

## **DEVELOPMENT CONTROL COMMITTEE**

TUESDAY, 30TH SEPTEMBER 2014, 6.30 PM  
COUNCIL CHAMBER, TOWN HALL, CHORLEY

### AGENDA

**Members of the Committee are recommended to arrive at the Town Hall by 6.15pm to appraise themselves of any updates received since the agenda was published, detailed in the addendum, which will be available in the Members Room from 5.30pm.**

### **APOLOGIES**

#### **1 MINUTES**

(Pages 3 - 6)

To confirm the minutes of the Development Control Committee held on 3 September 2014 be confirmed as a correct record and be signed by the Chair (enclosed).

#### **2 DECLARATIONS OF ANY INTERESTS**

Members are reminded of their responsibility to declare any pecuniary interest in respect of matters contained in this agenda.

If you have a pecuniary interest you must withdraw from the meeting. Normally you should leave the room before the business starts to be discussed. You do, however, have the same right to speak as a member of the public and may remain in the room to enable you to exercise that right and then leave immediately. In either case you must not seek to improperly influence a decision on the matter.

#### **3 PLANNING APPLICATIONS TO BE DETERMINED**

The Director of Public Protection, Streetscene and Community has submitted two reports for planning applications to be determined (enclosed).

Please note that copies of the location and layout plans are in a separate pack (where applicable) that has come with your agenda. Plans to be considered will be displayed at the meeting or may be viewed in advance by following the links to the current planning applications on our website. <http://planning.chorley.gov.uk/online-applications/>

<b>3A</b>	<b>14/00500/OUTMAJ - COWLING MILL, COWLING BROW, CHORLEY</b>	(Pages 7 - 36)
<b>3B</b>	<b>14/00879/FUL - 18A THE FARTHINGS, ASTLEY VILLAGE, CHORLEY, PR7 1TP</b>	(Pages 37 - 48)
<b>4</b>	<b>VARIATION OF TREE PRESERVATION ORDER NO.13 (CHORLEY) 2013</b>	(Pages 49 - 52)
	To consider a report of the Chief Executive (enclosed).	
<b>5</b>	<b>PLANNING APPEALS AND OTHER DECISIONS</b>	(Pages 53 - 70)
	To consider a report of the Director of Public Protection, Streetscene and Community (enclosed).	
<b>6</b>	<b>ANY URGENT BUSINESS PREVIOUSLY AGREED WITH THE CHAIR</b>	

GARY HALL  
CHIEF EXECUTIVE

Electronic agendas sent to Members of the Development Control Committee Councillor Matthew Crow (Chair), Councillor Dave Rogerson (Vice-Chair) and Councillors Charlie Bromilow, Henry Counce, Jean Cronshaw, David Dickinson, Christopher France, Danny Gee, Keith Iddon (Eccleston and Mawdesley), June Molyneaux, Alistair Morwood, Mick Muncaster, Richard Toon, Paul Walmsley and Alan Whittaker.

Electronic agendas sent to Development Control Committee reserves for information.

If you need this information in a different format, such as larger print or translation, please get in touch on 515151 or [chorley.gov.uk](http://chorley.gov.uk)

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<https://democracy.chorley.gov.uk/ecSDDisplay.aspx?NAME=SD852&id=852&rpId=0&sch=doc&cat=13021&path=13021>

**MINUTES OF DEVELOPMENT CONTROL COMMITTEE****MEETING DATE** Wednesday, 3 September 2014**MEMBERS PRESENT:** Councillor Matthew Crow (Chair), Councillor Dave Rogerson (Vice-Chair) and Councillors Charlie Bromilow, Henry Caunce, Jean Cronshaw, David Dickinson, Christopher France, Danny Gee, June Molyneaux, Alistair Morwood, Mick Muncaster, Richard Toon, Paul Walmsley and Alan Whittaker**RESERVES:** Councillor John Dalton**OFFICERS:** Paul Whittingham (Development Control Team Leader), Alex Jackson (Legal Services Team Leader), Nicola Hopkins (Principal Planning Officer), Adele Hayes (Principal Planning Officer) and Cathryn Filbin (Democratic and Member Services Officer)**APOLOGIES:** Councillor Keith Iddon**14.DC.67 Minutes****RESOLVED – That the minutes of the Development Control Committee held on 5 August 2014 be confirmed as a correct record and signed by the Chair.****14.DC.68 Declarations of Any Interests**

In accordance with the Council's Members Code of Conduct, Councillor Henry Caunce declared a pecuniary interest in respect of planning application item 3f - 14/00426/FUL, Roselands, Tincklers Lane, Ecclestone, Chorley.

**14.DC.69 Planning applications to be determined**

The Director of Public Protection, Streetscene and Community submitted eight applications for planning permission consideration.

In considering the applications, Members of the Development Control Committee took into account the agenda reports, the addendum, and verbal representations and submissions provided by officers and individuals.

**14.DC.69a 14/00641/FULMAJ- Charnock Richard Golf Club, Preston Road, Charnock Richard**

**Speaker:** Applicant – Matthew Jackson

*(At this point Councillor Chris France joined the meeting.)*

**RESOLVED (unanimously) – The Members of the Development Control Committee were minded to approve planning permission subject to –**

- 1. the derogation tests of the Habitats Directive being satisfied;**
- 2. the conditions detailed within the report in the agenda;**
- 3. the additional and amended conditions detailed in the addendum;**
- 4. officers be delegated the wording for additional and/or amended conditions relating to ecology, following discussion with the Ecologist and in consultation with the Chair and Vice Chair of the Development Control Committee and;**
- 5. following referral to the Secretary of State.**

**14.DC.69b 14/00491/FULMAJ- The Carrington Centre, New Mill Street, Ecclestone**

**RESOLVED (unanimously) – That planning permission be approved subject to a Section 106 legal agreement and the conditions detailed within the report in the agenda.**

*(At this point Councillor Alan Whittaker left the room for the remainder of the meeting taking no further part in discussions of any agenda items or subsequent votes).*

**14.DC.69c 14/00635/REMMAJ - Group 1, Euxton Lane, Euxton**

**RESOLVED (unanimously) – That the reserved matters application be approved subject to conditions detailed within the report in the agenda, and the additional and amended conditions detailed in the addendum.**

**14.DC.69d 14/00662/REMMAJ - Plots 1075-1093 The Orchard, Ordnance Road, Buckshaw Village**

**RESOLVED (unanimously) – That the Reserved Matters consent was refused for the following reasons:**

- 1. The proposed layout, design and density of the dwellings proposed do not respect of character or appearance of the surrounding area or secure high quality design and fails to take the opportunity for improving the character and quality of the Southern Commercial Area and the way it functions. It is considered important from a design perspective that this site provides a transition between the high density commercial centre and the dwellinghouses surrounding the Listed Building, Buckshaw Hall, which the proposals do not secure. As such the proposals are contrary to Government advice contained within the National Planning Policy Framework, Policies 5 and 17 of the Adopted Central Lancashire Core Strategy, Policy BNE1 of the Emerging Chorley Local Plan 2012-2026, guidance contained within the Central Lancashire ‘Design Guide’ Supplementary Planning Document and the Buckshaw Village Southern Commercial Design Code.**

2. The proposed dwelling on plot 1075 will create overlooking to the rear garden of the adjacent dwelling to the detriment of the future residents amenities. The proposals are therefore contrary to Policy HS4 of the Adopted Chorley Borough Local Plan Review 2003 and Policy BNE1 of the emerging Local Plan 2012-2026.
3. The property on plot 1090 incorporates insufficient off road parking provision for the size of dwelling proposed which will be detrimental to the surrounding road network through the creation of on road parking. The proposals are therefore contrary to Policy TR4 of the Adopted Chorley Borough Local Plan review 2003 and Policy ST4 of the emerging Local Plan 2012-2026.

**14.DC.69e 14/00730/REMAJ - Land south of Cuerden Farm and Woodcocks Farm and land north of Caton Drive, Wigan Road, Clayton-le-Woods**

**RESOLVED (unanimously) – That the reserved matters application be approved subject to the conditions detailed within the report in the agenda.**

*(At this point Councillor Caunce declared a pecuniary interest and left the room for the duration of this item taking no part in the discussion or subsequent vote.)*

**14.DC.69f 14/00426/FUL- Roselands, Tincklers Lane, Eccleston**

**RESOLVED (unanimously) – That full planning permission be approved subject to conditions detailed within the report in the agenda.**

**14.DC.69g 14/00480/FUL - Whittle-le-Woods Village Hall, Union Street, Whittle-le-Woods, Chorley**

**RESOLVED (unanimously) – That full planning permission be approved subject to conditions detailed within the report in the agenda.**

**14.DC.69h 14/00783/FUL- Astley Park, Park Road, Chorley**

**RESOLVED (unanimously) – That full planning permission be approved subject to conditions detailed within the report in the agenda.**

#### **14.DC.70 Enforcement - Land opposite 71 Church Lane, Charnock Richard**

The Director of Public Protection, Streetscene and Community submitted an enforcement report regarding land opposite 71 Church Lane, Charnock Richard, which sought Members' instruction as to whether it was felt expedient to serve an enforcement notice to remedy a breach of planning control in respect of an unauthorised change of use of land from pasture land to use for the repair, maintenance and sale of motor vehicles and domestic purposes, including the storage of a caravan and siting of containers.

**RESOLVED (unanimously) – That it was expedient to use an Enforcement Notice to resolve the breach of planning control in respect of unauthorised change of use of land from pasture land to use for the repair, maintenance and sale of**

**motor vehicles and domestic purposes, including the storage of a caravan and siting of containers.**

**14.DC.71 Proposal to confirm (without modification) Tree Preservation Order No.4 (Eccleston) 2014**

Members of the Development Control Committee considered a report from the Chief Executive which recommended formal confirmation of the Tree Preservation Order Number 4 (Eccleston) 2014 without modification.

No objections had been received in response to the making of the order.

**RESOLVED (unanimously) – That formal confirmation of the Tree Preservation Order Number 4 (Eccleston) 2014 be approved without modification.**

**14.DC.72 Planning Appeals and Decisions**

The Director of Public Protection, Streetscene and Community submitted a report which informed Members of the Development Control Committee of four appeals lodged with the Planning Inspectorate.

**RESOLVED – That the report be noted.**

**14.DC.73 Any urgent business previously agreed with the Chair**

**14.DC.73a 14/00916/DEMCON - 2 Thirlmere Road, Chorley, PR7 2JH**

The Chair accepted the following report as a late urgent item for the Development Control Committee to consider for the reason that the notification of demolition application, which was received on 21 August 2014, had been made by the Council (Property Services) and was related to Council land. The application required determination within 28 days of receipt of the application. Therefore leaving the application until the next meeting of the Development Control Committee on the 30 September 2014 would result in the decision being made after the expiry of 28 days.

**RESOLVED (unanimously) – That prior approval not required.**

Chair

Date

<b>Item 3a</b>	<b>14/00500/OUTMAJ</b>
<b>Case Officer</b>	<b>Nicola Hopkins</b>
<b>Ward</b>	<b>Chorley East</b>
<b>Proposal</b>	<b>Outline application for the erection of upto 65 dwellings all matters reserved save for access</b>
<b>Location</b>	<b>Cowling Mill, Cowling Brow, Chorley</b>
<b>Applicant</b>	<b>NEATMEEK LTD</b>
<b>Consultation expiry:</b>	<b>11<sup>th</sup> June 2014</b>
<b>Decision due by:</b>	<b>12<sup>th</sup> August 2014 (extension of time agreed until 14<sup>th</sup> October 2014)</b>

**Recommendation**

**Approve outline planning permission subject to the Habitats Directive derogation tests being satisfied, the S106 Agreement and the conditions.**

**Executive Summary**

**The proposals relate to the erection of upto 65 dwellings at Cowling Mill. The site is located within the settlement of Chorley and represents the redevelopment of previously developed land within a sustainable location. It is considered that all the issues have been addressed in respect of the development of this site, including the loss of employment land, with the only outstanding issue being the ecological/ biodiversity impacts of the development. Subject to the ecological matters being addressed the proposals are considered to be acceptable.**

## Representations

**In total 1 representations have been received which are summarised below**

### **Objection**

Total No. received: 1

- This building is a listed building built 1906 and to knock down another part of Chorley's history is a disgrace.
- There are other areas in Chorley which would be more suitable for housing on brown land
- Increase traffic on Cowling Brow
- The entrance is on a very dangerous bend
- Additional noise of extra cars/ people
- devaluation of properties
- Impact on wildlife, trees
- Increase in rats

## Consultees

<b>Consultee</b>	<b>Summary of Comments received</b>
Chorley's Waste and Contaminated Land Officer	No objection subject to conditions in respect of ground contamination
Architectural Liaison Officer	No objection- encourage the applicant to adopt the principles of Secured By Design to reduce the risk of crime affecting the completed development.
Environment Agency	Have no objection in principle to the proposed development subject to the inclusion of conditions.
CTC Right to Ride for Chorley	Objects as it's another plan which ticks the boxes for sustainability but only encourages more car usage leading to less healthy life styles its little wonder that adults and more children are overweight.
LCC Planning Officer (Archaeology)	No objection- recommend that the mill and any associated buildings be recorded prior to their demolition, and that such works are secured by means of condition
LCC Education	Have requested a contribution of £72,178 towards 6 primary school places
United Utilities	Have no objection subject to drainage conditions
The Council's Environmental Health Officer	No objection- advise that the Code of Practice for Construction and Demolition is followed to prevent a statutory nuisance from noise issues.
LCC Ecology	Have raised a number of concerns which need to be addressed prior to determination- the applicants appointed Ecologist has responded to the concerns raised set out below
LCC Highways	Have no objections in principle to the current outline planning application, should reserved matters application be approved for the proposal, the specific package of measures identified above should be implemented before the



	development is occupied, unless otherwise agreed by the Local Authority in consultation with the Highways Authority. All improvements within the adopted highway should be carried out through the s278 agreement of the Highways Act 1980.
Walkers Professional Arboricultural Services	Have undertaken a tree assessment on site on behalf of the Council- their comments are addressed within the report.

## Assessment

### Principle of the development

1. This application proposes demolishing Cowling Mill and replacing it with residential development. The proposal is in Chorley Town, which Core Strategy Policy 1 defines as a Key Service Centre, where growth and investment, including housing growth, should be concentrated. It also involves the redevelopment of a brownfield site, so would assist in meeting the Core Strategy Brownfield target of 70%.
2. The site is allocated with the Adopted Chorley Borough Local Plan Review 2003 under Policy EM8. Policy EM8 states that this site is suitable for employment development. However, in the emerging Local Plan 2012 – 2026 the site lies within the Chorley settlement but does not have a specific allocation.
3. The Inspector has 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. The examination of the local plan remains open, and the Inspector will reconvene the examination later in 2014 to consider Gypsy and Traveller matters, which would enable the adoption of the local plan, following a supplementary report.
4. 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.”*
5. The Council accepted the 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.
6. This site was proposed as a housing site in the September 2011 Preferred Option version of the Local Plan (Site Allocations). It was proposed for 63 units. However, the site was not proposed for allocation at Publication stage because it is partly located within Flood Zones 2 & 3 where there is a medium/high probability of flooding. The Environment Agency objected to the allocation because in the absence of a Level 2 Strategic Flood Risk Assessment, the risk of flooding to the site was unknown and it could not be determined if it was appropriate for residential development.

### Loss of Employment Land

7. As this application proposes redevelopment of employment premises for redevelopment other than B use class employment uses it should be assessed under the criteria in Policy 10 of the Core Strategy and the provisions in the SPD on Controlling the Re-Use of Employment Premises, which aim to protect all existing employment premises and sites last used for employment uses. Policy 10 states:

All existing employment premises and sites last used for employment will be protected for employment use. There will be a presumption that ‘Best Urban’ and ‘Good Urban’ sites will be retained for B use class employment use. Proposals on all employment sites/premises for re-use or redevelopment other than B use class employment uses will be assessed under the following criteria:

- (a) there would not be an unacceptable reduction on the type, quality or quantity of employment land supply;
- (b) the provision and need for the proposed use;
- (c) the relative suitability of the site for employment and for the alternative use;

- (d) the location of the site and its relationship to other uses;
- (e) whether the ability to accommodate smaller scale requirements would be compromised;
- (f) there would be a net improvement in amenity.

Any proposals for housing use on all employment sites/premises will need to accommodate criteria (a)-(f) above and also be subject to:

- (g) convincing evidence of lack of demand through a rigorous and active 12 month marketing period for employment re-use and employment redevelopment;
- (h) an assessment of the viability of employment development including employment re-use and employment redevelopment.

8. In accordance with Policy 10 the application is supported by a Proof of Marketing Statement which is assessed below.
9. *(a) there would not be an unacceptable reduction on the type, quality or quantity of employment land supply;*

This is a site that was classified as 'Other Urban' in the 2009 Employment Land Review (ELR), which indicates a site that scores poorly against one or more qualitative factors but which could perform a role in the employment hierarchy, including for local businesses. The Review states that the site contains an attractive period mill building and a series of outbuildings which appear in poor condition. It states that uses are mainly car related and many of the units appear vacant. It states that the site scores quite poorly in terms of its current business image, but that local roads are relatively wide, not heavily congested and the site is near to the A6. It also highlights that access into the site needs improvement, that internal roads are very poor and that there are issues in terms of contamination and flood risk. It states that redevelopment of the site, by replacing some parts with higher quality employment buildings and reusing the mill building, would significantly enhance its contribution to local environmental quality

The Planning Statement states that the uses which currently exist are operated in substandard conditions and to be brought into an adequate standard to be offered as employment land would be financially unviable (and have submitted a report to this effect) and that it would not be economically feasible to use the site in an employment capacity.

Therefore, whilst this is a site that could be re-used for employment purposes, the buildings are in need of redevelopment or repair/refurbishment. Within the Employment Land Review there are a number of other employment sites that have been assessed in Chorley Town; including some that are classified as 'Other Urban' sites. These include Cowling Farm off Cowling Road, Martindales Depot off Cowling Road, Crosse Hall Street including Weir Mill, Apex House on Stump Lane and Yarrow Mill Industrial Estate which are all in eastern Chorley Town. Therefore, there are alternative sites in the local area. There are also a number of better quality employment sites available in eastern Chorley Town, such as East Chorley Business Park, Chorley Central Business Park on Stump Lane and Cowling Business Park off Cowling Road. There are also new employment sites allocated in Chorley Town in the emerging Local Plan, which could be accessed from this area.

Overall, it is not considered that this proposal for housing on part of the site would result in an unacceptable reduction in the type, quality or quantity of the employment land supply in the Borough.

10. *(b) the provision and need for the proposed use;*

The proposed use of the application site is for housing. The Council has a five year deliverable supply of housing plus 5% and there is no urgent requirement to release additional land for housing. However, housing requirements are not a maximum and this proposal is within the settlement boundary of Chorley Town which Core Strategy Policy 1

designates as a Key Service Centre Service where growth and investment will be concentrated. It is also a brownfield site and the Council has a target of 70% of all new housing development to be provided on brownfield sites. Housing development within the settlement of Chorley Town is acceptable in principle, subject to compliance with other relevant policies.

11. *(c) the relative suitability of the site for employment and for the alternative use;*

The site is not in close proximity to an A road, or a motorway junction, but local roads are relatively wide and not heavily congested. Access into the site needs improvement and internal roads are poor.

The site is relatively sustainable, being within the settlement of Chorley Town, and is considered suitable for employment or housing uses, or a mix of uses.

12. *(d) the location of the site and its relationship to other uses;*

The site is adjacent to residential and employment uses and could be used for either of these uses.

13. *(e) whether the ability to accommodate smaller scale requirements would be compromised;*

The application site contains a large mill building, but is currently partly used by smaller scale operators. This application does not propose any employment on the site and therefore this proposal would result in the loss of the accommodation used by these operators.

14. *(f) there would be a net improvement in amenity.*

The mill is a significant local building, but is in a poor state of repair and the site as a whole is in a very run-down state. Therefore, redevelopment would be likely to provide a net improvement in amenity. However, a net improvement in amenity could also be achieved by re-use and refurbishment of the mill building.

15. *(g) convincing evidence of lack of demand through a rigorous and active 12 month marketing period for employment re-use and employment redevelopment;*

The applicants have provided a Proof of Marketing Statement from Peter E Gilkes, which indicates that the whole property has been marketed 'To Let' since June 2012 and a copy of the particulars forwarded to the planning department. Adverts were placed on in the Chorley and Leyland Guardian, on Zoopla and the property has been marketed on the Peter E Gilkes website and is still being advertised. Therefore, the advertising has taken place for a period longer than the 12 months specified in Core Strategy Policy 10. Insertions have also been placed in the Chorley and Leyland Guardian and a 'To Let' board has been erected.

However, the property does not appear to have been advertised for sale and has been marketed as a whole 'To Let'. The property has not been marketed in a particularly flexible manner to allow for subdivision, or redevelopment, for example. A letter from Peter Gilkes confirms that the site has been brought to the notice of the local business community and also made available to those from afar enquiring for such sites by being featured on our website and Zoopla. The sales and promotion information produced included:-

- Good quality external photographs (internal condition does not enable it to be portrayed appealingly).
- Promotion of existing use together with other alternative employment uses.
- Accommodation information.
- Site plan.

- Location map.
- Information on services.
- Lease terms, including rent required.

A 'v' angle for sale board was erected in a prominent position and seen from the public highway. The property was also featured in advertisements placed in the Chorley and Leyland Guardian.

Peter Gilkes has confirmed that no meaningful enquiries were received from parties interested in taking the premises for their continued use that were worthy of following up or developing further, due undoubtedly to the general overall condition of the premises. Enquiries asking if the site is for sale or available for residential redevelopment have not been recorded as the purposes of marketing the site is to promote it for its existing use and to establish if there is any demand for it remaining in employment use.

16. Although the site was not made available for sale it is clear that efforts have been made which are directly linked to the type and nature of the existing premises and there is no interest in a large scale employment use (due to the size of the premises) at this site. It is also important to note that a number of the floors are unusable in their current state without significant investment due to the poor state of the upper floors of the building.
17. *(h) an assessment of the viability of employment development including employment re-use and employment redevelopment.*

The submitted supporting information confirms that the accommodation is obsolete for modern manufacturing/workshop use and unsuitable for any other purpose due to their age and condition. The cost of ongoing repairs and maintaining the building as a suitably dry and secure space for storage or workshop use is prohibitive. Potential users of space formed within the building and operating or trading from premises of this nature invariably have a modest turnover, limited profitability and therefore the cost of repairs and maintenance place too great a burden on the business. Furthermore, such businesses are relatively insecure and there was always a high turnover of companies operating out of such space with, invariably, lengthy voids between tenancies. Upper floors of the building are in an almost total state of dereliction as the costs of repairs and maintenance is prohibitive and unviable.

Peter Gilkes concludes that when considering the current value of the site, the costs of demolition and erecting replacement industrial units redeveloping the site for employment purpose is uneconomic.

18. In conclusion although this site currently provides an element of employment within Chorley Town it is not considered that the loss of the premises will adversely impact on the supply of employment land within the Borough, particularly as this site is not proposed for such an allocation within the emerging Local Plan. The adopted Core Strategy sets the overall employment requirement for Chorley as 112 ha to 2026. The Inspector's Partial Report is accompanied by an Appendix containing the Main Modifications. In respect of employment the Inspector concluded *"that allocations accord with the quantum and locational strategy of the CS for employment development, and that the range and of site sizes and types provide a flexible portfolio of sites"*. The Main Modifications provide a Chorley employment land supply for the period 2010 -2026 as 100.61 ha with commitments (MMEC48). This figure does not take into account vacant stock in the Borough.
19. As employment uses have not been specifically identified on this site ensures that the development will not compromise the Council's land allocations for employment and the overall employment land supply.

#### Housing Development

20. The proposed development involves the complete demolition of the Mill building, the conversion of the existing Lodge building and the erection of upto 65 dwellings. All

matters are reserved apart from access however the application is supported by a indicative layout plan to demonstrate that upto 65 dwellings can be accommodated on this site.

21. The indicative layout plan includes an indicative housing schedule which includes:
  - 11 two bedroom apartments
  - 2 two bedroom mews houses
  - 44 three bedroom houses
  - 8 four bedroom houses.
22. The indicative schedule includes a mix of 2, 2.5 and 3 storey buildings. The three storey buildings are located close to the entrance to the site where there is a significant land level change in the form of split level houses. From the existing access road level there is in excess of a 4.5 metre land level increase to the existing hardstanding area and then a steep embankment to the edge of the site. Bespoke designed split level houses within this part of the site will enable full utilisation of the existing level change reducing the amount of material which requires removal from the site.
23. Levels also fall into the site with a level change of approximately 4.5 metres from the access point at Cowling Brow to the rear of the site.
24. The area of land where the Mill building is currently sited provides a flat plateau for a more standard housing layout however all of the dwellings along the western boundary of the site will need to accommodate the existing steep embankment which exists within the site. The indicative layout details how this feature could be addressed including the side elevation of the dwellings being adjacent to the embankment and siting the dwellings away from the embankment to create a decent amount of private amenity space for the dwellinghouses. It is likely that retaining structures will need to be incorporated at some of the dwellings immediately adjacent to the embankment however this can be addressed at reserved matter stage.
25. Although the indicative layout does not incorporate the required spacing standards it is acknowledged that this layout is purely indicative and there is space within the site for the minor tweaks which are required to secure the spacing standards (subject to the proposed finished floor levels which are required to fully assess the required separation distances).
26. The immediate neighbours to the site are at the top of the embankment on Quarry Road and on the opposite side of Cowling Brow Industrial Estate at Bridge Mill Court. Given the level difference, the extent of screening planting which will be retained and the separation distances maintained it is not considered that the proposed development will adversely impact on the existing or future residents' amenities.

#### Affordable Housing

27. Policy 7 of the Core Strategy sets out the requirements for the provision of affordable housing in Central Lancashire to meet the acute need for such housing in the area. In the case of this site there is the requirement to provide 30% affordable housing (or upto 20 units) on site. It is also noted however that the Policy confirms that this percentage is subject to site and development considerations such as financial viability.
28. In the case of this site the originally submitted proposals incorporated 4 affordable housing units (or 6% affordable housing). The supporting information states that any more provision would render the scheme unviable due to the size of the CIL payment. However, as set out further below, it may be the case that the CIL levy on this scheme will be nil due to the amount of existing floorspace which will be demolished as part of the development. In this case the affordable housing provision can be increased to 8 housing units (or 12% affordable housing). This provision is reflected within the associated legal agreement.

29. Policy 7 acknowledges that site considerations such as this should be taken into account, and where it cannot be demonstrated that the development of the site can be financially viable if the requisite number of affordable housing units is provided then this number can legitimately be reduced and that is the proposal which is put forward in this statement. This approach is in accordance with the guidance in the Framework which confirms that development should:

*.....not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.*

30. The submitted Viability Appraisal has been reviewed by the Council's Property Services section and this is assessed below.

#### Open Space

##### Amenity Greenspace

31. There is currently a surplus of provision in Chorley East ward in relation to this standard and the site is within the accessibility catchment (800m) of an area of amenity greenspace. A contribution towards new provision in the ward is therefore not required from this development.
32. Although there are areas of amenity greenspace within the accessibility catchment that are identified as being low quality and/or low value and could be improved the indicative layout includes an area of amenity greenspace on the site. For a scheme of this size the amount of on-site amenity greenspace required from a development is 0.114ha with a maintenance cost for a 10 year period of £45,500. This will be secured by the legal agreement.

##### Provision for children/young people

33. There is currently a surplus of provision in Chorley East ward in relation to this standard and the site is within the accessibility catchment (800m) of an area of provision for children/young people. A contribution towards new provision in the ward is therefore not required from this development.
34. However, there are areas of provision for children/young people within the accessibility catchment that are identified as being low quality and/or low value in the Open Space Study (ref 1544 – Fell View Playground, Cowling Brow and ref 1529 – Opposite 21 Amber Drive). A contribution towards improvements to these sites is therefore required from this development. The amount required is £134 per dwelling.

##### Parks and Gardens

35. There is no requirement to provide a new park or garden on-site within this development. There are no parks/gardens within the accessibility catchment (1,000m) of this site identified as being low quality and/or low value in the Open Space Study therefore a contribution towards improving existing provision is not required.

##### Natural and Semi-Natural Greenspace

36. There is no requirement to provide new natural/semi natural greenspace on-site within this development. There are no areas of natural/semi-natural greenspace within the accessibility catchment (800m) of this site identified as being low quality and/or low value in the Open Space Study therefore a contribution towards improving existing provision is not required.

##### Allotments

37. There is no requirement to provide allotment provision on site within this development. The site is within the accessibility catchment (10 minutes' drive time) of allotments that are identified as being low quality and/or low value in the Open Space Study (ref 1644 –

Whittam Road/ Moor Road Allotments, Chorley and ref 1648 – Rear of Bay Horse Hotel, Whittle-le-Woods).

38. The site is also within the accessibility catchment (10 minutes' drive time) of proposed new allotment sites at Land at Sylvesters Farm, Euxton (HW5.2) and Harrison Road, Adlington (HW5.3). A contribution towards new allotment provision is therefore required from this development. The amount required is £15 per dwelling.

Playing Pitches

39. A Playing Pitch Strategy was published in June 2012 which identifies a Borough wide deficit of playing pitches but states that the majority of this deficit can be met by improving existing pitches. A financial contribution towards the improvement of existing playing pitches is therefore required from this development. The Playing Pitch Strategy includes an Action Plan which identifies sites that need improvements. The amount required is £1,599 per dwelling.
40. The accompanying information states that *The financial contribution for off site provision and improvements is anticipated to include commuted sum payments in relation to playing pitch provision. Other typologies which will be considered are those identified in the SPD, although it must be recognised that there is an existing anticipated provision on site identified in the indicative layout plan which accompanies the outline application. Detailed calculation of the financial contribution to be made cannot be clearly identified in the outline submission as no specific numbers of housing or precise extent of open space on site is identified.*
41. Although no figure is included within the financial viability appraisal it will consist of the following within the legal agreement:

Typology	Commuted Sum	Total for upto 65 dwellings
Amenity Greenspace	On-site maintenance=£45,500	£45,000
Provision for children/young people	£134 per dwelling	Upto £8710
Allotments	£15 per dwelling	Upto £975
Playing Pitches	£1599 per dwelling	Upto £103,935
<b>Total</b>		<b>Upto £158,620</b>

Financial Viability

42. As set out above the proposals are contrary to Policies 7 and 27 (see further below) of the Core Strategy due to the lack of affordable housing and only achieving Code for Sustainable Homes Level 4 (with no uplift to Level 6 proposed) however this is proposed to be justified on financial viability. The application is supported by a Financial Appraisal which has been assessed by the Council's Property Services Section.
43. The submitted information includes the following headline figures:

Element	Included figure	Estates Surveyor comments
Land Purchase Cost	£2,100,000	A net land purchase cost of £2,100,000 (with Mill building) is included same as last appraisal for a gross area comprising 5.56 acres which is equivalent to £377,697 per acre. The site is said to include non-developable areas of sterile land and open space. The net developable land value is £512,195 per acre. It would be difficult to argue any different land price as his financial commitments may reflect the asking price. It is not considered excessive.
Costs of	£3,916,579	This is a low to average figure of £60,255 equivalent to



Construction	(an average of £67 per sq ft)	£66 per sq ft (£719 per sq m). This allows for other works under the externals section such as demolition, paving, fencing, boundary walls etc. When these are added on top the overall gross build cost is £5,284,129 equivalent to £81,294 per unit. This is reasonable in the current market which also includes the construction of the access road at £555,500.
External Works	£1,367,550	A sum of £1,367,550 has been included as mentioned above which is similar to the original scheme with some slight amendments such as the landscaping. This includes the demolition and other external works which brings the gross cost to build per unit to £81,294 which is low to average considering the works required.
Revenue from House Sales	£10,471,750	The overall figure has actually reduced to £10,471,750 (after sales incentives) which is not that much different from the original appraisal at £10,473,750. This appears to be because of a change in their original mix to include some more apartments and also reduce the number of private type C's and increase the prices on the type D's, Type E and F. This does now included the 2 social rents and 2 shared ownerships at the reduced RP prices of £100,000 and £70,000 per unit.

- 44. The Estates Surveyor concludes that the developer shows that a reasonable expected net profit of £1,521,258 (14.53%) with 4 affordable houses. When compared to the original appraisal submitted in support of the previous application the purchase prices have been increased and the scheme can be delivered with a CIL payment of £353,925 and Code 4 of £234,460.
- 45. With a nil CIL levy the Estates Surveyor has reassessed the financial viability and confirmed that a further 4 low cost units (4 of each social rents and shared ownerships = 8 units in total) still results in a profit by slightly more net profit of £1,588,184 = 15.5%. as such in terms of viability the scheme can secure 12% affordable housing and Code Level 4.

Density

- 46. The site covers 2.4 hectares. The erection of 65 dwellings, as proposed, equates to a density of 27 dwellings per hectare. Strategic objective SO6 seeks to achieve densities for new housing that respect the local character of surrounding areas, whilst making efficient use of land. This is supported by Policy 5 of the Core Strategy which states that the authorities will secure densities of development which are in keeping with local areas and which will have no detrimental impact on the amenity, character, appearance, distinctiveness and environmental quality of an area, consideration will also be given to making efficient use of land. A density of 27 dwellings per hectare is considered to be appropriate for this brownfield site given the constraints set out elsewhere within this report.

Loss of the Mill Building

- 47. A previous application was considered on this site (13/00905/OUTMAJ) which was subsequently withdrawn. As part of the previous application the Council's Conservation Officer raised concerns that the proposals resulted in the complete loss of a heritage asset, in this case the last completed cotton spinning mill in Chorley.
- 48. Cowling Mill is not a 'designated' as a heritage asset however it is a building of some historic significance and should be treated as a non-designated heritage asset of 'medium significance' (as confirmed in the recent Lancashire Textile Mills Survey produced by Oxford Archaeology (North) in conjunction with Lancashire County Council and English Heritage in October 2012).

49. Paragraph 128 of the Framework requires applicants to at least describe the significance of any heritage assets affected by development proposals. Paragraph 135 of the Framework refers specifically to non-designated heritage assets – *'a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.'*
50. The Officers concerns in respect of the lack of consideration to the retention, conversion and reuse of the building were forwarded to the agent for the application. Similar comments were raised by Lancashire County Council Archaeology who confirmed that Cowling Mill is also the last of what was once a fairly important group of textile mills along the Black Brook in Chorley.
51. The Planning Officer (Archaeology) commented that the Lodge building is not without some architectural merit and detailing and is a rare survival of this type of building and have suggested that consideration should be given to a slight reconfiguration of the development to enable the retention of this building and its conversion to residential use.
52. The indicative layout submitted with this application details the retention of the existing Lodge building to be converted into 3 affordable units which is considered to assist in maintaining a small but visible link with the site's past industrial use.
53. If the case for demolition of the main Mill building a pre-commencement condition will be attached to any permission granted requiring that an archaeological building record of the building be undertaken.
54. Additionally from a heritage perspective the reclaimed mill signage (Cowling Mill) will be erected at the site entrance retaining the link to sites history and creating an identity for the future development.

#### Trees and Landscape

55. There are various trees and hedges on the site and as such the application is supported by an Arboricultural Report. The survey assesses 6 groups of trees and 31 individual trees across the site. Walkers Arboricultural Services have assessed the proposals on behalf of the Council. The Tree Consultant has identified a number of trees which should be removed from the site (T1, T2, T10, 2 trees within Group 19, T35) at this time. There is no urgent work required in respect of the remaining trees although the Consultant has commented that there has been little tree management on the site, appropriate management would benefit the trees on site.
56. The submitted survey concludes that trees T3 to T18 are located on a steep slope adjacent to the site entrance which presents a significant constraint to the development of the site from both an arboricultural and topographical perspective. As such these trees are likely to be removed as part of the development of this site.
57. The rest of the surveyed trees are predominantly adjacent to the site boundaries and should not present a significant constraint to the future development of this site. The trees with a high amenity value will be protected via a Tree Preservation Order (TPO)- Tree Preservation Order No.13 (Chorley) 2013.
58. The assessment also identifies a Sycamore tree (T2) and a Horse Chestnut tree (T35) which have major decay and dying. This accords with the Tree Consultants comments. These trees are of poor quality and will not be subject to the TPO.
59. The trees identified for removal to facilitate the development (T3-T18) are included within the TPO as the layout of this site has yet to be agreed at this outline stage. It is envisaged that a number of these trees will be removed as part of the development although some may be able to be retained and protection at this stage ensures that adequate replacements to mitigate for the loss of these trees can be secured at reserved matters stage.

Ecology

60. Due to the nature of the application site and the existing use the application is supported by an Extended Phase 1 Habitat Survey and a Bat Survey. The conclusions of these documents are that the site provides suitable habitat for roosting and foraging bats, nesting birds, slow-worm and common invertebrates. The site also offers suitable terrestrial habitat for great crested newts.
61. The Ecologist at Lancashire County Council has reviewed the proposals and made the following comments. The response from the applicants Ecologist are included following the bullet points:
62. The following matters will need to be addressed before the application is determined:
- Full detailed descriptions of the suitable bat roosting features present within the buildings (main building and lodge building)  
*Applicant's appointed Ecologist response: The report details all the features of the mill and it has low potential due to its construction type. The report also details the roof void of the lodge building and also the other ancillary buildings.*
  - Plan showing the location of suitable bat roosting features / access points on each of the building to demonstrate that all such features / access points were covered during the dusk emergence / dawn re-entry surveys. Not all elevations of the main building were covered during each of the dusk emergence / dawn re-entry surveys and therefore it appears that all suitable bat roosting features / access point were not covered during each of the surveys. Urban Green state that the lodge building was covered during the dusk emergence / dawn re-entry surveys but the surveyors appear to have positioned to view the main building only.  
*Applicant's appointed Ecologist response: Apart from the roof void of the lodge the only potential features suitable for bats were a myriad of small cracks in the brickwork you would expect in a mill building of that size and age, all of which have low potential. The only possible use would be by transient bat.*
  - Information on whether there is any potential for hibernating bats, for example within the damp sunken tunnel.  
*Applicant's appointed Ecologist response: The damp sunken tunnel is considered to be too exposed to have potential for any roosting bats.*
  - The bat survey comments now submitted have confirmed that Urban Green consider the buildings to have low potential for maternity roosting bats. An assessment of the level of potential for buildings to support any roosting bats is required.  
*Applicant's appointed Ecologist response: "the buildings were considered to have low potential for maternity roosting bats due to the lack of potential maternity roost areas".*  
*Trees were viewed from the ground looking for potential roost sites. No trees were climbed. Trees were also observed for 'swarming' at dawn. One tree in the driveway was previously flagged as perhaps having some potential. At the time we were not given details of which, if any, trees would be removed.*  
  
*The lodge house was searched internally and externally for evidence of bat roosting (paras. 1.35 – 1.37) during the day. Additionally it was observed at both the evening emergence and dawn re-entry surveys on both visits.*  
  
*The lodge water body was monitored on both survey nights with an AnaBat*
  - A mature Sycamore in the north of the site is considered to have medium to high potential to support roosting bats. It is not clear to me whether this tree will be affected or not by the proposals. This should be clarified.  
*Applicant's appointed Ecologist response: T36 the mature Sycamore is to be retained.*

- The applicant should be required to submit a revised indicative layout to demonstrate the site can be developed as proposed whilst addressing the following matters:
  - Provision of an adequate functioning buffer between the development and the brook corridor
  - Buffer and protection of adjacent woodland habitat
  - Avoidance of habitat losses or adequate compensation for all unavoidable losses.
- *Applicant's appointed Ecologist response: The brook corridor is being retained and a landscaped buffer will be provided as part of a landscape scheme. Habitat loss will be compensated against as part of a landscape scheme.*
- Unavoidable impacts should first be compensated for on site. Any residual impacts would need to be compensated for off-site or as a last resort a commuted sum. I recommend that gains and losses are quantified.
- Although this matter is also discussed above it is worth highlighting specifically that the applicant has not demonstrated that impacts on bats using the brook corridor, including species which are particularly sensitive to lighting (such as brown long-eared bats and Myotis species which the bat surveys showed are using the brook corridor), would be avoided as the applicant has not demonstrated that there would not be increased light levels/light spill onto the brook corridor.
- An adequate functioning buffer between the development and the brook should be provided (see above) and the applicant should be required to demonstrate that the proposed development would not result in increased light spill/lights levels onto the brook corridor.  
*Applicant's appointed Ecologist response: Appropriate lighting will be conditioned to ensure there will be no increased light spill into the corridor.*
- In order to establish the need for mitigation/compensation measures, information is required on the suitability (and use if suitable) of the buildings by breeding birds, including Peregrine and Barn Owl (birds listed on Schedule 1 of the Wildlife and Countryside Act, 1981 (as amended)), and declining birds such as Swift and Startling, (see previous comments dated 28th November 2013). Clarification should also be provided on the suitability of the brook corridor for use by nesting Kingfisher (listed on Schedule 1 of the Wildlife and Countryside Act, 1981 (as amended)).  
*Applicant's appointed Ecologist response: No Kingfishers were observed during the phase 1 habitat survey and no works within the brook corridor are scheduled. The brook corridor is not suitable for nesting Kingfisher due to its stone wall sides. A check for nesting Kingfisher prior to any work that may impact upon them can be done.*  
  
*None of the buildings on site are suitable for Barn Owls. No Peregrines were observed during the survey and a check can be done if work commences during the nesting season.*
- It is not clear to me if the badger survey included habitat within at least 30m of the application site boundary. This should be clarified. If not then the survey will need to be extended to include this area and the results submitted prior to determination of the application (see previous comments dated 28th November 2013).
- I recommend that the Environment Agency/Lancashire County Council Flood Risk Management Team area consulted over the proposals to discharge surface water into existing watercourses.

The Environment Agency have been consulted as part of the proposals.

63. Following the Supreme Court ruling (Morge vs Hampshire County Council – Supreme Court ruling Jan 2011) the Local Authority now have a responsibility to consult Natural England on proposals which may affect protected species and ask the following questions:
- Is the proposal likely to result in a breach of the Habitats Regulations?

- If so, is Natural England likely to grant a licence?
64. Natural England has not been consulted on the proposals as it is not considered that that the proposals will result in a breach of the Habitats Regulations.
  65. Following the high court decision (R (on the application of Simon Woolley) v Cheshire East Borough Council, June 2009) the Local Planning Authority have a legal duty to determine whether the three 'derogation tests' of the Habitats Directive implemented by the Conservation (Natural Habitats &c.) Regulations 1994 have been met when determining whether to grant planning permission for a development which could harm a European Protected Species. The three tests include:
    - (a) the activity must be for imperative reasons of overriding public interest or for public health and safety;
    - (b) there must be no satisfactory alternative and
    - (c) favourable conservation status of the species must be maintained.
  66. This requirement does not negate the need for a Licence from Natural England in respect of Protected Species and the Local Planning Authority are required to engage with the Directive.
  67. The Framework (para 118) confirms that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
  68. As such the Framework adopts a tiered/ cascade approach in that the first test is whether there is an alternative to developing the site. The development has beneficial consequences to the environment by replacing a run-down Mill building and its associated hardstanding/ storage areas with a deliverable development which has the potential to deliver ecological improvements. The use of the Mill and the site has diminished over time and now a lot of the site is unused and in a poor state of repair. As such an appropriate reuse of the site needs to be secured particularly given the derelict nature of the current site and its impact on the visual amenities of the area. As such it is considered that the first two derogation tests and the alternative site test within the Framework are met in that there is no satisfactory alternative.
  69. The next test is whether a favourable conservation status of protected species will be maintained and whether the biodiversity impacts are adequately mitigated. At this stage it is not possible to confirm whether the submitted information is adequate to satisfy these tests in the absence of comments from the Ecologist at LCC. This will be addressed on the addendum.

#### Flood Risk

70. As set out above this site was proposed to be allocated for housing development at preferred option stage of the Local Plan (Site Allocations). However, the site was not proposed for allocation at Publication stage because it is partly located within Flood Zones 2 & 3 where there is a medium/high probability of flooding. The Environment Agency objected to the allocation because in the absence of a Level 2 Strategic Flood Risk Assessment, the risk of flooding to the site was unknown and it could not be determined if it was appropriate for residential development.
71. The application is supported by a Flood Risk Assessment which has been reviewed by the Environment Agency. They have no objection to the proposals subject to the inclusion of appropriate conditions
72. United Utilities have no objections to the proposals subject to suitable conditions. Due to the flood risk at this site it is considered that the use of permeable materials for the driveways is appropriate to reduce the risk of increased surface water flooding.

### Traffic and Transport

73. The CTC Right to Ride for Chorley have commented that the outline application has many merits, and there could be a major improvements with additional Public Realm which will increase the accessibility of the site to schools and for children's recreation. However the default transport is the car and the developer has proved this by allocating spaces for 130 cars. The scheme provides cycle parking which is a benefit however the developer should also provide information for home-owners to make decisions on the best mode of transport on the day; the default appears to be the car. Free cycling training ought to be offered and discounts negotiated, etc. Additionally there is an opportunity to construct a multi user path to Amber Drive, it would go through an attractive wooded area and follow the 'Black Brook' stream.
74. Although it is noted that a direct pedestrian link to the existing play area on Amber Drive would be a benefit to the development this would either involve following the route of the Black Brook through a wooded area outside the control of the applicant or involve ascending the steep embankment within the site to provide a direct route which would not be achievable given the significant level differences on the site. As such although a link would be desirable due to the steep embankment and land outside the applicants control (the land adjacent to the application site along the Black Brook is unregistered and as such the land owner is unknown) it is not possible to secure as part of this planning application.
75. The Highway Engineer at Lancashire County Council has reviewed the proposals and confirmed this site has its vehicular access to Cowling Brow at a point close to the Cowling Bridge from where it extends south for approximately 275m.

### *Traffic Survey*

76. The applicant carried out a traffic survey at the existing site access to establish the weekday periods during which traffic is at its peak on Cowling Brow. The survey result showed that traffic flow was at its peak between 07:45-08:45 hours and 16:30-17:30 hours. During the morning peak, 291 vehicles were counted heading towards Chorley, with 250 heading towards Rivington, resulting in a total two-way peak traffic flow of 541 vehicles. The result of the afternoon peak flow was 305 vehicles towards Chorley and 292 vehicles towards Rivington, resulting in a total two-way peak flow of 597 vehicles.

### *Traffic generation*

77. Based on the proposed 65 dwellings, it was determined that during the morning peak period, 10 vehicles would arrive at the site, while 20 would depart during the same period. During the afternoon peak, 21 vehicles would arrive and 13 would depart the site. These arrivals and departures are regardless of the direction from which they enter the site or leave. The applicant therefore anticipates that the proposed development would generate around 30 two-way trips in the morning peak and 34 two-way trips in the afternoon peak. In percentage terms, it means as a result of the proposed 65 dwellings, there would be a 4% increase on the current total two-way flow of 541 vehicles during the morning peak and an increase of 2% on the total two-way flow of 597 vehicles during the afternoon peak on Cowling Brow.
78. The Highway Engineer does not consider that this increase in traffic flow would result in any adverse traffic impacts on Cowling Brow and the surrounding highway network and is acceptable in highway capacity terms.

### *Junction of Eaves Lane and Cowling Brow*

79. Having visited the site during peak times and observed no queuing or any impediments to smooth flow of traffic, coupled with the low rate of trips to be generated by the development, as confirmed by the above figures, the Highway Engineer does not foresee any exponential increase in traffic queuing at the nearby mini-roundabout due to the proposed development.

### *Accidents on Cowling Brow*

80. There has been a total of 10 recorded traffic accidents on Cowling Brow from its junction with Eaves Lane to its junction with Weavers Brow within the past 5 years, which includes 4 (3 slight and 1 serious) within 100m of the site access. The 10 accidents, though slight include 2 serious ones which occurred at the junction of Cowling Brow and Crosse Hall Street and at a point between the Cowling Canal Bridge and Bridge Mill Court.
81. The Transport Assessment in support of this application has reviewed the accident record and an off-site highway safety scheme has been prepared to improve road safety along Cowling Brow near the site access. This includes new road markings along Cowling Brow and anti-skid surfacing on the downhill approach to the access from the south east. The Highway Engineer has confirmed that the identified measures are acceptable.

*The site access*

82. The existing vehicle access would be retained for use to access the proposed development. The following measures have been agreed on site with the Highway Engineer:
- The junction of Crosse Hall Street was found to be rather wide. As a result, vehicles were negotiating the junction at high speeds, which may be contributing to the spate of traffic accidents. It was therefore agreed that the bell-mouth of Crosse Hall Street be narrowed using red texture-flex to alert drivers and make it slightly tighter, so that the junction can be negotiated at a more reduced speed. Give-way markings are also to be provided.
  - The site access is to be built-out to bring it in line with the existing footway, so that drivers leaving the site can see hazards from both directions. The existing ground level at the access in relation to the level of carriageway is low. This would be slightly elevated as part of the access works to include provision of give-way markings.
  - On approach to the site access from the bridge, skid resistance coloured surfacing is to be provided to include 'SLOW' carriageway worded marking.
  - The existing bar markings and the centre-of-carriageway markings are to be renewed as part of the works.
83. These are detailed on the submitted plans and are considered acceptable to the Highway Engineer.

*Pedestrians and cyclists*

84. The area lends itself well to cycling and walking. There is a cycle lane and a Public Right of Way (PROW) (FP 12) within close proximity of the site. The cycle lane runs along the Leeds and Liverpool canal tow path towards south and as far as to Bolton Road and beyond. The PROW begins east of the site access in Hoggs Lane and runs south of the site to point where it intersects with public footpath (FP46) that leads to Bolton Road.
85. Although these facilities are within close proximity of the site, the Highway Engineer considers that there is need for the proposal to incorporate further measures to minimise car use and maximise sustainable travel. The accessibility of the site could be better enhanced if a 3m pedestrian/cycle link is provided through the site to the existing link in Amber Drive. It is acknowledged that the applicant may be constrained by boundary limitations; however, this link is considered essential to reduce the length of pedestrian/cyclists travel times between Cowling Brow and Bolton Road and to assist school journeys to the Albany Academy and the St George's CE Primary School. The link would also facilitate walking to the bus stops in Bolton Road.
86. As set out earlier within this report the levels on site make a usable direct link from the application site to Amber Drive unachievable. A longer route along the Black Brook may be achievable however this extends onto land outside the applicants control and as such cannot be secured as part of this planning application.
87. Additionally the Highway Engineer considers that a pedestrian link should be provided from the site to the play area located north-west of the site (opposite Crosse Hall Street).

However it is noted that footways exist along both sides of Cowling Brow for its entire length which would enable access to this play area.

#### *Public transport*

88. There are three bus stops within walking distance (400m) of the site, one on Eaves Lane, and the other outside the Spinners Arms pub near Cowling Brow/Moorland Gate. The third bus stop is directly opposite the site access. The three bus stops are all non-DDA compliant as they lack basic infrastructure such as shelters, raised kerbs, clearway markings, signs etc. The bus stop on Eaves Lane has a shelter, but lacks the overall package of infrastructure to ensure that it is accessible to people with mobility impairments.
89. The Highway Engineer considers that if realistic opportunity is to be created for residents to move towards a more sustainable way of travelling and alternative means of transport encouraged, it would be essential that significant improvements to quality standards are made to at least the two bus stops near the site on Cowling Brow, especially the bus stop opposite the site.
90. For the bus stop opposite the site, the Engineer considers that the improvements should include measures to ensure safe crossing of the road by residents of the proposed development and the general public to and from the bus stop. The Engineer recommends that a suitable condition is attached to any approval to secure delivery of an upgrade to the three bus stops to quality standards.
91. However any contribution to bus stop improvements would need to be secured via the legal agreement rather than condition. As set out earlier the financial viability of this scheme is relatively limited and there is no available profit which could be used for bus stop improvements. The site is well located in respect of bus stops and as such is sustainable in terms of buses. Upgrading these to DDA compliance would be a benefit however there is no ability to secure the improvements as part of this scheme due to the limited profit which will be achieved as part of this development.

#### *Internal layout*

92. The internal layout of the site would be analysed in greater detail at the reserved matters stage of the application process, however, from the indicative layout shown in the D&AS, the Engineer considers that the layout seems to have followed the principles of the Manual for Streets, as the design seems to have incorporated sufficient speed control measures and turning areas.
93. Parking will be addressed at reserved matters stage in accordance with Policy ST4 of the emerging Local Plan and appendix D.

#### Sustainability

94. Policy 27 of the Adopted Central Lancashire Core Strategy states that all dwellings will be required to meet Level 4 of the Code for Sustainable Homes from January 2013. This increases to Level 6 in 2016.
95. The Policy also states that subject to other planning policies, planning permission for new built development will only be granted on proposals for 5 or more dwellings where all of the following criteria are satisfied:
- (a) Evidence is set out to demonstrate that the design, orientation and layout of the building minimises energy use, maximises energy efficiency and is flexible enough to withstand climate change;
  - (b) Prior to the implementation of zero carbon building through the Code for Sustainable Homes for dwellings or BREEAM for other buildings, either additional building fabric insulation measures,  
or  
appropriate decentralised, renewable or low carbon energy sources are installed and implemented to reduce the carbon dioxide emissions of predicted energy use by at least 15%;



- (c) Appropriate storage space is to be provided for recyclable waste materials and composting;
- (d) If the proposed development lies within a nationally designated area, such as a Conservation Area or affects a Listed Building, it will be expected to satisfy the requirements of the policy through sensitive design unless it can be demonstrated that complying with the criteria in the policy, and the specific requirements applying to the Code for Sustainable Homes and BREEAM, would have an unacceptable adverse effect on the character or appearance of the historic or natural environment.

96. As the proposed development exceeds 5 dwelling units both parts of the Policy will need to be satisfied in respect of the proposals.
97. This can be addressed by condition however it is noted that the financial viability assessment bases the scheme on Code Level without any uplift to Code 6. Given that the preamble to Policy 27 allows for variations in the requirements if demonstrated on viability grounds. As this has been demonstrated in this case this will be reflected within the condition wording.

#### Contamination and Coal Mines

98. The Council's Waste & Contaminated Land Officer has commented that there is potential for ground contamination at this site (former mill). Due to the size of development and sensitive end-use (residential housing with gardens) conditions to address contamination will be required.

#### Section 106 Agreement

99. Lancashire County Council (Education) have confirmed that based upon the latest assessment a contribution for primary school places or secondary school places is not sought. However if any of the pending applications (Wesley Street Mill, Royal Cross Site, Bodmin St, Froome St & Tauton St, North of Bannister Lane, Oaklands Nursery, Town Lane & Lucas Lane) are approved prior to a decision being made on this development the claim for primary school provision could increase up to maximum of 6 places (£72,178).
100. Although it is noted that this site is not an allocated site, and as such is a windfall housing site, which was taken into account when the infrastructure requirements of the borough were considered it is still a CIL liable development. The intention of the CIL charging is to fund infrastructure that is needed as a result of development. The Council's CIL charging schedule includes funding for education provision and as such it is considered that education requirements should be covered by CIL rather than S106 obligations in accordance with the CIL regulations. Although the CIL levy in this case may be nil this does not result in the Council being able to secure infrastructure costs by alternative measures.

#### Community Infrastructure Levy

101. The Chorley CIL Infrastructure Charging Schedule provides a specific amount for housing - £65 per sq m. The CIL Charging Schedule was adopted on 16 July 2013 and charging commenced on 1 September 2013. The proposed housing development will be chargeable development and this will become liable at the commencement of the development.
102. As this is an outline application the total residential floorspace proposed is unknown however the submitted viability assessment assumes a floor space of 59,295ft<sup>2</sup> (5,508.5m<sup>2</sup>) which equates to a CIL charge of approximately £358,052.50 however it is noted that the gross internal area of any existing building(s) on the site to be demolished can be deducted from the final liability provided it has been in continuous lawful use for six of the previous 3 years.
103. The onus is on the applicant or their agent to demonstrate lawful use by providing appropriate evidence such as Council Tax records or Business Rate documentation. The extent of the floorspace to be deducted from the CIL charge is unknown at this stage

however utilising the floor area of the entire Mill detailed within the submission documents (18,575m<sup>2</sup>) would result in a scheme with nil CIL liability.

### Overall Conclusion

The proposals involve the redevelopment of a brownfield site within a sustainable location within the settlement boundary of Chorley Town which accords with Policy 1 of the Core Strategy for the focus of growth and investment. Although it is noted that the proposals will result in the complete loss of employment uses at the site it is not considered that this site represents a viable option for new employment redevelopment and the proposals will not compromise the Council's land allocations for employment and the overall employment land supply. As such the application is recommended for approval subject to the associated legal agreement and conditions.

### Planning Policies

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.

### Planning History

Reference	Description	Decision	Date
85/00589/FUL	Car park and access Road (Phase 1)	Approved	22.10.1985
88/00490/FUL	Construction of cradle hoist	Approved	02.08.1988
02/00405/TEL	Prior notification of erection of 6 polar antenna, 2 dishes and equipment cabin on the rooftop,	Prior approval not required	24.06.2002
10/00952/COU	Proposed change of use from industrial premises (B2 Use) to taxi private hire/minibus private hire office (Sui Generis).	Approved	10.12.2010
13/00905/OUTMAJ	Outline application for the erection of 65 dwellings all matters reserved save for access	Withdrawn	

**Recommended Conditions**

No.	Condition												
1.	<p>An application for approval of the reserved matters (namely the appearance, layout, scale and landscaping of the site) must be made to the Council before the expiration of three years from the date of this permission and the development hereby permitted must be begun two years from the date of approval of the last of the reserved matters to be approved.</p> <p>Reason: This condition is required to be imposed by the provisions of Article 3 (1) of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.</p>												
2.	<p>The development shall be limited to no more than 65 dwellings (including the conversion of the existing lodge building) and shall be carried out in accordance with the following plans:</p> <table border="1" data-bbox="368 745 1342 936"> <thead> <tr> <th>Title</th> <th>Drawing Reference</th> <th>Received date</th> </tr> </thead> <tbody> <tr> <td>Existing Location Plan</td> <td>10/103/L01</td> <td>7th May 2014</td> </tr> <tr> <td>Topographical Survey</td> <td>10/103/T01</td> <td>7th May 2014</td> </tr> <tr> <td>Proposed Access Layout and Road Marking Scheme on Cowling Brow</td> <td>Figure 2</td> <td>7th May 2014</td> </tr> </tbody> </table> <p>Reason: For the avoidance of doubt and in the interests of proper planning</p>	Title	Drawing Reference	Received date	Existing Location Plan	10/103/L01	7th May 2014	Topographical Survey	10/103/T01	7th May 2014	Proposed Access Layout and Road Marking Scheme on Cowling Brow	Figure 2	7th May 2014
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Existing Location Plan	10/103/L01	7th May 2014											
Topographical Survey	10/103/T01	7th May 2014											
Proposed Access Layout and Road Marking Scheme on Cowling Brow	Figure 2	7th May 2014											
3.	<p>Any application for reserved matter(s) shall be accompanied by full details of the position, height and appearance of all fences and walls to be erected (notwithstanding any such detail shown on previously submitted plan(s). The details shall include full specifications of any required retaining walls (including cross sections). No dwelling shall be occupied or land used pursuant to this permission before all walls, retaining walls and fences have been erected in accordance with the approved details. Fences, walls and retaining walls shall thereafter be retained in accordance with the approved details at all times.</p> <p>Reason: To ensure a visually satisfactory form of development and to provide reasonable standards of privacy to residents.</p>												
4.	<p>Any application for reserved matter(s) shall be accompanied by samples of all external facing materials to the proposed buildings (notwithstanding any details shown on previously submitted plans and specification). The development shall only be carried out using the external facing materials approved pursuant to this Condition, unless otherwise agreed in writing by the Local Planning Authority</p> <p>Reason: To ensure that the materials used are visually appropriate to the locality.</p>												
5.	<p>Any application for reserved matter(s) shall be accompanied by full details of the colour, form and texture of all hard ground- surfacing materials (notwithstanding any such detail shown on previously submitted plans and specification). The development shall only be carried out using the approved materials.</p> <p>Reason: To ensure a satisfactory form of development in the interest of the visual amenity of the area.</p>												
6.	<p>Notwithstanding the details shown on the submitted plans, the private driveway/hardsurfacing areas to the front of the all the dwellinghouses shall be constructed using pervious paving subject to suitable ground conditions. Where ground conditions are not suitable for infiltration then underdrained pervious paving shall be utilised. Full details shall be submitted with each reserved matters application.</p> <p>Reason: In the interests of highway safety and to prevent flooding</p>												

<p>7.</p>	<p>All the dwellings hereby permitted will be required to meet Code Level 4 of the Code for Sustainable Homes. Within 6 months of occupation of each dwelling a Final Certificate, certifying that the relevant Code for Sustainable Homes Level for that dwelling has been achieved, shall be submitted to the Local Planning Authority.</p> <p>Reason: In the interests of minimising the environmental impact of the development</p>
<p>8.</p>	<p>Prior to the commencement of the development, a 'Design Stage' assessment and related certification shall be submitted to and approved in writing by the Local Planning Authority. The assessment and certification shall demonstrate that the dwellings will meet the relevant Code Level of the Code for Sustainable Homes. The development shall be carried out entirely in accordance with the approved assessment and certification.</p> <p>Reason: In the interests of minimising the environmental impact of the development</p>
<p>9.</p>	<p>No dwelling shall be occupied until a letter of assurance, detailing how that plot has met the necessary Code Level, has been issued by a Code for Sustainable Homes Assessor and submitted to the Local Planning Authority.</p> <p>Reason: In the interests of minimising the environmental impact of the development</p>
<p>10.</p>	<p>Prior to the commencement of the development a Carbon Reduction Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall demonstrate that either appropriate decentralised, renewable or low carbon energy sources will be installed and implemented to reduce the carbon dioxide emissions of the development by at least 15% or additional building fabric insulation measures are installed beyond what is required to achieve the relevant Code Level rating. The development shall only be carried out in accordance with the approved Carbon Reduction Statement.</p> <p>Reason: In the interests of minimising the environmental impact of the development</p>
<p>11.</p>	<p>Each application for approval of reserved matters shall be accompanied by full details of existing and proposed ground levels and proposed building slab levels (all relative to ground levels adjoining the site), notwithstanding any such detail shown on previously submitted plans. The development shall only be carried out in conformity with the approved level details.</p> <p>Reason: To protect the appearance of the locality and in the interests of the amenities of the future residents.</p>
<p>12.</p>	<p>Prior to the commencement of the development, including any works of demolition, a Construction Method Statement shall be submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:</p> <ul style="list-style-type: none"> <li>• the parking of vehicles of site operatives and visitors</li> <li>• loading and unloading of plant and materials</li> <li>• storage of plant and materials used in constructing the development</li> <li>• the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate</li> <li>• wheel washing facilities</li> <li>• a scheme for recycling/disposing of waste resulting from</li> </ul>

	<p style="text-align: center;">demolition and construction works</p> <p>Reason: in the interests of highway safety and to protect the amenities of the nearby residents.</p>
<p>13.</p>	<p>Prior to the commencement of the development details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.</p> <p>Reason: To ensure that the estate streets serving the development are maintained to an acceptable standard in the interest of residential / highway safety.</p>
<p>14.</p>	<p>Prior to the construction of any of the streets referred to in the previous condition full engineering, drainage, street lighting and constructional details of the streets shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details.</p> <p>Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway.</p>
<p>15.</p>	<p>The construction works and deliveries associated with the development hereby permitted shall not take place except between the hours of:</p> <ul style="list-style-type: none"> <li>• 0800 hrs to 1800 hrs Monday to Friday</li> <li>• 0800 hrs to 1300 hrs on Saturdays.</li> </ul> <p>No construction activities shall take place on Sundays or Bank Holidays. These construction hours shall be adhered to during the development of the whole site unless otherwise agreed in writing by the Local Planning Authority.</p> <p>Reason: To safeguard the amenities of local resident/ businesses and to protect nearby noise sensitive buildings</p>
<p>16.</p>	<p>A scheme for the landscaping of the development and its surroundings shall be submitted as part of the reserved matters application. These details shall include 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. The scheme should include a landscaping/habitat creation and management plan which should aim to contribute to targets specified in the UK and Lancashire Biodiversity Action Plans. The plan will demonstrate adequate compensation for losses, maintenance of biodiversity value of retained and adjacent habitats and enhancement of the biodiversity value of the site. Landscaping proposals should comprise only native plant communities appropriate to the natural area.</p> <p>All hard and soft landscape works shall be carried out in accordance with the approved details within 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.</p> <p><i>Reason: To ensure that a satisfactory landscaping scheme for the development is carried out to mitigate the impact of the development and secure a high quality</i></p>

	<i>design</i>
17.	<p>During the construction period, all trees to be retained shall be protected in accordance with British Standard BS 5837:2012 or any subsequent amendment to the British Standards.</p> <p>Reason: To safeguard the trees to be retained</p>
18.	<p>Before any tree felling is carried out full details (including species, number, stature and location) of the replacement tree planting shall have been submitted to and approved in writing by the Local Planning Authority. The replacement tree planting shall be carried out in accordance with the approved details within nine months of the tree felling.</p> <p>Reason: To safeguard the visual amenity of the area</p>
19.	<p>For the avoidance of doubt the planning approval includes the demolition of the existing Mill building but does not include the demolition of the existing Lodge building which will be retained and converted as part of the development of the site. Full details of the proposed works to convert the Lodge building shall be submitted to and approved in writing as part of the first reserved matter(s) application. The conversion works thereafter shall be carried out in accordance with the approved details.</p> <p>Reason: to clarify the planning approval and the elements of demolition involved.</p>
20.	<p>Notwithstanding any indication on the approved plans, no development approved by this permission shall commence until a scheme for the disposal of foul and surface waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems. The development shall be completed, maintained and managed in accordance with the approved details.</p> <p>Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding.</p>
21.	<p>No works shall take place on the site until the applicant, or their agent or successors in title, has secured the implementation of a programme of building recording and analysis. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and agreed in writing by the Local Planning Authority. On completion the building recording and analysis shall be submitted to the Local Planning Authority.</p> <p>Reason: To ensure and safeguard the recording and inspection of matters of archaeological/historical importance associated with the buildings.</p>
22.	<p>The development permitted by this planning permission shall only be carried out in accordance with the approved FRA (Ref: C6300, Revision D; dated May 2014) and the following mitigation measures detailed within the FRA:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Identification and provision of safe route(s) into and out of the site to an appropriate safe haven.</li> <li><input type="checkbox"/> Finished ground floor levels for the new dwellings will be 600 mm higher than the corresponding 1 in 100 year flood level in Black Brook.</li> </ul> <p>The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.</p> <p><b>REASON</b></p> <ol style="list-style-type: none"> <li>1. To ensure safe access and egress from and to the site.</li> <li>2. To reduce the risk of flooding to the proposed development and future</li> </ol>

	<i>occupants.</i>
23.	<p>No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year plus climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include details of how the scheme shall be maintained and managed after completion.</p> <p>REASON To prevent the increased risk of flooding both on and off site.</p>
24.	<p>There is potential for ground contamination at this site (former mill). Due to the size of development and sensitive end-use (residential housing with gardens), no development shall take place until:</p> <ul style="list-style-type: none"> <li>a) a methodology for investigation and assessment of ground contamination has been submitted to and agreed in writing with the Local Planning Authority. The investigation and assessment shall be carried in accordance with current best practice including British Standard 10175:2011 'Investigation of potentially contaminated sites - Code of Practice'. The objectives of the investigation shall be, but not limited to, identifying the type(s), nature and extent of contamination present to the site, risks to receptors and potential for migration within and beyond the site boundary;</li> <li>b) all testing specified in the approved scheme (submitted under a) and the results of the investigation and risk assessment, together with remediation proposals to render the site capable of development have been submitted to the Local Planning Authority;</li> <li>c) the Local Planning Authority has given written approval to any remediation proposals (submitted under b), which shall include an implementation timetable and monitoring proposals. Upon completion of remediation works a validation report containing any validation sampling results shall be submitted to the Local Authority.</li> </ul> <p>Thereafter, the development shall only be carried out in full accordance with the approved remediation proposals.</p> <p>Reason: To protect the environment and prevent harm to human health, by ensuring the site is suitable for the proposed end-use, in accordance with Paragraph 121 of the National Planning Policy Framework (DCLG, 2012).</p>
25.	<p>Should, during the course of the development, any contaminated material other than that referred to in the investigation and risk assessment report and identified for treatment in the remediation proposals be discovered, then the development should cease until such time as further remediation proposals have been submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason: To protect the environment and prevent harm to human health, by ensuring the site is suitable for the proposed end-use, in accordance with Paragraph 121 of the National Planning Policy Framework (DCLG, 2012).</p>
26.	<p>Before the occupation of the dwellings hereby approved the works to the access junction as detailed on the approved plans shall be completed. These include:</p>

	<ul style="list-style-type: none"> <li><input type="checkbox"/> The bell-mouth of Crosse Hall Street be narrowed using red texture-flex along with give-way markings are also to be provided.</li> <li><input type="checkbox"/> The site access is built-out to bring it in line with the existing footway. This would be slightly elevated to include provision of give-way markings.</li> <li><input type="checkbox"/> On approach to the site access from the bridge, skid resistance coloured surfacing is to be provided to include 'SLOW' carriageway worded marking.</li> <li><input type="checkbox"/> The existing bar markings and the centre-of-carriageway markings are to be renewed as part of the works.</li> </ul> <p>Reason: In the interests of highway safety and to create a safe and suitable access to the site.</p>
27.	<p>Immediately prior to the commencement of the development hereby approved a further precaution Otter survey of the brook bordering the site and associated habitats shall be carried out, submitted to and approved in writing by the Local Planning Authority. If this survey (or any other evidence) shows that otters would be affected then prior to the commencement of works on site mitigation measures shall be submitted to and approved in writing by the Local Planning Authority which demonstrate that they are sufficient for the purposes of a Natural England licence (if necessary). The development thereafter shall be carried out in accordance with the approved mitigation measures.</p> <p>Reason: In the interests of protecting otters at the site.</p>
28.	<p>If any plants listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) occur on the site, such as Himalayan balsam, Japanese knotweed, rhododendron and giant hogweed, then they shall be eradicated from the site and working methods shall be adopted to prevent their Spread in accordance with Environment Agency guidance and codes of practice.</p> <p>Reason: to ensure the eradication and control of any invasive species which are found on the site</p>
29.	<p>Prior to the demolition of the Mill full details of the removal and storage of the existing 'Cowling Mill' signage shall be submitted to and approved in writing by the Local Planning Authority. The signage shall be stored in accordance with the approved details until it is relocated onto the application site.</p> <p>The first reserved matters application shall include full details of the relocated position of the signage close to the site entrance. The signage shall be incorporated into the development close to the site entrance in accordance with the approved details prior to the occupation of the first dwellinghouse on the site and retained in perpetuity.</p> <p>Reason: in the interests of maintaining a visible link to the site's past industrial use and to create an identity for the future development.</p>
30.	<p>External lighting associated with the development (both during the construction and operational phases) shall be directional and designed to avoid excessive light spill and shall not illuminate bat roosting opportunities within the site, the roof or eaves of the nearby buildings, trees and hedgerows in the area or the brook and associated vegetation. The principles of relevant guidance should be followed (e.g. the Bat Conservation Trust and Institution of Lighting Engineers guidance Bats and Lighting in the UK, 2009).</p> <p>Reason: to ensure the continued protection of bats and their habitats at the site</p>
31.	<p>No site clearance, site preparation or development work shall take place until a fully detailed method statement to demonstrate how impacts on amphibians, reptiles (if present) and Hedgehog will be avoided during the works and the operational phase of the development. The approved details shall be implemented in full. If the presence of Great Crested Newt is detected or suspected at any stage before or during development works, then works must not proceed until advice has been sought regarding the need for Natural England a licence.</p> <p>Reason: In the interests of protecting European Protected Species and Species of</p>



	Principal Importance at the site
32.	<p>Prior to the commencement of the development full details of replacement habitat for birds (both replacement planting and nesting opportunities to be installed with the re-developed site/new buildings) shall be submitted to and approved in writing by the Local Planning Authority. The details shall demonstrate adequate compensation for all losses. The approved details shall be implemented in full. Reason: in the interests of maintaining bird breeding opportunities at the site.</p>

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Type	Description	F <sup>2</sup>	No	Sq Ft Totals
<b>Apartments</b>	A 2 storey - 2 bedroom apartment	570	4	2280
	B 2 storey - 2 bedroom apartment	590	4	2360
	L 2 storey conversion - 2 bedroom apartment	700	3	2100
<b>Houses</b>	C 2 storey - 2 bedroom mews house	687	2	1374
	D 2 storey - 3 bedroom semi/mews house	775	21	16275
	E 2 storey - 3 bedroom detached house	825	3	2475
	E 2 storey - 3 bedroom detached house	825	2	1650
	F 2.5 storey - 3 bedroom mews house	1030	6	6180
	G 3 storey split level - 3 bedroom mews house	1154	12	13848
	H 2 storey - 4 bedroom detached house	1211	3	3633
	J 3 storey - 4 bedroom mews house	1220	3	3660
	K 3 storey - 4 bedroom mews house	1390	2	2780
	<b>Totals</b>			<b>65</b>
<b>Site Area-gross = 1.79ha (4.42 acres)</b>				
<b>P. O. S. = 0.08ha (0.19 acres)</b>				
<b>Site Area-net = 1.71ha (4.22 acres)</b>				
<b>Coverage-net = 38 plots/ha (15.4 plots/acre)</b>				

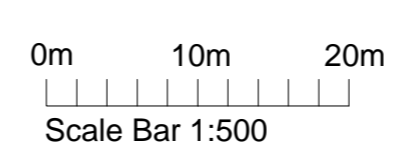
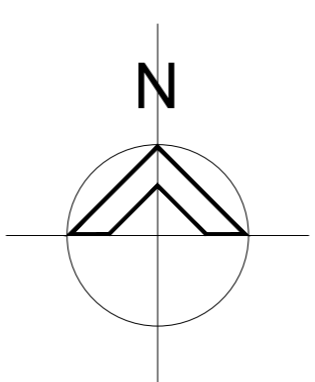


existing access to be altered to incorporate 6m radius kerbs and road markings to improve sight lines - see VTC (Highway & Transportation Consultancy) statement and Proposed Access Layout drawing (Figure 2) for road markings and access design

existing lodge to be retained and converted into 3No. affordable units

broken lines denote buildings to be demolished

Revisions  
 A : existing lodge to remain; layout adjusted and housing schedule updated; site access revised to new VTC Consultancy design asl 28/04/14



<b>CLIENT</b> Neatmeek Ltd			
<b>PROJECT</b> Proposed Residential Development at Cowling Mill, Cowling Brow, Chorley, PR6 0QG		213 PRESTON ROAD WHITTLE-LE-WOODS CHORLEY LANCASHIRE PR6 7PS TEL: 01257 261555 FAX: 01257 267224 www.lmparchitects.co.uk	
<b>DRAWING TITLE</b> Indicative Layout and Accommodation Schedule			
<b>DATE</b> 23/09/13	<b>SCALE</b> 1:500 @ A1	<b>DRAWN</b> JRM	<b>DRWG No.</b> 10/103/P01
		<b>REV</b> A	© Copyright Lawson Magerison Practice Ltd.

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**Representations**

<p><b>Astley Village Parish Council</b> - objects to the principle of the use/disposal of public open space for private gardens, which will eat away the buffer area between West Way and the village.</p>
<p><b>Cllr Perks has requested that the application is considered at Development Control Committee and has raised the following objections:</b></p> <ul style="list-style-type: none"> <li>• Impact on neighbour amenity</li> <li>• Character of the area</li> <li>• Lack of parking for the number of vehicles at the address</li> <li>• Covenants relating to retention of open space</li> </ul>
<p><b>In total 10 representations have been received which are summarised below</b></p>
<p><b>Objection</b></p>
<p>Total No. received: 10</p> <ul style="list-style-type: none"> <li>• Lack of parking provision and access</li> <li>• Impact on neighbour amenity</li> <li>• Character of the area</li> <li>• Loss of open space</li> <li>• Covenants</li> <li>• Business use</li> <li>• Inconsiderate parking and excessive numbers of vehicles</li> </ul>

**Consultees**

<b>Consultee</b>	<b>Summary of Comments received</b>
LCC Highways	No comments received

## Assessment

### The Site

1. The application site comprises a detached bungalow and associated residential curtilage, with an area of public open space to the rear. The dwelling is faced in red brick, the roof is laid in concrete roof tiles and there are white UPVC window frames and a timber front door.
2. The public open space to the rear consists of a land locked area of grass beyond which is a woodland buffer separating the estate from West Way. There is a surfaced path running across the open space that appears to be unused and ends at the garden to 18a The Farthings.
3. The site is located on the outer edge of Astley Village in the settlement area of Chorley. The location is characterised by part single part two storey dwellings and bungalows of modern design set in a typical suburban context. The estate is characterised by small areas of woodland resulting in a rather sylvan appearance and context.

### The Proposal

4. The proposed development is for the raising of the ridge height to create first floor accommodation and for the erection of a single storey rear extension. The ridge and eaves height over the southern part of the dwelling would be raised by around 2.4m up to a height of 6.9m and 5.2m respectively. There would be a hipped roof. The rear extension would project around 3.4m from the rear elevation of the dwelling. It would be around 9m in width and would have a mono pitched roof with a ridge and eaves height of around 3.9m and 2.7m respectively.
5. The proposal also includes the change of use of an area of public open space to the rear of the property to garden curtilage. This would bring a triangular section of land within the curtilage of 18a The Farthings measuring approximately 260m.sq. in area.

## Assessment

### Principle of the Development

6. The National Planning Policy Framework (The Framework) states that applications should be considered in the context of the presumption in favour of sustainable development. This means that development proposals that accord with the development plan should be approved without delay.
7. The Inspector has issued her Partial Report on her findings into the soundness of the Chorley Local Plan, which is a material consideration in the consideration of any planning application.
8. 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 & Travellers. The examination of the local plan remains open, and the Inspector will reconvene the examination later in 2014 to consider Gypsy & Traveller Matters, which would enable adoption of the local plan, following a supplementary report.
9. 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 of 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 attached 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.”* The Council accepted the Inspectors modifications for Development Management purposes at its Executive Committee on 21st November 2013.

10. It is therefore considered that significant weight can be given to the policies and proposals of the emerging Local Plan, as amended by the main modifications.
11. The application site is located in the core settlement area of Chorley. The emerging Chorley Local Plan 2012 - 2026 states that within the settlement areas excluded from the Green Belt, and identified on the Policies Map, there is a presumption in favour of appropriate sustainable development.
12. Policy HW2 of the emerging Chorley Local Plan 2012 – 2026 states that land and buildings currently or last used as, or ancillary to, open space or sports and recreational facilities will be protected unless certain criteria can be met. These are assessed below.
13. This approach is reflected and supported in the National Planning Policy Framework (The Framework).

#### Loss of Public Open Space

14. The proposal involves the loss of a small part of land allocated as open space under Policy HW2 in the emerging Local Plan. Policy HW2 protects all existing open space, sport and recreational facilities and requires alternative provision to be made under criterion a) of the policy unless the proposal satisfies all of criteria b) to e). The proposal is assessed against these criteria below:
  15. *b) It can be demonstrated that the loss of site would not lead to a deficit of provision in the local area in terms of quantity and accessibility;*  
There is currently a surplus of amenity greenspace in the Astley and Buckshaw ward. Therefore, the loss of this site would not lead to a deficit in provision in the local area in terms of quantity and accessibility.
  16. *c) The site is not identified as being of high quality and/or high value in the Open Space Study;*  
The site is not identified as being of high value in the Open Space Study, but it is identified as being of high quality. As the proposal results in the loss of high quality open space this is contrary to criterion c.
  17. *d) It can be demonstrated that retention of the site is not required to satisfy a recreational need in the local area;*  
The retention of the site appears unlikely to be required to satisfy a recreational need in the local area.
  18. *e) The site does not make a significant contribution to the character of an area in terms of visual amenity;*  
This site is allocated as amenity open space and forms part of the much larger 'Adjacent to Chancery Road/Wymundsley/The Farthings' amenity open space (Open Space Study site ref: 1687) Much of this open space is wooded. However, the proposal involves the loss of part of an open area of the space, which lies to the rear of the wooded area. It is not visible from public highways and is not easily accessible. Therefore, this part of the site does not make a significant contribution to the character of the area in terms of visual amenity.
19. The proposal does not accord with criterion c) of Policy HW2 because the site (as a whole) is assessed as being of high quality. Therefore, in order to satisfy this policy, alternative provision is required under criterion a). The policy requires that this provision is provided nearby before the existing provision ceases to be available. As this proposal only involves the loss of a small part of the open space, which is not visible or easily accessible, it is considered acceptable in this case to secure a commuted sum payment to be spent on new provision or improving existing provision in the area. Any planning approval would therefore be dependent upon a section 106 agreement detailing and securing such payment. The amount of open space to be lost is 288 m<sup>2</sup>. The commuted sum that would be required to replace this amount of amenity open space is £2,304 (288 x £8).



Design and impact on the character of the area

20. The proposed extensions to the existing dwellinghouse involve the addition of first floor accommodation along with a single storey rear extension. The proposal also includes the change of use of land at the rear from public open space to form part of the garden curtilage.
21. The application property occupies a corner plot on a cul de sac and as such is not in a prominent position. The addition of first floor accommodation to the rear part of the dwelling would be enabled through raising the ridge and eaves height by around 2.4m. It is noted that both neighbouring dwellings at 18 and 18b The Farthings are two storey and as such the proposed alterations would result in a dwelling of similar height to the neighbouring properties, which is appropriate to the location. The scale and mass of the dwelling following the alterations would be commensurate with the dwelling curtilage and would not be out of character with other dwellings on the estate.
22. The proposed alterations would be faced in materials to match the existing dwelling, and rendered to match neighbouring dwellings. The window openings would be of a horizontal orientation consistent with those of the application dwelling and surrounding properties. Their positioning is considered appropriate in design terms. The design and overall finish would not harm the appearance of the dwelling and would not cause unacceptable harm to the character of the surrounding area.
23. The proposed single storey rear extension would not be visible in the street scene and would be of a domestic design and scale appropriate to the appearance of the dwelling and character of the area.
24. The area of open space to the rear of the application site is not visible from West Way or any other surrounding roads as it is screened by residential curtilage to the east and by woodland to the south and west. The area of open space subject to this application is grassed and of low visible quality. The incorporation of this land into the garden curtilage at 18a The Farthings by way of a 1.8m high concrete post and timber panel fence would have very little impact on the character and appearance of the area.
25. The development is therefore considered to be in accordance with Policy BNE1 and HS5 of the emerging Chorley Local Plan 2012 - 2026.

Impact on the neighbours

26. The proposed first floor accommodation would be located around 3.4m from the common boundary with 18 The Farthings and around 4.3m from the property itself. There would be no windows in the side elevation facing this neighbouring property and the windows in the rear elevation would not provide any views of the private intimate amenity space at 18 The Farthings due to the relative positioning of these dwellings.
27. It is noted that there is a conservatory to the rear of 18 The Farthings, however, the proposed first floor would be positioned to the north west of this conservatory and would not therefore result in any loss of light. There would be no unacceptable loss of outlook as the primary aspect from the conservatory at 18 The Farthings is towards the rear of the garden to the south west. It is noted that the first floor addition would not interfere with a 45-degree line drawn from the near edge of any ground floor rear-facing window to a habitable room at 18 The Farthings.
28. The proposed rear extension would be located around 6m from the common boundary with 18 The Farthings and around 10m from the property itself. The proposed extension would be positioned a similar distance from this neighbour as an existing fully glazed conservatory that would be removed to make way for the rear extension. The rear extension would project around 3.4m from the rear elevation of the application dwelling. It would not interfere with a line drawn at 45 degrees plus 3m from the near edge of the closest ground floor rear facing window at 18 The Farthings or from the edge of the pane

of glass closest to the back wall of the original house in relation to the conservatory at 18 The Farthings. There would be no unacceptable impact on light or outlook from this element of the scheme.

29. It is noted that high level windows would be included in the side elevation of the proposed rear extension facing the garden at 18 The Farthings, however, these would not result in any direct overlooking due to their high level positioning. In addition to this the windows would effectively replace the fully glazed elevations in an existing conservatory of similar positioning at the property. As a result the impact on privacy would be improved in relation to the existing situation. The windows in the rear elevation would not provide any views of the private intimate amenity space at 18 The Farthings due to the relative positioning of these dwellings. It is therefore concluded that the proposed development would not have a detrimental impact on the occupants of 18 The Farthings through loss of privacy, outlook or light.
30. The proposed first floor accommodation would be located around 13.5m from the common boundary with 18b The Farthings and around 16m from the property itself. It is noted that there would be windows to habitable rooms in the front elevation of the first floor accommodation facing 18b The Farthings. The proposed window to the eastern bedroom would provide views towards the front of the property however it would be located around 22.5m from the nearest facing window at 18b The Farthings which exceeds the Council's required 21 metres and as such it will not have a harmful impact on privacy.
31. The proposed window to the western bedroom would result in views towards the rear garden of 18b The Farthings. The window would be located at least 21m from the most intimate private amenity space at 18b The Farthings, due to the existence of an attached garage between the application site and dwelling at 18b The Farthings, and it would be 13.5m from the boundary. The Householder Design Guidance states that windows to habitable rooms at first floor level, which overlook a neighbour's garden, should be a minimum of 10 metres from the boundary they face. On the basis of this separation and the Council's adopted guidance it is considered that the proposed first floor addition would not result in any unacceptable impact on the privacy of the occupiers of 18b The Farthings.
32. The proposed first floor addition would be located to the south of 18b The Farthings. The first floor would be located 13.5m from the boundary and around 22.5m from the main body of the dwelling. Due to the degree of separation there would be a limited impact on light as a result of the proposal. The proposed first floor would be located around 22.5m from the nearest facing window at 18b The Farthings and would therefore have a limited impact on outlook. It is therefore concluded that the proposed development would not have a detrimental impact on the occupants of 18b The Farthings through loss of privacy, outlook or light.
33. There are no dwellings to the rear of the site, however, it is noted that some views from the rear facing windows of the proposed first floor addition towards 22 The Farthings would be possible. Any views would not be direct and only possible at an angle. The windows would be around 15m from the property boundary at 22 The Farthings and over 21m from the most intimate private amenity space at 22 The Farthings. As a result of this positioning and degree of separation the proposed development would not have a detrimental impact on the occupants of 22 The Farthings through loss of privacy, outlook or light.
34. Having regard to the above, the proposed development is considered to be in accordance with policy HS9 of the Chorley Borough Local Plan Review, HS5 of the Chorley Local Plan 2012 – 2026 and the guidance set out within the Householder Design Guidance SPD.

#### Impact on highways/access

35. The site currently has an established vehicular access to The Farthings which is shared with 18b The Farthings. This existing access will be retained within the proposed development and is unaffected. Should the access be obstructed for any reason then this becomes a private matter to be resolved between the parties involved.
36. The application dwelling would retain off street car parking on site with a capacity for at least 5 vehicles. The dwelling would have 5 bedrooms as a result of the proposed development. The Council's adopted Householder Design Guidance and emerging Local Plan 2012-2026 (Appendix A) states that residential dwellings of 3 bedrooms or more should have 3 off road car parking spaces and as such the parking provision detailed is considered to be sufficient for the size of dwelling.

#### S106 Requirement

37. The proposal involves the loss of a small part of land allocated as open space under Policy HW2 in the Local Plan. Policy HW2 protects all existing open space, sport and recreational facilities and requires alternative provision to be made under criterion a) of the policy unless the proposal satisfies all of criteria b) to e). The proposal does not accord with criterion c) of Policy HW2 because the site (as a whole) is assessed as being of high quality. Therefore, in order to satisfy this policy, alternative provision is required under criterion a).
38. The grant of planning permission is subject to the applicant entering into a Section 106 agreement to make alternative provision or improvement to offset the loss of the public open space.

#### Other matters

39. Covenants on the public open space: As the Council has an interest in this land the Council's legal team have been asked to investigate the details of any such covenants and implications for both the Council and applicant in transferring such land into private ownership for private domestic use. Any covenants relating to the land cannot, however, be taken into account as part of the assessment of this planning application as covenants are a legal matter and not a material planning consideration.
40. Business use: No business use is specified or proposed as part of this planning application. If the property were in use for a business that could not be considered ancillary to the domestic character of the dwelling then this may be subject to enforcement action and may require a separate assessment as part of a full planning application.
41. Nuisance caused during the construction phase: This is not a material planning consideration and may be dealt with by other legislation.

#### **Overall Conclusion**

42. The proposed development would not impact unacceptably on the amenity of neighbouring occupiers or the overall appearance and character of the area. Nor would there be an unacceptable impact on highway safety. Although a small part of the protected open space would be lost the impact is considered acceptable and will be fully mitigated against by payment of a commuted sum. On the basis of the above, it is recommended that planning permission be granted.

#### **Planning Policies**

43. 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 within 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.

**Planning History**

There is no recent planning history at the property.

**Suggested Conditions**

No.	Condition										
1.	<p>The proposed development must be begun not later than three years from the date of this permission.  <i>Reason: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004.</i></p>										
2.	<p>All external facing materials shall match in colour, form and texture those specified on the application form and approved plans.  <i>Reason: In the interests of the visual amenity of the area in general and the existing building in particular.</i></p>										
3.	<p>The approved plans are:</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 60%;">Title</td> <td style="text-align: right;">Received On:</td> </tr> <tr> <td>Location Plan, Site Plan, Fencing Detail (Amended)</td> <td style="text-align: right;">11 September 2014</td> </tr> <tr> <td>Existing and proposed plans (Amended)</td> <td style="text-align: right;">11 September 2014</td> </tr> <tr> <td>Proposed front and east side elevations (Amended)</td> <td style="text-align: right;">19 September 2014</td> </tr> <tr> <td>Existing elevations and proposed rear and west side elevations (Amended)</td> <td style="text-align: right;">11 September 2014</td> </tr> </table> <p><i>Reason: To define the permission and in the interests of the proper development of the site.</i></p>	Title	Received On:	Location Plan, Site Plan, Fencing Detail (Amended)	11 September 2014	Existing and proposed plans (Amended)	11 September 2014	Proposed front and east side elevations (Amended)	19 September 2014	Existing elevations and proposed rear and west side elevations (Amended)	11 September 2014
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Existing elevations and proposed rear and west side elevations (Amended)	11 September 2014										

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Location Plan – 18a The Farthings



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Report of	Meeting	Date
Chief Executive	Development Control Committee	30 September 2014

**PROPOSED VARIATION OF TREE PRESERVATION ORDER NO. 13(CHORLEY) 2013**

**PURPOSE OF REPORT**

- To consider a variation of Tree Preservation Order No.13 (Chorley) 2013.

**RECOMMENDATION(S)**

- To remove G4 from the original confirmed Tree Preservation Order No.13 (Chorley) 2014 as these group of trees no longer make a valuable contribution to the visual amenities of the area being prominently situated and clearly visible to the public. This group of trees do not have a significant impact on the environment and its enjoyment by the public.

**EXECUTIVE SUMMARY OF REPORT**

- Formal confirmation of the variation of this Order affords permanent legal protection to the correct tree covered by the Order. Not to confirm the variation of this Order would mean allowing a group of trees (G4) to be protected by the Order when this is not needed.

<b>Confidential report</b> Please bold as appropriate	Yes	<b>No</b>
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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	x	A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	

**BACKGROUND**

- The Order was made and served along with the statutory notice prescribed in Regulations on all those with an interest in the land on which the trees are situated on the 12th December 2013. The Order was made because on the assessment of the Council's Tree Officer the trees make a valuable contribution to the visual amenity of the area, being prominently situated and clearly visible to the public and that their removal would have a significant impact on the environment and its enjoyment by the public. No objections were made and the Order was confirmed on the 5<sup>th</sup> March 2014.
- On assessment it was decided that the group of trees known as G4 included in the Order no longer made a valuable contribution to the visual amenity of the area, being prominently

situated and clearly visible to the public and that their removal would not have a significant impact on the environment and its enjoyment by the public.

7. It is therefore, now open to the Council to vary the above Order as unopposed. The effect of formally confirming the Order will be to give permanent legal force to the Order, thereby making it an offence on a permanent basis to fell or otherwise lop, prune etc, any of the trees covered by the Orders without first having obtained lawful permission. By removing G4 from the Order it will no longer be an offence.

**IMPLICATIONS OF REPORT**

8. This report has implications in the following areas and the relevant Directors' comments are included:

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

**COMMENTS OF THE STATUTORY FINANCE OFFICER**

9. If the trees were to be lopped or pruned or chopped in breach of the order the Council would incur staff costs in any criminal investigation and prosecution. Staff costs in the Planning Department are also involved when dealing with applications for consent to work to protected trees.

**COMMENTS OF THE MONITORING OFFICER**

10. The legal effect of the order and the consequences of breach are addressed within the body of the report.

GARY HALL  
CHIEF EXECUTIVE

I attach a Plan of the location of the trees affected in this Order.

Report Author	Ext	Date	Doc ID
Elizabeth Walsh	5169	26.08.14	2510



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Report of	Meeting	Date
Director of Public Protection, Streetscene and Community	Development Control Committee	30 September 2014

## **PLANNING APPEALS AND DECISIONS RECEIVED FROM LANCASHIRE COUNTY COUNCIL AND OTHER BODIES BETWEEN 21 AUGUST AND 21 SEPTEMBER 2014**

### **PLANNING APPEALS LODGED**

1. Appeal by Mr and Mrs Rawlinson against the delegated decision to Refuse Full Planning Permission for Raising of ridge height to accommodate first floor rear extension and erection of rear porch at 36 Kirkstall Road, Chorley PR7 3JR (Planning Application: 14/00279/FUL Inspectorate Reference APP/D2320/D/14/2223868). Inspectorate letter received 21 August 2014.

### **PLANNING APPEALS DISMISSED**

2. None.

### **PLANNING APPEALS ALLOWED**

3. Appeal by S & A Wignall against Conditions 2, 3 and 4 of Permission 12/00253/FUL for Use of Building C as Wood Workshop with Landscape Gardening Workshop Use to be Retained at Jumps Farm, 147 South Road, Bretherton, Leyland, PR26 9AJ (Planning Application: 12/00253/FUL Inspectorate Reference: APP/D2320/A/13/2210500). Inspectorate decision received 16 September 2014. Appeal allowed Condition 2 deleted from the grant of Planning Permission and Conditions 3 and 4 deleted and replaced by conditions which satisfy the tests set by paragraph 206 of the NPPF. Costs awarded against the Council.
4. Appeal by S & A Wignall against Conditions 5, 6 and 7 of Permission 12/00254/FUL for Change of Use of Building B for Storage Purposes at Jumps Farm, 147 South Road, Bretherton, Leyland, PR26 9AJ (Planning Application: 12/00254/FUL Inspectorate Reference: APP/D2320/A/13/2210506). Inspectorate decision received 16 September 2014. Appeal allowed Conditions 5 and 7 deleted from the grant of Planning Permission and Condition 6 deleted and replaced by a condition which satisfy the tests set by paragraph 206 of the NPPF. Costs awarded against the Council. Costs awarded against the Council.
5. Appeal by S & A Wignall against Conditions 2, 3, 4 and 6 of Permission 12/00255/FUL for Retrospective application for change of use of land for storage and recycling in connection with Landscape Gardening Business at Jumps Farm, 147 South Road, Bretherton, Leyland, PR26 9AJ (Planning Application: 12/00255/FUL Inspectorate Reference: APP/D2320/A/13/2210517). Inspectorate decision received 16 September 2014. Appeal allowed Conditions 3 and 6 deleted from the grant of Planning Permission and Conditions 2 and 4 deleted and replaced by conditions which satisfy the tests set by paragraph 206 of the NPPF. Costs awarded against the Council.

### **PLANNING APPEALS WITHDRAWN**



6. Appeal by Mr and Mrs David And Judith Whelan against the delegated decision to Refuse Tree Works for Crown reduction, crown raising and crown thinning to oak tree located behind the rear garden fence at Land To Rear Of 10 Birch Road, Coppull, Chorley PR7 5BG (Planning Application: 14/00363/TPO Inspectorate Reference APP/TPO/D2320/4057). Appeal withdrawn by appellant Inspectorate letter received 10 September 2014.

#### **ENFORCEMENT APPEALS LODGED**

7. None.

#### **ENFORCEMENT APPEALS DISMISSED**

8. None.

#### **ENFORCEMENT APPEALS ALLOWED**

9. None.

#### **ENFORCEMENT APPEALS WITHDRAWN**

10. None.

#### **HIGH HEDGES APPEALS LODGED**

11. None.

#### **LANCASHIRE COUNTY COUNCIL DECISIONS**

12. None.

All papers and notifications are viewable at Civic Offices, Union Street, Chorley or online at [www.chorley.gov.uk/planning](http://www.chorley.gov.uk/planning).

JAMIE CARSON  
DIRECTOR PUBLIC PROTECTION, STREETSCENE AND COMMUNITY

<b>Report Author</b>	<b>Ext</b>	<b>Date</b>	<b>Doc ID</b>
Robert Rimmer	5221	22.09.2014	***

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## Appeal Decisions

Site visit made on 2 July 2014

**by Roland Punshon BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 September 2014

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### Appeal Refs:

**APP/D2320/A/13/2210500,  
APP/D2320/A/13/2210506 and  
APP/D2320/A/13/2210517**

**Jumps Farm, rear of 147 South Road, Bretherton, Chorley, Lancs PR26 9AJ**

The 3 appeals are made under section 78 of the Town and Country Planning Act 1990 against grants of planning permission subject to conditions.

The 3 appeals are made by S & A Wignall against the decisions of Chorley Borough Council.

### Appeal A:

- The application Ref 12/00253/FUL, dated 6 March 2012, was approved on 23 July 2013 and planning permission was granted subject to conditions.
- The development permitted is use of Building C as wood workshop with landscape gardening workshop use to be retained.
- The conditions in dispute are Nos 2, 3 and 4 which state that:

*2. The 'wooden doors' installed over the existing roller shutter door to the west elevation of Building C shall be retained in perpetuity unless replaced by doors of similar size and specification.*

*3. The 'wooden doors', roller shutter door and access door to the west elevation of Building C shall remain permanently closed when any operations are being carried out within the building.*

*4. No industrial, display or storage activities shall take place within the site (identified by the blue edged line shown on the approved location plan) other than inside the building hereby permitted (identified by the red edged line shown on the approved location plan).*

- The reasons given for the conditions are:

*2 and 3. To ensure the amenities of neighbouring residential properties are protected and in accordance with the National Planning Policy Framework and Policy (sic) EM2 and EP20 of the Adopted Chorley Borough Local Plan Review.*

*4. To protect the amenity of local residents and in the interests of preserving*

*the character and appearance of the Conservation Area. In accordance with the National Planning Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.*

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**Appeal B:**

- The application Ref 12/00254/FUL, dated 6 March 2012, was approved on 23 July 2013 and planning permission was granted subject to conditions.
- The development permitted is change of use of Building B for storage purposes.
- The conditions in dispute are Nos 5, 6 and 7 which state that:

*5. No industrial, display or storage activities shall take place within the site (identified by the blue edged line shown on the approved location plan) other than inside the building hereby permitted (identified by the red edged line shown on the approved location plan).*

*6. The use of Building B hereby permitted as a store shall be restricted to the hours between 08.00am and 18.00pm on weekdays, between 08.00am and 13.00pm on Saturdays and there shall be no operation on Sundays, Bank Holidays or any Public Holiday.*

*7. The use of Building B hereby permitted shall be as a store, in connection with the applicant's landscape gardening business and shall only enure for the benefit of the applicant 'S & A Wignall'. Building B shall be used for no other purpose (including any other purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or any provision equivalent to that use class in any subsequent instrument revoking or re-enacting that Order).*

- The reasons given for the conditions are:
  - 5. To protect the amenity of local residents and in the interests of preserving the character and appearance of the Conservation Area. In accordance with the National Planning Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.*
  - 6. To safeguard the amenities of local residents and in accordance with the National Planning Policy Framework, Policy 17 of the Adopted Central Lancashire Core Strategy and Policies EM2 and EP20 of the Adopted Chorley Borough Local Plan Review.*
  - 7. To protect the amenity of local residents and the character and appearance of the Conservation Area. In accordance with the National Planning Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.*

**Appeal C:**

- The application Ref 12/00255/FUL, dated 6 March 2012, was approved on 23 July 2013 and planning permission was granted subject to conditions.



- The development permitted is change of use of land for storage and recycling in connection with landscape gardening business.
- The conditions in dispute are Nos 2, 3, 4 and 6 which state that:

*2. No storage shall take place on the site (identified by the blue edged line shown on the approved location plan) other than within the areas defined: storage clamps; storage area; tractor, trailer, digger and implement store or storage bins (identified on the approved plan ref. 411/20A). Any storage within these defined areas shall not exceed the height of the existing storage clamp walls.*

*3. The use of land hereby permitted for storage and recycling shall be restricted to the hours between 08.00am and 18.00pm on weekdays, between 08.00am and 13.00pm on Saturdays and there shall be no operation on Sundays, Bank Holidays or any Public Holiday.*

*4. There shall be no operation of wood chipping equipment within the Jumps Farm site as identified by the red and blue edged lines on the approved location plan (ref. 1944-6).*

*6. The use of the storage and recycling area hereby permitted shall only be in connection with the landscape gardening business and shall only enure for the benefit of the applicant S & A Wignall.*

- The reasons given for the conditions are:

*2. To protect the amenity of local residents and in the interests of preserving the character and appearance of the Conservation Area and Green Belt. In accordance with the National Planning Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.*

*3. To safeguard the amenities of local residents and in accordance with the National Planning Policy Framework, Policy 17 of the Adopted Central Lancashire Core Strategy and Policies EM2 and EP20 of the Adopted Chorley Borough Local Plan Review.*

*4. On the basis of the Mitigation measures detailed in Section 9 of the Noise assessment, dated 2<sup>nd</sup> May 2013 (which have not been tested by evidence); it is considered the modification of the acoustic barrier (to a minimum height of 3m as required) would result in significant detrimental harm to the visual amenity and openness of the Green Belt. Conversely, if the development were to proceed without the required mitigation measures to the acoustic barrier, the development would result in a likelihood of complaints and therefore significant detrimental harm to the amenity of neighbouring residents and in particular Church House Barn. The use of land for purposes of storage and recycling in connection with the applicant's landscape gardening business including the wood chipper would result in significant detrimental harm to the amenity of neighbouring residents and in particular Church House Barn. Furthermore, the effect of wood chipping has not been established at other points within the wider Jumps Farm site and so the resulting impact on neighbour amenity cannot be quantified.*

*The condition is therefore required in accordance with the National Planning*

*Policy Framework, the Noise Policy Statement for England, Policy 17 of the Adopted Central Lancashire Core Strategy, Policy EP20 of the Adopted Chorley Borough Local Plan Review and Policy BNE1 of the Emerging Local Plan (2012-2026).*

*6. To protect the amenity of local residents in accordance with the National Planning Policy Framework and Policies EP20, EM2 and HT7 of the Adopted Chorley Borough Local Plan Review 2003.*

## **Decisions**

### **Appeal A**

1. The appeal is allowed and planning permission is granted for use of Building C as wood workshop with landscape gardening workshop use to be retained at Jumps Farm, rear of 147 South Road, Bretherton, Chorley, Lancs PR26 9AJ in accordance with application Ref 12/00253/FUL, made on 6 March 2012 and approved on 23 July 2013 without compliance with conditions numbers 2, 3 and 4 imposed on that planning permission but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the new conditions set out in the Conditions Appendix (A) to this decision.

### **Appeal B**

2. The appeal is allowed and planning permission is granted for change of use of Building B for storage purposes at Jumps Farm, rear of 147 South Road, Bretherton, Chorley, Lancs PR26 9AJ in accordance with application Ref 12/00254/FUL, made on 6 March 2012 and approved on 23 July 2013 without compliance with conditions numbers 5, 6 and 7 previously imposed on that planning permission but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the new condition set out in the Conditions Appendix (B) to this decision.

### **Appeal C**

3. The appeal is allowed and planning permission is granted for change of use of land for storage and recycling in connection with landscape gardening business at Jumps Farm, rear of 147 South Road, Bretherton, Chorley, Lancs PR26 9AJ in accordance with application Ref 12/00255/FUL, made on the 6 March 2012 and approved on 23 July 2013 without compliance with conditions numbers 2, 3, 4 and 6 imposed on that planning permission but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the new conditions set out in the Conditions Appendix (C) to this decision

## **Application for costs**

4. An application for costs was made by the appellants against the Council. The costs application is the subject of a separate Decision.

## **Procedural matters**

5. Paragraph 206 of the National Planning Policy Framework (NPPF) sets out the 6 tests which should be applied when planning conditions are imposed.

Conditions should only be imposed where they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. On 6 March 2014 the advice in Circular 11/95 – *The Use of Planning Conditions in Planning Permissions* was cancelled on the launch of the government’s latest Planning Practice Guidance. The appeals were submitted when the Circular was in force. My decisions will be made on the basis of the up-to-date Guidance.

## **Background**

6. The appeal premises comprise a former poultry farm in the village of Bretherton. The agricultural use appears to have ceased some time ago and a landscape gardening business became gradually established on the site of the poultry sheds. The site is located in the Green Belt and within the Bretherton Conservation Area.
7. The site is adjoined by the gardens of residential properties. The previous poultry farm use would have caused some degree of nuisance to the neighbours. The Council does not argue that the replacement of the poultry farm use by the landscape gardening use is unlawful. The commercial uses on site are confined to 3 buildings – Buildings A, B and C, a yard at the rear of Building C and the yard areas surrounding the buildings. Paddocks and fields at the rear of the site and a house on the site frontage, all of which are in the ownership of the appellants, do not appear to be used in connection with the commercial activities.
8. It cannot be reasonably expected that a business of this sort could be operated without there being some degree of noise which is audible to near neighbours – a point which is accepted by the Council. I have made my decisions on this basis.

## **Appeal A**

### **Main Issues**

9. I consider that the main issues in Appeal A are:
  - Whether conditions 2, 3 and 4 are precise, reasonable and necessary to protect the amenities of neighbouring residential properties; and,
  - Whether condition 4 is precise, enforceable, reasonable and necessary to ensure that the character and appearance of the Conservation Area is not harmed.

### **Reasons**

#### *Condition 2*

10. Building C is located towards the rear of the site and is separated from open fields at the rear by a concrete storage yard – the subject of Appeal C. At the time of my site visit the building was used partly for storage and other purposes associated with the landscape gardening business and partly for the manufacture of garden sheds. Access to the building was gained by a roller shutter door and personnel door in the western elevation which faced towards a residential property on the adjacent site – Church House Barn. A second pair of wooden doors had been installed which closed over the roller shutter door.

Inside the building were 2 bench saws which were used by the shed manufacturers and a powered kindling splitting machine used by the landscape gardening business.

11. As part of the original planning application the appellants submitted a report by a specialist noise consultant. This concluded that, given the distance between Building C and Church House Barn it was very likely that, at the normal usage times, the noise of the operation would be completely inaudible to the occupiers of the dwelling and most unlikely to present any level of noise nuisance at all. It also concluded that one set of doors over the main entrance – either the roller shutter or the wooden doors – would be entirely adequate to provide sufficient noise insulation.
12. The Council has produced no specialist evidence to dispute these findings. Whilst the Council's Environmental Health officers visited the shed manufacturing operation on many occasions when it operated from another building on site – a building much closer to Church House Barn – a statutory nuisance was not identified. The Council claims that the appellants' noise evidence is, in part, contradictory. However, I consider that the Council has misinterpreted the evidence. I do not consider that, at any point, the evidence suggests that it would be necessary for both sets of doors over the main access to the building to be kept closed at the same time to prevent nuisance. In my view the evidence is clear that either set of doors would deliver the necessary mitigation and that any condition should therefore only require one set to be closed. This can be secured without the retention of the wooden doors. In these circumstances I do not consider that Condition 2 is necessary to prevent unacceptable noise nuisance to the occupier of Church House Barn and other neighbouring residential properties. I have, therefore, deleted Condition 2.

### *Condition 3*

13. The appellant's specialist noise consultant report states that the key issue was to ensure that the doors – whether it be either the roller shutter or the wooden doors but also including the personnel door - remained closed during any noisy operation in order to reduce the potential for noise nuisance. I agree with these findings. However, Condition 3 does not restrict itself to keeping the doors closed during 'noisy operations' but requires the doors to be kept closed at all times when all operations are taking place in the building. Clearly some of these operations will generate little or no noise. In these circumstances I do not consider that the condition, as worded, is reasonable or necessary to prevent noise nuisance.
14. The Council argues that a condition which requires the doors to be kept closed during only 'noisy operations' would be unenforceable. I disagree. Given the distance between Building C and Church House Barn, I do not consider that the use of hand tools including hand held powered drills, hand saws, etc would be unacceptably audible to the neighbours. I understand that complaints have been received in the past about the noise generated by hammering. However, whilst the neighbours may be able to hear the sounds of hammering, given the distance between Building C and the nearest dwelling, I do not consider that normal hammering would cause noise levels sufficient to cause unacceptable nuisance. I have therefore concluded that Condition 3 should be replaced by a condition which requires that the doors remain closed whilst powered wood cutting and shaping tools are being operated. Powered nailing machines can

produce considerable noise and, whilst these were not being employed at the time of my site visit, I have tailored the condition to require the appellants to seek the Council's permission to use such machines should this be required.

#### *Condition 4*

15. The appeal drawings show Building C and an adjacent yard area outlined in red and other land in the ownership of the appellant outlined in blue. However, the area outlined in blue includes the appellant's house on the road frontage and some paddock land at the rear. The blue line extends off the submitted drawing and there is no way of knowing how far it extends. Condition 4 seeks to control activities on the blue-edged land but clearly such a condition cannot pass the test of precision when the full extent of the land is unclear. There is no suggestion that either the house at the front of the site, its gardens or any of the paddocks at the rear have ever been used as part of either the landscape gardening business or the shed manufacturing operation. A separate permission would therefore be required if any of this land was used by the businesses. In these circumstances I consider that condition 4 should be limited to controlling the use of land which is currently used for commercial purposes. The appellant has submitted a plan which shows by a blue edge the area which is used by the businesses operating on site. However, this excludes a yard area adjacent to Building B. The appellant claims that this land is used for 'general use', not associated with either the landscape gardening or woodworking businesses. At my site visit I was unaware that that the appellant considered that, in effect, here were 3 commercial uses on the site. Even so, a properly formulated planning condition would only seek to control this land so far as its use by the wood working business is concerned. It would not impose restrictions on the land's use for any other lawful purpose. In these circumstances I consider that condition 4 should refer to the area in commercial use and the appellants have provided a plan ref. 1944-3CM which also encloses by a blue line the additional area to which I refer. My decisions will be based on this plan.
16. I consider that condition 4 as drafted also fails the test of precision and enforceability in that it makes no reference to the area of extended parking which is part of the submitted proposals and seeks to prevent industrial, display or storage activities display across the whole of the blue-edged area. This area includes land which could be legitimately used for these purposes by the appellants' landscape gardening business or for other lawful purposes. I accept that there are sound planning reasons for imposing this type of condition both in the interests of the amenity of local residents and the effect on the Conservation Area. In the absence of a condition, noisy activities could be undertaken in close proximity to nearby dwellings causing nuisance by reason of noise and a more cluttered, untidy appearance of the site could be harmful to the village character of the Conservation Area. In these circumstances I have deleted condition 4 as drafted by the Council and replaced it with a condition which satisfies the tests of necessity, precision, enforceability and reasonableness.

#### Conclusions – Appeal A

17. In these circumstances I am satisfied that that Appeal A should be allowed. I do not consider that the disputed conditions, in their current form, are necessary to ensure that the proposal would comply with Policies EM2, EP20

and HT7 of the adopted Chorley Borough Local Plan Review. I conclude, therefore, that Condition 2 should be deleted and that Conditions 3 and 4 should be deleted and replaced by conditions which satisfy the tests set by paragraph 206 of the NPPF.

## **Appeal B**

### **Main Issues**

18. I consider that the main issues in Appeal B are:

- Whether conditions 5 and 7 are precise, reasonable, enforceable and necessary to protect the amenity of local residents and in the interests of preserving the character and appearance of the Conservation Area; and
- Whether condition 6 is precise, reasonable and necessary to safeguard the amenities of local residents.

#### Condition 5

19. Condition 5 seeks to impose restrictions which are similar to those which the Council sought to impose through condition 4 of the Appeal A permission and suffers from similar shortcomings in terms of precision. I have seen no evidence to suggest that the landscape gardening business or other commercial activity has ever extended beyond the site edged blue on plan ref 1944-3CM which has been provided by the appellant and, if the condition is required at all, I am satisfied that its requirements should be limited to that area only.
20. However, it would appear that Building B has been used since about 2004 as a store in connection with the landscape gardening business with the benefit of planning permission 04/00752/COU. Although the building was used for a period for woodworking purposes with the benefit of a temporary planning permission, the use would revert to storage in connection with the landscape gardening business at the expiration of that temporary permission. The Council does not dispute that the site can be used lawfully for landscape gardening purposes. In these circumstances I do not consider that a condition which would, in effect, place more onerous limitations on the authorised use of the wider site is reasonable – especially in circumstances where the storage use of Building B may, in itself, be authorised. I have therefore deleted condition 5.

#### Condition 6

21. As I have pointed out above the authorised use of Building B appears to be as a store in connection with the landscape gardening business with the benefit of planning permission 04/00752/COU. That permission was subject to a condition which limited the hours during which landscape gardening operations on the site could take place. However, condition 6 as imposed on the appeal permission seeks to limit control to uses taking place in or at Building B. I will deal with the appeal on that basis.
22. The Council has suggested an alternative to condition 6 which seeks to control hours during which loading, unloading and other landscape gardening activities can take place in Building B. I agree that this condition would be more reasonable than the original condition 6. However, its reference to 'other landscape gardening activities' would prevent operations which generate little

- or no noise. As such I do not consider that, even in its reworded form, condition 6 meets the test of necessity.
23. The only remaining vehicle access door to Building B is in the eastern elevation, facing directly away from Church House Barn. Nonetheless, even storage activities can be noisy when vehicles are being loaded or unloaded. Given the proximity of the building to the adjacent dwelling, I consider that a suitably worded condition which limits hours during which vehicle loading and unloading can take place would be necessary to prevent unacceptable nuisance.
24. I understand that the appellants occasionally use the building for the storage of their private cars in times of inclement weather. However, this was not mentioned in application 12/00254/FUL which was made to the Council. The Council has not therefore had the opportunity to fully consider such a proposal. I can only deal with the appeal on the same basis as the proposal was considered by the Council. In these circumstances I cannot formulate a condition which would permit the storage of private cars in Building B. If private cars are stored in the building then there is likely to be a breach of any condition which limits use of the building to the purposes for which the appellants sought planning permission. However, in all cases the Council would need to consider whether the taking of enforcement action to remedy the breach was expedient in all the circumstances.
25. In these circumstances I have deleted condition 6 as drafted by the Council and replaced it with a condition which satisfies the tests of necessity, precision, enforceability and reasonableness.

#### Condition 7

26. The Planning Practice Guidance makes clear that planning permission runs with the land and that it is rarely appropriate to provide otherwise. Conditions which limit the benefits of permission to an individual should be scarcely employed. I accept that, in the absence of condition 7, Building B could be rented out to another person who could use it for the permitted purpose. However, I can see no sound reason for assuming that this would inevitably cause additional nuisance to the neighbour or would harm the character or appearance of the Conservation Area. Use of the building by another person would simply replace one storage use by another. There is no certainty that activity levels would be changed in a way which would cause harm. In these circumstances I have deleted condition 7 as being unnecessary.

#### Conclusions – Appeal B

27. In these circumstances I conclude that Appeal B should be allowed and that Conditions 5 and 7 should be deleted and that Condition 6 should be deleted and replaced by a condition which satisfies the tests set by paragraph 206 of the NPPF. I do not consider that the disputed conditions, in their current form, are necessary to ensure that the proposal would comply with Policies EM2, EP20 and HT7 of the adopted Chorley Borough Local Plan Review or Policy 17 of the Adopted Central Lancashire Core Strategy.

## Appeal C

### Main Issues

28. I consider that the main issues in Appeal C are:

- Whether condition 2 is precise, reasonable, enforceable and necessary to protect the amenity of local residents and in the interests of preserving the character and appearance of the Conservation Area and of the Green Belt;
- Whether condition 3 is precise, reasonable and necessary to safeguard the amenities of local residents;
- Whether condition 4 is precise, reasonable and necessary to safeguard the amenities of local residents and to protect the openness and visual amenity of the Green Belt; and
- Whether the wording of condition 6 is precise, reasonable and necessary to protect the amenity of local residents.

### Condition 2

29. The yard at the rear of Building C is hard-surfaced and has been divided to provide storage clamps. The same problems of precision and enforceability which arise with condition 4 of Appeal A arise with this condition. I have already dealt with the issue of the blue-edged land in paragraphs 15 and 16 above. This issue could be resolved by reference to the site boundary shown on the plan ref 1944-3CM submitted by the appellants. I also consider that condition 2 is imprecise, unenforceable and unreasonable in that it seeks to prevent storage uses across the whole of the land in the appellant's ownership when, at least, some of this land could legitimately be used for storage.

30. In my opinion there are sound grounds for seeking to ensure that the storage of loose materials and recycling activities are confined to a specific area. If such materials were to be stored indiscriminately across the site there would be clear potential for noise nuisance being caused to neighbours and for the current tidy appearance of the site to degenerate to a point where harm to the Conservation Area and to the visual amenity of the Green Belt would result. However, I can see no sound reason for preventing the use of other parts of the site for parking or for the storage of other than loose materials. In these circumstances I have reworded condition 2.

### Condition 3

31. I consider that condition 3 fails to meet the tests of precision, necessity and reasonableness in that it would, if applied as worded, require all stored materials to be removed from the site except during the working day. Clearly that is not a reasonable requirement and is unnecessary to protect the amenities of neighbours. The Council has suggested an alternative condition which seeks to confine the limitation which is being imposed to loading and unloading activities.

32. The yard area is some distance away from the nearest residential properties. I am not persuaded that, given the distances involved and the presence in some cases of intervening buildings, the noise generated by storage uses in what is a relatively small yard would be sufficient to cause the degree of nuisance to the



neighbours which would make the condition necessary. In these circumstances I have deleted condition 3.

#### Condition 4

33. Part of the appellant's recycling activities involves the chipping of tree waste to provide wood chips. In normal circumstances this would be undertaken on site as the transportation of wood chips is likely to be easier than the transportation of more bulky tree waste. However, there are occasions when the appellant wishes to carry out the chipping operations on site.
34. In my experience wood chipping machines generate significant levels of noise when being operated. The Council has sought specialist advice on noise and this recommends that operation of the machine would be likely to result in complaints. However, it advises that, provided the size of the chipping machine is limited and that it is only operated for limited periods in a specific location alongside a 3 metres high acoustic barrier, the levels of noise experienced by neighbours would be below the threshold where complaints would be likely. The Council has expressed concerns over its own evidence stating that it has not been substantiated by further evidence to demonstrate that the suggested mitigation measures would be successful.
35. I can only make my decisions in this case on the evidence before me. The Council's own evidence indicates that, with mitigation and limitations, the use of an appropriately sized chipping machine should not cause noise nuisance. There is no clear evidence to refute this position. The Council argues that the conditions suggested by the noise specialists may not be enforceable and could be unreasonable. I do not agree. Whilst I accept that the suggested conditions are very restrictive and require modification in order to meet the NPPF tests, I am satisfied that they are enforceable and, when the Council's alternative is to prevent all use of the chipping machine, I do not consider that they can be viewed as unreasonable.
36. The proposed mitigation measures are only likely to be successful in preventing nuisance if a 3 metres high acoustic barrier is provided around part of the storage area. The appeal site is in the Green Belt and the NPPF advises that, in such locations, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The erection of a fence is an engineering operation which may not be inappropriate development provided that the openness of the Green Belt is preserved and it does not conflict with the purposes of including land in the Green Belt. The proposed 3 metres high fence would replace an existing solid fence which is about 1.5 metres high. No land which is currently open would therefore be lost by increasing the height of the fence. I do not consider that this increase in height of the fence would conflict with any of the purposes of including land in the Green Belt. The proposed fence would not, therefore, amount to inappropriate development in the Green Belt.
37. The appellant could erect a 2 metres high fence without needing planning permission. I accept that a 3 metres high fence would have more effect on the visual amenity of the Green Belt and, in particular, would enclose a public footpath which runs alongside the yard. However, any views from the footpath to the east would be across a storage yard and I am not persuaded that, in these circumstances, the harm to the visual amenity of the Green Belt which

would occur would be sufficient to make the fence (or a fence of a suitable alternative design) unacceptable.

38. Given that I have found that the increase in height of the fence would not amount to inappropriate development in the Green Belt and that any harm to the visual amenity of the Green Belt which would occur would not be sufficient to make the fence unacceptable, there is no need for the appellant to show very special circumstances to justify the development.
39. In these circumstances I conclude that condition 4 should be deleted and should be replaced by the conditions set out in the attached Appendix.

#### Condition 6

40. I have dealt with the issues surrounding 'personal' conditions in respect of condition 7 of Appeal B above. My reasoning and conclusions in respect of that condition apply equally to condition 6 of Appeal C. I conclude that the condition should be deleted as being unnecessary and unreasonable.

#### Conclusions – Appeal C

41. In these circumstances I conclude that Appeal C should be allowed and that Conditions 3 and 6 should be deleted and that Conditions 2 and 4 should be deleted and replaced by conditions which satisfy the tests set by paragraph 206 of the NPPF. I do not consider that the disputed conditions, in their current form, are necessary to ensure that the proposal would comply with Policies EM2, EP20 and HT7 of the adopted Chorley Borough Local Plan Review, Policy 17 of the Adopted Central Lancashire Core Strategy and the *Noise Policy Statement for England*.

*Roland Punshon*

INSPECTOR

## Conditions Appendix

### (A)

#### Appeal A

Delete Condition 2.

Delete condition 3 and replace by:

*The doors in the western elevation of Building C shall be kept closed at all times when powered machines for the cutting, sawing and shaping of wood (excluding electrically powered hand drills) are being operated within the building. No powered nailing machines shall be employed without the prior written permission of the local planning authority.*

Delete Condition 4 and replace by:

*The wood working operations hereby permitted shall be carried out entirely within Building C. No wood working operations or display or storage of goods or materials associated with the wood working operations shall be carried out on that part of the application site set aside for car parking and hatched red on plan 1944-5 or on any other part of the land edged blue on the plan ref 1944-3CM.*

### (B)

#### Appeal B

Delete Condition 5

Delete Condition 6 and replace by:

*The storage use of Building B shall be limited to the storage of vehicles, machinery and materials employed in connection with the landscape gardening business which operates from the site. No loading or unloading of vehicles shall take place within the building and no vehicles shall be moved into or out of the building at any time outside the hours of 08.00 to 18.00 on Mondays to Fridays inclusive and 08.00 to 13.00 on Saturdays and at no time on Sundays, Public or Bank holidays.*

Delete Condition 7

### (C)

#### Appeal C

Delete Condition 2 and replace by:

*All open storage of loose materials, recycling of materials and storage of machinery associated with these activities shall be confined to the site shown edged red on plan ref: 1944-6. The storage of materials shall be confined to the areas shown as storage clamps, storage area and storage bins on drawing 411/20A. All loose materials including soil, sand, stone, mulch and woodchip shall be confined to the indicated storage clamps and shall not exceed the height of the storage clamp walls.*

Delete Condition 3.

Delete Condition 4 and replace by:

*A continuous and imperforate acoustic barrier with a minimum height of 3 metres and a minimum mass of 12kg/m<sup>2</sup> shall be erected on the line marked yellow on Figure 3 of the Noise Assessment undertaken by Miller Goodall Environmental Services and dated 2 May 2013 before any wood chipping operations are commenced on the site. Details of the design of the fence shall accord with the details in part 10 of the Miller Goodall Environmental Services Noise Assessment or with alternative details which have been submitted to and approved in writing by the local planning authority before its installation is commenced. Once provided the acoustic fence shall be retained for so long as wood chipping operations are being carried out on the site.*

*Wood chipping machinery shall only be operated in the area shown shaded solid red on Figure 3 of the Noise Assessment undertaken by Miller Goodall Environmental Services and dated 2 May 2013. All wood chipping operations hereby permitted on the site shall be carried out employing a chipping machine which is petrol driven with a maximum power rating of 20 horsepower. No wood chipping machine with a different specification shall be employed on the site except where a full specification has been submitted to and approved in writing by the local planning authority before the machine is first used.*

*All wood chipping operations hereby permitted on the site shall be carried out between the hours 1500 and 1700 on Mondays to Fridays inclusive and at no other times. The wood chipping operation shall not be carried out for more than 1 hour (measured either cumulatively or continuously) during these permitted times.*

Delete Condition 6.

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## Costs Decision

Site visit made on 2 July 2014

**by Roland Punshon BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

**Decision date: 16 September 2014**

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### **Costs application in relation to Appeals Ref:**

**Appeal A - APP/D2320/A/13/2210500,**

**Appeal B - APP/D2320/A/13/2210506 and**

**Appeal C - APP/D2320/A/13/2210517**

**Jumps Farm, rear of 147 South Road, Bretherton, Chorley, Lancs PR26 9AJ**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by S & A Wignall (the appellants) for a full award of costs against Chorley Borough Council (the Council).
- The appeals were against the grant subject to conditions of planning permissions for:

**Appeal A** - use of Building C as wood workshop with landscape gardening workshop use to be retained.

**Appeal B** - change of use of Building B for storage purposes.

**Appeal C** - change of use of land for storage and recycling in connection with landscape gardening business.

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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Reasons**

2. Circular 03/2009 *Costs Awards in Appeals and Other Planning Procedures* was cancelled at the government's launch of the Planning Practice Guidance in March 2014. I will make my decision in this case on the basis of the up-to-date guidance.
3. The Planning Practice Guidance advises that costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. Paragraph 206 of the National Planning Policy Framework (NPPF) advises that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The Planning Practice Guidance advises that one example of the circumstances in which a local planning authority may be at risk of an award of costs is when it has imposed a planning condition which does not satisfy the tests set by paragraph 206 of the NPPF.
5. The drafting of conditions requires considerable care if they are to pass the stringent tests set by the guidance. They need to be precisely tailored to the

development which they seek to control and should take realistic account of existing lawful developments and uses. In my decisions on the subject appeals I have concluded that all of the conditions which are subject to appeal fail to meet one or more of the tests.

6. I have no doubt that, in determining the appeal applications, the Council was trying to achieve a situation where operations on the appeal site did not cause nuisance to residential neighbours and was acting in good faith. However, I am not satisfied that the Council took sufficient care in drafting the appeal conditions. A general lack of precision in the conditions led to circumstances where their requirements were variously unreasonable, unnecessary or unenforceable. In some circumstances, whilst the wording of the conditions was sufficiently precise, I have concluded that the conditions – notably the conditions making the permissions personal to the appellants – were unnecessary, met no clear planning purpose and paid insufficient regard to national guidance. In other cases the faults in the conditions arose from what I consider to be a misinterpretation of specialist evidence or a failure to properly take specialist evidence into account.

#### Conclusion

7. In these circumstances I conclude that the Council did behave unreasonably in imposing planning conditions which failed to satisfy the tests set by paragraph 206 of the NPPF. The appellants should not have needed to resort to appeal proceedings to resolve this issue and therefore were put to unnecessary expense in having to prepare for and undertake the 3 appeal proceedings.

#### Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Chorley Borough Council shall pay to S & A Wignall, the costs of the appeal proceedings described in the heading of this decision.
9. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*Roland Punshon*

INSPECTOR