

FITZGERALD

PLANNING & DESIGN

fitzgeraldpd.co.uk

paula@fitzgeraldpd.co.uk

0777 375 6007

Supporting Statement

Wilpshire Lane Cottage, Vicarage Lane, BB1 9HY

Certificate of Lawful Development for existing use of Wilpshire Lane Cottage
as a separate dwelling house

September 2017



1. Introduction

- 1.1 This Statement has been prepared by Fitzgerald Planning and Design on behalf of the Applicant, Mr and Mrs Mc Neill. This application seeks to confirm the established use of the cottage (C3) as a separate planning unit from Wilpshire Lane Farm.
- 1.2 The applicants have lived in Wilpshire Lane Farm House for 21 years and Wilpshire Lane Cottage has also been in their ownership during this period but existed as a separate dwelling. The applicants are now in the process of selling the property and are seeking confirmation that the cottage has a lawful use as a separate dwellinghouse to the main farm.
- 1.3 This statement describes the site and its surroundings and supporting evidence of the application which will conclude that the development is lawful in accordance with the Town and Country Planning Act 1990 Section 191 (as amended by Section 10 of the Planning and Compensation Act 1991) Town and Country Planning (Development Management Procedure) Order 2010 Article 35. Consequently, it is considered that the Certificate application should be granted.

2. Site and Surroundings

- 2.1 The site is located off Vicarage Lane, Wilpshire, adjacent to the east of the railway line. The site includes a 2 bedroom cottage with attached garage, curtilage and driveway.
- 2.2 The site falls outside the settlement boundary of Wilpshire and is located within the Green Belt as designated in the Ribble Valley proposals map.
- 2.3 The site was previously a shippon which was used as part of the wider farmstead at Wilpshire Lane Farm but later received consent for use as a separate dwelling as detailed in the following chapter.

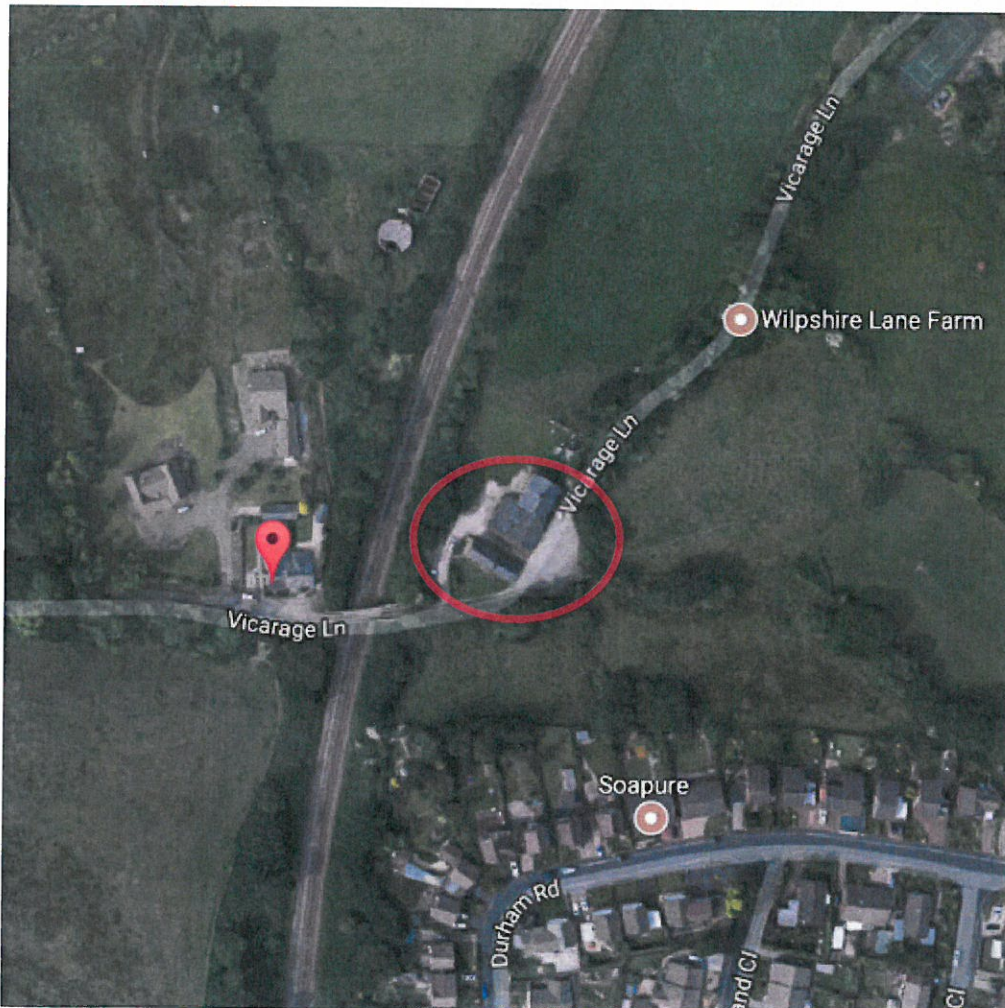


Image 1:
Location



Wilpshire Lane Farm

Wilpshire Lane Cottage

Image 2: Site context



Wilpshire Lane Cottage

Wilpshire Lane Farm

Image 3: Extract take from the sales particulars for the property

2.5 Supporting Photos

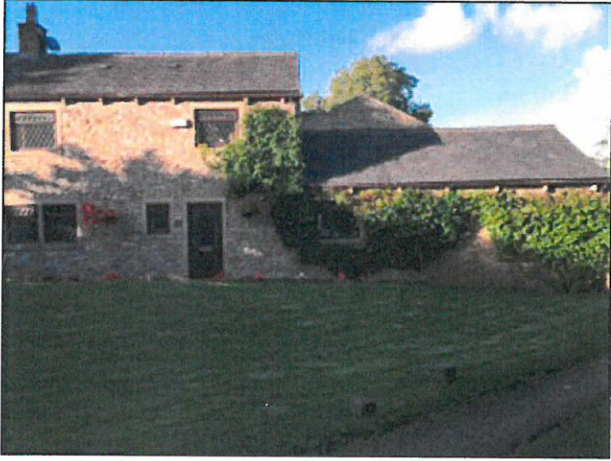


Image 4: South elevation of the property overlooking the private garden area. Low roofline to the right of the photo is the rear of the garage.



Image 5: South elevation



Image 6 : North elevation.
This photo also shows access between the cottage and farm



Image 7: Parking Area which serves the cottage, enough space for 2 cars

3. Planning History

3/1997/0459 – conversion of shippon into one dwelling approved 11/9/97

3/94/0598 – conversion on shippon into dwelling approved 7/10/94

3/1990/0391 – conversion of shippon into one dwelling approved 5/7/90

3/1989/0842 – conversion of shippon into one dwelling Refused 8/3/90

The main conditions relating to the last planning consent 3/1997/0459 are as follows:

Condition 2

'no part of the development shall be commenced until the 5 passing bays, each 10m long giving a total width of 5.5m, have been constructed in permanent pavement materials to the satisfaction of the local planning authority in the location shown on plan reference JM/3/90/391 approved under planning reference 3/94/0598

The bays have been in place since 1994 and have been maintained and are still in place today as the images show:



4. Evidence

4.1 Wilpshire Lane Cottage has been lived in as a separate dwelling for around 18 years. Following the granting of the planning permission for a separate dwelling in 1997, the consent was lawfully implemented, with the condition that required no part of the development to be started until the bays had been inserted satisfied as set out in the aforementioned chapter. The use of the property has subsisted ever since as a separate dwelling.

4.2 Irrespective of the above, Section 191 (4) of the Town and Country Planning Act 1990 provides that if the LPA is satisfied that the existing use or development is lawful (due to continuous residential use for example), then a Certificate must be granted. The burden of proof to prove that the balance has existed for 4 years rests with the Applicant and the test is on the balance of probabilities. As per the legislation, if the evidence is sufficiently clear and unambiguous, a certificate ought to be granted. The Applicant's own evidence need not be corroborated by independent evidence in order to be accepted and if the Local Planning Authority has no evidence of its own, or from others, to contradict the Applicant's version of events, it should not refuse a Certificate of Lawfulness providing the evidence is sufficiently precise. The remainder of the Statement will demonstrate that existing evidence is clear and unambiguous and concludes that a Certificate should be granted.

4.3 The cottage was banded separately for Council Tax and is also identified separately on the electoral role as well as having separate utility connections. The cottage property is clearly self-contained and includes all the necessary provision to provide an independent living arrangement.

4.4 The applicant is providing as part of this application, the following documents:

Gas Utility bills [for period 2010 to 2015]

Landlord Gas Safety Certificates [for period 2015-16]

Statutory Declaration [by Mr & Mrs Mc Neill]

4.5 The application property has been resided at since 1999 by various tenants. Over the previous 4 years, the following tenants have lived at the property:

Don Allison	1st March 2010 - 31st July 2015
Manpreet Bansal	23rd October 2015 - Current

- 4.6 Apart from a short break, a natural transition between the change of tenants, the residential use has existed for over 4 years. The vacant period does not materially alter the continuity of the use and that case law has indicated that a break in occupation of a property does not necessarily demonstrate a break in its use. The owner's intention was clear following the property being vacated by the first tenant – for the residential use to continue.
- 4.7 To summarise therefore, this Statement has shown that following the 1997 approval, the consent was lawfully implemented and the property has been utilised for residential purposes ever since as the Council's own records will confirm. This in itself demonstrates the lawfulness of the property for residential use. We have however also set out that given the continuity of the use for a 4 year period ending with the date of this application, that the residential use can also be considered to be lawful on this basis.

5. Conclusion

- 5.1 This Statement, with all of the information submitted, confirms that the appellant has discharged the onus of proof incumbent upon them to demonstrate that the residential use is lawful.

- 5.2 For the reasons set out within this Statement, it is requested that the certificate is granted. If any further information is required or clarification on the attached or on any other material/evidence needed, it is requested that contact is made with the agent.

Appendices

1. Planning Decision Notice 97/0459
2. Location Plan for 97/0459
3. Plan from application 90/0391 showing the location of the passing bays
4. Gas Utility Bills (2010-2015)
5. Landlord Gas Safety Certificates (2015-12016)

JIM HOLLOWAY
4-00/500

MIKE KIRBY

RIBBLE VALLEY BOROUGH COUNCIL

Department of Development

Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA

Telephone: 01200 425111 Fax: 01200 426339

Town and Country Planning Act 1990

PLANNING PERMISSION

APPLICATION NO: 3/97/0459/P

DECISION DATE: 11 SEPTEMBER 1997

DATE RECEIVED: 7 JULY 1997

APPLICANT:

MR K McNEILL
WILPSHIRE LANE FARM
VICARAGE LANE
WILPSHIRE

AGENT:

BEARDWOOD DESIGN LTD
14 WYCOLLAR ROAD
BLACKBURN
BB2 7AZ

DEVELOPMENT PROPOSED: CONVERSION FROM SHIPPON TO DWELLING

AT: WILPSHIRE LANE FARM, VICARAGE LANE, WILPSHIRE

Ribble Valley Borough Council hereby give notice that **permission has been granted** for the carrying out of the above development in accordance with the application plans and documents submitted subject to the following condition(s):

1. The development must be begun not later than the expiration of five years beginning with the date of this permission.
2. No part of the development shall be commenced until the five passing bays, each 10m long giving a total width of 5.5m, have been constructed in permanent pavement materials to the satisfaction of the Local Planning Authority in the location shown on plan reference JM/3/90/391 approved under planning reference 3/94/0598. The passing bays shall thereafter be maintained to the satisfaction of the Local Planning Authority for their designed purpose.
3. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any order revoking or re-enacting that Order) any future extensions, external alterations to the dwelling including any development within the curtilage as defined in Schedule 2 Part 1 Classes A to H shall not be carried out without the formal consent of the Local Planning Authority.
4. Precise details of the garage doors shall be submitted to and approved in writing by the Local Planning Authority before the development commences.

The reason(s) for the condition(s) are:

1. Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.
2. In the interests of highway safety.
3. In order that the Local Planning Authority shall retain effective control over development.
4. In the interests of the visual amenity of the area and in order that the Council can effectively control the design of the garage door.

/Continued

**RIBBLE VALLEY BOROUGH COUNCIL
PLANNING PERMISSION CONTINUED**

APPLICATION NO. 3/97/0459/P

DECISION DATE: 11 SEPTEMBER 1997

Note(s)

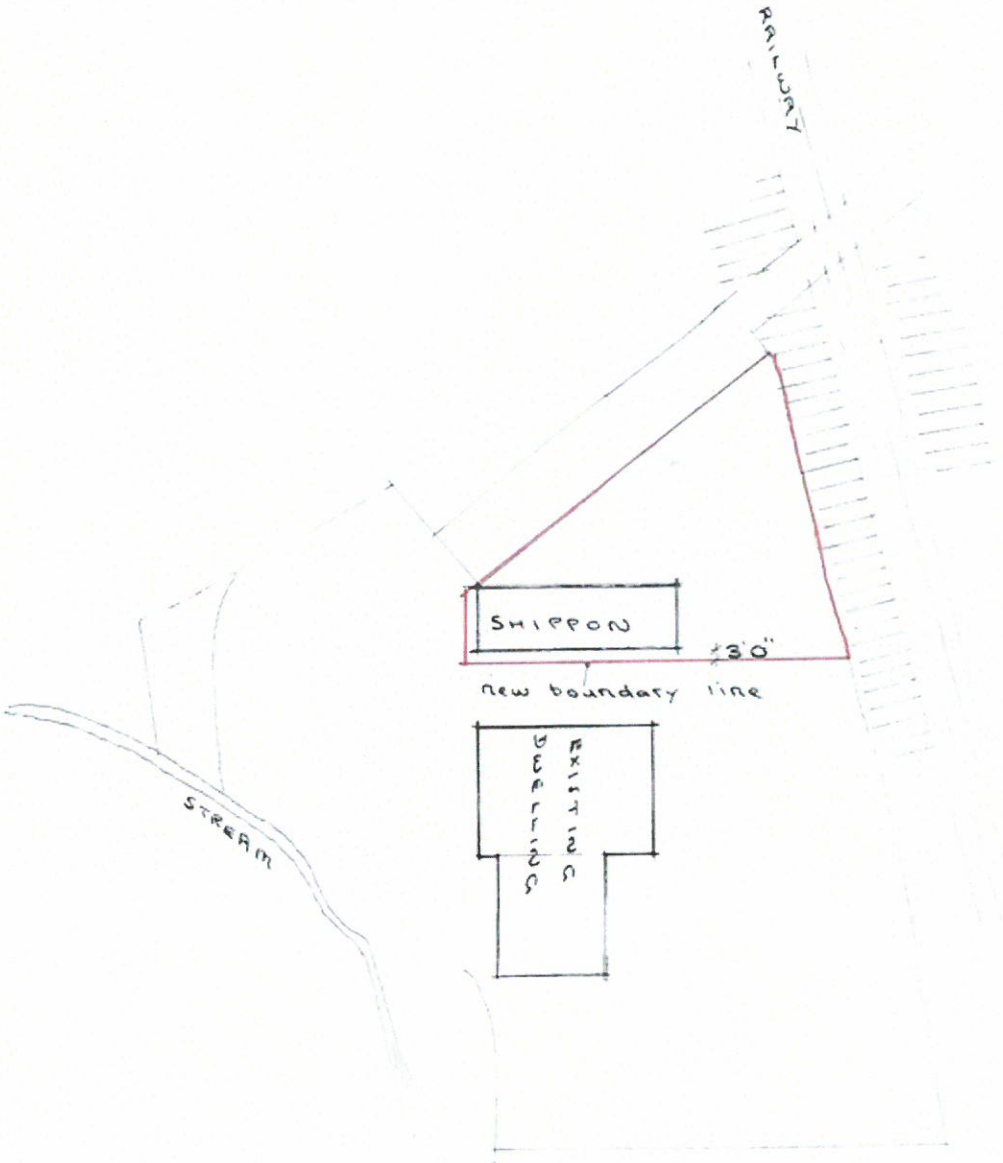
1. For the rights of appeal in respect of any condition(s) or reason(s) attached to the permission see the attached notes.
2. The applicant is advised that should there be any deviation from the approved plan the local planning authority must be informed. It is therefore vital that any future Building Regulation application must comply with the approved planning application.
3. Consent of the Environment Agency is required prior to the discharge of effluent to surface or underground waters. Consent will only be considered if discharge to the foul sewer is not practicable, in which case the applicant should consider:
 - (i) Construction of a soakaway area with no residual discharge to watercourse.
 - (ii) Construction of a soakaway area with a high level overflow discharging to watercourse.Direct discharge to watercourse which will only be considered where options (i) and (ii) are impracticable.

The applicant should be advised to contact the Environment Agency, Area Planning Liaison Officer, Lutra House, Dodd Way, Off Seedlee Road, Walton Summit, Bamber Bridge, Preston PR5 8BX for any option not involving discharge to foul sewer.
4. All downspouts should be sealed directly into the ground ensuring the only open grids present around each dwelling are connected to the foul sewage systems.

No rainwater contaminated with silt/soil from disturbed ground during construction must drain to the surface water sewer or watercourse without sufficient settlement.
5. No building material or rubbish must find its way into the water course.
6. If a water supply is to be obtained by abstracting from surface or groundwater sources advice should be sought from the Environment Agency at Lutra House, Preston.
7. The facilities must comply with the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations 1991. Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.
8. The granting of planning permission does not entitle a developer to obstruct a right of way and any proposed stopping up or diversion of a right of way should be the subject of an Order under the appropriate Act. Footpath 7 & 27 in Wilpshire abuts the site.


**STEWART BAILEY
CHIEF PLANNING OFFICER**

SITE PLAN 1:500



WILPSHIRE LANE FARM VICARAGE LANE WILPSHIRE