

**Hyndburn Borough Council      Planning Committee**

<b>Application Ref:</b>	11/18/0225
<b>Application Address:</b>	Land at Rhoden Duckworth Hill Lane, Oswaldtwistle, BB5 3QL
<b>Date Registered:</b>	29 <sup>th</sup> May 2018
<b>Date for Decision:</b>	15 <sup>th</sup> August 2018
<b>Date Report Written:</b>	18 <sup>th</sup> July, updated on 4 <sup>th</sup> September 2018
<b>Description of Development:</b>	Full: Erection of Agricultural Building

**Note on land ownership**

This planning application was originally intended to be determined by Planning Committee at its meeting on 15<sup>th</sup> August 2018. However, the application was withdrawn from the agenda (prior to any discussion of the proposed development) following claims made immediately before the meeting that the applicant had not served notice on the correct land owners.

At the time of writing this update, the applicant's agent has submitted no further information in relation to land ownership and no information has been submitted by any other third parties demonstrating ownership. The Council has undertaken a Land Registry search of the land in question and it is not registered.

In the absence of further information that clarifies this matter it is considered that the application should continue to be determined and if any further ownership information comes to light prior to the meeting, officers will report this to Planning Committee.

**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 the following rights:-

**Article 8**

The right to respect for private and family life, home and correspondence.

**Article 1 of Protocol 1**

The right of peaceful enjoyment of possessions and protection of property.

## **Site and Proposal**

The application site consists of a 2.36 acre rectangular parcel of land located on Duckworth Hill Lane near Rhoden Farm within the defined Green Belt outside of Oswaldtwistle. The site is surrounded by Rhoden Farm, Rhoden cattery, open countryside, dwellings and a small road. The application site is empty and overgrown apart from a small chicken coup. An access onto the site exists at the north west corner.

Planning permission is sought for the erection of an agricultural building to shelter 120 sheep plus 40 hens. The building would measure 25.37m x 18.2m x 6.55m (L x W x H) and would be constructed of fair face block 2m high, Yorkshire Boarding above on the North and East elevations and plastic coated corrugated sheeting above and for the roof in olive green RAL 7002.

The original application located the proposal to be built on the North East elevation of the parcel of land closest to the main access road, Wham Brooke and the enclave of residential dwellings, Rhoden Farm and Rhoden Cattery. The applicant has subsequently agreed to relocate the proposal to the South West of the site. Additionally, the original application looked to clad the entire upper section of the walls in plastic corrugated sheeting, however, the applicant has agreed to alter this so that the North and East elevations use Yorkshire Boarding.

## **Consultations**

Site notice: 2 affixed 5 letters of objection received. The objection comments cover a variety of concerns which include:

- The design of the building being more industrial than agricultural
- Noise from the machinery and livestock
- The siting of the proposal being in close proximity to Whams Brooke
- The height and overall scale of the proposal
- Proximity to dwellings and main access road

LCC Highways:

*Land at Rhoden (X6502) is privately maintained.*

*Duckworth Hill Lane (b6231) is a secondary distributor, rural, single 2 way road, with a 30 mph speed limit.*

*The proposal raises no highway concerns and I would therefore raise no objection to the proposal on highway safety grounds, subject to the following condition and note being applied to any formal planning approval.*

Env Health: No objections subject to conditions surrounding hours of operation

## **Relevant Planning History**

No relevant Planning History

## **Relevant Policies**

### **Hyndburn Core Strategy Policies**

BD1	Balanced Development Strategy
Env3	Landscape character
Policy Env6	High Quality Design
Policy Env7	Environmental Amenity

### **Development Management DPD**

Policy DM26	Design Quality and Material
Policy DM29	Residential Amenity
Policy DM34	Development in Green Belt and Countryside Area

### **National Planning Policy Framework**

Section 6	Supporting a prosperous rural economy
Section 12	Achieving Well Designed Places
Section 13	Protecting Green Belt land

## **Observations**

The key issues to be considered in this application are the design of the agricultural building, its impact on the green belt and amenity and issues regarding highways.

## **Policy context**

The site is in the Green Belt and the Core Strategy (Policy BD1) states that development within the rural area will be limited to that supporting farm diversification and promoting leisure and recreational facilities and that the overall character of the Green Belt will be maintained.

Para 28 of the National Planning Policy Framework advises that Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This should include promoting the development and diversification of agricultural and other land-based rural businesses. However, NPPF maintains that local authorities should the construction of new buildings in the Green Belt as inappropriate unless they meet one of the exceptions listed. Buildings for agriculture or forestry are one of the listed exceptions and are therefore considered to be appropriate development in the Green Belt.

The proposed use to shelter 120 sheep and 40 hens would constitute an agricultural use and as such, the principle of the development is acceptable.

## **Design**

Policy Env 6 of the Hyndburn Core Strategy states that the character and quality of Hyndburn's urban and rural environments will be conserved and enhanced through high quality design. Policy DM 26 of the Development Management DPD has similar aims.

The original application looked to clad the entire upper section of the walls in plastic corrugated sheeting, however, it was considered that the use of this material would give the building a more industrial look instead of agricultural and would damage the character and quality of the rural area and was also highlighted in an objection comment. The Council considers a more appropriate construction would include blockwork to a height of some 2m and Yorkshire boarding on the upper portion in order to provide adequate ventilation and light for keeping of animals and the storage of feed, as well as giving the building a more sympathetic design to the rural setting.

The applicant has agreed to alter this so that the North and East elevations use Yorkshire Boarding. Although 2 elevations would still have elements of the corrugated steel sheeting, it is considered that on balance the building would not have a detrimental impact as the 2 most viewable elevations would incorporate the Yorkshire Boarding and as such, the proposal is in line with Policy Env 6 of the Hyndburn Core Strategy and Policy DM 26 of the Development Management DPD.

## **Visual Impact and amenity**

It is considered that Policies Env3 and Env6 of the Hyndburn Core Strategy are relevant in this case. Policy Env3 of the Hyndburn Core Strategy seek to ensure that the development is appropriate to the landscape character within which it is situated and Env6 seeks to protect and enhance the character and quality of Hyndburn's urban and rural environments through high quality design.

The original application proposed a building that would in effect be positioned in the north east corner of the parcel of land closest to the main access road, Wham Brook and the enclave of residential dwellings, Rhoden Farm and Rhoden Cattery and would relate poorly to the existing features or boundaries of the site. It was considered that siting the building towards the south west of the site would alleviate problems associated.

Policy Env 7 of the Hyndburn Core Strategy states that proposals for new development will be permitted only if it is demonstrated that the material impacts arising by reason of traffic, visual impact, noise, dust, emissions, pollution, odour, over-looking or loss of light, or other nuisances will not give rise to unacceptable adverse impacts or loss of local amenity.

An objection comment received cites that the presence of sheep and farming machinery on the site would increase the levels of noise to an unacceptable level. It is considered that this type of noise in a countryside location is not unacceptable. Other objection comments received cite the proximity to dwellings resulting in the agricultural building blocking light; and the waste from the animals causing contamination to the Brook. In regards to proximity to dwellings, the amended siting of the building at the south west of the parcel of land would result in most of the building being hidden from view of the dwellings by trees and the topography of the field and as such would lessen the impact to more acceptable levels. In regards to the waste contaminating the Brook, a condition should be attached to any permission which requires the waste to be properly controlled. As such, subject to conditions, the proposal is in line with Policy Env 7 of the Hyndburn Core Strategy.

## **LCC Highways**

LCC Highways have been consulted and offer the following comments:

*Land at Rhoden (X6502) is privately maintained.*

*Duckworth Hill Lane (b6231) is a secondary distributor, rural, single 2 way road, with a 30 mph speed limit.*

*The proposal raises no highway concerns and I would therefore raise no objection to the proposal on highway safety grounds, subject to the following condition and note being applied to any formal planning approval.*

*Condition:*

*Before the use of the site hereby permitted is brought into operation facilities shall be provided within the site by which means the vehicles may be cleaned before leaving the site to avoid the possibility of the public highway being affected by the deposit of mud and/or loose materials thus creating a potential hazard to road users.*

## **Agricultural Justification**

A recent appeal decision<sup>1</sup> in the Borough has brought into question the extent to which the Council can require the applicant to justify or demonstrate a need for the development proposed, the Inspector stating:

*“The Council state that there is insufficient evidence to demonstrate that the proposed building is reasonably necessary for agricultural purposes. However, neither the Framework nor any development plan policy requires evidence of the*

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<sup>1</sup> Appeal Ref:APP/R2330/W/18/3198749 Sough Lane, Oswaldtwistle, BB1 2LR

*necessity for such a building. There is also no evidence before me that the building is intended to be used for a non-agricultural purpose.”*

National Planning Policy Framework does not contain a requirement for the applicant to justify the proposal and the local plan policies are also silent on this.

Notwithstanding this, the applicant has submitted a supporting statement that sets out how the proposed building will be used. Although there is no reason to believe that the building will not be used for the purpose intended, a condition is recommended that seeks to ensure that it is only used for agricultural purposes.

### **Conclusion**

The re-siting of the building and the change of materials of the development is considered to have alleviated many of the potential issues that may have arisen from the original proposal. It is therefore concluded that the proposal is acceptable in terms of its impact of the green belt, design and its impact upon amenity. There have also been no objections raised from LCC Highways or Environmental Health subject to conditions.

### **Recommendation**

Approve with conditions

### **Conditions**

- 1) The development hereby approved shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with Section 91 (as amended) of the Town & Country Planning Act 1990.

- 2) The development shall be carried out in accordance with the following documents:

- (a) The planning application forms and additional information received by Hyndburn Borough Council on 29<sup>th</sup> May 2018 and 3<sup>rd</sup> August 2018.

- (b) Submitted drawings received on 26<sup>th</sup> July 2018.

Reason: for the avoidance of doubt and to enable Hyndburn Borough Council to adequately control the development and to minimise its impact on the amenities of the local area and to conform with Policies Env6 & Env7 of the Hyndburn Core Strategy.

- 3) All materials to be used in the approved scheme shall be as stated on the application form and approved drawings and shall not be varied without the prior written approval of the Local Planning authority.

Reason: To ensure that the development will be of a satisfactory appearance and to accord with Policies Env 6 and Env 7 of the Hyndburn Core Strategy.

- 4) Before the use of the site hereby permitted is brought into operation, facilities shall be provided within the site by which means the wheels of vehicles may be cleaned before leaving the site.

Reason: To avoid the possibility of the public highway (Duckworth Hill Lane) being affected by the deposit of mud and/or loose materials thus creating a potential hazard to road users.

- 5) During construction, deliveries to and from the site and works should be restricted to between 0900 and 1700hrs Monday to Friday and 0800 to 1300 hours on Saturdays. Deliveries and works should not take place on Sundays and Bank Holidays. All works should be undertaken in accordance with BS5228:2009

Reason: to ensure that site working only takes place during normal working hours in order to restrict the times during which any disturbance and nuisance may arise and in order to comply with Policy Env 7 of the Hyndburn Core Strategy.

- 6) Measures should be in place to prevent nuisance being caused to residents from noise, dust, fumes and or vibration arising from the building works. There should no burning off on site of construction waste.

Reason: To protect the amenities of existing occupiers at nearby premises nuisance sources associated with the building site and to comply with Policy Env 7 of the Hyndburn Core Strategy.

- 7) Within three months of the date of this permission hereby granted, the development shall not be brought into use until a scheme for the containment and storage of manure has been submitted to and approved in writing by the Local Planning Authority and the approved scheme implemented on site and retained thereafter. Applicants should refer to the Environment Agency Local Planning Guidance for Lancashire, and they must not be sited where they will cause a nuisance to houses and public rights of way.

Reason: To ensure that the proposed development will not cause pollution of ground and surface waters both on and off the site and to accord with Policy Env 7 of the Hyndburn Core Strategy.

- 8) The agricultural building hereby approved shall only be used for the housing of animals and storage of agricultural plant, agricultural machinery and other items associated with undertaking agriculture at this site.

Reason: The proposed building is in the Green Belt and should be used for agriculture in accordance with the National Planning Policy Framework.

**Informative notes:**

- 1) 13b
- 2) 14
- 3) 15
- 4) 16
- 5) 17
- 6) 18

7) It should be noted that the grant of planning permission does not entitle a developer to obstruct a right of way. Should a stopping-up or diversion of the right of way be required, for example to allow construction, it must be the subject of an Order under the appropriate Act. In such a case the applicant must contact the County Council's public rights of way team prior to the commencement of works.