

Report to Planning and Licensing Committee



Date of Meeting
Portfolio

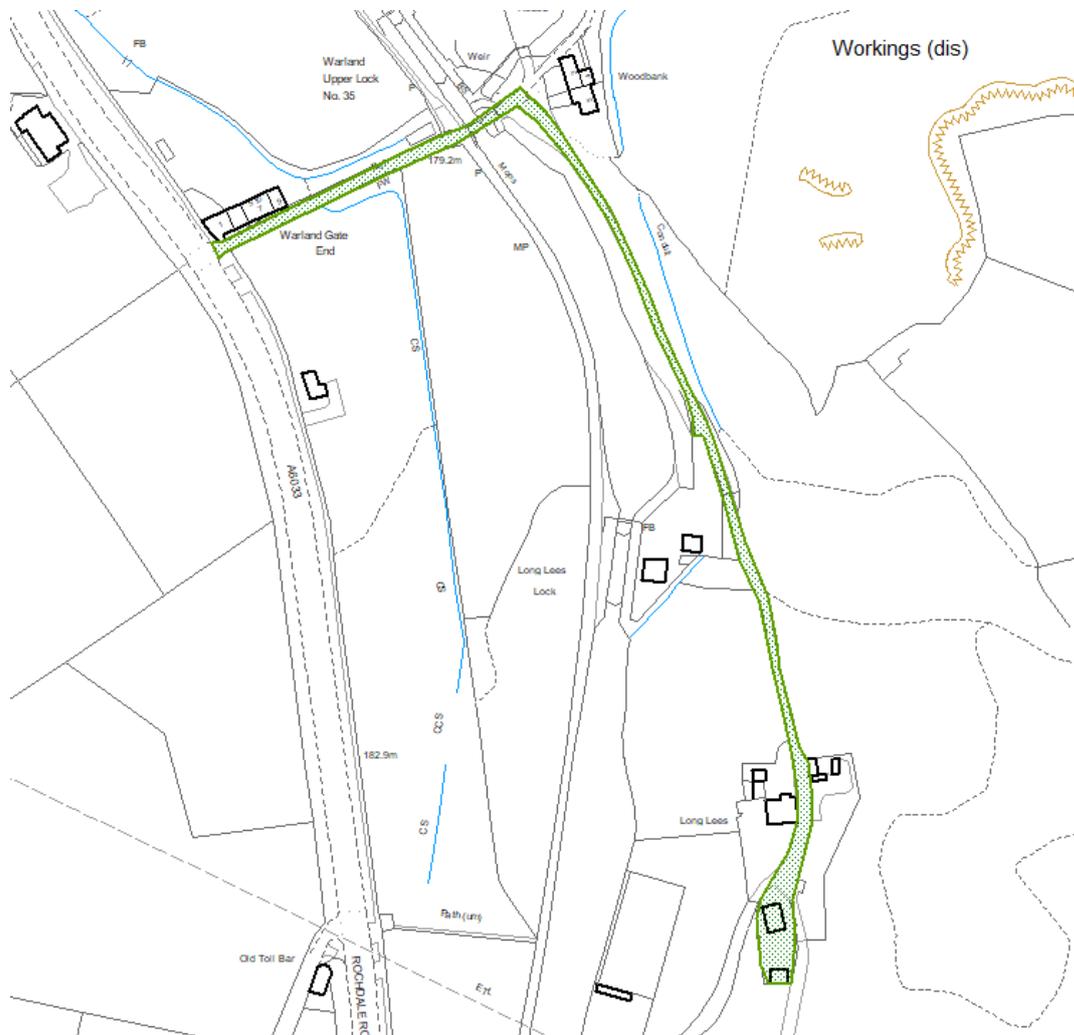
7 October 2021
Councillor John Blundell
Cabinet Member for
Economy and
Communications

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Public/Private Document

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Public

Application: 20/01235/FUL	Township: Pennines	Ward: Littleborough Lakeside
Applicant: Mr James Gumbley		Agent: Mr Malcolm Percy
Site Address: Long Lees Farm Cottage, Todmorden Road, Littleborough, OL14 6UR		
Proposal:	Continued use of the existing property as a dwellinghouse, change of use of land and engineering operations to form enlarged garden and proposed erection of two storey side extension (part retrospective)	

SITE LOCATION



DELEGATION

- 1.1 The application is to be determined by the Planning and Licensing Committee following a call in request by Councillor Tom Besford. Councillor Besford has advised that a family with a disabled child is living in this property on the land of their family. The grandparents in the house next door own the land and buildings and they form a vital support bubble for care.

PROPOSAL SUMMARY

- 2.1 Full planning permission is sought for the continued use of the existing property as a dwellinghouse, the change of use of land and engineering operations to form an enlarged garden and the erection of a two-storey side extension. Internally the extension would provide additional living accommodation comprising; a utility/store room, dining room, two bedrooms and a family bathroom. The resulting property would have four bedrooms and two bathrooms to the first floor and a kitchen, lounge, dining room, WC and utility/store room to the ground floor.

RECOMMENDATION

- 3.1 It is recommended that the Planning and Licensing Committee resolves to **REFUSE planning permission.**

REASON FOR RECOMMENDATION

- 4.1 The lawful use of the property is a holiday let. The applicant's parents sought permission in 2006 for removal of condition 3 of application 03/D42596, which requires the property to be used as holiday accommodation. This application was refused by Committee and subsequently dismissed at appeal. Information provided by the applicant states that the family have lived in the property in breach of the condition since 2015.
- 4.2 The Inspector's Decision from 2003 highlighted that harm would arise through the property being used as a family dwelling house. This would include additional domestic clutter that would be apparent all year round, rather than on a seasonal basis for a holiday let and this would have a greater impact on the openness of the Green Belt that could not be adequately controlled through condition. The Inspector stated that to disregard the very special circumstances which justified the new building (the holiday let) would be tantamount to allowing, without justification, inappropriate development, harmful by definition to the Green Belt.
- 4.3 The current occupation of the property as an unauthorised dwelling house clearly demonstrates the harm the Inspector identified would arise through such use. This has been further exacerbated by a significant unauthorised extension to the land associated with the cottage to form a garden and engineering operations to create a level surface. A two storey extension is also proposed, which would comprise a disproportionate addition resulting

in further inappropriate development in the Green Belt. The extension would also result in a loss of openness, creating further harm to the Green Belt.

- 4.4 A case for very special circumstances has been put forward with the application and these relate to the personal circumstances of the family. The best interests of the child, Public Sector Equality Duty and Article 8 of the European Convention on Human Rights are engaged. The best interests of the child (or children in this case) are a primary consideration in decision-making. However, it is considered that these personal circumstances do not comprise very special circumstances that would outweigh the harm to the Green Belt through; inappropriate development and harm to openness, harm arising as a result of unauthorised development and harm to the character and appearance of the property and the area, which attracts substantial weight. It is therefore recommended that planning permission is refused.

SITE

The application relates to an existing holiday cottage that is sited to the south of Long Lees Farm, which is set on an unmade road to the east of Todmorden Road and accessed via a bridge over the Rochdale Canal. The cottage is a two storey building which is a former farmhouse granted planning permission in 2003 for refurbishment and extension to provide a holiday cottage. A condition placed on the 2003 approval restricted use of the site as self-catering holiday accommodation

Internally the property currently benefits from a lounge, kitchen and WC to the ground floor and two bedrooms and a bathroom to the first floor.

Since provision of the holiday accommodation, unauthorised engineering operations have taken place and change of use of the surrounding land to provide associated curtilage has occurred. This comprises a levelled lawned garden to the rear and side, containing children's play equipment, two sheds and a washing line. Hardstanding is also provided to the front and side and this includes a parking space to the side. Unauthorised occupation of the property as a family dwelling house in breach of the holiday accommodation condition has also taken place.

PROPOSAL

The application proposes continued occupation of the property as a family dwellinghouse. Occupation is currently controlled by condition 3 of planning permission 03/D42596 which reads: *'The building shall be used as self-catering holiday accommodation and for no other purpose'*.

The application also proposes retrospective engineering operations and change of use to provide a residential garden. The original curtilage for the property included only a small area of land adjacent the side of the property and it is proposed that this be extended to include land at the front of the property for parking and land to the rear for garden.

The agent for the application has advised that no engineering operations have taken place to create the garden and that the land to the rear has always been a residential garden. This is disputed by the Council and addressed in more detail in the report analysis.

Also included is a proposed two storey extension that would be constructed to the east side of the property and cover the full depth of the existing building, that being 9.155m. The width of the extension would be 4.065m and it would be two storey in height, measuring 4.1m to the eaves and 6m to the ridge. The extension would also include front and rear dormers which would replicate the dormer design seen elsewhere on the property, with the dormers being pitched roof in design with front elevations extending up flush with the eaves of the property.

Internally the extension would provide additional living accommodation comprising; a utility/store room, dining room, two bedrooms and a family bathroom. The resulting property would have four bedrooms and two bathrooms to the first floor and a kitchen, lounge, dining room, WC and utility/store room to the ground floor.

DEVELOPMENT PLAN

NATIONAL POLICY AND GUIDANCE

- National Planning Policy Framework (NPPF) – July 2021
- National Planning Practice Guidance (NPPG)
- Green Belt protection and intentional unauthorised development, Ministerial Statement made on 17 December 2015 by Brandon Lewis, former Minister for Housing and Planning

LOCAL POLICY AND GUIDANCE

Greater Manchester Joint Minerals Development Plan – March 2013

Adopted Rochdale Core Strategy (CS):

- C1 Delivering the right amount of housing in the right places
- C3 Delivering the right type of housing
- C6 Improving health and well being
- P1 Improving image
- P2 Protecting and enhancing character, landscape and heritage
- P3 Improving design of new development
- G4 Protecting green belt land
- G6 Enhancing green infrastructure
- G7 Increasing the value of biodiversity and geodiversity
- T2 Improving accessibility
- DM1 General development requirements

Rochdale Unitary Development Plan (UDP):

G/D/2 Green Belt

Supplementary Planning Documents (SPD):

Supplementary Planning Document 'Guidelines and Standards for Residential Development' (2016)

RELEVANT HISTORY

02/D41047 – Change Of Use And Extension To Existing Building To Form Dwelling House – Withdrawn.

03/D41859 – Refurbishment And Extension Of Former Farmhouse To Form Self Catering Holiday Accommodation – Refused.

03/D42596 – Refurbishment And Extension Of Former Farmhouse To Form Self-Catering Holiday Accommodation – Approved February 2004.

06/D47870 – Removal of Condition 03 of Planning Permission D42596 for Premises to only be used as a Holiday Cottage – Refused by Pennines Township Planning Sub Committee and Appeal Dismissed (ref APP/P4225/A/07/2037072).

Reason for refusal - *The application site lies within the Green Belt where permission for the erection of new buildings will not be given, except in very special*

circumstances, unless they are for one of the purposes set out in Policy D/4 of the Unitary Development Plan for Rochdale ('the UDP'). Planning permission (D42596) for the refurbishment and extension of the building the subject of the present application for use as self-contained holiday accommodation was only given on the basis that it would increase the supply and choice of overnight tourist accommodation in the area and that such a benefit constituted a very special circumstance which justified departing from the normal policy of strict control within the Green belt and which would not prejudice the primary purposes and visual amenity of the Green Belt. The premises have no authorised private curtilage, and their use as a private dwelling house would inevitably lead to permanent encroachment into the Green Belt by the normal domestic accoutrements and clutter associated with such a use. This would adversely affect the openness of the Green Belt and constitute inappropriate development as identified in paragraph 3.12 of Planning Policy Guidance Note 2 – Green Belts.

15/00628/FUL – Change of use of farmland to a menage plus surfacing, drainage works and landscaping – Refused and Appeal Dismissed (ref: APP/P4225/W/15/3133755).

19/00488/FUL – Change of use of holiday cottage to single dwelling including two storey side extension – Refused.

20/00071/CPE – Application for a certificate of lawfulness for an existing use as a single family dwelling with associated residential curtilage – Refused.

CONSULTATION RESPONSES - SUMMARIES

Greater Manchester Ecology Unit – No objections to the application but the proposal should include enhancements to the natural environment. This can include the provision of bat and or bird bricks in the extension and details can be conditioned.

Highways – No objections.

MEMBER REPRESENTATIONS

Councillor Tom Besford has called in the application and provided the following comments:

“This has been going on for many years and needs resolving. A family with a disabled child is living in this property on the land of their family. The grandparent in the next door house owns the land and buildings and they form a vital support bubble for care. The RBC process here has been long, arduous and stressful for the family and I would urge this to be resolved asap”.

PUBLIC REPRESENTATIONS

The application has been publicised with a site notice, press notice and neighbour notification letters. One letter of objection has been received and this is summarised below:

- This property was initially granted planning permission as a holiday let. This current application totally undermines what was granted in the first place and I therefore oppose its change of use into a residential dwelling.
- The proposed extension is out of character from the small holiday let and would result in a very large dwelling.
- The proposed large dwelling would increase traffic movements to the site. Warland Gate End already has too much traffic for its site and often vehicles that meet have to reverse onto Todmorden Road. This is a danger to highway safety and any further traffic movements would increase this risk.

ANALYSIS

Principle of development

1. The application site is located within the Green Belt. The National Planning Policy Framework states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence.
2. The NPPF identifies that the Green Belt serves five purposes:
 - To check the unrestricted sprawl of large built-up areas;
 - To prevent neighbouring towns merging into one another;
 - To assist in safeguarding the countryside from encroachment;
 - To preserve the setting and special character of historic towns; and
 - To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
3. Paragraph 149 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. It does however list a number of exceptions to this, which include: c) 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.
4. Paragraph 150 of the NPPF also outlines forms of development that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include :a) engineering operations, and e) material changes in the use of the land.
5. The NPPF directs LPAs to ensure that substantial weight is afforded to any harm to the Green Belt and ‘very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations (paragraph 148).
6. A Court of Appeal judgement in Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government establishes that ‘any other harm’ in

paragraph 148 of the NPPF includes non-Green Belt harm that is to be taken into account in the weighing exercise of the planning balance as to determining whether or not very special circumstances exist which would clearly outweigh the harm to the Green Belt by inappropriateness and any other harm.

7. This Court of Appeal judgment is an important reminder that under paragraph 148 of the NPPF, when considering any planning application concerning proposed development in the Green Belt, local planning authorities should continue to ensure that substantial weight is given to harm to the Green Belt alongside the weight to be given to any other harm caused by the development.

Planning history and unauthorised use/development

8. Planning permission was first sought in 2002 to change the use of Long Lees Farm Cottage to a dwelling. This application was withdrawn. Subsequent applications were submitted to change the use to self-catering holiday accommodation and planning permission 03/D42596 was granted in February 2004. This planning permission was approved on the basis that it would increase the supply and choice of overnight tourist accommodation in the area and this was considered to comprise 'very special circumstances' that outweighed the harm associated with the development in the Green Belt. Occupation of the dwelling is currently restricted by condition 3 of application 03/D42596. That condition reads: '*The building shall be used as self-catering holiday accommodation and for no other purpose*'. The lawful use of the property is therefore holiday accommodation.
9. An earlier application to remove this condition was made by the applicant's parents in 2006 (reference 06/D47870). This application was refused by Pennines Township Planning Sub Committee in October 2006 and the subsequent appeal was dismissed in May 2007.
10. Application 06/D47870 was refused by Pennines Township Planning Sub Committee and the reason for refusal is provided in the Relevant History section of the report above. In dismissing the subsequent appeal, the Inspector concluded that the condition was reasonable and necessary having regard to local and national policy on protecting the Green Belt. She agreed that the additional outdoor domestic clutter and accoutrements associated with a permanent dwelling, that would be apparent all year round, rather than on the seasonal basis for a holiday let, would have a greater impact on openness of the Green Belt and that this would not be adequately controlled by way of a condition. The Inspector also noted that the very special circumstances for the original use comprised its tourism benefits and concluded that to disregard the very special circumstances which justified the new building, would be tantamount to allowing, without justification, inappropriate development, harmful by definition, to the Green Belt. This, she stated would be unacceptable, and none of the matters put forward, with the application (to

remove the condition) amounted to very special circumstances which would clearly outweigh the resulting harm.

11. Since the appeal was dismissed, various unauthorised developments have been carried out at the site including unauthorised occupation of the property as a family dwelling house, which the applicant states occurred from 2015. Engineering operations have also been undertaken around the property to create the unauthorised garden area.
12. To understand any impacts that would arise at the site through use of the property as a family dwelling house it is useful to understand the previous development of the site and how its appearance has changed over time.
13. Application 03/D42596 was described as 'Refurbishment And Extension Of Former Farmhouse To Form Self-Catering Holiday Accommodation'. Information provided with the current application advised that the former property was damaged in the 1970's and rebuilt in 2004. At the time of the 2003 application the structure on site was dilapidated and unoccupied.
14. Planning permission was subsequently granted for the derelict structures to be refurbished and extended to provide holiday accommodation. Planning permission was granted based on a case for very special circumstances that the development, as self-catering holiday accommodation, would increase the supply and choice of overnight tourist accommodation in the area. These very special circumstances were noted by the Pennines Township Planning Sub Committee in refusing application 06/D47870 and the Inspector in dismissing the subsequent appeal.
15. Prior to the 2006 approval aerial photographs from circa 2000, show to some extent the derelict nature of the site and its surroundings, with the damaged building being enveloped by surrounding vegetation. The development of the site is then visible on later aerial photographs and it is clear that by 2009 the development had been completed and the unauthorised garden had been created.
16. Recent photographs taken of the site clearly demonstrate that it has been extended beyond its original curtilage and into the surrounding countryside, with domestic paraphernalia erected/installed. This clearly demonstrates the harm that the Planning Inspector noted would arise through domestication of the site and through the unauthorised occupation, and the engineering operations that have been undertaken to create the level garden, further exacerbate the anticipated harm that the Pennines Township Planning Sub Committee and the Planning Inspector identified would occur.

Retrospective engineering operations and change of use of land.

17. The agent on the current application states that the land to the rear of the property (subject to the current change of use) was used in connection with the original dwelling and then subsequently with the holiday let from 2004 and as a single family dwelling since 2015. It is therefore the agents assertion that the land has never had any other use than a garden and that this use has never changed or been abandoned.
18. While the lawfulness of the existing garden is not currently under consideration, as the application does seek formal planning permission, it is noted that the Council considers that an unauthorised change of use of the land has taken place and that engineering operations to create the curtilage have also been undertaken. This is evidenced in the site history and in historical photographs. The curtilage approved in 2003 was tightly constrained, including only a limited area to the side and rear of the property.
19. As detailed above, in 2006 application 06/D47870 (Removal Of Condition 03 of Planning Permission D42596 For Premises To Only Be Used As A Holiday Cottage) was refused by the council's Pennines Township Planning Sub Committee and the subsequent appeal was dismissed (reason for refusal provided above in the Relevant History section).
20. The Inspector's decision clearly then outlined the harm that would arise with the development associated with the use of the property as a dwellinghouse, specifically detailing the fact that additional outdoor domestic clutter and accoutrements associated with a permanent dwelling, that would be apparent all year round, rather than on the usual seasonal basis for a holiday let, would have a greater impact on openness of Green Belt and that this would not be adequately controlled by way of a condition.
21. With the above history it is clear that in 2006 the property had no (or very limited) residential curtilage and the Planning Inspector clearly highlighted what harm would arise through the provision of curtilage for a normal domestic property.
22. Further to the above it is concluded that the residential curtilage has been created on previously undeveloped land within the Green Belt. It is accepted that the site historically housed a dwelling, but this was damaged in the 1970's and lay abandoned until 2004 (some 25 years at least), when development under application 03/D42596 took place.
23. As detailed in the NPPF, engineering operations and material changes in use of land can be considered as an exception to inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. However, in respect of change of use of land to domestic curtilage it is clear that in this instance, the change of use of land to domestic garden and the engineering operations associated with it

would not reserve the openness of the Green Belt and thus comprises inappropriate development in the Green Belt.

24. For the purpose of this application, whilst it is recognised that the authorised use of the property remains currently as a holiday let, the curtilage has been used in connection with the unauthorised occupation of the property as a family dwellinghouse. In connection with this use, structures (children's play equipment etc.) have been erected and installed within the garden area. The presence of these structures on the site demonstrates the Green Belt harm that arises through the creation of domestic curtilage and this was clearly identified in the Planning Inspector. Furthermore, the creation of a level platform with a retaining stone wall has resulted in clear encroachment into the Green Belt with the provision of an unnatural landscape that is clearly visible from beyond the site, detracting from the openness of the Green Belt. As such, in addition to comprising inappropriate development in the Green Belt the proposal also results in an unacceptable loss of openness and is detrimental to the character and appearance of the area.
25. Whilst the above primarily focusses on the proposed curtilage to the rear it is recognised that the application also includes the provision of curtilage to the front of the property. The application does not fully detail how this would be laid out but does identify that two off street parking spaces would be provided. It is noted that this land also currently includes a raised and walled area to the front of the house and hardstanding that leads off the access road/track. This area has also been created without consent with access and hardstanding associated with the dwelling exceeding that which was approved under the 2003 application. Again this change of use comprises inappropriate development within the Green Belt and the provision of the hardstanding is extensive in the context of this site and detracts from the openness of the Green Belt with the curtilage of Long Lees Farm Cottage joining up with that at Long Lees Farm and creating an extensive area of domestic development within the Green Belt.

Proposed Extension

26. In addition to the above, this application also proposes the erection of a two storey extension to the cottage and this element is identical to the extension proposed as part of refused planning application 19/00488/FUL.
27. Notwithstanding the above issues in relation to the lawful use of the property and the harm that arises as a result of its occupation as a permanent family dwelling, the extension of a building in the Green Belt need not be inappropriate development provided that it does not result in disproportionate additions over and above the size of the original building.
28. The Council's SPD at paragraph 5.20 sets out that "*...in principle, extensions that result in up to a 35% increase in floorspace or volume over and above the*

original dwelling would be considered appropriate and not disproportionate (this calculation would include previous extensions to the original dwelling, which is defined as the dwelling as it was first built or as it stood on 1 July 1948)."

29. Paragraph 5.20 of the SPD goes on to state "*...the characteristics of properties and proposals will vary significantly and there may be instances when a 35% increase would be considered disproportionate and other occasions when a greater than 35% increase may be considered proportionate*".

30. The Design and Access Statement submitted with the application has set out the proposed increases in floor space and volume. These are:

Existing footprint = 51.18 m²

Footprint of proposed extension = 37.22m²

New footprint = 88.4m²

Percentage increase in footprint = 72.71%

Existing volume = 314.75m³

Volume of proposed extension = 195m³

New volume = 509.75m³

Percentage increase in volume = 61.95%

31. From the above calculations it is clear that the above footprint and volume increases of 72.71% and 61.95% respectively, would be significantly above the normally accepted 35%. The proposed extension therefore comprises inappropriate development in the Green Belt by virtue of disproportionate additions over and above the size of the original building.

32. The submitted Design and Access Statement acknowledges that the extension would be a disproportionate extension and states "*...the existing structure is quite small and if an extension is limited to the 35% increase in floor space or volume it would not provide sufficient living accommodation for the applicant. The (SPD) policy was worded as such in particular reference to prevent larger properties from over-extending but also to allow smaller properties to be extended sufficiently to provide adequate living accommodation necessary for modern family life*".

33. In considering this case by the applicant it is firstly noted that the statement in the above statement has no policy basis and is instead merely conjecture by the applicant/agent. The purpose of the policy is to allow a case-by-case assessment into the impact a development would have upon the openness of the Green Belt and to allow a small degree of flexibility in respect of the 35%.

34. In the case of this application, the proposed increases, both in volume and footprint, significantly exceed 35% and visually these increases would result in a prominent two storey addition that would change the nature of the property from a two bedroom cottage to a large four bedroom dwelling. Views of the

extended property would be clear and available, particularly from the adjacent public right of way and from land to the north and the visibility or otherwise does not alter the fact that the proposed extension is a disproportionate addition and harmful to the Green Belt by definition. Furthermore, although the extension would be sited to the opposite side of the property than the nearby main road (Todmorden Road), the property is in an elevated position and the extension would still be visible from the west and would result in a clear and significant change to the scale of the property. The highly visible position of the site means that the proposed extension would result in a clear increase in the prominence of the dwelling, visually impacting on the openness of the green belt.

35. It is also noted that the original planning permission for the holiday cottage permitted significant extensions and alterations of the original building to facilitate its reuse. Whilst the current application is assessed against the holiday cottage as approved in 2003 (with this being the original dwelling), the existing plans (from 2003) showing the building prior to development demonstrate the low level of development on site prior to the holiday cottage being constructed. As discussed above, this was granted as an exception to Green Belt policy on the basis that tourism benefits would arise from the holiday cottage use. This would be lost as a result of the current application.
36. In summary of the above, it is considered that the proposed extension would be significant in scale and result in a disproportionate addition to the property. The extension therefore comprises inappropriate development in the Green Belt which is harmful by definition. Furthermore, the scale of the extension would be visually prominent on the site and adversely impact on the openness of the Green Belt. The harm to the Green Belt attracts substantial weight.

Conclusion in relation to principle of development

37. To conclude, the existing lawful use of the property is a holiday let which was approved in 2003 as an exception to Green Belt policy on the basis that it would increase the supply and choice of overnight tourist accommodation in the area.
38. Planning permission to remove the occupancy condition attached to the 2003 permission was refused by Pennines Township Planning Sub Committee in 2006 and dismissed on appeal for reason that the condition was reasonable and necessary. The Inspector and committee identified that use as a permanent dwelling would cause harm to the Green Belt by reason of additional outdoor domestic clutter that would be visible all year round, rather than the seasonal basis as a holiday let. To disregard the very special circumstances which justified the building as a holiday let, would also be tantamount to allowing, without justification, inappropriate development. Following the refused application in 2006 unauthorised use as permanent

dwelling has taken place and given rise to the harm previously identified by the committee and Planning Inspector. This harm has been further exacerbated by engineering operations that have taken place to create a level garden to the rear of the property.

39. The above assessment demonstrates that the proposed use as a permanent dwelling with associated garden and parking areas is inappropriate development in the Green Belt. The proposed extension to the building forms a disproportionate addition that is also inappropriate in the Green Belt. These are harmful to the Green Belt by definition. Spatial and visual harm would also arise to the openness of the Green Belt, through encroachment into the Green Belt and the addition of visually prominent development. The NPPF is clear that this harm attracts substantial weight and must only be approved in very special circumstances. In considering the application, very special circumstances will not exist unless the harm caused by inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Other material considerations and the case for very special circumstances will be assessed below.

Design, Character and Appearance

40. Policies DM1 and P3 of the adopted Core Strategy require development proposals to demonstrate high quality design. In addition, paragraphs 126 and 130 of the NPPF state that good design is a key aspect of sustainable development and that planning policies and decisions should ensure that developments function well and add to the overall quality of the area and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
41. As outlined above, the application would have a harmful impact on the openness of the Green Belt due to the scale of the extension, which would appear as a prominent addition that would compete with the existing building on site. However, viewing the application outside of the Green Belt context it is noted that it has been designed to complement the style of the existing building, particularly in regards to the design of the front and rear dormers. In the right context, it is recognised that such extensions may be viewed as acceptable, however on this site the extension would appear overly large and prominent and not respect the character of the surrounding, relatively open landscape. The development would as such result in a dwelling that would appear overly large and prominent on the site and this would not respect the existing character of the area, contrary to policies P1, P2, P3 and DM1 of the Core Strategy and policy in the NPPF.
42. Further considering the impact on visual amenity it must again be noted that the existing parking layout shown on the plans does not exist on site and insufficient information has been submitted with the application to demonstrate how this would be provided. Without this information the Council cannot

assess whether the provision of the parking spaces, which would require a change in levels, would be acceptable in terms of visual amenity. The Council notes that this information was also missing from application 19/00488/FUL, as was clearly referenced in reason for refusal no. 2 of that application.

43. In summary, whilst the proposed extension may be acceptable in isolation, when viewed in the context of the site it would provide an overly large and prominent addition that would fail to respect the existing character of the property and the area. Insufficient information has also been provided to allow assessment of the proposed parking spaces. The application would have a harmful impact on visual amenity and be contrary to policy P1, P2, P3 and DM1 of the Core Strategy and policy in the NPPF.

Residential amenity

44. Policy DM1 of the adopted Core Strategy requires all development proposals, including extensions and alterations, to demonstrate that they will not have a negative impact upon the amenities of future residents and occupiers.
45. In assessing the impacts on amenity it is recognised that the existing holiday cottage comprises an existing residential use on the site, although its occupation is controlled through condition. Whilst the current proposal includes provision of an extension, which itself requires assessment, the development would not materially alter the acceptability of the current relationship with the adjacent property, Long Lees Farm.
46. Further to the above are the considerations of the Council's Supplementary Planning Document (SPD)'Guidelines and Standards for Residential Development'. The SPD establishes that the following minimum space standards will be applied to all new residential developments and development which affect existing residential properties. The current minimum standards for residential development are:
- 21m between directly facing principle windows of habitable rooms, at an upper floor level and 10.5m between a principal window at an upper floor level and a directly facing boundary of the curtilage.
 - 14m between a principal window and any directly facing two storey elevation which does not contain a principal window to a habitable room.
 - 10m between a principal window and any directly facing single storey elevation which does not contain a principal window to a habitable room.
47. The existing holiday cottage building is positioned approximately 28m from rear elevation of Long Lees Farm and approximately (at its closest point) 7 metres from the curtilage of Long Lees Farm. It is noted that whilst the 28m

clearly complies with the SPD guidance (distance between principal windows), there is an accepted relationship with the adjacent curtilage that permits a distance of less than the generally required 10.5m.

48. The proposed extension to the side (east) elevation would retain an acceptable distance of separation between the two properties and this would be reduced to approximately 27m. In regards to the distance to the curtilage of Long Lees Farm, due to the sloping angle of the curtilage boundary, the extension would be sited, at its closest point, 10.5m from the boundary. This complies with the SPD guidelines and taking this into account alongside the existing use of the site, it is considered that the proposed extension would not result in any loss of amenity to neighbouring residents.
49. Adequate light and outlook would be provided for the occupiers and future occupiers of the cottage.
50. As such, in this regard, the application accords with policy DM1 of the adopted Rochdale Core Strategy.

Highway safety

51. Whilst a public representation has been received in relation to highway safety, consultations have been undertaken with the council's Highway Service and they have raised no objection to the application. The Highway Authority considers that the proposals are well removed from the highway and are unlikely to have any noticeable impact on the local network. In this regard the application accords with policy DM1 of the Core Strategy.

Ecology

52. The Greater Manchester Ecology Unit (GMEU) have been consulted on the application and advised that the only possible concerns relate to roosting bats and nesting birds within the eaves and roof space of the building. GMEU however consider that these risks are low and that they can be dealt with through an informative. GMEU also requested that in order to comply with the NPPF, suitable enhancement measures should be included within the development and these include the provision of bat and/or bird boxes within the extension. This matter could be conditioned on any approval.
53. Subject to the above recommended conditions and footnotes the development would ensure appropriate protection of protected species and also provide enhancements to the local environment. In this regard the application accords with policy G7 of the Core Strategy and the NPPF.

Very special circumstances and Conclusion

54. As part of this application the Design and Access Statement notes that *"The applicants have lived in the property with their children (one of whom has a*

disability) for 6 years and it is clear that the property is too small and requires extending to provide the necessary living accommodation. The applicants' parents live in the adjacent property and they offer invaluable support in respect of child-care. It is submitted that the above points can be considered as 'very special circumstances' in order to grant approval for this proposal".

55. In respect of the above, it is noted that the child's disability was not included as a "very special circumstance" in application 19/00488/FUL and at that time it was merely said that *"as the occupants now have two children it is essential that additional floor space is provided"*.
56. Four letters have been submitted with the application to evidence the child's disabilities. These are summarised below:
- i. Letter from the child's school - this outlines that the child has Downs Syndrome and a number of medical issues and outlines that currently the property has one bedroom that is shared between the two children. The school understand that the family want to create an additional bedroom, bathroom and sensory room to cater for the child's needs and they support the application.
 - ii. Letter from NHS Consultant Paediatrician - this outlines that the child has Trisomy 21 (Downs Syndrome) and a number of medical issues associated with the condition. She has significant learning difficulties and behavioural issues and currently shares a bedroom with her brother, which impacts on the sleep for both children. The child would benefit from a sensory room to optimise development, learning and skills and a wet room due to her dislocating hips.
 - iii. NHS Physiotherapy report - this outlines that the child has Down Syndrome and the condition means that she has low muscle tone (hypotonia) and flexible joints (hypermobility). She is currently awaiting surgery to tighten her hip ligaments. The child is unsteady when walking and is vulnerable to chest infections. The medical issues can lead to fatigue and decreased stamina. A good night's sleep is important for the child to recover from illness and so that she has energy in the day. It would be beneficial for her to have her own space as she is often woken by her brother. She also needs a safe environment to undertake physiotherapy exercises.
 - iv. Letter from Rochdale Borough Council Children's Services - this outlines that that the family have limited space and would greatly benefit from having extra bedroom space and also increased level access bathroom which will be of benefit to their daughter. The letter also outlines the child's disabilities and that while she currently has access to a family bathroom, access to a level shower room would be the family's preference. It is also noted that the son and daughter currently share a bedroom and that there will come a time where they will need their own bedroom for reasons of dignity and privacy.

57. In addition to the letters submitted to support the case for very special circumstances, a letter of support has also been received from the applicant's parents who live in the adjacent property. The applicant's parents undertook the conversion works at the application site. The letter outlines how and when these works were undertaken and states when the applicant's moved into the property, which was prior to their children being born. The letter also outlines their granddaughter's medical needs, including that she was born with Downs Syndrome and has many health problems that result in regular hospital admissions. She also suffers from Hip Dysplasia which causes pain and which will require surgery. The letter states that living next door to them as grandparents offers a very important support system that is heavily relied upon. The area is also safe and secure and offers stability which she relies upon as too much change can cause stress and confusion. The letter also refers to the applicant's other child and the impact that sharing a bedroom with his sibling has on his sleep. He is woken every night and has to be moved into his parents' bedroom. There are concerns over the long term impact this will have on his health as his wellbeing relies on a good night's sleep.
58. In consideration of the above, regard must be given to The Equality Act 2010 and this establishes under Part 1, that there is a public sector duty to have due regard to the desirability of exercising decisions in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage. Chapter 1 then lists protected characteristics which include disability and age.
59. The Act requires that those with protected characteristics should be protected from direct and indirect discrimination. Indirect discrimination under Chapter 2 Part 19, establishes that a practice etc is discriminatory if it puts, or would put, a person with a protected characteristic at a particular disadvantage compared to someone who does not share it.
60. Section 149 of the Equality Act 2010 requires public authorities to have due regard in respect of three 'needs' in the exercise of public powers and the delivery of public services. The needs are to:
- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
61. By due regard, it has been held that this means a 'conscious directing of the mind to the obligations'. In a planning context, it is for the decision maker to decide what weight to give to the equalities implications of the decision.

62. In respect of the three needs set out above further consideration needs to be given to the requirement to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, The Equality Act 2010, explains that having due regard for advancing equality involves:
- Removing or minimising disadvantages suffered by people due to their protected characteristic
 - Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
 - Encouraging people with certain protected characteristics to participate in public life or in other activities where their participation is disproportionately low.
63. In respect of this application, the Equality Act is engaged because the decision will have an impact on a person with a protected characteristic. In this case, we have been told that there are two children and that one of these children has a disability. Disability is a protected characteristic (as is age) and consideration needs to be given as to whether, in particular, the child with a disability will be disproportionately affected by the decision than someone who does not have that particular characteristic.
64. It is accepted that the circumstances outlined in the Design and Access Statement and the supporting evidence indicate that one of the children has a disability and has needs which are different to those who do not share the disability and are material considerations and weight given to them accordingly.
65. Also of relevance is The Human Rights Act – Article 8. This protects the right to respect for a private life, family life, home and correspondence. *Stevens v Secretary of State for Communities and Local Government* sets out that where the article 8 rights are those of children, as is the case in this application, they must be seen in the context of article 3 of the UN Convention on the Rights of a Child (UNCRC). This establishes the general duty to make the best interests of the child a primary consideration in decision making. Note that it is ‘a’ primary consideration and not ‘the’ primary consideration.
66. When considering applications against the UN Convention on the Rights of a Child the decision maker is required to identify the best interests of the child. In a planning context, these are likely to be consistent with those of the parents (or other carer) and unless circumstances indicate to the contrary, the decision maker can assume that the carer will properly represent the child’s best interests. Once the best interests of the child are identified, they are not determinative of the planning issue. However, no other consideration must be regarded as more important or given greater weight than the best interests of the child. Further, the best interests of any child must be kept at the forefront of the decision makers mind in examining all material considerations and

performing the exercise of planning judgment on the basis of them. When considering any decision made, this needs to be assessed against whether the adverse impact of such a decision on the interests of the child is proportionate.

67. Consideration must first be given to the development proposed, which the applicants state is necessary to cater for their disabled daughter's disabilities. In this regard the main requirements of the applicants, and as referenced in the letters that evidence the child's needs, are an additional bedroom (allowing each child their own bedroom) and an accessible bathroom. Reference to the benefits of a sensory space is also made in the supporting letters but no such room or facility is included on the plans.
68. The application seeks the addition of two bedrooms, rather than the one required in order for both children to have their own private space. Furthermore, the application also seeks the addition of a dining room and a utility/store room. Based on this, it appears that the application seeks to extend the property beyond that which it is stated would be desirable to serve the disabled child's needs and those of her sibling. Notably however, it does not specifically include the sensory space which is recommended by the child's paediatrician.
69. Further to the stated requirements of the disabled child and the development proposed under the application, it is considered that the proposal goes beyond that which is necessary for the child's specific needs, with the additional bedroom, dining room and utility room/store serving the family as a whole rather than the specific needs of the disabled child. As such it is difficult to include these elements of the proposal within the case for very special circumstances.
70. The concerns regarding the proposed accommodation have been raised with the agent on the application and he has confirmed that the additional bedroom could easily be changed to a sensory room. He has also advised that the downstairs accommodation is necessary because the children's bedrooms need to be on the same level as their parents. There has however been no demonstration within the application that other design solutions have been explored to provide the necessary accommodation, while resulting in less harm to the Green Belt, such as a smaller extension with one additional bedroom and bathroom at first floor level and a sensory room at ground floor level.
71. In addition to the above, it is considered that the application has failed to demonstrate 'very special circumstances' that would clearly outweigh the identified substantial harm to the Green Belt. The Local Planning Authority fully accepts that the applicant's child has complex medical issues and that the close-by assistance of family members would be beneficial to the family.

72. However, as detailed above, the extension sought goes beyond that which would be required for the disabled child's needs. Nonetheless, it is recognised that the family have specific needs relating to their child and these needs, which are personal to that family will vary over time. The support from close family (grandparents) is undoubtedly important to the family in the care of their children, including providing care and support when their disabled child needs to be admitted to or attend hospital appointments. It is also stated by the child's grandparents that the area is safe and secure and gives the child stability which she relies on. It is stated that the child needs her life to be orderly and recognisable and that too much change can cause stress and confusion.
73. The Equalities Act is engaged because the decision will have an impact on a person with a protected characteristic. In this regard the Local Planning Authority accepts that a suitable sized home that is close to a family support network will be beneficial to the disabled child and her family as a whole throughout her upbringing and possibly beyond. Nonetheless, the existing property is very close to the settlements of Todmorden and Littleborough (and their associated villages) and there is no evidence before the Local Planning Authority as to why this important family support could not be provided with the applicants living a different property nearby.
74. When considering planning applications, it is for the decision maker to decide what weight to give to the equalities implications of the decision. Additionally, when considering the UN Convention on the Rights of a Child, it is clear that whilst there is a duty to make the best interests of the child 'a' primary consideration, it is not 'the' primary consideration. With these factors in mind it is considered that the family's needs, and primarily the disabled child's needs, could be met within another setting. As such it is not considered that the applicants have demonstrated that their desires to have a larger home with support offered by family members in the adjacent property represents 'very special circumstances' that would clearly outweigh the green belt harm and other harm associated with this application.
75. In addition to the above, although it is recognised that the disabled child may continue to live in the family home into adult hood, the harm that would arise with this application would extend beyond the occupancy and lifetime of the occupants. In order for the family to live in the property, significant extensions, which go beyond the direct needs of the disabled child, are required and these would have an unacceptable, permanent and irreversible impact on the Green Belt. This harm could not be mitigated or reversed through conditions associated with any approval.
76. On the 17 December 2015, Brandon Lewis, the Minister for state for Housing and Planning issued a statement on Green Belt protection and intentional unauthorised development. This statement was to provide stronger protection for the Green Belt and outlined the Government's concerns about the harm

that is caused where the development of land has been undertaken in advance of obtaining planning permission. The statement introduced a policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. The planning history of the site identifies that in 2006 the applicant's parents sought to remove the occupancy condition relating to the holiday let and that the application was refused by the Pennines Township Planning Sub Committee and dismissed at appeal. Given the close familial links it would appear that the applicants were aware of the planning history and that the current unauthorised occupation and creation of curtilage, including associated engineering operations, was an intentional unauthorised development. This should be considered and afforded weight in the planning balance.

77. To summarise, The National Planning Policy Framework establishes that substantial weight should be given to harm to the Green Belt and any other harm. The best interests of the child, harm caused to the family, with due regard given to the Equalities Act, including the public sector duty, The Human Rights Act and the UN Convention on the Rights of a Child are engaged. It is noted that the harm to the Green Belt does not, in this instance, hold any more weight than the impact of the development upon the best interests of the children. It is also accepted that the likely implications of a refusal of planning permission are that the family needs to find another home. Nonetheless, the scale of development proposed exceeds that required by the family and the information outlined in the application does not demonstrate that the family's needs could not be met through other means. When balancing this against the permanent substantial harm that would be caused to the Green Belt, including through retention of this intentional unauthorised development, it is considered, on balance, that very special circumstances are not established as the benefits associated with the development do not clearly outweigh the harm caused to the Green Belt through inappropriateness, which is harmful by definition, the loss of openness of the Green Belt and harm to the character of the area. The recommendation is therefore to refuse planning permission.

RECOMMENDATION

It is recommended that the Planning and Licensing Committee resolves to **REFUSE planning permission** for the following reason:

The use of the property as a dwellinghouse and change of use of the land to provide a garden and associated engineering operations, comprises inappropriate development in the Green Belt that is harmful by definition and furthermore, fails to preserve the openness of the Green Belt and the purpose of including land within it through encroachment, the provision of visually prominent development and domestic paraphernalia. In addition, the proposed extension would form a disproportionate addition and thus comprises

inappropriate development in the Green Belt, harmful by definition and would also appear overly prominent on the site, failing to respect the existing character of the area and resulting in a significant harmful impact upon the openness of the Green Belt. The personal circumstances outlined do not comprise very special circumstances to clearly outweigh the harms identified. The proposal is therefore contrary to policies G4, P1, P2, P3 and DM1 of the adopted Rochdale Core Strategy, the Guidelines and Standards for Residential Development Supplementary Planning Document and the National Planning Policy Framework.