

The logo for Fitzgerald Planning & Design is centered within a white rectangular box with a thin orange border. The word "FITZGERALD" is written in a large, bold, blue sans-serif font. Below it, the words "PLANNING & DESIGN" are written in a smaller, orange sans-serif font. The background of the entire page is a light blue grid of small dots.

FITZGERALD

PLANNING & DESIGN

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Appeal Statement

Location: Beacon Holme, Whalley Road, Simonstone, Burnley, BB12 7HT

Proposal: Variation of S106 agreement attached to planning permission 3/1993/0056 in order to allow the annexe known as Littleholme to be sold or let as a separate dwelling.

Submitted: April 2022

1.0 Introduction

1. This Appeal Statement has been prepared by Fitzgerald Planning and Design on behalf of the applicant, Mrs Barbara Hamley, in support of an appeal following the refusal of planning application 3/2021/1040 to vary a Section 106 agreement attached to a permission in 1993 (3/1993/0056).
- 1.2 The application was refused on the 1st December for the following reason:

'The use of the building as an independent dwelling is unacceptable due to the poor relationship to surrounding dwellings and the intensification of the use of the site which would be contrary to Core Strategy Policies DMG1 and DMH5. As such the Section 106 agreement attached to planning permission 3/1993/0056 is still considered fit for purpose and as such is not revoked.'
- 1.3 This Statement will address the LPA's sole reason for refusal and sets out the relevant planning policy and the planning merits of the proposal. The Statement concludes that consent ought to be granted.
- 1.4 A pre-application enquiry was submitted to the Council in August 2021 and a response was received on the 21st September 2021. The pre-app sought the Council's views on the correct mechanism for the removal of the Section 106 attached to the 1993 application. The response was to submit a Section 106a application. A comment picked up in the pre-app response letter '*my understanding is that your client wishes to sell the unit as a separate dwelling*'. The selling on of the annexe has never been and is not the intention of the applicant, this was explained by myself in an email in September 2021;

To: Laura Eastwood <Laura.Eastwood@ribblevalley.gov.uk>

2 months ago



From paula@fitzgeraldpd.co.uk
To "Laura Eastwood" <Laura.Eastwood@ribblevalley.gov.uk>
Date Tue, 21 Sep 2021 11:34:50 +0100
Subject RE: Beacon Holme - ENQ 0091
Client Atmail 6.6.0.11156

Hi [Laura](#),

Many thanks for the response.

Just to note that it is not the intention of Mrs Hamley to sell the annexe off as a separate unit, she is only interested in being able to officially rent the annexe out. Mrs Hamley has been clear about this throughout my discussions with her. Can this be amended on your letter or at least a note be put on the file.

I only need a general legal fee, is it possible for someone in legal to have a look as a comparison to see what the charges were for 3/2020/0782? I know you can't help it, but I don't want to be waiting another 2 weeks or more before submitting the app.

Many thanks
Paula

Paula Fitzgerald MA Hons MRTPI
Director

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Website: www.fitzgeraldpd.co.uk

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This position was also clarified in the supporting letter submitted with the Section 106a application;

'Just to clarify, there is no intention from the applicant to subdivide the annexe from the house and create a separate planning unit with separate parking and amenity space. The aim of the 106a application is to remove the restriction of the annexe being sold or let as a separate dwelling to allow the applicant to let the annexe to someone outside the family.'

2.0 Site Description

- 2.1 The site consists of the property known as Beacon Holme, home to the applicant. The property is a large detached property set directly off Whalley Road and on the corner of Harewood Avenue. The property has a large front and rear garden and sits in a predominately residential area.
- 2.2 To the rear of the property is a detached annexe, known as Little Holme. This is the annexe which is subject to this Section 106a application and appeal.



Photo 1: Beacon Holme bay fronted, stone detached property



Photo 2: Little Holme, located in the rear garden area

3. Planning History

3/1993/0482 – first floor extension and alterations Refused 16/9/93

3/93/0056 – erection of granny flat within curtilage of Beacon Holme Approved with Section 106 Agreement 3/9/93

4.0 Relevant Planning Policy

National Planning Policy Framework 2021

- 4.1 The NPPF sets out at paragraphs 55 states planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Furthermore, planning obligations should be kept to a minimum and only imposed where they are; necessary, relevant to planning and to the development to be permitted, enforceable and precise.

Ribble Valley Council Core Strategy 2014

- 4.2 The Core Strategy was adopted by the Council December 2014 and now forms part of the statutory Development Plan for the Borough. It sets out the strategic planning policy framework to guide development in the borough up to 2028.

Most relevant to this site are the following:

Policy DMG1: General Considerations
Policy DMH5 – Residential and Curtilage Extensions

DMG1 – General considerations

Amongst other things that all development must;

1. not adversely affect the amenities of the surrounding area
2. provide adequate day lighting and privacy distances
3. have regard to public safety and secured by design principles
4. consider air quality and mitigate adverse impacts where possible

DMH5 – Residential and Curtilage Extension

The policy relates specifically to the extension of residential curtilages, which is not relevant to this appeal and relates to extensions which provide accommodation for elderly or dependant relatives. The appeal site is an existing annexe which is not seeking consent to alter or extend in anyway.

5.0 Planning Appraisal

5.1 Residential Amenity

- 5.2 Beacon Holme and Little Holme share the same access from Whalley Road, however Beacon Holme's principle elevation is Whalley Road in which the front door is situated and little Holme is accessed from a side patio door on the eastern elevation of the property. Whilst it is accepted that there is a close relationship between the two properties, there is at least 10m of separation.

The officers report notes *‘ it is not considered that the impact on residential amenity for adjacent properties will be any different to the current situation.’*

However in the concluding comments of the report, it states that;

‘ the use of the building as an independent dwelling is unacceptable due to the poor relationship to surrounding dwellings and the intensification of the use of the site.’

The report refers to details on how the site would be subdivided, but this has never been the intention of the application, which has been reiterated in several email correspondence with the Council.

5.3 Access and movement

There is adequate parking and turning area for at least 5 cars within the site.

Lancashire County Council were consulted on the application and had no objections subject to conditions.

The officers report notes that there could be the potential to lose the existing intergral garage and used as living accommodation, therefore increasing pressure on existing parking. Little Holme is only a 1 bedroom annexe, even if a couple were living in the annexe who had 2 cars, there would still be adequate room for parking within the existing driveway. There is no intention to alter or extend the annexe and therefore any presumptions that the annexe will change cannot be evidenced.

6. Conclusions

- 6.1 The application is to vary the existing section 106 to removal the word ‘let’ as there is no intention to sell off the dwelling by the applicant.

There is adequate parking at the site, an area of garden space for the annexe and the application does not seek to extend or alter the existing annexe in any way. It is not considered that the ability to let the property on a short term basis will not have a detrimental impact on the surrounding properties or lead to an intensification of the site.

- 6.2 The applicant wishes the 106 to remain in place but to remove the word ‘let’, so it would read;

‘Not allow the building subject of the development to be sold as a separate dwelling or used other than domestic accommodation forming part of the property Beacon Holme.’

Appendix 1 – Decision Notice

RIBBLE VALLEY BOROUGH COUNCIL
 Development Department
 Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA
 Telephone: 01200 425111 www.ribblevalley.gov.uk planning@ribblevalley.gov.uk

Town and Country Planning Act 1990

REFUSAL OF RELAXATION OF SECTION 106 AGREEMENT

APPLICATION NO: 3/2021/1040
DECISION DATE: 01 December 2021
DATE RECEIVED: 13/10/2021

APPLICANT:

Mrs B Hamley
 Beacon Holme
 Whalley Road
 Simonstone
 Burnley
 BB12 7HT

AGENT:

Paula Fitzgerald
 1 Maybury Avenue
 Burnley
 BB12 8AL



DEVELOPMENT PROPOSED: Variation of S106 agreement attached to planning permission 3/1993/0056 in order to allow the annexe known as Littleholme to be sold or let as a separate dwelling.

AT: Beacon Holme Whalley Road Simonstone BB12 7HT

Ribble Valley Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that permission **has been refused** for the discharge of planning obligation (relating to S106 agreement) of planning consent

The use of the building as an independent dwelling is unacceptable due to the poor relationship to surrounding dwellings and the intensification of the use of the site which would be contrary to Core Strategy Policies DMG1 and DMH5. As such the Section 106 agreement attached to planning permission 3/1993/0056 is still considered fit for purpose and as such is not revoked.

Note(s)

- 1 For rights of appeal in respect of any reason(s) attached to the decision see the attached notes.

RIBBLE VALLEY BOROUGH COUNCIL

Department of Development
Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA
Telephone: 0200 25111 Fax: 0200 26339

Town and Country Planning Act 1990

PLANNING PERMISSION

APPLICATION NO: 3/93/0056/P
DECISION DATE: 3 SEPTEMBER 1993
DATE RECEIVED: 2 FEBRUARY 1993

AGENT:

APPLICANT:
JOHN DWYER
BEACON HOLME
WHALLEY ROAD
SIMONSTONE
URNLEY

DEVELOPMENT PROPOSED: ERECTION OF DETACHED GRANNY FLAT WITHIN CURTILAGE OF BEACON HOLME

AT: BEACON HOLME, WHALLEY ROAD, SIMONSTONE
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):

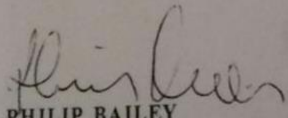
- 1 The development must be begun not later than the expiration of five years beginning with the date of this permission.
- 2 This approval shall be read in conjunction with the accompanying Section 106 Agreement signed and dated 3 September 1993.

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 For the avoidance of doubt.

Note(s)

- 1 For rights of appeal in respect of any condition(s)/or reason(s) attached to the permission see the attached notes.


PHILIP BAILEY
DIRECTOR OF DEVELOPMENT

THIS DEED WITNESSETH as follows:

1. THIS Agreement is made in pursuance of Section 106 of the Town and Country Planning Act 1990.
2. IN consideration of the Council hereby approving the said development for the purposes of the said Act the Owners and the Company covenant with the Council as set out in the Schedule hereto
3. THE expressions "the Council" "the Company" and "the Owners" shall include their respective successors in title and assigns.

IN WITNESS whereof the council and the Company have caused their Common Seals to be hereunto affixed and the Owners have signed as a deed the day and year first before written

THE SCHEDULE

1. The ^{Company} ~~Society~~ but so as not to impose any liability on the ^{Company} ~~Society~~ except during such time as the ^{Company} ~~Society~~ is in occupation of the said land and property and the Owners hereby covenant with the Council that the said land and property shall be permanently subject to the restriction regulating the development thereof as hereafter contained and the purport and intent of such covenant shall be endorsed by way of Memorandum on the Owners title deeds relating to the said land and property
2. The said restriction referred to in the preceding clause is as follows:
Not to allow the building the subject of the development to be sold or let as separate dwelling or used other than as domestic accommodation forming part of the property known as Beaconholme Whalley Road Simonstone Burnley Lancashire