



Land | Planning | Development

TOWN AND COUNTRY PLANNING ACT 1990

The Appellant's Written Statement

Appeal by: Mrs Tracy Jose

In respect of: Prior notification for the erection of two storage containers on legs painted dark green and clad in natural timber to be used for the purposes of forestry.

Site at: Wetters Bridge Plantation Twitter Lane Waddington BB7 3LG

Council Ref: 3/2024/0556

TOWN AND COUNTRY PLANNING ACT 1990

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1. Introduction

- 1.1 An application for prior notification for the erection of two storage containers on legs, painted dark green and clad in natural timber to be used for forestry purposes, was submitted to the Local Planning Authority (LPA) on 10th July 2024. A letter was issued from the LPA to the applicant on 02. August 2024. It states:

“It is the Council’s position that the development proposed does not constitute permitted development under Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) Order 2015 for the following reason:

1. *The applicant has failed to demonstrate that the proposed development would be reasonably necessary for the purposes of forestry. Accordingly, the proposed development fails to satisfy the requirements of Schedule 2, Part 6, Class E of the Town and Country Planning (General Permitted Development) Order 2015.*

Furthermore, the proposed development, by virtue of its scale, bulk, massing, materiality and location within a designated National Landscape as well as within an area of medium-high flood risk is considered to be unacceptable in terms of its siting, design and external appearance. As such, the proposal fails to meet the requirements of Paragraphs 135 (c), 168 and 182 of the National Planning Policy Framework”.

2. Site Location and Description

- 2.1 The appeal site is a privately owned woodland plantation situated on the South-western outskirts of Waddington, measuring 1.55 hectares in size. It is being managed by the applicant through the management, cultivation and growing of trees. The site is bound by Twitter Lane on its North-western side and Bashall Brook on its North-eastern and South-eastern sides. It is situated in the open countryside with the surrounding area comprising a mixture of woodland and agricultural land.
- 2.2 Access to the application site is via a single width track off the eastern side of Twitter Lane, which also serves as the access road into a sewage treatment works located to the South-east of the application site. The Environment Agency’s Flood Maps show that the site lies within the Flood Zone 3, with the EA’s flood risk map indicating that the risk of flooding to the site is ‘medium’.
- 2.3 There are no Tree Preservation Orders on the site.

Figure 1: Location Plan

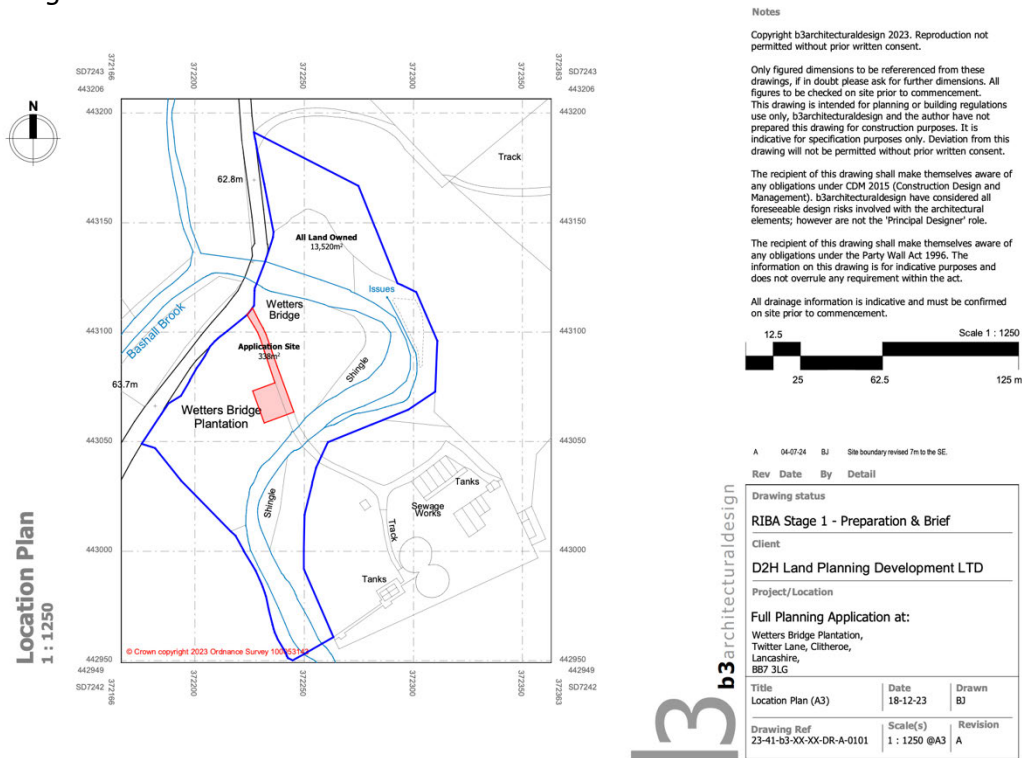


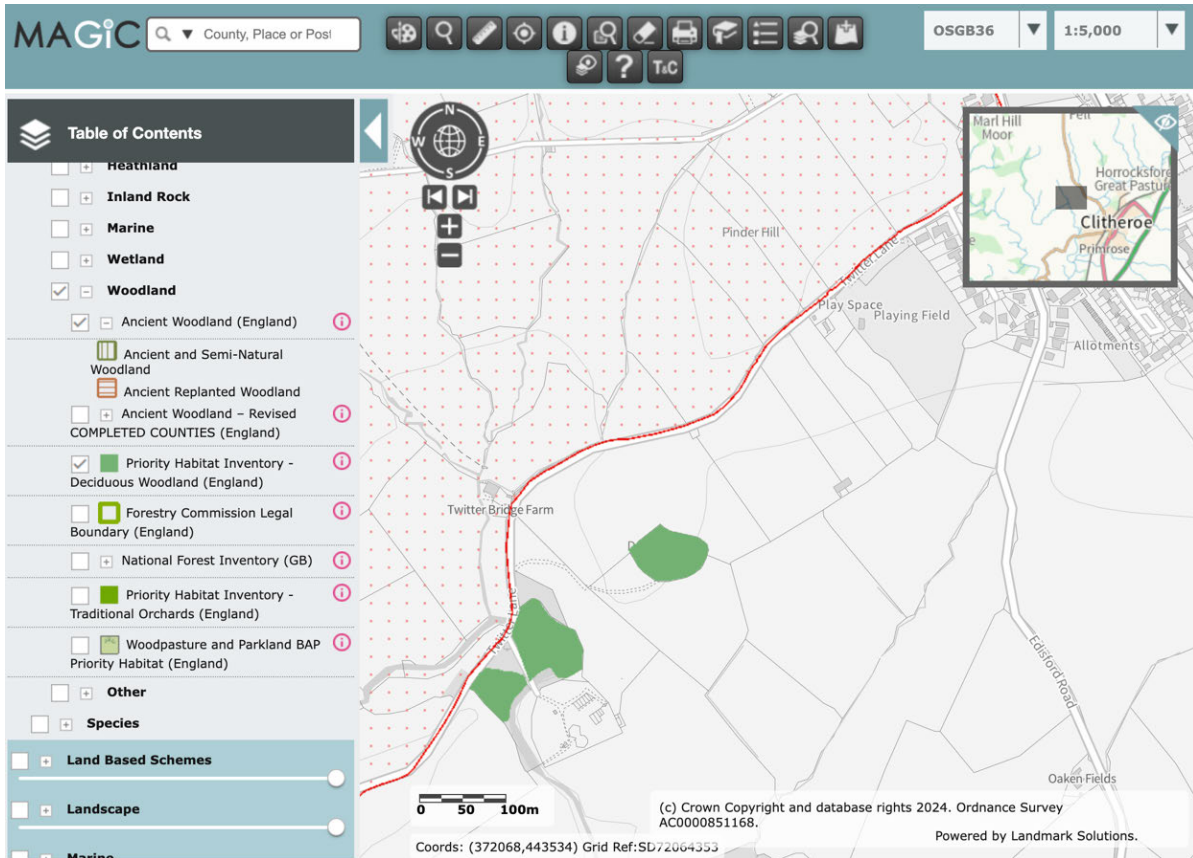
Figure 2: Aerial Photograph of the Application Site (source: Google Earth)



- 2.4 The application site lies outside the Forest of Bowland National Landscape (formerly AONB), separated from it by Twitter Lane. Figure 3 is an extract from the DEFRA Magic Map. This shows the extent of the National Landscape (pulka dotted area within the redline) and the extent of the Priority Habitat Deciduous Woodland within the wider land ownership. The woodland also includes priority area for both Curlew and Lapwing.

Figure 3: Extract from the DEFRA Magic Map (DEFRA Magic Map, accessed June 2024)

Planning Appeal – Wetters Bridge Plantation, Waddington



3. Proposal

3.1 The appeal proposal is for the erection of two steel storage containers (9.75mx 3.0m x 2.55m and 7.3m x 3.0m x 2.55m) on 300mm high legs, painted dark green and clad in natural timber, to be used for forestry purposes on the entire 1.55ha woodland.

Figure 4: Proposed Plans (Paul Erskine Architects) (Note: the containers will be painted dark green and clad in natural timber)

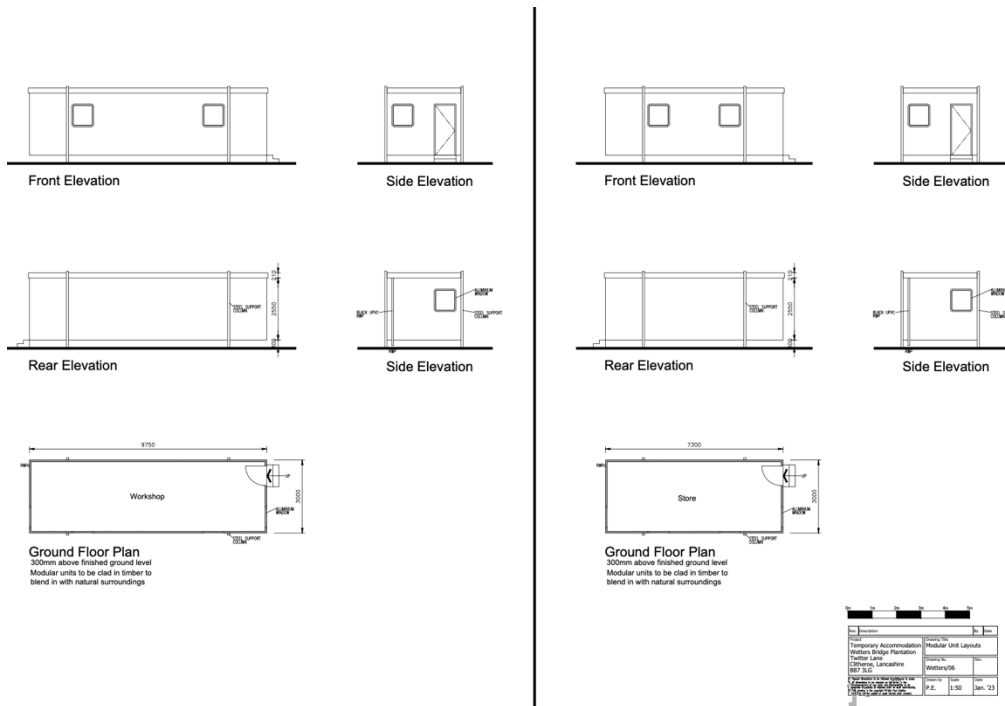


Figure 5: Example of the Proposed Timber-Clad Containers (Containers Direct, <https://www.shippingcontainersuk.com/brands/container-conversions.php>)



3.2 Wetters Bridge Plantation is being managed by the applicant. This has been at a very modest level, and to do it more successfully a Woodland Management Plan has been undertaken. This is submitted with the appeal statement.

3.3 The long-term vision is to retain, replace and improve the health and diversity of the Priority Habitat Deciduous Woodland while keeping and maintaining a wide biodiversity of habitat. It includes an appropriate thinning plan for the Ash trees identified with Ash dieback, and replanting with native bio-secure hardy Species. It will maintain and enhance the amenity and biodiversity value of the woodland, and enhance species and age class diversity within it, to increase robustness against disease attacks which are a current threat to the designated Priority Habitat Deciduous Woodland.

3.4 Any tree felling would be of selected trees, either as part of the habitat management outlined in the Woodland Management Plan or diseased trees identified in the Arboricultural report (or subsequently).

3.5 The Town and Country Planning (General Permitted Development)(England) Order 2015 does not define 'forestry'. However, the UK Forestry Standard 2023, the government's approach to

sustainable forest management, defines forestry operations as “*work or procedures carried out within a forest such as felling, extraction, cultivation and planting*”. ‘Forest’ is defined as being “*land predominantly covered in trees (defined as land that is under stands of trees with a canopy cover of at least 20%), whether in large tracts (generally called forests) or smaller areas known by a variety of terms (including woods, copses, spinneys or shelterbelts)*”:

<https://www.gov.uk/government/publications/the-uk-forestry-standard>

- 3.6 Furthermore, the Institute of Chartered Foresters provide a definition that forestry includes “*all aspects of the science, economics, conservation, amenity and art of establishing, cultivating, protecting, managing, harvesting and marketing of forests, woodlands, trees, timber and wood*”:

<https://www.charteredforesters.org/wp-content/uploads/2021/04/ICF-Bylaws-Regulations-Proposed-Changes.pdf>).

- 3.7 The use of the site is for forestry purposes.

4. Procedural Matters

4.1 The letter issued from the LPA to the applicant on 02. August 2024 does not explain if prior approval is required and refused, although it can reasonably be read that prior approval has been refused.

4.2 Paragraph A.2 of Schedule 2, Part 6 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (hereafter referred to as the ‘Order’) provides for a two-stage procedure for prior approval applications for forestry development. As explained by Richards LJ in *Murrell v SSCLG [2010] EWCA Civ 1367*:

4.3 *“30. When an application is submitted, it engages a two-stage process, the nature of which is set out clearly in Annex E (see, in particular, paras E12-E20). The first stage involves consideration of whether prior approval is required. If the council determines that it is not required, it should notify the applicant accordingly. If it determines that prior approval is required and notifies the applicant of the decision, it moves into the second stage, in which it has eight weeks or such longer period as may be agreed in writing to decide whether to give approval (see art.21 of the Town and Country Planning (General Development Procedure) Order 1995, which applied to applications for approval other than those under Pt 24 of Sch.2 to the GPDO ; now replaced by art.30 of the Town and Country Planning (Development Management Procedure) (England) Order 2010). The existence of a discrete second stage is underlined by the requirement in para.A2(2)(iv) as to the display of a site notice where the local planning authority has given notice that prior approval is required.*

31. The council can request further details at any time, though Annex E appears to contemplate that they will generally be called for only at the second stage, after it has been determined that prior approval is required.”

4.4 The case of *Murrell* concerned the prior approval process for agricultural buildings under the GPDO’s predecessor, the General Permitted Development Order 1995 and the superseded guidance in PPG7, however the statutory provisions were materially the same as the ‘Order’.

4.5 The decision taken by the LPA without first informing the applicant that prior approval was required was procedurally unfair. By failing to move to the second stage, the decision was made before the public notification/consultation requirement under paragraph A.2(2)(iv) was met. Furthermore, the applicant was denied the opportunity to address any matters arising from the LPA’s consideration of the first stage. The LPA did not discuss the application with the applicant or request any further details to support it prior to issuing its refusal letter. There was no opportunity to submit further supporting information and correct clear factual misunderstandings that are evident from the LPA’s decision letter.

- 4.6 The application was refused, inter alia, because the LPA considered its siting, design and external appearance would be unacceptable by virtue of its location within a designated National landscape. However, the application site is not within a designated National Landscape.
- 4.7 The application was refused, inter alia, because the LPA considered its location would be unacceptable within an area of medium-high flood risk. However, flood risk is not a consideration for development under Class E, Part 6, Schedule 2 of the 'Order' (unlike, for example, development under Class MA, Part 3, Schedule 2). The Government's National Planning Practice Guidance states:

*"Prior approval means that a developer has to seek approval from the local planning authority that specified elements of the development are acceptable before work can proceed. The matters for prior approval vary depending on the type of development and these are set out in full in the relevant Parts in [Schedule 2 to the General Permitted Development Order](#). **A local planning authority cannot consider any other matters when determining a prior approval application.***

*Paragraph: 026 Reference ID: 13-026-20140306
Revision date: 06 03 2014".*

- 4.8 The refusal reason states that *"proposal fails to meet the requirements of Paragraphs 135 (c), 168 and 182 of the National Planning Policy Framework"*. However, there was no requirement for the LPA (when determining the application) or the applicant (when submitting it) to have regard to the National Planning Policy Framework (NPPF) for development under Class E, Part 6, Schedule 2 of the 'Order' (unlike, for example, development under Class MA, Part 3, Schedule 2).

5. The case for the Appellant

5.1 A letter was issued from the LPA to the applicant on 02. August 2024. It states:

“It is the Council’s position that the development proposed does not constitute permitted development under Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) Order 2015 for the following reason:

1. *The applicant has failed to demonstrate that the proposed development would be reasonably necessary for the purposes of forestry. Accordingly, the proposed development fails to satisfy the requirements of Schedule 2, Part 6, Class E of the Town and Country Planning (General Permitted Development) Order 2015.*

Furthermore, the proposed development, by virtue of its scale, bulk, massing, materiality and location within a designated National Landscape as well as within an area of medium-high flood risk is considered to be unacceptable in terms of its siting, design and external appearance. As such, the proposal fails to meet the requirements of Paragraphs 135 (c), 168 and 182 of the National Planning Policy Framework”.

5.2 The letter does not explain whether prior approval is required and refused, although it can reasonably be read that prior approval has been refused. Responding to each of the points in the letter:

5.3 *The applicant has failed to demonstrate that the proposed development would be reasonably necessary for the purposes of forestry. Accordingly, the proposed development fails to satisfy the requirements of Schedule 2, Part 6, Class E of the Town and Country Planning (General Permitted Development) Order 2015.*

5.4 The Case Officer for this application has accepted within his delegated report that the woodland management falls within the definition of forestry. The refusal reason does not state that it does not amount to forestry, but rather that the proposed storage containers are not reasonably necessary for the purposes of forestry. As the operations are within the definition of forestry, the site benefits from permitted development rights under Schedule 2, Part 6 of the ‘Order’. These permitted development rights apply to any size of forestry holding, there are no restrictions on the size of the forestry building(s) that can be erected and there is no requirement that the forestry must be run as a trade or business. There is no definition of what is ‘reasonably necessary’ for the purposes of the ‘Order’, but it is not unreasonable in this case to provide two small buildings with a combined floor area of only 51.15sqm to support the forestry operation. Each building will be only 3.0m wide and 2.55m high. The small size of the buildings is proportionate to the proposed scale of the operation.

5.5 The proposed purposes of each building are as follows:

5.6 Use of Building 1 (29.25sqm)

- The safe and secure storage of fuel and oils necessary for the operation of machinery.
- The safe and secure storage of forestry machinery and tools to enable the full implementation of the Woodland Management Plan (equipment include chainsaws, saws, saw bench, ropes, winches, harnesses, chippers, log splitters, heavy duty log lifter, equipment for timber extraction, strimmers, garden spades and forks, pruning equipment, ladders, tape, paint etc).
- The storage and drying of timber.

5.7 Use of Building 2 (21.9sqm)

- A safe and secure workshop for the maintenance of machinery and tools (such as sharpening chainsaws etc).
- A toilet, internal water supply, changing and seating area, and an area for the storage and drying of protective clothing.
- Shelter from inclement weather.
- Further storage as necessary.

5.8 The above uses are not exhaustive. Machinery and equipment could vary from time to time, and the use of each building for forestry purposes might also vary depending

on the evolution of the Woodland Management Plan and the operations being carried out. The above tools and equipment would be required to implement the forestry operations proposed by the Woodland Management Plan regardless of the size of the woodland.

5.9 The applicant's son (who is employed on the woodland) lives over one hour away from the application site in a small rented property with no garage, storage or on-site parking. He has no means to store tools and equipment off-site, or transport any equipment to and from the site on each occasion forestry operations are being undertaken. Without dry, secure and covered on-site storage for machinery and equipment, tarpaulins would be required to create a temporary shelter. This would be inadequate because it would suffer from damage from the elements, expensive tools would deteriorate and the equipment would be prone to theft and tampering. The site is isolated and not monitored at all times. There is also the requirement to go to the toilet, sit down, have access to an internal water supply, change and find

shelter in inclement weather, and store and dry protective clothing. A small on-site workshop is needed to maintain and repair machinery and tools due to the inability to move these off-site.

5.10 The requirement to store and dry timber internally, and to segregate stored timber from the workshop and welfare areas, is also essential and will be part and parcel of the forestry operation. In the absence of a suitable drying space, it would have to be stored outside under canvas where it would suffer from cold, damp and rot. This makes it (including diseased wood) difficult to burn and dispose of. To enhance the sustainability of the operation the applicant is also considering selling firewood grown on site, and internal storage is necessary to enable the wood to dry out. The storage of even a small amount of timber takes up a lot of space, and the containers will be only 3.0m wide.

5.11 The Forestry Commission confirms that managing woodland in a sustainable way can make woods more resilient to the threat of future climate change, pests and diseases. Trees need nurturing to deliver the many benefits they can bring, from timber, carbon sequestration and flood alleviation to wildlife habitats:

<https://www.gov.uk/government/publications/woodland-management-matters-ensuring-the-future-health-and-resilience-of-our-woodlands/woodland-management-matters-ensuring-the-future-health-and-resilience-of-our-woodlands>

5.12 If the erected buildings were not as applied for in this application, and were not used for forestry purposes, the appellant would be liable to enforcement action by the LPA.

5.13 The proposed development, by virtue of its scale, bulk, massing, materiality and location within a designated National Landscape as well as within an area of medium-high flood risk is considered to be unacceptable in terms of its siting, design and external appearance. As such, the proposal fails to meet the requirements of Paragraphs 135 (c), 168 and 182 of the National Planning Policy Framework.

5.14 The proposed development will not be within a designated National Landscape, and this refusal reason is invalid. It will have no material or harmful impact on the landscape, scenic beauty or setting of the Forest of Bowland National Landscape that is located on the north side of Twitter Lane.

5.15 Flood risk is not a consideration for development under Class E, Part 6, Schedule 2 of the 'Order' (unlike, for example, development under Class MA, Part 3, Schedule 2). The government's Planning Practice Guidance states:

“Prior approval means that a developer has to seek approval from the local planning authority that specified elements of the development are acceptable before work can proceed. The matters for prior approval vary depending on the type of development and these are set out in full in the relevant Parts in [Schedule 2 to the General Permitted Development Order](#). A local planning authority cannot consider any other matters when determining a prior approval application.

Paragraph: 026 Reference ID: 13-026-20140306

Revision date: 06 03 2014”.

- 5.16 The requirement for prior approval under Schedule 2, Part 6 of the ‘Order’ is akin to a pre-commencement condition attached to the grant of permission by Article 3 of the ‘Order’, and it relates solely to the siting, design and external appearance of the proposed buildings. The LPA’s assessment of the prior approval matters must be made in a context where planning permission for the development is permitted subject to the provisions of the ‘Order’, and the principle of the development is acceptable.
- 5.17 The NPPF provides no guidance on what the siting, design and external appearance considerations are for development under Class E, Part 6, Schedule 2 of the ‘Order’. Whilst PPG7 was replaced with PPS7, which in turn has been replaced by the NPPF, Annex E of PPG7 remains relevant insofar as it provides reasonable and well accepted guidance on these matters when the NPPF does not. In relation to ‘siting’ it states:

“Siting

E27 The siting of a new agricultural or forestry building, road, excavation or waste deposit, or fish tank can have a considerable impact on the site and the surrounding landscape. Developments should be assimilated into the landscape without compromising the functions they are intended to serve. New buildings should normally form part of a group rather than stand in isolation”;

and

“To reduce their visual impact buildings should be blended into the landscape The siting of new agricultural or forestry buildings adjacent (but not too close) to existing woods may help to assimilate them into the landscape. The aim should not be to hide a building from sight, but rather to soften a hard outline, break up a prominent silhouette, and help 'anchor' a new building to the surrounding landscape”.

- 5.18 For ‘design and appearance’ it states:

“Design and appearance

E31 The choice of design and materials, and the relationships of texture and colour to existing development, local traditions, and the landscape, can be important considerations for both agricultural and forestry buildings and roads. For example, a single large building may have a greater impact on the countryside than one or more smaller buildings, which can be more easily

incorporated into an existing group and provide greater flexibility, although the function of the building will be material to shaping its form ...The colours chosen should be compatible with the rural setting, not to camouflage the building, but to allow it to relate to existing buildings”.

- 5.19 The proposed site for the two containers is in an area devoid of trees to minimise disruption to the woodland habitat, but surrounded by trees to hide them from public view. It will also allow the containers to be reached from the access road. The containers will be positioned close to each other to reduce their impact on the landscape. They will be located nearly 200.0m to the South of the nearest residential property. Given the limited size of the buildings, and their separation from the nearest residential receptor, they will not harm the amenity of any neighbouring resident(s). One container will be at least 27.0m from Twitters Lane, with the second container even further away, in a private woodland with no public access. They will not be easily seen or visually prominent in surrounding views.
- 5.20 The proposed containers will be modest structures of robust construction (a necessity for forestry operations), with a utilitarian and functional design and external appearance suitable for their intended purpose. They will be painted dark green and clad in natural timber to help them assimilate into the wooded landscape.
- 5.21 The limited size of the containers, together with their proposed siting, design and appearance, means they will not result in any visual harm to the surrounding area. As they will be on steel legs they will also have a negligible impact on the ground. The sustainable management of the woodland, and the implementation of the Woodland Management Plan, will however result in long-term and significant ecological and (over time) landscape benefits.
- 5.22 The Environment Agency’s Flood Maps show that the site lies within Flood Zone 3, with the EA’s flood risk map indicating that the risk of flooding to the site is ‘medium’. If the Inspector considers that flood risk is a material consideration for this appeal, notwithstanding the fact it is not cited as a specific consideration for development and there is no requirement to have regard to the NPPF under Class E, Part 6, Schedule 2 of the ‘Order’, the application was accompanied by a Flood Risk Assessment (FRA). This is submitted with the appeal statement. The sequential test is satisfied, and an Exception Test is not required.
- 5.23 The FRA was submitted for planning application 3/2023/0069 that proposed the change of use of part of the woodland land for the temporary siting of one two-bed residential caravan, and the erection of two modular units comprising a workshop and store:
- https://webportal.ribblevalley.gov.uk/site/scripts/planx_details.php?appNumber=3%2F2023%2F0069+.
- 5.24 As the current proposal is for forestry buildings in the same flood zone and broadly the same location, with a ‘less vulnerable’ Flood Risk Vulnerability Classification, the FRA is transferable:

<https://www.gov.uk/guidance/national-planning-policy-framework/annex-3-flood-risk-vulnerability-classification>.

5.25 Noting the specific nature of the development for forestry, and since the containers have to be sited in the woodland where these operations are to take place, there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Forestry buildings are permitted development, and it is unreasonable for the LPA to expect the buildings to be sited elsewhere. Whilst parts of the woodland are sited in Flood Zones 1 and 2 it is not possible to place the buildings in these locations due to the topography of the land, without damaging the woodland and ecology of the site, or as it would be impossible to reach them with vehicles from the existing access road.

5.26 Paragraph 4.15 of the Ribble Valley Borough Council Strategic Flood Risk Assessment - Level One (April 2017) states that:

“Following discussion with the EA [Environment Agency], it is proposed that all rural/undeveloped sites within Flood Zone 3 should, at this stage, be identified as “potential” Flood Zone 3B. Such sites should be subject to further investigation if, following the application of the Sequential Test, there are no alternative sites at a lower flood risk available for development. Sites that are subsequently defined as Flood Zone 3B as a result of further modelling and analysis for a Level 2 SFRA will be restricted to appropriate land uses”.

5.27 It is understood that a level 2 SFRA has not been undertaken, however since the EA raised no objection to the more vulnerable form of development proposed by planning application 3/2023/0069 (subject to the development being carried out in strict accordance with the mitigations measures detailed in the FRA), it can be assumed that the application site falls within Flood Zone 3A and an Exception Test is not needed:

<https://www.gov.uk/guidance/flood-risk-and-coastal-change#flood-zone-and-flood-risk-tables>.

5.28 The mitigation measures outlined in the FRA, where they are applicable to this development, will be implemented. For example, voids will be provided beneath the floor to allow the free movement of flood water.

6. Appellant's Response to the Planning Officer's Delegated Report

- 6.1 In this section the appellant responds (in bold) to comments made in the Case Officer's Delegated Report (in italics).
- 6.2 *"It is unclear as to how much of this woodland will be managed as part of the proposed forestry operations" and "the application's planning statement makes reference to certain areas of the site (within Flood Zones 1 & 2) as being inaccessible".*

This could have been answered if the LPA had sought clarification from the applicant.

For the avoidance of doubt, the whole of the 1.55ha woodland owned by the applicant is covered by the Woodland Management Plan. The Location Plan submitted with the application shows the whole extent of the woodland in the applicant's ownership.

The Tree Constraints Plan within the Woodland Management Plan submitted with the application was only intended to show the woodland immediately around the proposed containers (the area for development identified in red on the Location Plan), and the full Management Plan Area (Hectares) was omitted from the document in error. To avoid confusion the Woodland Management Plan has been amended (this is the only change) so it is clear that it relates to the whole 1.55ha. The amended Woodland Management Plan is submitted with the appeal statement and it would be an approved document if the appeal is allowed. As per the judgement in *Holborn Studios Ltd v The Council of the London Borough of Hackney (2018)* this does not make a substantial difference to the application, and it would not cause procedural unfairness to any party. There has been no public consultation for the application.

The Planning Statement says that *"whilst parts of the woodland are sited in Flood Zones 1 and 2 it is not possible to place the buildings in these locations without damaging the woodland and ecology of the site, and as it would not be possible to reach them with vehicles from the existing access road"*. It does not say these areas are inaccessible.

- 6.3 *"The area of woodland subject to the operations proposed under this application would be nominal in size (likely smaller than 0.5 hectares) therefore it is not considered that the management of the application site as proposed would in this instance fall within the realm of 'forestry operations'".*

The whole of the 1.55ha woodland owned by the applicant is covered by the Woodland

Management Plan.

The Case Officer accepts within his delegated report that the woodland management to be carried out by the applicant falls within the definition of forestry. The refusal reason does not state that it does not amount to forestry, but rather that the proposed storage containers are not reasonably necessary for the purposes of forestry. The UK Forestry Standard 2023, the government's approach to sustainable forest management, defines forestry operations as *“work or procedures carried out within a forest such as felling, extraction, cultivation and planting”*.

As the operations are within the definition of forestry, the site benefits from permitted development rights under Schedule 2, Part 6 of the 'Order'. These permitted development rights apply to any size of forestry holding.

- 6.4 *“Previous appeal decisions suggest that the management of small woodland sites cannot reasonably be considered as meeting the definition of forestry (0.5ha in the case of planning appeal APP/X0360/C/19/3234843). As previously conveyed, the area of woodland subject to the operations proposed under this application would be nominal in size (likely smaller than 0.5 hectares) therefore it is not considered that the management of the application site as proposed would in this instance fall within the realm of ‘forestry operations’”.*

The Case Officer accepts elsewhere within his delegated report that the woodland management to be carried out by the applicant falls within the definition of forestry. The refusal reason does not state that it does not amount to forestry, but rather that the proposed storage containers are not reasonably necessary for the purposes of forestry. The UK Forestry Standard 2023, the government's approach to sustainable forest management, defines forestry operations as *“work or procedures carried out within a forest such as felling, extraction, cultivation and planting”*.

The Case Officer's statement that the area of woodland is smaller than 0.5ha is incorrect as it measures 1.55ha. As the operations are within the definition of forestry, the site benefits from permitted development rights under Schedule 2, Part 6 of the 'Order'. These permitted development rights apply to any size of forestry holding.

Planning appeal APP/X0360/C/19/3234843 related to works to alter an existing water tank to a relatively large 2-storey building on a 0.56ha site. The current proposal is for the erection of two small buildings, measuring only 3.0m wide, 2.5m high and with a combined floor area of 51.15sqm, on a 1.55ha woodland. Appeal APP/X0360/C/19/3234843 is for a materially different development on a different site, and it is of no relevance to this appeal.

- 6.5 *“Whilst it is noted that a small number of trees have recently been felled within the application site, case officer site visit photos from May 2024 suggest that no other works within the realm of forestry operations have recently taken place within the site. Furthermore, historic aerial imagery of the woodland area in question fails to show any obvious difference in woodland cover between 2011 and 2024 that could be attributable to*

active forestry operations. As such, it remains doubtful as to whether works that would constitute forestry operations are currently being (or have ever been) undertaken within the application site”.

Wetters Bridge Plantation is being managed by the appellant. This has been at a very modest level, however in order to do it more successfully a Woodland Management Plan has been undertaken. This is submitted with the appeal statement. Prior approval is sought for two small containers to enable the implementation of the Woodland Management Plan.

6.6 *“The fact that the applicant has no plans to acquire a felling license (required for more intensive forestry operations), [means] it is not unreasonable to assume that any resultant works carried out on site would be predominantly small in scale”.*

As the operations are within the definition of forestry, the site benefits from permitted development rights under Schedule 2, Part 6 of the ‘Order’. These permitted development rights apply to any size of forestry holding and there is no requirement that the forestry must be run as a trade or business.

The proposed buildings are small in scale, measuring only 3.0m wide and 2.55m high, and they are reasonably necessary for the purposes of forestry.

6.7 *“Most of the items referenced in the applicant’s proposed tool and machinery inventory are portable items and as such could be brought onto the application site as and when required and given that the application site is accessible by vehicles it is not anticipated that the applicant would face any access issues in transporting tools and machinery to and from the site.....no case has been put forward as to why the applicant’s tools and machinery need to be maintained and serviced within the confines of the application site. Subsequently, it remains unclear as to why the proposed modular buildings would be required for the storage and maintenance of the applicant’s tools and machinery”.*

This could have been answered if the LPA had sought clarification from the applicant.

The appellant’s son (who is employed on the woodland) lives over one hour away from the application site. He has no means to store tools and equipment off site, or to transport any equipment to and from the site on each occasion forestry operations are being undertaken or tools and machinery need maintenance or repair. As the operations on the land are within the definition of forestry, the site benefits from permitted development rights under Schedule 2, Part 6 of the ‘Order’. It is not unreasonable to require two small on-site buildings to support them. The LPA’s assessment of the prior approval matters should be made in a context where planning permission for the development is permitted subject to the provisions of the ‘Order’, and the principle of the development is acceptable.

- 6.8 *“One of the proposed buildings would partially be utilised for the purposes of providing welfare provisions in order to comply with the Workplace (Health, Safety and Welfare) Regulations 1992. Notwithstanding this, and as previously conveyed, no robust evidence has been provided to demonstrate that management of the application site as proposed would in this instance amount to forestry operations whereby the application site could be considered in the context of a workplace. Furthermore, given the non-commercial nature of the operations proposed, it is more than likely that any works carried out within the application site would be undertaken in the applicant’s spare time therefore the requirement for on-site welfare facilities is considered to be far less pertinent than would be the case if the applicant was attempting to utilise the application site in a more intensive manner for the purposes of generating a primary means of income”.*

The applicant’s son is employed on the woodland, and others may be employed from time to time to assist with specific forestry operations. Noting the requirements of the Health and Safety at Work etc Act 1974 where employers have a general duty under section 2 of the Act to ensure, so far as is reasonably practicable, the health, safety and welfare of employees, it is not unreasonable to provide on-site welfare facilities in the form of a toilet, internal running water, a seating area, shelter and clothes storage. The woodland is isolated. The LPA’s position that these facilities are only necessary if the site is used as a business is unreasonable, and the permitted development rights to erect buildings under Schedule 2, Part 6 of the ‘Order’ do not require that the forestry must be run as a trade or business.

- 6.9 *“It is also stated that one of the proposed buildings would be used for the storage and drying of timber however on-site timber storage of any significant scale and duration is not considered to be a core forestry activity”.*

The requirement to store and dry timber internally, and to segregate stored timber from the workshop and welfare areas, is essential and will be part and parcel of the forestry operation. In the absence of a suitable drying space, it would have to be stored outside under canvas where it would suffer from cold, damp and rot. This makes it (including diseased wood) difficult to burn and dispose of. To enhance the sustainability of the operation the applicant is also considering selling firewood grown on site, and internal storage is necessary to enable the wood to dry out.

- 6.10. *“Also of relevance is previous planning application ref: 3/2023/0069 which sought planning consent for the siting of a residential caravan and erection of two modular units. Of particular relevance here is that the two modular units proposed for the site under the current application are identical to the two modular units proposed for the site under planning application 3/2023/0069 (which were not intended for any use in relation to forestry operations) with respect to their siting, orientation, height and footprints. In turn, this raises some doubt as to whether the proposed buildings would actually be used in relation to forestry as is stated in the current application”.*

This conclusion is unreasonable. It is supposition, but has nonetheless been instrumental in the Officer’s decision to refuse the application. If the erected buildings were not as applied for in this application, and were not used for forestry purposes, the appellant would be liable to enforcement action by the LPA.

Having sought professional advice the appellant was advised that the management of the woodland amounted to forestry, and as such a prior approval application for forestry development could be made.

6.11 *“It is stated that the addition of timber cladding to the units would allow the buildings to blend in with the natural surroundings of the application site however an indicative photograph of the cladded container within the application’s supporting statement depicts a largely conspicuous structure. Accordingly, it is considered that the modular buildings, by virtue of their bulky and largely utilitarian design would be predominantly at odds with the unspoilt character of the application site to the extent that the proposed buildings would detract from the natural beauty of the site. In addition, the modular units would be partially visible from within the public realm from Twitter Lane”.*

If the LPA was concerned about the appearance of the proposed timber cladding it could have raised this with the applicant, to discuss alternative finishes, prior to the application being refused. The applicant was keen to work with the LPA to secure permission, and the LPA should have approached the decision on the proposed development in a positive and creative way and worked proactively with the applicant to find a solution.

It is not accepted that the timber cladding is inappropriate within the woodland setting. The buildings will be surrounded by trees to hide them from public view, painted dark green and clad in natural timber to help them assimilate into the wooded landscape. The containers will be positioned close to each other to reduce their impact on the landscape. They will be located nearly 200.0m to the South of the nearest residential property and in excess of 27.0m from Twitters Lane, in a private woodland with no public access. They will not be easily seen or visually prominent in surrounding views.

Areas of forest and woodland are frequently naturally beautiful, but where forestry operations are being carried out they benefit from permitted development rights under Schedule 2, Part 6 of the ‘Order’ where new buildings are anticipated.

There is a sewage treatment works and associated built paraphernalia in close proximity to the application site.

7. Conclusion

7.1 The government's Planning Practice Guidance states:

"The statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. This is deliberate, as prior approval is a light-touch process which applies where the principle of the development has already been established...It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system.

*Paragraph: 028 Reference ID: 13-028-20140306
Revision date: 06 03 2014"*

- 7.2 The Case Officer for this application has accepted within his delegated report that the woodland management to be carried out by the applicant falls within the definition of forestry, and it has been sufficiently demonstrated that the buildings are reasonably necessary for the purposes of forestry and their siting, design and external appearance will be acceptable.
- 7.3 The LPA's assessment that the buildings are not reasonably necessary for the purposes of forestry is based on incorrect assumptions, about the size of the woodland and the ability of the appellant's son (who will be employed on the land) to store tools and equipment off site, or to transport any equipment to and from the site on each occasion forestry operations are being undertaken or tools and machinery need maintenance or repair. It also unreasonably assumes that welfare facilities will not be necessary for those working on the woodland despite its isolation, and without evidence expresses doubt as to whether the proposed buildings would actually be used in relation to forestry.
- 7.4 Areas of forest and woodland are frequently naturally beautiful, but where forestry operations are being carried out they benefit from permitted development rights under Schedule 2, Part 6 of the 'Order' where new buildings are anticipated. Had the government intended that no buildings could be erected within forests and woodlands this permitted development right would not exist. The applicant is not seeking approval for any large building(s), but two small containers with a combined floor area of only 51.15sqm. They will measure only 3.0m wide and 2.55m high. The buildings will be surrounded by trees to hide them from public view, painted dark green and clad in natural timber to help them assimilate into the wooded landscape.
- 7.5 The containers will be positioned close to each other to reduce their impact on the landscape. They will be located nearly 200.0m to the South of the nearest residential property, and in excess of 27.0m from Twitters Lane in a private woodland with no public access. They will not be easily seen or visually prominent in surrounding views. They will be adjacent to a sewage treatment works and associated but paraphernalia. If the erected buildings were not as applied

for in this application, and were not used for forestry purposes, the appellant would be liable to enforcement action by the LPA.

- 7.5 The LPA's grounds for refusing the application as it is within a designated National Landscape (it is not), and an area of medium-high flood risk, are without merit.

8. Contact



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