

DEVELOPMENT CONTROL COMMITTEE

TUESDAY, 16TH JUNE 2015, 6.30 PM

COUNCIL CHAMBER, TOWN HALL, CHORLEY

I am now able to enclose, for consideration at the above meeting of the Development Control Committee, the following reports that were unavailable when the agenda was published.

Agenda No	Item	
3C	15/01272/OUT - LAND BETWEEN 71 AND 81 STATION ROAD, CROSTON	(Pages 26 - 35)
4	DELEGATION FOR APPLICATIONS TO ADDRESS THE JUDICIAL REVIEW CHALLENGE OUTCOME	(Pages 36 - 39)
	Report of the Director of Public Protection, Streetscene and Community (enclosed).	

GARY HALL
CHIEF EXECUTIVE

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Item 4C	14/01272/OUT
Case Officer	Helen Lowe
Ward	Lostock
Proposal	Outline application for residential development (All matters reserved apart from means of access)
Location	Land between 71 and 81 Station Road, Croston
Applicant	Northern Trust Co. Ltd
Consultation expiry:	5th June 2015
Decision due by:	19th June 2015
Recommendation	Approve outline application, subject to conditions
Executive Summary	This is an outline application, will all matters reserved except for access. The application site is located within the settlement boundary of Croston and is considered to form an infill plot as defined in policy HS7 of the emerging Local Plan.

Representations

<p>Croston Parish Council Objects to the proposals on the following grounds:</p> <ol style="list-style-type: none"> 1. The proposed dwellings are out of character with neighbouring properties; 2. The height would cause an unacceptable degree of overlooking and loss of privacy for the occupants of several neighbouring properties;
<p>In total 21 representations have been received which are summarised below</p>
<p>Objection</p>
<p>Total No. received: 21</p> <ul style="list-style-type: none"> • The proposal would add to congestion and endanger pedestrians; • The houses would cause overlooking and a loss of privacy; • It is unclear what type of boundary treatments are being proposed; • Access to the rear of no. 81 may be restricted; • Three storey dwellings would look out of place and not aesthetically pleasing. They would be excessively bigger in scale to the surrounding houses; • They would block light from neighbouring properties and gardens; • Habitat loss should be minimised, especially trees. Many species of birds and animals use the site; • There would be a negative impact on the street scene, it does not complement the character and setting of existing buildings; • Having a car park in front would make the area visually unappealing; • There could be localised flooding; • It would lead to greater on street parking as cars currently use the land for parking; • The houses would create an overbearing impact; • There is no demand for four bedroom housing in Croston; • The historic character of Croston would suffer as a result; • The development cannot be classed as infill as the scale and design are not appropriate to the area and the development is twice as big as the definition; • The previous houses on the site were considerably smaller (four cottages); • There are already significant drainage issues on Station Road; • There is no area on the plans that states where all waste recycling bins will be stored; • Cars would have to enter and exit onto Station Road in reverse gear making it dangerous; • The ecological survey shows the houses in a different positions; • The plans do not show 1A and 1B Bramblewood, when the plans have been amended these are not labelled correctly;

- The development would negatively impact businesses in the area as people will have nowhere to park;

Consultees

Consultee	Summary of Comments received
United Utilities	Comment that in accordance with the Framework the site should be drained on a separate system with foul water draining into the public sewer and surface water draining in the most sustainable way. United Utilities would promote the use of permeable paving on all driveways and other hard standing areas including footpaths and parking areas. No conditions are recommended.
Chorley Council Tree Officer	Confirm that there are no mature trees on the site and comment that the trees within the site are of low quality with very limited merit.
Planning Policy	Comment that the proposal should meet the requirements of policy HS7 of the emerging Local Plan.
Lancashire County Council Highways	Raised concerns with the originally submitted plans regarding the level of off street car parking provision proposed which was contrary to the County Council's objective of encouraging modal shift from the private car. The LCC Highway engineer has raised no objections to the amended plans and recommends that conditions be attached.
Chorley Council Conservation Officer	Comments that resin bound gravel using a stone of local origin or loose gravel laid in a geotextile web would be a more appropriate ground surface material, rather than tarmac and that additional landscaping would help to soften the hard edges as this has a very urban appearance.
Environment Agency	Have no comments and have advised that it is applicable to apply their standing advice in this instance.

Assessment

Principle of the Development

1. The application site is an area of vacant land within the settlement boundary of Croston located between numbers 81 and 71 Station Road. Previously the site was occupied by a row of four cottages, however these were demolished some time ago and there is no evidence on the site of their presence. The application site is not located within Croston Conservation Area.
2. Croston is not identified as an area for growth in Core Strategy Policy 1. In accordance with criterion f) of Policy 1 development should typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes. Policy HS7 of the emerging Local Plan sets out Chorley Council's approach to residential infilling in villages such as Croston.
3. Policy HS7 states that the following criteria should be met:
 - a) The existing buildings form a clearly identifiable built-up frontage;
 - b) The site lies within the frontage, with buildings on either side, and its development does not extend the frontage;
 - c) The proposal would complement the character and setting of the existing buildings.
4. There is a clearly identifiable built-up frontage along this part of Station Road, which accords with criterion a). The application site lies within the frontage, with buildings on either side, and its development would not extend the frontage. Therefore, the site accords with criterion b).
5. The policy states that infill is the filling of a small gap in an otherwise built-up street frontage, e.g. typically a gap which could be filled by one or possibly two houses of a type in keeping with the street frontage. Although, in some circumstances it may be possible to allow more dwellings depending on the scale of the development proposed. This application seeks to establish the acceptability of the principle of residential development on the site with only the means of access proposed at this stage. There are a variety of houses along Station Road, but it is dominated by terraced dwellings. Other detailed matters will be considered at reserved matters stage and for any scheme to be approved it will need to be in keeping with the street frontage.
6. The policy also states that when assessing rural infill sites, the Council will also have regard to site sustainability. This site is located in a central location in Croston, offering good access to its services and facilities. One of the core principles of the Framework is that planning should seek to encourage the effective use of land that has been previously developed, although it does not preclude the development of previously undeveloped land. One of the other core principles of the Framework is that development should be focussed in locations that are sustainable. It is considered that the site is located in a sustainable location with easy access to public transport, amenities such as shops and school nearby and the means to access other amenities easily. The Framework also states that development in sustainable locations should be approved without delay. This presumption in favour of sustainable development is reflected in policy V2 of the emerging Local Plan.
7. It is therefore considered that the principal of residential development on the application site is acceptable.

Design and appearance

8. Policy HS7 of the emerging plan states that proposals for infilling within smaller villages the proposal must complement the character and setting of the existing buildings. Policy BNE1 of the emerging Local Plan also states that new development should not have a detrimental impact on the surrounding area by virtue of its density, siting, layout, building to plot ratio, height, scale and massing, design, orientation and use of materials.
9. The application is in outline only, with all matters reserved except for access. However, the applicant has provided indicative plans, showing a possible suggested layout and, design and scale of the proposed dwellings. These have been amended a number of times since the application was originally submitted essentially in response to comments made by the LCC Highways Engineer to demonstrate that vehicles would be able to enter and leave the site in

forward gear. The indicative layout shows that the dwellings would be set back approximately 12.5m from the edge of the pavement, with the parking to be provided to the front in two bays of four perpendicular to the road to allow vehicles to enter and exit in a forward gear.

10. This part of Station Road in Croston is characterised by small clusters of terraced properties, many sited close to the pavement edge. It is considered that it would be preferable if the proposed dwellings were located closer to the road than the suggested layout. However, in order to achieve an acceptable highways solution it is necessary to set the properties back within the site. There are other dwellings nearby on Station Road that are set back from the footpath edge. There are no objections in principle to the dwellings being set back although careful consideration will need to be given to the treatment of the parking area.
11. Whilst suggested floor plans and elevations of the dwellings have been provided these are not considered to be acceptable. In particular the suggested scale of the properties does not complement the existing street scene because the indicative eaves and ridge heights would be considerably higher than adjacent properties, particularly those to the south. These plans are however indicative only and are not for consideration. Detailed matters of design would be assessed at reserved matters stage.

Neighbour Amenity

12. Policy BNE1 of the emerging Local Plan states that new development must not cause harm to any neighbouring property by virtue of overlooking, overshadowing, or by creating an overbearing impact. The application site is bounded to the north and south by other residential properties.
13. To the north the application site is bounded by the side facing elevation of no. 71 Station Road and the rear gardens of nos. 1A and 1B Bramblewood (two properties recently built within the rear garden area of no. 71A Station Road). There is a ground floor window in the side facing elevation of no. 71 that appears to be a secondary window. There are no windows in the rear elevation of no. 71 to be affected by the proposal.
14. The suggested siting of the dwellings, set back 12m from the front/western boundary of the application site, and their proposed depth, would have an adverse and unacceptable impact on the outlook from, and rear garden area of, no. 81 Station Road to the south. This is because such siting would not comply with the 45 degree plus 3m guideline taken from the near edge of the nearest ground floor window to the rear of no. 81 Station Road.
15. Furthermore, the suggested eaves height of the proposed dwellings is 5.5m and the suggested ridge height is 9.8m, with living accommodation to be provided in the roof space and dormers to the rear elevation. The eaves height of the adjacent property immediately to the south, no. 81 is approximately 4.4m and the ridge height is approximately 6.4m. Such scale would not be acceptable.
16. However, these plans are only indicative and it is considered that residential development could be accommodated on the site without causing harm to the level of residential amenity currently enjoyed by the occupiers of neighbouring properties. The final layout and design of the dwellings proposed would be agreed at the reserved matters stage. It is considered that it would be possible to design an acceptable residential scheme that would have acceptable relationships with adjoining properties.

Highway safety

17. Policy ST4 of the emerging Local Plan sets out the relevant parking standards for new development and policy BNE1 requires that new development should not prejudice highway safety.
18. A suggested layout has been submitted by the applicant that the LCC Highways Engineer considers to be acceptable. This provides for two off road parking spaces per dwelling. The suggested floor plans for the dwelling show three bedrooms on the first floor, with a room in the roof space labelled as a media/family room, although it is considered likely that the room may be used as an additional bedroom, especially as the room has en-suite bathroom facilities. The Council's parking standards require that a three bedroom property should have two off road

parking spaces and a four bedroom property should have three. Again these details will be considered at reserved matters stage.

19. The comments of the neighbouring residents with regard to the use of the land as public parking are noted. However, the land is in private ownership and this use could cease at any time. It is not considered that the loss of this space for public off street parking can be afforded significant weight in the decision making process.
20. The LCC Highways Engineer has not raised any objections to the proposed means of access which is considered to be acceptable.

Ecology

21. The applicant has submitted an Extended Phase 1 Habitat Survey and Baseline Ecological Impact Assessment with the application. The assessment comprises a data search, extended Phase 1 habitat survey of the site, vascular plant species survey, badger survey, and bat survey. The surveys found that there were no signs of any protected or otherwise important species such as ground nesting or over wintering birds, great crested newts, common toads, red squirrels, roosting bats, badgers or barn owl, and no important habitats or vegetation communities occur on site boundaries. There were no historic records of protected or otherwise important species or habitats occurring within or close to the site boundaries.
22. The assessment finds that the site is likely to be used by a small number of relatively common breeding birds, small mammals and to a small extent for foraging and commuting by bats, but is otherwise of limited ecological value.
23. The concerns of neighbouring residents are noted, however the ecological assessment has been carried out by an appropriately qualified and experienced professional using recognised methods. There is no reason or evidence to doubt the findings of the assessment. The findings of the assessment are therefore considered to demonstrate that the proposal would not give rise to significant harm to protected species.

Flood risk and Drainage

24. A small part of the front of the site is located within Flood Zone 2. The Environment Agency has advised that it is applicable to apply their standing advice. This states that for a development of this type a flood risk assessment should be provided. This has been requested from the applicant and is to follow. Members will be updated via the Addendum.
25. The comments of neighbouring residents regarding drainage problems in the local area are noted. However, the Environment Agency and United Utilities have not raised any concerns with the proposals. Matters of drainage will be dealt with through the Building Regulations process. It is not considered that it would be reasonable to refuse the application on these grounds.

S106 agreement

26. The Open Space and Playing Pitch SPD was adopted for development control purposes at the Council meeting on 17th September 2013 and open space requirements relating to new housing schemes accord with emerging Local Plan Policies HS4A and HS4B and the approach in the SPD. However this development is for one dwelling which is below the 10 unit threshold set out within the NPPG and also has a combined gross floorspace of less than 1000m². In the case of this development there is no evidence at this time, which is directly related to the development, to seek a contribution towards public open space contrary to the national guidance.

Community Infrastructure Levy (CIL)

27. The Chorley CIL Charging Schedule provides a specific amount for housing - £65 per sq m. This was adopted in July 2013 and charging commenced on 1 September 2013. As the proposal results in new residential floor space being created a CIL liability notice will be issued for the development.

Overall Conclusion

28. The application site is located within the settlement boundary of Croston, within a clearly identifiable built up frontage with buildings on either side for a substantial distance. In terms of its

size and location it is considered that the site falls to be considered as an infill plot and residential development of the site is appropriate in principle. The indicative layout and design of the proposal is unacceptable. However it is considered that it has been adequately demonstrated that the means of access to a residential development could be satisfactorily be provided and other detailed matters will be assessed at the reserved matters stage. Subject to the receipt of an acceptable flood risk assessment, it is not considered that there are sufficient reasons to recommend refusal of this outline application.

Planning Policies

29. In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Borough Local Plan Review 2003 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposals has had regard to guidance contained with the National Planning Policy Framework (the Framework), the development plan and the emerging Local Plan 2012-2026. The specific policies/ guidance considerations are contained within the body of the report.

Note on the Emerging Chorley Local Plan 2012-2026

30. In October 2013, the Local Plan Inspector issued her partial report on the findings into the soundness of the Chorley Local Plan 2012-2026 which is a material consideration in the consideration of any planning application. In summary, the plan is considered to be legally compliant. In relation to soundness, the plan is considered sound, with the exception of matters relating to Gypsies and Travellers.
31. Paragraph 18 of the Partial Report states: *“For the avoidance of doubt, the Plan may not be adopted until it has been changed in accordance with all the main modifications set out in the Appendix to this partial report and any which may be specified in the Appendix of my forthcoming supplementary report. However because of the very advanced stage in the examination process that the main modifications set out in the Appendix have reached, significant weight should be attached to all policies and proposals of the Plan that are amended accordingly, where necessary, except for matters relating to Gypsies and Travellers.”*
32. The Council accepted the Local Plan Inspector’s modifications for Development Management purposes at its Executive Committee on 21st November 2013. It is therefore considered that significant weight can be given to her report, and to the policies and proposals of the emerging Local Plan, as amended by the main modifications.
33. Further consideration has been given to matters relating to Gypsies and Travellers, and the Local Plan Inspector’s Supplementary Report on Gypsy and Traveller and Travelling Showpeople was issued (08 May 2015) and it concludes that the part of the Chorley Local Plan dealing with Gypsy and Traveller and Travelling Showpeople policy and site allocation is also sound, providing a number of main modifications are made.

Planning History

Reference	Description	Decision	Date
90/00484/OUT	Outline application for residential development	Withdrawn	29 th October 1990

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All site dimensions shall be verified by the contractor on site prior to work commencing
 Do not scale from this drawing
 Only work to written dimensions
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Notes

- c 13-05-15 Car parking and soft landscaping revised and dg
- b 10-03-15 Depth of houses increased and houses moved towards Station Road and parking reconfigured. dg
- a 17-12-14 Existing buildings 1a and 1b added. dg

Rev.	Date	Details	By

Issued for:
PLANNING

Client



NORTHERN TRUST
 INVESTMENT / DEVELOPMENT / REGENERATION

Drawn By	dg	Date	30-10-14
Checked By	dg	Date	30-10-14
Scale	1:500 @A3		

Drawing
 Site Location Plan

Project
 Residential Development
 Station Road,
 Croston

WHITTLE JONES
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Report of	Meeting	Date
Director of Public Protection, Streetscene and Community	Development Control Committee	16 June 2015

DELEGATION FOR APPLICATIONS TO ADDRESS THE JUDICIAL REVIEW CHALLENGE OUTCOME

PURPOSE OF REPORT

- To seek authority to amend resolutions for approval made by Development Control Committee which impose a section 106 agreement contrary to the Ministerial Statement of November 2014, in the event a Judicial Review challenge to this statement fails.

RECOMMENDATION(S)

- That delegated authority is given to the Director of Public Protection, Streetscene and Community, to be exercised in consultation with the Chair of Development Control Committee to allow the removal of a the requirement for a section 106 agreement where such an obligation has been imposed by a resolution made at Development Control Committee contrary to the Ministerial Statement relating to Tariff based contributions for Public Open Space and / or affordable housing.
- Such delegated authority to be exercised in accordance with a decision made on a Judicial Review application challenging the validity of the Ministerial Statement.

EXECUTIVE SUMMARY OF REPORT

- There are at least 10 applications where a resolution to approve has been made at a Committee meeting in the past 6 months and a section 106 agreement has been imposed to secure Public Open Space payments. The Government has clarified its position in respect of removing the ability to secure Tariff style contributions to state that the Ministerial Statement is National Policy. A legal challenge has been made to the original Ministerial Statement and decision to remove the ability to impose tariff style contributions and the outcome was due to be handed down before the agenda for this Committee was released but was not. If the outcome of the legal challenge is that the Government's decision to prevent tariff style contributions was legally compliant then in order to be efficient and effective in the handling of applications and issuing decisions at the earliest possible date, authority is sought to allow those applications, already determined and approved to be issued without a section 106 agreement.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

- This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	Y
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	Y

BACKGROUND

- 6. The Government issued a Ministerial Statement in November, the purported aim was to address alleged significant costs to small scale developments that Tariff style contributions. The Statement directed that such contributions could not be imposed on developments of 10 or less dwellings or where there is a scale of development of less than 1000m2. This decision was challenged in the High Court by several Councils on the basis that the issuing of the Ministerial Statement was procedurally flawed, was not supported by evidence, failed to address responses to a consultation exercise and did not address the stated aims of the Minister. The hearing took place on 14 and 15 May 2015 and it was estimated that the outcome would be released in about 4 weeks and that period was due to finish by 5 June.

Assessment

- 7. The decision on the Judicial Review has not yet been handed down. The absence of this judgement leads to continuing uncertainty for both the public and the planning service who are unable to confidently process some planning applications. This uncertainty in the correct approach to these applications provides opportunity to applicants to appeal.

The Council has a number of planning appeals that have already been made and which take up a significant proportion of officer time and should be avoided where possible. Officers have already negotiated delays for applications until the June Committee in order to await the outcome of the Judicial Review. The proposed delegation enables some certainty on the part of the applicant as it will be clear that their application has been granted. It will also prevent additional delay which may arise if the application were to be brought back to Committee to remove the section 106 agreement obligation.

- 8. As the applications have already been determined with a resolution to approve subject to a legal agreement being signed then the principle of the development has already been determined. The procedure for handling such applications can provide that Director in consultation with the Chair be authorised to remove the section 106 agreement obligation and issue the decision in the event that the Judicial Review outcome is that the Government’s decision to remove Tariff style contributions was lawful.

If the decision were to be lawful then the Council should expedite the issuing of those decisions without delay as any undue delay could result in claims for costs in appeals or greater complaint handling, which would take up significant officer time.

- 9. In the event that the Judicial Review outcome is that the Government’s decision was not lawful then the original decision of the Committee would stand and a section 106 agreement would remain justified.

IMPLICATIONS OF REPORT

- 10. This report has implications in the following areas and the relevant Directors’ comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	Y	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

11. The key financial risk in making this decision is a risk of Judicial review and the costs of defending the decision whilst the risks appear to be relatively low this could expose the Council to costs of circa £20,000 for which there is currently no budget provision.

COMMENTS OF THE MONITORING OFFICER

12. The proposed delegation allows for the proper disposal of applications whilst protecting the Council's position on Tariff Based payments if the challenge to the Ministerial Statement is upheld

JAMIE CARSON

DIRECTOR OF PUBLIC PROTECTION, STREETSCENE AND COMMUNITY

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Paul Whittingham	5349	8 June 2015	***

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