

<b>Agenda Item</b> A13	<b>Committee Date</b> 7 December 2009	<b>Application Number</b> 09/01007/RCN
<b>Application Site</b> Low West End Farm Hornby Road Claughton Lancaster	<b>Proposal</b> Retrospective application to remove condition number 18 on 06/00744/CU to remove the existing limitation to Use Class B1 (Business and Light Industry)	
<b>Name of Applicant</b> Mr and Mrs M Thomas	<b>Name of Agent</b> Garner Planning Associates	
<b>Decision Target Date</b>	<b>Reason For Delay</b> N/A	
<b>Case Officer</b>	Martin Culbert	
<b>Departure</b>	No	
<b>Summary of Recommendation</b>	Refuse	

## **1.0 The Site and its Surroundings**

- 1.1 The site which forms the subject of this application lies to the east of the A683 at Claughton, opposite the site of the Old Claughton Brickworks. The site comprises a row of three, attached stone barns, running at right angles to the road through the middle of the site and a small stone barn to the rear (north east) corner. These barns have been converted to light industrial workshops and are surrounded by tarmac access roads, a turning area and parking spaces.
- 1.2 Surrounding the site are detached dwellings to both to the north and the south, with open pastoral fields to the rear (east) and working agricultural farm buildings with a large open brick storage area to the front (on the opposite side of the road). The site is otherwise surrounded by open countryside well removed from any significant settlement, Claughton itself being a dispersed settlement.
- 1.3 However, a short distance to the north lies Claughton Terrace, the current brickworks and the Buffer Store commercial/industrial area and the nucleus of Claughton Village.

## **2.0 The Proposal**

- 2.1 This proposal is to remove condition No 18 on permission No. 06/00744/CU for the conversion of the redundant traditional barns on this site to light industrial workshops. The condition requires that:-
- “Notwithstanding the provisions of the Town and Country Planning Act (Use Classes Order) 2005, (or any other order revoking or re-enacting that order), the use of the property shall be limited to class B1 Light Industry and for no other purpose without the prior consent of the Local Planning Authority”.
- 2.2 The applicants stated reason for wishing to remove this condition is:-

“This condition removes permitted development rights from the consent.

Circular 11/95: The use of conditions in Planning Permissions in discussing the issue of restricting permitted development states:-

**“Presumption against such restrictions**

*87. Both development orders and the use Classes Order, however, are designed to give or confirm a freedom from detailed control which will be acceptable in the great majority of cases. Save in exceptional circumstances, conditions should not be imposed which restrict either permitted development rights granted by development orders or future changes of use which the Use Classes Order would otherwise allow. The Secretaries of State would regard such conditions as unreasonable unless there were clear evidence that the uses excluded would have serious adverse effects on amenity of the environment, that there were no other forms of control, and that the condition would serve a clear planning purpose.”*

There are no exceptional circumstances in relation to this case that justify the imposition of such a condition and there is no clear evidence that an alternative permitted use would impact on amenity or the environment.”

**3.0 Site History**

- 3.1 There is no planning history relevant to the consideration of this application prior to the conversion of the unit to light industrial workshops.
- 3.2 06/00744/CU for the “Change of use of redundant barns to light industrial workshops with ancillary parking and roadway” was approved in August 2006. This permission has been implemented and two of the units are occupied but not in accordance with the requirements of Condition 18.
- 3.3 08/00604/FUL Change of use and associated building works to convert an existing portal framed agricultural building into B1 use (light industrial) or B8 use (warehousing) and changes to the site layout approved on application 06/00744/CU. This application was refused and a subsequent appeal 08/00037/REF was dismissed.

**4.0 Consultation Responses**

- 4.1 The following responses have been received from statutory consultees:

<b>Statutory Consultee</b>	<b>Response</b>
<b>Parish Council</b>	Any comments will be reported at committee
<b>County Highways</b>	Recommends Refusal due to the potential impact of unregulated changes of use in terms of traffic generation, increased parking and turning demands from cars and HGV's and sustainability.
<b>Environmental Health Officer</b>	No objection subject to conditions covering hours of use, noise assessment, control of noise break-out, sound insulation, external noise levels, servicing hours and maintenance hours.

**5.0 Neighbour Representations**

- 5.1 Any third party representations will be reported at committee.

**6.0 Principal Development Plan Policies**

- 6.1 **PPS7 “Sustainable Development in Rural Areas” states in paragraph (iii) of its key principles:-**

Accessibility should be a key consideration in all development decisions. Most developments which are likely to generate large number of trips should be located in or next to towns or other service

centres that are accessible by public transport, walking and cycling, in line with the policies set out in PPG13, Transport. Decisions on the location of other developments in rural areas should, where possible, give people the greatest opportunity to access them by public transport, walking and cycling, consistent with achieving the primary purpose of the development.

## 6.2 **PPG13 “Transport” states in paragraph 4:-**

The objectives of this guidance are to integrate planning and transport at the national, regional, strategic and local level to:

- Promote more sustainable transport choices for both people and for moving freight:
- Promote accessibility to jobs, shopping, leisure facilities and services by public transport walking and cycling, and
- Reduce the need to travel, especially by car.

## 6.3 **Lancaster District Local Development Framework, Core Strategy:-**

Policy SC1 (Sustainable Development) seeks to ensure that new development proposals are as sustainable as possible and minimise greenhouse gas emissions. In principle it should be convenient to walk, cycle and travel by public transport between the site and homes and other community facilities.

Policy SC2 (Urban Conservation) seeks to build healthy sustainable communities by focusing development where it will support the vitality of existing settlements and minimise the need to travel. Over the period of the Strategy 95% of new employment floorspace will be accommodated within the existing main urban areas of the district.

Policy SC3 (Rural Communities) seeks to build healthy sustainable communities and manage change in the rural economy and landscape. Over the period of the Strategy an allowance of 5% of employment is made to accommodate development to meet the local needs in villages. This will be focusing in villages that have five basic services. At present this does not include Claughton. Development outside these settlements will require exceptional justification. In smaller, more remote villages, the council will work with the Local Strategic Partnership, Parish councils and other local stakeholders to identify local employment needs and opportunities for meeting them.

Policy E1 (Environmental Capital) seeks to improve the Districts Environment by applying national and regional planning policies and resisting development which would have a detrimental effect and environmental quality and public amenity.

Policy E2 (Transport measures) seeks to minimise the environmental impacts of traffic and the need to travel by car through focusing development on town centres and locations which offer a choice of modes of transport and resisting major development in traffic dependent locations.

Saved Policy E3 (Development affecting areas of Outstanding Beauty and the Yorkshire Dales National Park) states that development within the Forest of Bowland AONB which would have a significant adverse effect upon its character or harm the landscape quality will not be permitted.

## **7.0 Comment and Analysis**

7.1 Condition 18 of permission no 06/00744/CU was intended to limit the use of these units to the range of uses falling within the definition of “Light industry” in order to minimise their likely impact neighbouring amenities by limiting these uses to those which “can be carried on in a residential area without detriment to neighbouring amenities”.

The use class that light industry falls into however (B1) also includes other sub classes which include B1a, offices not falling use Class A2 and B1d, research and development of products. Light industry is sub class B1c.

7.2 The provision of the Town and Country Planning (Use Classes) Order and the Town and Country Planning (General Permitted Development) Order allow any premises where use falls within any of these three sub classes to change its use between these three sub classes without the need for

planning permission. They also allow the change of use of any of these sub classes to B8 storage and distribution use (up to a max. area of 235 sq metres) without planning permission.

- 7.3 In this case, bearing in mind the contents of Circular 11/95 on the use of conditions on planning permissions, your Officers to the view that the use of these units, in this rural location, for the purposes of B1a office development would conflict with National Guidance and the Council's Policies on sustainable development in the rural area due to its traffic generation and inappropriate needs for car parking on this restricted site. In addition to the consideration of sustainability issues it was considered that an unrestricted consent would also be more likely to give rise to conditions that would be detrimental to neighbouring residential amenities, injurious to the character and appearance of the Area of Outstanding Natural Beauty and contrary to the interests of highway safety and sustainability. Such uses would also require careful consideration and control to avoid these unacceptable impacts.
- 7.4 It was also considered that although the development in total falls within the threshold for permitted change of use to B8 storage and distribution use, such use could involve the significant use of the site by large HGV's, unsocial operating hours and noise generation, which could also be detrimental to neighbouring amenities, injurious to the character and appearance of the A.O.N.B. and contrary to the interests of highway safety.
- 7.5 Your Officers therefore considered that this development did warrant the imposition of exceptional controls over its use and this imposed condition No. 18 on the Permission to achieve the necessary level of control in the interests of proper planning of the area.

## **8.0 Conclusions**

- 8.1 Setting these matters against the Council's policies and government advice, including that contained in circular 11/95 (Use of Conditions), your Officers considered that the LPA were justified in imposing condition no18 on the permission for the conversion and change of use of this site and do not consider that there have been any significant changes of circumstances on site or otherwise surrounding this issue at that time to warrant any change in the Council's adopted position.
- 8.2 It is therefore suggested that any change of use of these units from the B1c Light Industrial use approved should be the subject of further consideration by the Local Planning Authority and that Condition 18 of Permission 06/00744/CU should be retained in order to secure this objective.

## **Recommendation**

That Planning Permission **BE REFUSED** subject to the following conditions:

1. The retention of this development without compliance with the requirements of condition no. 18 would allow the unrestricted change of use of the development to uses, namely B1 (a) offices and B8 Storage and Distribution, which the Local Planning Authority consider would be inappropriate in this unsustainable and remote rural location. Such unrestricted changes of use would be likely to generate significant volumes of private car and HGV traffic to and from the site and parking within its restricted curtilage, which could be detrimental to the character and appearance of the AONB, injurious to the residential amenities of neighbouring occupiers and contrary to the interests of highway safety and sustainability. Such changes of use should therefore be the subject of further detailed consideration by the Local Planning Authority in the interests of the proper planning of the area. The removal of Condition No 18 on permission 06/00744/CU would therefore conflict with the aims and objectives of the advice contained in PPS7 and PPG13 and be contrary to the requirements of Policies SC1, SC2, SC3, E1 and E2 of the Core Strategy to the Lancaster LDF and Saved Policy E3 of the Lancaster District Local Plan.

## **Human Rights Act**

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

## **Background Papers**

None