



**PLANNING COMMITTEE: Thursday,  
21 March 2024**

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**Report of: Corporate Director of Transformation, Housing & Resources**

**Relevant Portfolio Holder: Councillor Deputy Leader & Portfolio Holder for  
Planning & Community Safety**

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**PLANNING APPLICATION REF: 2022/0908/FUL**

**PROPOSAL:** To retain the following works: (i) new site entrance/driveway, (ii) single-storey plant room, (iii) brick wall to western elevation, (iv) green metal boundary fencing, (v) skylight to front and (vi) recessed roof window in rear elevation.

**APPLICANT:** Mrs Susan Doyle

**ADDRESS:** Otterbrook, Moss Lane, Churchtown, Banks

**REASON FOR CALL IN:** Application has been called in by Cllr Howard to consider neighbour concerns regarding impacts to residential amenity and the wider setting.

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**Wards affected: North Meols & Hesketh Bank**

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To advise the Planning Committee on an application which seeks planning permission for the following works: (i) new site entrance/driveway, (ii) single-storey plant room, (iii) brick wall to western elevation, (iv) green metal boundary fencing, (v) skylight to front and (vi) recessed roof window in rear elevation.
- 1.2 It is considered that subject to planning conditions, the proposed development is acceptable in terms of design, access, landscaping, layout and scale and amenity.

## **2.0 RECOMMENDATION TO PLANNING COMMITTEE**

- 2.1 To grant planning permission subject to conditions (delegated powers).
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## **3.0 THE SITE**

- 3.1 The application site relates to a detached dwelling located to the south side of Moss Lane Churchtown, Banks. The plot is located on a corner plot with Moss Lane and Wyke Lane.

## **4.0 PROPOSAL**

- 4.1 The application seeks retrospective planning permission for the following works - (i) new site entrance/driveway, (ii) single-storey plant room, (iii) brick wall to western elevation, (iv) green metal boundary fencing, (v) skylight to front and (vi) recessed roof window in rear elevation.
- 4.2 Retrospective planning permission is sought for the retention of a boundary fencing system which measures 1.8m in height and is set behind the existing hedgerow which runs the circumference of the site and is green in colour. This boundary treatment extends to the main access on to the plot wherein a new brick entrance has also been erected. The new entrance which measures 1.8m in height, is primarily constructed of facing brick, with an electronic sliding access gate, constructed of wood in a steel frame, which is set between 2 no. pillars. There is also a separate pedestrian entrance which is accessed off the main vehicular entrance. The applicant contends that all the alterations to the main entrance are within the redline plan and within the applicants ownership.
- 4.3 An additional single-storey plant room set to the side of the existing pool and attached to the new dwelling. This extension measures 2.2m by 6.6m and has a flat roof and is constructed in facing brick to match the existing house. The plant room accommodates pool plant and equipment and is located on the western elevation of the property.
- 4.4 The application also seeks retrospective planning permission for further works which includes (i) one larger roof light set within the front roof slope (ii) a recessed roof window set on the rear elevation and (iii) 2 no. roof lights set within the western roof slope.
- 4.5 There are ongoing separate enforcement investigations proceeding in respect of the loss of tree coverage on the site and the construction of a single storey side extension (garage) to accommodate 3 vehicles, on the eastern elevation, which is not in accordance with the approved plans. This garage extension (2023/0270/FUL - see below) was refused planning permission in January 2024 and is now the subject of an appeal to the Planning inspectorate.
- 4.6 Permitted development rights were removed from the original planning permission (2020/1035/FUL) so that the Local Planning Authority (LPA) could exercise control over future extensions on this site.

## **5.0 UPDATE**

- 5.1 This application was originally to be considered by the Planning Committee on 18 January 2024, however following a late representation received from Lancashire County Council's Highway's Department it was withdrawn from the agenda. This representation stated that *'they are still looking into an area of land (which may in part or all be former highway) that has been incorporated into the application site to identify their ownership and decide what remedial action they may take'*. On this basis it was considered appropriate to defer the item until a later meeting until it was fully understood what concerns LCC may raise and their implications for the assessment of this application. Despite further requests from the LPA, no meaningful response has been provided in the intervening period.
- 5.2 In the intervening period the owner of the property has submitted an opinion from Counsel which relates largely to the reasons for the withdrawal from the previous agenda and states that any further delay in determining the application could be considered unlawful. This opinion has been reviewed by colleagues in Legal Services. All these issues are primarily dealt with in paras 10.19- 10.23 of this report.

## **5.0 PREVIOUS RELEVANT DECISIONS**

- 5.1 2023/0270/FUL – Proposed replacement garage, retrospective application. REFUSED January 2024.
- 5.2 2022/0546/FUL - Proposed replacement garage. APPROVED July 2022.
- 5.3 2021/1382/FUL - Replacement of a garage. REFUSED March 2022.
- 5.4 2021/1361/CON - Approval of details reserved by conditions nos 3, 4, 5 and 10 on planning permission 2020/1035/FUL relating to list of materials, site sections/ground levels, drainage and EV charging point. APPROVED January 2022.
- 5.5 2020/1035/FUL - Replacement two storey detached house. APPROVED February 2021.

## **6.0 OBSERVATION OF CONSULTEES**

- 6.1 LCC Highways (09/12/2022) – raise no objection to this application. There have been ongoing discussions with Highways in the intervening period and in an email (23/01/2024) they confirmed they had no further comments to make on the application and that Lancashire County Council Highway Operations and Legal section are looking into the scheme and possible encroachment onto the public highway.

## **7.0 OTHER REPRESENTATIONS**

- 7.1 Councillor Howard (North Meols & Hesketh Bank) Requests the application be heard at Planning Committee due to neighbour concerns around impacts to residential amenity – received by the Local Planning Authority 23<sup>rd</sup> November 2022.

- 7.2 North Meols Parish Council (04/1/2/2022) – object to the application on the basis that the Parish Notice Board has been removed off the green to the front of the application site. The applicant has moved the boundary fence by a couple of yards and now there is now no space to erect a replacement notice board, or a seat which was also proposed.
- 7.3 Cadent Gas (18/11/2022) – raise no objections to the application. However, they state that they own/operate gas infrastructure in the locality and the applicant should ensure that none of the building works that are being carried out infringe over legal rights of access or restrictive covenants that exist.
- 7.4 Objections have been received from two separate properties as part of the neighbour consultation exercise. A number of photographs have also been submitted during the course of the application. Objections are summarised as follows:
- there should be no roof lights/windows in the roof facing east towards Mousehole (neighbouring property) as this leads to issues of overlooking and loss of privacy,
  - the scale of the entrance gates are incongruous to this rural location,
  - the developer has not adhered attached to the proposals that were originally granted planning permission,
  - the green metal fencing has replaced indigenous hedging next to the road,
  - the pavement and bollard works have extended onto the highways boundary markers and now make the road junction impassable for larger vehicles, and
  - a lot of the local wildlife will have lost their habitat as a result of this building work.

## **8.0 SUPPORTING INFORMATION**

8.1 Green Belt Volume Calculations

8.2 Flood Risk Assessment

8.3 Arboriculture Impact Assessment

## **9.0 RELEVANT PLANNING POLICIES**

9.1 The application site is located within the Green Belt as designated in the West Lancashire Local Plan Proposal Map.

9.2 National Planning Policy Framework (NPPF)  
Chapter 12 – Achieving well designed places.  
Chapter 13 – Protecting Green Belt land  
Chapter 15 – Conserving and enhancing the natural environment

West Lancashire Local Plan 2012-2027 DPD

GN1 – Settlement Boundaries

GN3 – Criteria for Sustainable Development

IF2 – Enhancing Sustainable Transport Choice

EN2 – Preserving and Enhancing West Lancashire's Natural Environment

Supplementary Planning Document, Design Guide (Jan 2008)

## **10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF TRANSFORMATION, HOUSING AND RESOURCES**

10.1 The main considerations for this application are:

- i) Principle of development/Impact on the Green Belt
- ii) Design/Layout
- iii) Impact on residential amenity
- iv) Highways
- v) Ecology/Trees/Landscape
- vi) Other matters

### *Principle of development*

10.2 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan 2012-2027 DPD provide the policy framework against which the development proposals will be assessed. National policy for the control of development in the Green Belt is set out in paragraph 154 and 155 of the NPPF. This lists the types of development which are considered to be appropriate within the Green Belt.

10.3 Paragraph 154 in the National Planning Policy Framework states that “A local planning authority should regard the construction of new buildings as inappropriate in Green Belt.” There are 6 exceptions to this rule including “the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.” The Council's SPD also states proposals for extensions (including domestic outbuildings) to existing buildings in the Green Belt should satisfy the specified criteria which include: the total volume of the proposal together with any previous extensions should not exceed 40% of the volume of the original building, and the design of the extension is in keeping with the original form and appearance of the building and does not materially harm the openness of the Green Belt.

10.4 The site benefits from planning permission under application 2020/1035/FUL for a replacement two-storey dwelling which is virtually completed. The property is located within the Green Belt. As part of the planning approval, a condition (no. 7) was attached to the decision notice which removed permitted development rights for future extensions/alterations.

10.5 The replacement dwelling has recently been constructed, by virtue of the original planning permission 2020/1035/FUL. It has not been built in accordance with the approved plans and as such a retrospective application has been submitted for the retention of these works. The volume of the new dwelling house (granted by virtue of the original planning permission) is 1,695m<sup>3</sup>, which is approximately 20% greater than the dwelling that it replaced. A Green Belt Assessment has been included within this submission which confirms that the plant room extension has an additional volume of 29m<sup>3</sup> which is the equivalent of a 2.3% increase in the volume of the replacement dwelling.

- 10.6 Permitted development rights were removed from the original planning permission so that the LPA could exercise control over future extensions in order to protect the openness of the Green Belt. It is the officer's opinion that due to the position of the plant room being directly adjoined to the main dwelling and being relatively slimline in appearance, the potential for harm to be caused by the spread of development across the site, and the resultant harm to the character of the wider green belt designation, has been avoided.
- 10.7 The fencing and wall set on the access to the site do not add any further volume to the host structure however they do add to the overall built elements on this site. Therefore, an assessment needs to be made as to whether the previous openness of the site is harmed by the siting of these structures.
- 10.8 With regard to the impact of the new enclosures upon the openness of the Green Belt, the fencing, is a permeable structure and is well hidden behind the existing hedgerow, along Wyke Lane. The impact made by this structure is therefore negligible and officers would not raise objection to this element. The brick wall that frames the main entrance to the site is a bulkier element when compared to the fencing, however given that the structure is relatively moderate in scale, is traditional in design and set against the backdrop of a larger dwellinghouse, it is not considered to materially harm the openness of the green belt through excessive scale and therefore meets criterion (c) of Policy GB1 of the Council's SPD- Development in the Green Belt.
- 10.9 The rooflights and recessed roof window proposed do not add any further volume to the host structure and are therefore acceptable in principle.

#### *Design/Layout*

- 10.10 The main alteration proposed includes the provision of a plant room adjacent to the pool room. With regard to this structure, officers are of the opinion that given the design of this element, the plant room would assimilate well with the design of the existing dwelling. In addition, owing to the set-back location into the site the proposal would not appear as an incongruous feature within the street scene. The proposed materials would be of brick finish and tiled roof.
- 10.11 The inclusion of the roof lights to the eastern elevation are not considered conspicuous when viewed from the primary elevation and no design-based objection is raised to their inclusion.
- 10.12 The recessed roof light set to the rear is also considered acceptable in that it would not detract from the overall design ethos of the main building. The roof light set to the front elevation would have a bigger impact upon the character of the house, however such additions are not considered problematic in that they do not overwhelm the character of the main building nor the roofing arrangement.
- 10.13 The permeable, security fencing is to be set behind the existing hedgerow and kept at 1.8m in height. In time, the hedgerow will shield most of this impact whilst the permeable nature of the fencing mitigates against most of the harm that could otherwise be caused. The brick wall feature set to on the main access to the site would also be considered acceptable in terms of its design impact upon the wider site, given its moderate scale and traditional design.

10.14 Given the above on balance I consider that the proposed design would be acceptable at this location on this occasion, the proposal is therefore considered to comply with Policy GN3 of the Local Plan.

#### *Impact on residential amenity*

10.15 Owing to the separation distance to the neighbouring property 'Mousehole' to the east of the site, I do not consider the proposal would result in any loss of residential amenity given that there is an interface distance of approximately 23 metres from the main two storey element of Otterbrook to the site boundary.

10.16 The interface distance between the main elevation of Otterbrook and those of the neighbouring properties on the opposite side of Moss Lane is in excess of 55 metres. Owing to these separation distances, it is not considered that the works that have been carried would result in any loss of residential amenity in terms of overlooking, overbearing or dominance.

10.17 It is noted that the comments received raise concerns regarding the installation of velux windows upon the side elevation (east). The concern raised in this regard state that views gained from these rooflights would result in a loss of privacy direct into the bedroom windows of the easterly neighbour.

10.18 The scheme that has been built out does not include these rooflights and they no longer form part of the application. It is therefore considered that the privacy of the neighbouring property (Mousehole) would not be affected and the proposal would comply with Policy GN3 of the Local Plan in this respect.

#### *Highways*

10.19 From the information provided, the proposed driveway is within the boundary of the site and utilises the existing access off the highway, which has been established by the previous planning permission for a new dwelling on this site (2020/1035/FUL). The application does not include any new or altered access on to the highway and the proposed gates are set back from the highway allowing vehicles to pull clear of the highway when entering the site. Whilst an objection has been received, both the Lancashire County Council (LCC) as the Highway Authority and your officers consider that the proposals would have a negligible impact on highway safety or capacity and no objections are raised in this regard.

10.20 Councillor Howard has expressed concerns that that the new entrance to the site partially encroaches onto the public highway which is maintained by (LCC). Officers has raised this issue with the LCC on a number of occasions since December 2022. However, it has never received a definitive response to say whether this is the case, and if it was, it is open to LCC to take any enforcement action as they see fit to reinstate the original highway. Given that no objections have been received from the Highway Authority to this application, and in view of the need to consider the development as applied for within the red line boundary, the LPA cannot wait indefinitely for LCC to provide a response in respect of this having raised the matter on several occasions.

- 10.21 Councillor Howard has also expressed concerns that a highways sign was relocated as part of the alterations to the site entrance. The sign is in a location that is still visible to road users and the Highway Authority did not raise this in their response of 09/12/2022. This sign is outside the application site and LCC have been informed, on a number of occasions, of its relocation.
- 10.22 Since this application was deferred from the 18<sup>th</sup> January Planning Committee, Counsel opinion has been received on behalf of the property owner. The opinion states that the Local Planning Authority should only be considering the development applied for, i.e. that which sits inside the red line area. Any purported works done outside the application site is a separate matter and is not part of the permission sought. It further states that even if any of the application site fell outside the applicant's ownership this is not a relevant material consideration. The National Planning Guidance states 'The planning system entitles anyone to apply for permission to develop any plot of land, irrespective of ownership' and as the application can be determined regardless of what land Lancashire County Council does or does not own.
- 10.23 This opinion has been shared with colleagues in Legal and Democratic Services and are in agreement with Counsel's opinion. As such, it is considered that this application should be determined based on the submission as made and issues such as land ownership and any development outside the application site are not relevant considerations. Any subsequent enforcement action that Lancashire County Council may see fit to undertake therefore relates to land that is outside the application site and should not stop this application being determined.

#### *Ecology/Trees/Landscape*

- 10.24 The application site is subject to a Tree Preservation Order (TPO) No. 78, 2004. The Council's Arboricultural Officer considered the proposals under the previous approved application 2020/1035/FUL with regards to the TPO trees and the submitted Arboricultural Implications Assessment (AIA) and was of the opinion an assessment of the onsite trees has been undertaken, including those protected by the TPO.
- 10.25 There is a high level of existing tree coverage on the site which offers high levels of public amenity. The Arboricultural Officer has raised concern over the ongoing management of the tree stock particularly as unauthorised tree works have been carried out previously. Therefore, it is considered that the ongoing management of the tree stock would be beneficial for the site and a condition is attached to the recommendation to this effect. This would be in the form of an Arboricultural Improvement Plan which would provide details of how the perimeter woodland will be managed and improved in the future.
- 10.26 Given the above I am of the opinion the development should not conflict with the existing tree cover and the addition of a condition to improve existing tree management will enhance the existing site, providing that the proposed tree protective fencing as erected is retained during the construction phase as per the AIA. The proposal would therefore comply with Policy EN2 of the WLLP in this respect.

#### *Other matters*



10.27 North Meols Parish Council, in their comments, objected to the application on the basis that the Parish Notice Board has been removed off the green to the front of the application site. The notice board has been relocated so that it's on a footpath on the public highway where it's prominently visible. They also state that a new seat was to be provided in this location. While historically a public seat may have been in this location, it was removed some time ago, and a replacement seat is not proposed as part of this application. The land where the notice board has been erected is outside the application site and does not form part of the current application. The issues are therefore not material to the application now under consideration.

## **11.0 CONCLUSION**

11.1 The scheme is acceptable in principle and does not result in harm in either its design, impact upon neighbouring amenity or impact on the Green Belt. Any potential enforcement by Lancashire County Council over any purported development on their land is a separate issue and is not relevant to the determination of the application. On that basis the proposal is considered to be compliant with the NPPF and Policies SP1, EN2, EC2, GN1 and GN3 of the West Lancashire Local Plan 2012-2027 DPD and the application is therefore recommended for approval.

## **12.0 RECOMMENDATION**

12.1 That planning permission be GRANTED subject to the following conditions and reasons:

1. The development hereby approved shall be carried out in accordance with details shown on the following plans:

Site Plan - rev A  
2539 - 601  
2539 - 603A

Reason: For the avoidance of doubt and to ensure compliance with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

2. The materials to be used on the external surfaces of the plant room extension hereby permitted shall match those of the existing building in type, size, colour and texture and retained as such thereafter.

Reason: To ensure that the external appearance of the building(s) is satisfactory and that the development therefore complies with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

3. An arboricultural improvement plan shall be submitted to and agreed in writing by to the Local Planning Authority within three months from the date of planning permission being granted, and shall provide details of how the perimeter woodland will be managed and improved in the future.

The improvement plan shall include; new tree planting, new whip planting, replacement strategy and aftercare as well as any improvement works to the existing tree stock. The submitted arboricultural improvement plan shall be implemented in full.

Reason: To enable the Local Planning Authority to consider the details of the proposed development in relation to the existing trees and to ensure compliance with Policies GN3 and EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

### **Reason for Approval**

1. The Local Planning Authority has considered the proposed development in the context of the Development Plan including, in particular, the following Policy/Policies in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document:

GN1 – Settlement Boundaries

GN3 – Criteria for Sustainable Development

IF2 – Enhancing Sustainable Transport Choice

EN2 – Preserving and Enhancing West Lancashire's Natural Environment

together with Supplementary Planning Guidance and all relevant material considerations. The Local Planning Authority considers that the proposal complies with the relevant Policy criteria and is acceptable in the context of all relevant material considerations as set out in the Officer's Report. This report can be viewed or a copy provided on request to the Local Planning Authority.

### **13.0 SUSTAINABILITY IMPLICATIONS**

- 13.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder.

### **14.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 14.1 There are no significant financial or resource implications arising from this report.

### **15.0 RISK ASSESSMENT**

- 15.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.

### **16.0 HEALTH AND WELLBEING IMPLICATIONS**

- 16.1 There are no health and wellbeing implications arising from this report.

### **Background Documents**

In accordance with Section 100D of the Local Government Act 1972 the background papers used in the compilation of reports relating to planning applications are listed within the text of each report and are available for inspection in the Planning Division, except for

such documents as contain exempt or confidential information defined in Schedule 12A of the Act.

### **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

### **Human Rights**

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from Article 8 (the right to respect for private and family life, home and correspondence) and Article 1 of Protocol 1 (the right of peaceful enjoyment of possessions and protection of property).

### **Appendices**

None.