oak	Land off Darlington Street, Coppull.
T2	Oak	Land off Darlington Street, Coppull.
T3	Oak	Land off Darlington Street, Coppull.
T4	Oak	Land off Darlington Street, Coppull.
T5	Alder	Land to the north of Tanyard Close, Coppull.
T6	Alder	Land to the north of Tanyard Close, Coppull.
T7	Alder	Land to the north of Tanyard Close, Coppull.
T8	Alder	Land to the north of Tanyard Close, Coppull.
T9	Sycamore	Land to the rear of 20 Tanyard Close, Coppull.
T10	Monkey Puzzle	In the front garden of St Johns Vicarage, Darlington Street, Coppull.
T11	Cherry	In the rear garden of St Johns Vicarage, Darlington Street, Coppull.
T12	Cherry	In the rear garden of St Johns Vicarage, Darlington Street, Coppull.
T13	Sycamore	In the rear garden of St Johns Vicarage, Darlington Street, Coppull.
T14	Sycamore	In the rear garden of St Johns Vicarage, Darlington Street, Coppull.

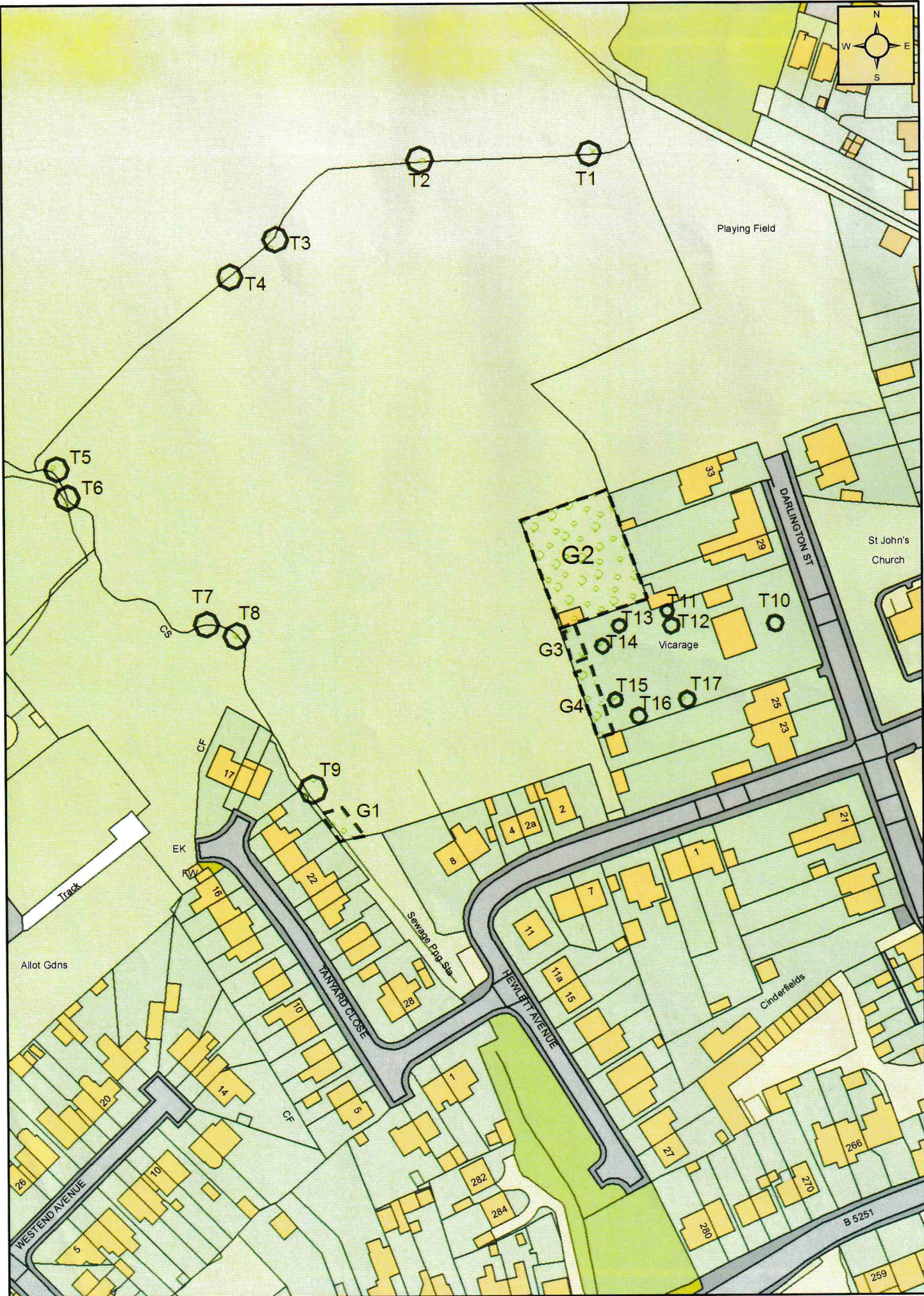
T15	Sycamore	In the rear garden of St Johns Vicarage, Darlington Street, Coppull.
T16	Sycamore	In the rear garden of St Johns Vicarage, Darlington Street, Coppull.
T17	Sycamore	In the rear garden of St Johns Vicarage, Darlington Street, Coppull.

### Groups of trees

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
G1	5 Sycamore 1 Hawthorn	Land to the rear of 21 Tanyard Close Coppull Chorley PR7 5BT
G2	Mixed species group including Beech, Hawthorn, Sycamore, Cypress, Willow, Elder, Alder and Ash	Land to the rear of 29, 31 and 33 Darlington Street, Coppull.
G3	3 Sycamore	Within the rear garden of St John's Vicarage Darlington Street Coppull Chorley PR7 5AB
G4	20 Copper Beech	Within the rear garden of St John's Vicarage Darlington Street Coppull Chorley PR7 5AB





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