

3 November 2011

Dear Councillor

DEVELOPMENT CONTROL COMMITTEE - THURSDAY, 3RD NOVEMBER 2011

The enclosed report provides an update for Members of the Development Control Committee on any events which had taken place since the agenda was published for their consideration.

Addendum (Pages 1 - 10)

Report of the Director of Partnerships, Planning and Policy

Yours sincerely



Gary Hall
Chief Executive

Cathryn Filbin
Democratic and Member Services Officer
E-mail: cathryn.filbin@chorley.gov.uk
Tel: (01257) 515123
Fax: (01257) 515150

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ان معلومات کا ترجمہ آپکی اپنی زبان میں بھی کیا جاسکتا ہے۔ یہ خدمت استعمال کرنے کیلئے براہ مہربانی اس نمبر پر ٹیلیفون
کیجئے: 01257 515823

COMMITTEE REPORT		
REPORT OF	MEETING	DATE
Director of Partnerships, Planning and Policy	Development Control Committee	3 November 2011

ADDENDUM

ITEM 4a - 11/00823/FUL - Land north of and adjacent to Sidegate Cottage, Pompian Brow, Bretherton, Chorley

The recommendation remains as per the original report.

1No. further letter of support has been received by the agent. Further to a letter from Acland Bracewell confirming there are no other previously developed sites available in the settlement, the agent has looked at other sites in Bretherton and stated why they are not suitable for the applicants.

The following consultee responses have been received:

United Utilities do not object to the proposal subject to surface water not discharging to foul/combined sewer.

A relevant condition regarding this has already been attached.

The following conditions have been amended:

Condition 2 has been deleted due to it being a repeat of condition 1.

The following condition has been added:

The approved plans are:

Plan Ref.	Received On:	Title:
Z1956/1	9 September 2011	Proposed site plan
Z1956/2	9 September 2011	Proposed floor plans
Z1956/3	9 September 2011	Proposed elevations
	9 September 2011	Location plan

Reason: To define the permission and in the interests of the proper development of the site.

The original report has been amended as follows:

Paragraph 20 now reads:

The agent has been directed to the Council's Housing Land Monitoring Report to assess if there are any Brownfield sites with permission for housing within the settlement. The agent has looked at these sites and provided reasons as to why they are not suitable for the applicant.

ITEM 4b- 11/00566/FULMAJ - Land south of 5 Townley Street, Chorley

Two further letters of objection have been received from Chorley Muslim Trust/members of Chorley's Ethnic Community. They state that Charnock Street is currently used for parking by the nursery staff, visitors of Eldon House and those

who attend the mosque for prayers. The houses will create traffic chaos and put the safety of the children at risk who attend mosque at Charnock Street and madrasa at Lyons Lane at evening times after school. The houses will also alter the culture of the area. They ask the Council to consider putting a condition on any permission that land for parking for those attending prayers five times a day.

The above comments are the same as those already noted and responded to in the report on the agenda. The recommendation remains as per the original report.

ITEM 4d-11/00699/FUL - Land fronting onto West Way, 130m northeast of Chancery Road, West Way, Astley Village

The recommendation remains as per the original report.

No further letters of objection have been received.

No further letters of support have been received.

The following condition has been amended as a further plan has been received detailing a small area of landscaping: -

1. The approved plans are:

Plan Ref.	Received On:	Title:
100 Issue E	1 November 2011	Location Plan
200 Issue E	1 November 2011	Site Plan
300 Issue D	1 November 2011	Proposed Site Elevation
400 Issue A	29 July 2011	Antenna & Equipment Layout

Reason: To define the permission and in the interests of the proper development of the site.

The following conditions have been added to secure landscaping around the base of the mast and the equipment cabinets: -

No development shall take place until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority, notwithstanding any such detail which may have previously been submitted. The scheme shall indicate all existing trees and hedgerows on the land; detail any to be retained, together with measures for their protection in the course of development; indicate the types and numbers of trees and shrubs to be planted, their distribution on site, those areas to be seeded, paved or hard landscaped; and detail any changes of ground level or landform.

Reason: In the interests of the amenity of the area and in accordance with Policy No.GN5 of the Adopted Chorley Borough Local Plan Review.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be

replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interest of the appearance of the locality and in accordance with Policy No GN5 of the Adopted Chorley Borough Local Plan Review.

The following condition has been added so as the final colour finish of the mast can be agreed with the Council: -

The development hereby permitted shall not commence until full details of the colour finish of the telecomms mast and equipment cabinet hereby permitted (notwithstanding any details shown on the approved plans) have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved colour finish details..

Reason: To ensure that the materials used are visually appropriate to the locality and in accordance with Policy Nos. GN5 and PS12 of the Adopted Chorley Borough Local Plan Review.

ITEM 4e-11/00733/FUL – Lane Side Farm, Brown House Lane

The recommendation remains as per the original report.

1 further letter of objection has been received on behalf of Mr and Mrs Nuttall.

The comments relate to the following matters and the council's response follows.

- (i) the issue of matters deemed material to the consideration of application and/or omitted from the report;
- (ii) the non-agricultural use of the property and the misrepresentation of our clients' offer to rent the property;
- (iii) the proposed conditions.
- (i) In the determination of planning applications local planning authorities must have regard to the provisions of the development plan and to any other material considerations. The Committee report refers to policies DC1 and DC7A of the adopted Chorley Borough Local Plan Review. DC1 sets out the forms of development which are permissible in Green Belt, and DC7A develops criteria for the assessment of one these, namely the re-use of buildings.

Criterion (a) to DC7A requires that the re-use of existing buildings does not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it. The Committee report concentrates on the effects of the proposal on openness in a physical sense, but provides no analysis of the consequences of a change of use of the application site from agricultural to residential use for the character and appearance of the local Green Belt. While openness is a key attribute of Green Belts, once areas have been designated both national policy (PPG2) and the development plan (para 3.11) recognise that the use of land within them should seek to contribute positively to a number of objectives, including the retention and enhancement of attractive landscapes and the retention of land in agricultural and related uses. These are material considerations in the current application determination.

We would contend that two considerations are particularly material to the planning application in relation to the issue of character and appearance:

- (a) the land use context in which the application is brought forward;

The application site and its immediate locality, which is within the control of the applicant, has been the subject of substantive changes in its character as a consequence of authorised and unauthorised development and activities. Several of these have been the subject of enforcement responses on the part of the Council and some are outstanding. The Committee report dismisses this context as material to the consideration of the application on the basis that the Council is aware and taking action. The outcome of that action is unknown and not all the land use changes made are subject to planning control.

There is, and has been, a cumulative adverse effect on the character and appearance of locality arising from the above which is not susceptible to mitigation through the landscaping of the application site, since this may in itself emphasise the change from an agricultural to a residential character. The residential conversion will further extend the urban character of Brown House Lane and erode the rural aspect of the Green Belt.

- (b) the conclusions of the Planning Inspector in the appeal decision of 22 August 2011

In a decision relating to equestrian development on the applicant's land close to the application site, the Inspector formed a view of the character of the local Green Belt before assessing the effects of the proposed development –

“The area is a sensitive one on the fringe of the built up area where numerous small developments and the division of fields have already eroded the rural character of the lane. To permit non essential development in this locality would result in material harm to the open character and appearance of the locality.”

There is no indication in the Committee report as to the weight attached to the sensitivity of the Green Belt in the locality, or the relationship of the proposed development to that sensitivity as identified by the Planning Inspector. This is a material omission of information relevant to the Committee's consideration of the application.

The report does outline a number of benefits from the development and harm of alternative development. The residential curtilage is clearly restricted within the plans, buildings on site will be removed and hardstanding removed. The report and plans taken together with this addendum clearly identify the benefits and harm and the balance of factors have been considered and the conclusion of approval is based on these factors and associated s106 agreement.

- (ii) Criterion (i) to DC7A reflects the preference for the re-use of rural buildings for suitable economic purposes and requires a demonstration that such a re-use is not reasonably available. It is not, however, the determining criteria. The policy requires that all its qualifying criteria be met.

In relation to criterion (a), it is contended, as set out above, that this is only partially addressed in the Committee report.

In relation to criterion (b), the proposed development, if permitted, would leave the associated agricultural land without the support of any substantive buildings, exposing the Green Belt to pressure for future development. The proper management of land requires access to relevant equipment and materials. In the absence of buildings in which to store such they are either stored externally, with consequent visual effects, or acquired as needed from off-site. There is no indication as to how this matter will be addressed.

The County Land Agent advised the Council that:

“--- whilst there is no indication that the applicant will revert back to an increase in agricultural activity, I am of the opinion that whilst he continues to own the agricultural land, that need for agricultural buildings could not be completely ruled out in the future.”

We agree with this opinion, and would add that the proposed s.106 agreement ensures the continued connectivity between the application site and part of the agricultural holding, even were the applicant to cease to be the landowner.

It is noteworthy that the County Land Agent considered it necessary to advise the Council that:

“I would however make the point that there is little evidence to show that the building has ever served a justifiable functional need as I feel its design was never fit for the purposes of modern farming, even taking into account the modest size of the unit.”

In these circumstances, it is contended that careful consideration, in the context of the land uses activities taking place on the applicant's holding, should have been given to the potential use of the barn in relation to those uses, and/or the desirability of the removal of all existing agricultural buildings. The absence of such a consideration is a material omission in the Committee report.

The removal of the other buildings on the site is a material consideration, the tying together of a land holding for the purposes of a sale of land is a material consideration. The need for additional buildings is not guaranteed. Any future application must be treated on its own merits at that time and a decision cannot be made based on what might happen.

That pressures for further development are likely is evidenced by recent events. The applicant has permitted the establishment of an equestrian use of his land which has already giving rise to pressure for additional storage facilities, for vehicles and materials. The Council resisted this pressure and was supported, on appeal, by a Planning Inspector. The perceived need for additional facilities, therefore, persists, and is a material consideration.

Our clients are owners of agricultural land adjoining the applicant's holding. Their land has no associated buildings. Currently the land is managed by a local farmer as part of his wider agricultural interest. Our clients perceived the availability of an agricultural building in such close proximity to their land as a potentially useful asset, which would avoid the need to seek development on their own land in the event of a change in management circumstances. Clearly, they were only able to respond to this opportunity as it arose. A genuine offer to rent the building has been made and

rejected. The nature of that offer has been misrepresented in the Committee report in relation to a potential connection between it and use of the building by our client's current agricultural tenant, raising issues of sub-letting. It was made clear in the representations made to the Council on behalf of our clients that:

- (i) the offer related to securing the beneficial management of agricultural land in their ownership and not to the wider farming interests of the current tenant;
- (ii) the offer would continue to be relevant in the absence of the existing agricultural tenant;
- (iii) the proposed tenancy would be held by our clients and the applicant's concerns in relation to the use of the building on our clients' behalf by a third party were capable of being met.

It is contended, therefore, that the prospect of a continued use of the building for its existing or an appropriate related rural use has not been fully explored.

The council has assessed the steps taken to market the property and has considered the need to make a decision in accordance with the development plan and weighed that consideration against other material considerations. The case for the objector is material, has been considered but a judgement of balance has been reached that on the evidence put forward that the development proposed is acceptable.

- (iii) The Committee report suggests that permission should be granted subject to planning conditions and a legal agreement which seeks to control future development within the area controlled by the applicant. The proposed conditions in relation to the removal of residential permitted development rights from the new curtilage and agricultural rights from the totality of the applicant's landholding reflect representations made by our clients. They fall short, however, of fully safeguarding the local Green Belt from the type of activities which the applicant has previously, and is currently, undertaking. These activities are associated with the subdivision and enclosure of areas of land and the placing of moveable structures on the land all of which have had, and have, an adverse effect on the character and appearance of the Green Belt. These activities were specifically alluded to in the recent appeal Inspector's decision. The absence of any consideration of this aspect is a material omission from the Committee report.

National planning policy (PPG2 para 3.7) sets the context for the acceptability of the re-use of buildings:

"With suitable safeguards, the re-use of buildings should not prejudice the openness of Green Belts, since the buildings are already there. It can help to secure the continuing stewardship of land, especially by assisting farmers in diversifying their enterprises, and may contribute to the objectives for the use of land in Green Belts. The alternative to re-use may be a building that is left vacant and prone to vandalism and dereliction." (Emphasis added)

It is contended that the scope of the controls proposed, in the absence of any land management scheme offered by the applicant, fails to fully reflect this policy context.

It is proposed that planning consent be granted subject to the concluding of a s 106 agreement concerned with a public open space contribution and control over a defined area of land. No details of this agreement are provided. Government advice on planning obligations (Circular 5/2005) indicates that interested parties should be given access to all necessary information on the nature of obligations to help inform their involvement in the planning process. To this end it is stated that:

In the context of planning obligations, documentation related to the application of interest and of relevance to the public including any agreed 'heads of terms' should be made publically available at least five days before the relevant planning committee meeting.

It is considered that the passing reference in the Committee report to the s 106 agreement falls short of the detail necessary to satisfy the Government advice.

We would respectfully request that these concerns are reviewed and reflected in the Officer's presentation of the application to the members of the Development Control Committee.

It is accepted that subdivision of fields can effect an area as mentioned in the Inspector's decision however all controls on development by reason of condition must meet a number of tests and the conditions being sought by the objector do not in the Council's opinion meet those tests. The terms and purpose of the legal agreement is referred to in the report at paragraph 39 and 40 and seek to ensure the land along the east of Brown House Lane will be tied in with the sell of the dwelling. One of the agreements and declarations is worded as follows: *The Owners agree that any disposal of the Land shall only be by way of a transfer of the whole of the Land affected by this Agreement.*

Cllr Hansford has objected to the proposal and has raised the following issues:

- Preference should be for commercial business and other employment uses, although travel and tourism may be considered.
- Building a residential property on this area is actually going to close up the open space that is currently there and not be in keeping with that part of the lane which is defined as agricultural.
- Applicant has not met the conditions set out in relation to the marketing as they refused a reasonable offer from a neighbour for personal reasons.
- A residential property would have a materially greater impact than the present use on the openness of the green belt and the purpose of the land included within it.
- Concerns over the narrowness of the lane and there are no passing places along this single track, the visibility splays at the top end of the lane which is to come out at a busy junction which leads to a 50mph speed limit on either side and the limited amount of parking availability for people within the area often causing further issues with access.

Additional Council Comments

The council has taken into consideration the benefits of removing the large agricultural/storage building and other buildings to the rear of the barn, reinstating part of the hardstanding and tying a large area of land into one single use with the dwelling. The domestic curtilage with the dwelling will be limited and as such the harm on the Green Belt will be reduced. On balance, these

benefits outweigh the matters being brought forward by the above representations.

PPS4 (Planning for sustainable economic growth), which is more up to date than PPG2 (Green Belts) and Local Planning Policy DC7A (Conversion of Rural Buildings in the Green Belt) states that whilst the reuse for economic purposes may be preferable, residential conversion may be more appropriate in some locations and building types.

With regards the access, one must consider the traffic implications of maintaining a commercial use of the barn. Due the design and size of the barn, the building may lend itself to an office use for example and this would more than likely be intensive in terms of traffic generation. If the building was maintained as agricultural use, larger vehicles are likely to use the lane.

ITEM 4f-11/00773/FUL - 24 Eaves Green Road, Chorley

The recommendation remains as per the original report.

No letters of objection have been received.

No letters of support have been received.

The following consultee response has been received from **LCC (Highways)**:

Based on the information provided, there would be no highway objection to the proposed development in principle. The application is for the erection of a new 3 bed dwelling on land adjoining 24 Eaves Green Lane.

It is proposed the new dwelling will support 2no car parking spaces across the frontage. The level of parking is in accord with the recommendations of the RSS parking standards. The applicant has also indicated 2 parking spaces at 24 Eaves Green Lane however on reflection the applicant need only provide 1 space as it is likely the existing house was originally planned with no level of parking provision.

Following a site inspection I am satisfied the 2no spaces at the new dwelling can be satisfactorily accommodated on the plot. And, vehicle access will be via the new and existing vehicle crossing that has already been specifically provided for, and privately paid for by the applicant through the highway authority, to serve the proposed 2 dwellings.

A third reason for Refusal was missed off the agenda as follows:

The proposed development is located within the garden area to 24 Eaves Green Road, is located within the settlement boundary and is not allocated in Policy HS1 for development, the proposed development is therefore contrary to the Councils Interim Policy – Private Residential Garden Development (October 2010). There are no exceptional circumstances put forward that would outweigh the harm resulting from the impact to the character of the area.

ITEM 4h - 11/00624/FUL - Bluestone Barn, Blue Stone Lane, Mawdesley

The application has been withdrawn from the agenda.

ITEM 6 – Enforcement Item – Go Ape

AMENDED PARAGRAPH 10

10. Alternative car parking arrangements can be provided within the site area that will make up the shortfall of parking space without the necessity for any tree felling and it is those alternative arrangements that the developers have submitted to the Council. **The developer has indicated that they intend to consult with the Friends of Lever Park and the Parish Council.**

Since preparing this report, it has become apparent from the submitted application that such consultation has not taken place.

ITEM 9 – Objection to a Tree Preservation Order No.5 (Coppull) 2011

Representations Received

Further representations have been received from the objectors agent which are outlined below:

My clients and I consider the Tree Officer has not properly followed the Central Government Guidance on the making and confirming of TPO's for the following reasons.

The Tree Officer has completely failed to consult with the landowners and its advisors about the Proposed Order and has not followed the above guidance. He has also failed to enter into any dialogue and has effectively completely ignored the comments made by my clients expert Arborticulturalist in his Detailed Report.

The Tree officer's justification case is flawed on the basis the trees to which my client's objections relate do not currently improve the amenity of the area as they cannot be clearly seen from public places.

My clients and I acknowledge that the above Guidance is non statutory however it is commended for use by Local Authorities and is seen as best practice and should be followed unless more robust and better systems can be put in place. My client and I consider that the current regime which does not allow objectors to present its case verbally before any decision is taken by Elected members is unreasonable and unfair especially as you have confirmed the two letters of objection are not provided to members for their consideration before the decision is made.

Response to Representations

Whilst the guidance does recommend that authorities engage with objectors this is not a statutory requirement and the Council has taken into account the objectors arboriculture advice in the report but does not agree with that assessment.

The report makes it clear that whilst some trees are partially screened the removal of others and potential for future development would open up views of the trees which if lost would affect the amenity of the area.

The objections raised to the order have already been considered and a response given in my report.

Procedures in making the order have been followed and the representations and objections considered and rejected in the report, therefore I consider that the objection has been properly considered in this case.