

Full Planning Application

Retention of existing use as traveller site, the siting of 5 static caravan pitches and the erection of 1 replacement dwelling following demolition of existing dwelling; erection of amenity block, toilets and store.

SPA WOOD FARM BILLINGTON ROAD BURNLEY

**Background:**

The site, of approximately 0.7 Ha, is located outside of the Urban Boundary and within the rural area. It is accessed via Billington Road which runs through Rossendale Road Industrial Estate and along an unmade private track serving several properties, including the application site, with no vehicular route through to Accrington Road.



View of site from the access

A Lawful Development Certificate was granted for the original mobile home in 1995 when it was demonstrated that a mobile home had existed on the site for in excess of 10 years.

The Council's Solicitor has advised that the siting of up to six mobile homes on the land in this location would not amount to a material change of use on the basis that there would be no material change of use in the character of the land. In principle, therefore, planning permission would not be required for the use of the site for up to six mobile homes.

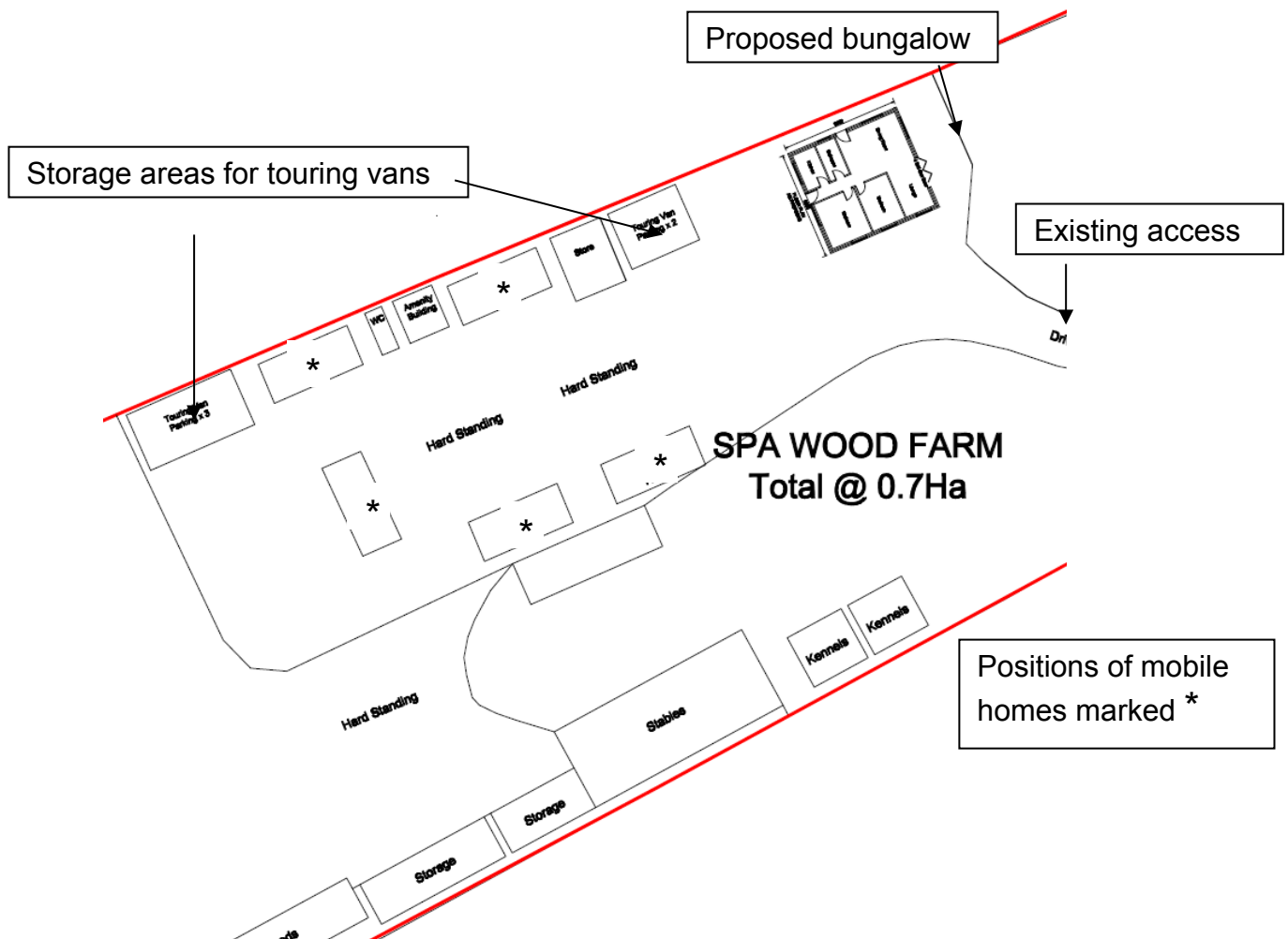
The application seeks to regularise this position and seeks approval for the proposed layout of the site to allow his family to have a settled permanent base, whilst retaining their traditional values within the travelling community.

The site has been used for many years as a base for a travelling family. It is important to stress that it is intended that the site will remain as a site for the use of the applicant

and his family, who are travellers and it is not intended that it would become a transit traveller site.

The application sets out that the applicant had many connections with the Burnley area and the local travelling community and spent many years in and around Burnley, prior to the purchase of Spa Wood Farm in 2002. He decided to find a suitable site to provide his family with a safer home environment without the pressure of being moved from one site to another, whilst allowing access to the motorway network when the family continue to travel throughout the year.

It is proposed to erect a permanent bungalow in place of the original mobile home and site five static caravans, together with an amenity building, wc and store. There would be space for a touring caravan for each family to be available when the family are travelling. The touring vans would not be occupied on site and would be stored in a designated area when not in use. Existing ancillary buildings on the site including an amenity block, toilet and store would be retained for use by the occupants. Other buildings i.e. kennels, stables and stores would also remain.



Proposed Site Layout

The site is in a well-maintained, clean and tidy condition and is well screened from the surrounding area. The applicant has undertaken much landscaping and tree planting since taking ownership of the land.

The proposed bungalow is of modest proportions and of a similar scale to the existing mobile home, which has been on the site for more than 30 years.



Existing mobile home

Objections have been received.

### **Relevant Policies:**

#### Burnley Local Plan Second Review

E27 - Landscape, character and local distinctiveness in Rural Areas and Green Belt

GP2 - Development in the Rural Areas

GP3 - Design and Quality

H1 - Land for new housing development

H16 - Gypsy and traveller sites

H2 - The sequential release of further housing land for development

TM15 - Car parking standards

TM5 - Footpaths and walking within the urban boundary

### **Site History:**

12/94/0597 – Erection of detached bungalow – refused

12/95/0212 – Application for Certificate of Lawfulness for the use of land for the siting of one mobile home – approved

12/99/0569 – Proposed detached bungalow – refused

12/00/0534 – Proposed single storey extension onto existing mobile home to provide disabled facilities with additional covered disabled access ramp – refused

12/01/0089 – Erection of building to provide additional lounge, bedroom and bathroom for disabled occupant, for use as an extension in connection with mobile home; construction of new access ramp – refused

12/01/0539 – Erection of private stables and tack room – granted

12/02/0134 – Change of use to cattery business operating a collection and delivery service and erection of associated cattery building – granted

12/02/0308 – Construction of septic tank - granted

### **Consultation Responses:**

1. Lancashire County Council (Highways) – raise no objections and comment that it is not anticipated that the development would result in severe residual impacts. The permission does offer a measure of control over the use. It would be preferable to restrict the use of the tourers to ensure that they were only used in connection with the mobile homes and not separately.
2. Lead Local Flood Authority make no comment on the application.
3. Environment Agency raise no objections to the application providing an adequate septic tank is installed at the site.
4. Burnley and Pendle Ramblers Group – wish to reiterate objections raised previously that the access roads and paths are not suitable unless improved or safe alternatives are provided. The site is accessible via a farm track leading from behind Rossendale Road Industrial Estate. The track is also a footpath comprising Path No 15 & 11 on the Definitive MapSD83SW. The track is not wide enough to sustain regular, large, traffic movements whilst allowing the safe passage of walkers. The track is fenced on both sides allowing no refuge from passing traffic.
5. Environmental Protection Team – raise no objection but advise that the following conditions should be included if permission is granted:
  - No demolition or construction work shall take place on the development hereby approved outside the hours of 8 a.m. to 6 p.m. Monday to Friday; 8 a.m. to 1 p.m. on Saturday and not at any time on Sundays and Bank Holidays. Where permission is sought for works to be carried out outside the hours stated applications in writing must be made with at least seven days' notice to the local planning authority.
  - There shall be no burning of waste or other materials within the curtilage of the premises.
6. Julie Cooper MP – objects to the application for the following reasons:
  - The site has already been dismissed by the council's planners as not suitable as a traveller site. It was removed from the local plan options as a possible traveller site as it was deemed too rural for a development of that

size and the access road was seen as inadequate. This was when only 4 pitches were being considered. It must surely be unsuitable for 6 or 12 pitches as the issues of access and countryside remain the same.

- To ignore work already spent on finding a suitable site would make a mockery of work already completed.
- The assessment made using the Salford University Study in looking at the need for a Gypsy or Traveller site shows that Burnley has a need for only 5 pitches. This development is much bigger than the recognised need,
- It was confirmed after interviewing the family that own the site that the estimated need from the household was only 4 pitches. The application exceeds this number demonstrating that it is too large.
- The access road is a private unmade road and it will not withstand the traffic 12 caravan pitches would generate and the continued maintenance of the site would be unmanageable for the neighbours. The applicant confirms that there is no plan to make improvements.
- The only current permissions on the site are for one residential static home. The continuous use of the site for 10 years is disputed by the residents. Checks should be made to clarify the position.

7. Three ward councillors object on the following basis:

- Inadequate access to the development
- Size of the Development - The application proposes overdevelopment of Spa Wood Farm.
- Conflict with the Council's emerging planning policy.
- Increase in noise and disturbance to residents
- Harm to the countryside
- Significant level of local objection
- There are engineering issues relating to the access road – the bridge, banking and aqueduct is in danger of collapse and is liable to flooding
- The water supply is very poor in pressure and volume
- There is no main sewerage in the area
- The heavy traffic would affect the nearby farmer's operations and he could not ensure the safety of his family or livestock
- The development would infringe the Human Rights Act
- The development is not in line with government policy for the siting of gypsy and traveller sites.
- Walkers and Ramblers would be put in danger if there was an increase in traffic
- Emergency services would not be able to gain access

8. Objections have been received on behalf of 8 businesses on Rossendale Road Industrial Estate and 1 individual resident (who has also objected separately), making the following points:

- The proposal is contrary to national planning policy – the site is in open countryside; away from existing settlements; outside areas allocated for development; there is no settled residential community in the area; and the development would place undue pressure on the unmade access road.
- The proposal fails to meet Policy H16 of the Local Plan in that

- the proposed site is not suitable for the proposed use being in an inappropriate rural location not being close to shops, schools or other community facilities and accessed on an unmade track;
  - the use will lead to significant development on the site, there is no landscaping and the dwelling is of poor design and this will cause demonstrable harm to the quality and character of the landscape.
  - The proposal is detrimental to highway safety being accessed on a rough unmade track
  - The description of development is misleading
  - The current use is unauthorised
  - There is no planning permission for a dwelling and the new dwelling would be a new home in the open countryside contrary to Policy GP2 of the Local Plan.
  - In respect of the emerging Burnley Local Plan, the Preferred Option document puts forward a five-pitch site at Oswald Street to meet the longer term 2012-2026 Local Plan requirement. The application site was not taken forward as an allocation because it was not considered necessary to allocate the site as it is a private owned family site and has an established use as a residential caravan site for four caravans. It is not considered suitable for development of a significantly greater intensity or scale due to its open countryside location and unadopted vehicular access. Further development at Spa Wood Farm is neither needed nor appropriate.
  - The proposal fails to meet the criteria for the emerging planning policy in a number of important respects.
9. An objection from a business premises on Network 65 Business Park has been received commenting that such uses lead to issues of anti-social behaviour
10. Objections from 6 neighbouring properties have been received making the following points:
- The access road is narrow and unmade and is of poor quality and poorly maintained. It would not be suitable for an increase in traffic using it without significant investment to upgrade the existing infrastructure. Access to emergency services is problematic and additional traffic would lead to noise and privacy issues for residents.
  - There are stability issues in respect of the bridge and aqueduct which are costly to repair and collapse would lead to access issues for other residents.
  - Surface water flooding frequently prevents pedestrian and vehicular access.
  - There is a lack of water pressure affecting existing properties
  - There are no mains sewers in the area and Spa Wood Farm has difficulty coping with discharges with the septic tank overflowing regularly.
  - High voltage overhead cables run above the access track which are dangerous for people travelling beneath them.

- The description of development is incorrect in that it assumes that the land use is lawful. Also, there is no existing dwelling on the site only a caravan that was permitted under a certificate of lawfulness.
- The site is unauthorised and there is no legal basis to support that the use as a gypsy and traveller site had already occurred.
- It is clear that the Lawful Development Certificate does not apply to the whole of Spa Wood Farm and prevent intensification of residential uses. There has never been a planning permission or lawful development certificate for the siting of a bungalow
- There has been an acknowledgement of the unauthorised activity and that enforcement action has been pursued
- The Council has consistently maintained that the site is in an unsustainable location for new development.
- Whilst Spa Wood was initially put forward as a suggested allocation as a gypsy and traveller site in the Preferred Options document it has been excluded because it is not considered suitable for development of a significantly greater intensity or scale due to its open countryside location and unadopted vehicular access, concluding that the site represents an unsustainable form of development as well as problems with local infrastructure.

### **Planning and Environmental Considerations:**

The main issues for consideration relate to the principle of the continued use of the site by a traveller family; the siting of up to 6 mobile homes on the land; the replacement of the mobile chalet on the site with a permanent dwelling; the design of the proposed bungalow and the layout of the site; the impact on highway safety; and residential amenity.

#### *PRINCIPLE OF THE USE*

The site is not under consideration as a gypsy and travellers' site in the sense that it will not be a transit site. It is intended that the existing family who live on the site will continue to live there and travel from the site as they do now.

The need for transit sites has been considered as part of the review of the Local Plan. The Preferred Option document recognises the nature of the use of the site and it concludes that it is not considered necessary to allocate the Spa Wood site as it is a privately-owned family site. At the time of the survey it accommodated 4 caravans and the view was taken that it is not considered suitable for development of a significantly greater intensity or scale due to its open countryside location and unadopted vehicular access. It has not been put forward as an allocated traveller site in the Emerging Local Plan on this basis.

The site would not satisfy the criteria for an allocated Gypsy and Traveller site as set out in existing Local Plan Policy H16 in that it is in an unsustainable location, not located close to shops, schools and other community facilities.

However, the intention is to retain the existing use of the site as a family site which would accommodate the applicant, his wife, brother, mother and father, two daughters and a son, requiring a total of 6 pitches. A condition could be imposed to ensure that the use remained as a family site and did not become a transit site

The applicant puts forward that he can demonstrate a continued use of the site for a period in excess of 10 years including evidence that his family have attended local schools, doctors and dentists, etc. throughout this period. He acquired the site in 2002 and the family have occupied the site to varying degrees since then bearing in mind that the family travel throughout the year and there have been some absences due to family circumstances. Nevertheless it has remained a base for the family and it is quite likely that sufficient evidence could be put forward to demonstrate a lawful use of the site.

Notwithstanding this, having regard to the legal view that the proposal to provide up to 6 mobile homes would not amount to a material change of use, this is not necessary and it is considered therefore, that the proposed use is acceptable in principle.

#### *REPLACEMENT OF ONE MOBILE HOME WITH PERMANENT DWELLING*

Generally, new dwellings are not appropriate in the rural area, except in special circumstances. Policy GP1 expects all development to be located in the Urban Boundary except those appropriate to the rural area. Policy GP2 of the Local Plan limits new development in the countryside to those development which are appropriate i.e. agriculture, forestry and outdoor recreation uses; re-use of existing buildings; the use of infill sites; proposals which contribute to the solution of a particular local housing, social, community or employment problem; or other uses appropriate to a rural area, including those which help diversify the rural economy, while being in keeping with the rural environment.

Policy H2 of the Local Plan expects development to adopt a sequential approach, first siting new housing in the Urban Boundary on brownfield sites. The Borough has sufficient brownfield sites without the need to allocate sites in the rural area, outside the Urban Boundary.

In normal circumstances, the introduction of a new dwelling in this location would be contrary to the above policies and would not be acceptable.

However, there has been a residential use of the original mobile home on the site for at least 30 years, originally in connection with the former Poultry Farm. The mobile home is lawful as demonstrated by the Lawful Development Certificate granted in 1995. The applicant acquired the site in 2002 and has occupied it since that date. The mobile home has acquired a degree of permanence including provision of cladding and insulation, a small lean-to extension, a permanent concrete support structure and removal of the its wheels.

Having regard to the length of time it has been on site and the alterations which have taken place over time, it would be reasonable to allow its replacement with a more suitable dwelling to improve the living conditions of the residents.



Although it has been well maintained, it is not a structure which is suitable in the rural area and its replacement with the modest bungalow proposed would not have a significant impact on the landscape in this location. The effect of the replacement would not lead to significant issues in terms of traffic movements or impact on the rural environment.

The special circumstances associated with this site, including the Traveller status of the family, would not lead to a precedent for similar developments and it is considered that the replacement of the mobile home with the proposed bungalow is acceptable in this case, as an exception to Local Plan policy.

The bungalow is of a similar scale to the existing mobile home which it will replace. It will be of simple traditional form and constructed in block and render with a natural or artificial slate or a flat grey roof tile. The applicant has agreed to modify the design of the roof to provide a simple monopitch and amended plans will be received before the date of Committee.

Having regard to the circumstances of the site, with no residential curtilage to the bungalow, it would be appropriate to take away the 'permitted development' rights in respect of extensions to the property and this can be achieved by condition.

#### *DESIGN AND LAYOUT OF THE SITE*

The site is designed to accommodate the bungalow which would be occupied by the applicant and his wife, and 5 other pitches occupied by the other members of the family. The opportunity has been taken to reorganise the site to provide a more pleasant residential environment, with the caravans laid out in a courtyard formation on the existing hardstanding.

The bungalow would be two bedroomed and sited close to the entrance to the site set slightly away from the mobile homes.

As the family would still travel in line with their traditions, there would be one touring caravan for each family, stored on the site in a designated area. These tourers would not be occupied on the site and only used when the occupants were travelling. It would be appropriate to impose a condition to ensure this.

The site is well landscaped and screened and there would be minimal impact on the character of the local area from the development.

#### *HIGHWAY SAFETY*

There are no changes to the proposed access arrangements with the access to the site being via an unadopted track which is narrow and difficult to negotiate in parts. There is no separate provision for pedestrians along the public footpath. However, the vehicular movements to and from the site would not be excessive and there would not be a significant increase in vehicular movement over and above the existing position.

On this basis the existing access arrangements are acceptable providing the use remained as a family site only.

The Highway Authority raise no objections to the proposal.

## *RESIDENTIAL AMENITY*

The proposal will improve the quality of life for the family on the site. It will provide a more organised and pleasant home environment and still allow the family to pursue their traditional way of life.

The amenities of neighbouring residents will not be unduly affected, with the nearest residential property being approximately 90 metres away.

## *OTHER MATTERS*

The applicant confirms that a septic tank was installed shortly after he took possession of the site and this is emptied once a year or as necessary. It has a capacity of 4800 litres and is adequate for the number of occupants on the site.

## *CONCLUSION*

The principle of the use of the site for up to 6 mobile homes is acceptable as no material change of use has taken place. The replacement of one of the mobile homes with a dwelling on the site is acceptable having regard to the history of the site; the special circumstances of the applicant; the degree of permanence of the existing mobile home; and the limited impact of the proposal on the character and appearance of the rural area.

The layout and design of the site is satisfactory and it is considered that the proposal is acceptable subject to conditions which limit the number of pitches present on the site and ensures that it continues to operate as a private family site and does not become a general gypsy and traveller site.

The application allows a measure of control over the site, which is not in place at present.

### **Recommendation:**

That following receipt of the amended house details showing the amendment to the roof type, the Head of Housing and Development Control be delegated to grant planning subject to the following conditions:

### **Conditions**

1. The development must be begun within two years of the date of this decision.
2. The development shall be carried out in accordance with the following approved plans: Site location plan and existing site plan received 20 September 2016; Amended site plan rec'd 12 January 2016 and amended house details received XXX
3. The site shall operate as a private family gypsy and traveller site only and shall not be used as a transit site.

4. The numbers of static caravan pitches on the site shall not exceed five as set out on the approved layout plan, Drg. No.
5. There shall not be more than five touring caravans stored on the site and these shall be located in accordance with the approved layout plan, Drg. No. when not in use. The touring caravans shall not be used at any time for residential accommodation on the site.
6. No construction work in connection with the development hereby approved, shall take place outside the hours of 8 a.m. to 6 p.m. Monday to Friday; 8 a.m. to 1 p.m. on Saturday and not at any time on Sundays and Bank Holidays.
7. There shall be no burning of waste or other materials within the curtilage of the premises.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no building, engineering, mining or other operations shall be carried out in, on, over or under the land the subject of this application at any time, other than:
  - (a) development in accordance with the application form and details shown on the approved plans, or on any subsequently approved amended plans; and
  - (b) the painting of the exterior woodwork of any building.
9. The roofing materials for the buildings hereby approved shall be a natural or artificial slate or a plain flat grey roof tile which harmonises with traditional roof materials in the Burnley area.

**Reasons:**

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.
3. To ensure that the site is used as existing and not as a transit site for Gypsies and Travellers, having regard to the unsustainable location of the site and the criteria set out in Policy H16 of the Burnley Local Plan Second Review.
- 4/5. In order to retain control of the site to ensure that the use of the site does not intensify having regard to Policy GP2 and H16 of the Burnley Local Plan Second Review.
6. In order to protect the amenities of the residents in the locality from noise associated with construction at unsocial hours having regard to Policy GP7 of the Burnley Local Plan Second Review.
7. To prevent pollution in the environment having regard to Policy GP7 of the Burnley Local Plan Second Review.

8. To enable the Local Planning Authority to control future alterations or extensions to the dwelling having regard to the policies of the Burnley Local Plan and any other material considerations.
9. To ensure that the development harmonises with traditional buildings having regard to Policy GP3 of the Burnley Local Plan Sec