

## **APPLICATION REPORT – 20/00483/FUL**

**Validation Date: 27 May 2020**

**Ward: Clayton-le-Woods And Whittle-le-Woods**

**Type of Application: Full Planning**

**Proposal: Erection of 6no. detached houses with associated infrastructure following demolition of existing buildings**

**Location: Cheeky Monkeys Factory Lane Whittle-Le-Woods Chorley PR6 7YA**

**Case Officer: Mr Iain Crossland**

**Applicant: Mr Ivor Farnworth, Primrose Holdings (1995) Ltd**

**Agent: Mr Bob Margerison, LMP Ltd**

**Consultation expiry: 18 September 2020**

**Decision due by: 9 October (Extension of time agreed)**

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### **RECOMMENDATION**

1. It is recommended that planning permission is granted subject to conditions and a Section 106 obligation to secure improvements to public open space.

### **SITE DESCRIPTION**

2. The application site is located in the settlement area of Whittle le Woods and comprises a single warehouse type building and associated hard standings. The building is split into three units which are tenanted by Cheeky Monkeys, Laser Land and Infinity Cheer. The developable area is approximately 0.395ha (0.976 acres). The site is relatively level and takes the form of an 'L' shape. The site is enclosed by a 2m high mesh fence along the western boundary, beyond which are trees and a residential dwelling. The eastern boundary is formed by a concrete wall and steel sheet piles following the line of the River Lostock beyond which there is a footpath and St Johns Primary School. The northern boundary abuts Factory lane and is open. A 2m high close boarded fence forms the southern boundary, beyond which is a recent housing development.
3. The character of the area is that of the urban rural fringe with dwellings, playing fields, a school, church and other amenities all within the locality of the site, with open land beyond to the west. There are a range of architectural styles and eras within the locality, whilst the application site itself has an industrial appearance.

### **DESCRIPTION OF PROPOSED DEVELOPMENT**

4. This application seeks full planning permission for the erection of 6no. detached houses with associated infrastructure and access following the demolition of existing buildings.

### **REPRESENTATIONS**

5. Representations have been received from the occupiers of 3no. addresses, which all state general support for the development but raise the following concerns:

- Impact on privacy caused through overlooking from rear balconies
- Potential damage to the bridge on Kem Mill Lane during construction. Factory Lane should be used instead
- Safety issues caused by construction traffic using Kem Mill Lane.
- The loss of the Cheeky Monkeys car park may result in access issues along Kem Mill Lane as users of the playing fields will no longer be able to park there

## **CONSULTATIONS**

6. Environment Agency: Have no objection.
7. Lancashire County Council Archaeology Service: Have no objection subject to a condition.
8. Greater Manchester Ecology Unit: Have no objection.
9. Waste & Contaminated Land: Have no objection subject to a condition.
10. Lancashire County Council Highway Services: Have no objection.
11. United Utilities: Have no objection subject to conditions.
12. Lancashire County Council Public Rights of Way: No comments have been received.
13. Lead Local Flood Authority: Have confirmed that they have no comments to make.
14. Whittle le Woods Parish Council: Have requested that a condition of the application be that the bridge on Factory Lane be refurbished and strengthened as per previous discussions between Primrose Holdings and LCC Highways.

That Factory Lane not be used as an access route for construction traffic due to the close vicinity of Whittle-Le-Woods Primary School.

The Parish Council wish to ensure that due consideration is provided to the neighbours of the property. That all materials used are in keeping with the established dwelling and area, and that property boundaries are not encroached upon in any way.

## **PLANNING CONSIDERATIONS**

### Principle of development

15. The National Planning Policy Framework (The Framework) states that housing applications should be considered in the context of the presumption in favour of sustainable development. One of the core principles of the Framework is that development should be focussed in locations that are sustainable and that development in sustainable locations should be approved without delay.
16. The application site is located in the settlement area of Whittle le Woods where some growth and investment is encouraged under policy 1(d) of the Central Lancashire Core Strategy.
17. The 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.
18. The building and land that is subject to this application are located in a sustainable location within easy access of amenities such as shops, schools, play space, community facilities and public transport. The site has previously been used as a children's play centre and, therefore, has an established leisure use. A significant amount of time has passed since its original industrial use, and it is noted that the site gained planning permission for the change of use to a children's play centre in 2004 under planning permission 03/01220/COUMAJ. The site is not allocated for any specific use within the Chorley Local Plan 2012 - 2026 and

the Local Plan 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.

19. On this basis the principle of the development is considered to be acceptable in this case, subject to other material planning considerations.

#### Impact on character and appearance of the locality

20. Policy BNE1 of the Chorley Local Plan 2012 – 2026 states that planning permission will be granted for new development, including extensions, conversions and free standing structures, provided that the proposal does not have a significantly detrimental impact on the surrounding area by virtue of its density, siting, layout, building to plot ratio, height, scale and massing, design, orientation and use of materials.
21. The site as it exists currently comprises a factory warehouse building of functional appearance and its retention would be of no benefit in terms of the character of the locality. The site is located to the north of a recent housing development of detached dwellings in a suburban style layout.
22. The proposed development comprises detached dwellings of a traditional design style that would in effect appear as an extension of the existing development to the south. It would be arranged with houses fronting onto Factory Lane, albeit with a driveway and landscaping between, such that the dwellings would be set well back from the highway. There is no defined building frontage along Factory Lane, however, and so this arrangement would be acceptable under the circumstances. The dwelling themselves would include a range of materials and features such that they would provide interest and diversity, and are an appropriate design response to the locality.
23. Overall, it is considered that the proposed development would not be harmful to the appearance of the site and character of the wider area and would provide a more efficient use of the land that would result in the improvement of an otherwise unsightly parcel of land.

#### Impact on neighbour amenity

24. The proposed dwellings would be located to the north of a recent residential development at Chapel Fold and would relate most closely to these properties and, therefore, the impact on the amenity of the occupiers of these nearest dwellings must be considered.
25. The dwellings proposed at plots 4, 5 and 6 would have rear elevations facing towards the rear gardens and properties at 1, 2, 3 and 5 Chapel Fold and would have first floor rear facing windows located approximately 11m from the rear garden boundaries of these properties and approximately 23m from the rear elevations of the dwellings at 1, 2 and 3 Chapel Fold. This meets with the Council's interface guidelines. It is noted that a balcony was originally included to the rear of plot 5, which would have resulted in an unacceptable impact on privacy through overlooking, however, this has been amended to a Juliet balcony, which is considered to have the same impact as a standard window opening and is considered to be acceptable.
26. The proposed dwelling at plot 1 would have a gable end facing towards the rear garden at 1 Chapel Fold at a distance of approximately 6m. There would be no windows at first floor level in this gable and, therefore, no overlooking impact. The proximity is such that there may be some loss of light to the garden in the evenings, however, light loss would already occur to some extent due to the presence of trees along the western boundary of the site and the impact is not so great as to be considered unacceptably harmful.
27. The proposed dwelling at plot 1 would also be located approximately 11m from the garden boundary at 43 Kem Mill Lane and well in excess of 21m from the property itself. The degree of separation is such that there would be no unacceptable impact on the amenity of the occupiers of this dwelling.

28. The proposed dwellings at plots 2 and 3 would be located at least 10m from the boundary with Rose Cottage and although the distance to the property itself would be less than 21m there would be no parallel facing windows. The degree of separation and relative positioning is such that there would be no unacceptable impact on the amenity of the occupiers of this dwelling.
29. The relationships between the proposed dwellings themselves meet with the Council's interface guidelines and are considered to be acceptable.

#### Highway safety

30. The proposed development would result in 5no. dwellings of at least four bedrooms and one dwelling with three bedrooms. Adequate off street parking would be provided in line with the Council's adopted parking standards in relation to the proposed dwellings.
31. The site as shown on submitted location plan, referenced 19/114/L01 (17:02:2020) includes approximately 60m of the existing Kem Mill Lane from its junction with Factory Lane. The overall site is bound to the north by Factory Lane and the Cuerden Valley Cycle Path, to the east by the River Lostock and to the south and west by existing residential dwellings. The site is currently accessed from Factory Lane and the Cuerden Valley Cycle Path, both of which are un-adopted public rights of way (PROW) and cycle routes, but which are also used by vehicles. The element of the site east of the existing Kem Mill Lane is an existing industrial mill building currently used as children's play centre and gymnasium, whilst the element to the west is an existing car park associated with the play centre and the gymnasium.
32. The proposed development would be accessed from Kem Mill Lane, which is an urban single 2-way road extending from the A6 Preston Road in the south to Factory Lane in the north. The section from Preston Road to the bridge over the River Lostock is adopted, but from the bridge to Factory Lane, Kem Mill Lane is un-adopted. The un-adopted section is a PROW (FP-5), which continues along the River Lostock from the bridge towards the south west. There is footway on the east side of Kem Mill Lane from a point approximately 30m from its junction with Preston Road to its junction with Chapel Lane. There is street lighting within the adopted section of Kem Mill Lane, but the un-adopted section is generally without footways and street lighting.
33. Kem Mill Lane and Factory Lane have no adverse recorded accident records, but the most recent available 5 year accident record shows seven recorded personal injury accidents close to the site on the section of Preston Road from School Brow in the south to Cow Well Lane in the north. Two of the accidents resulted in fatalities and involved motorcyclists on each occasion, while two resulted in serious personal injuries involving a motorcyclist and a pedal cyclist on each occasion. The remaining three accidents were car on car accidents which resulted in slight personal injuries.
34. While the accidents within this short length of road does not compare favourably with local average accident rates, it is not considered the proposed development would create an increased potential for exacerbation of these accidents, therefore given the safety measures currently in place on this section of Preston Road, which includes dedicated cycle lanes, central hatched and 'slow' worded markings, traffic signs and crossing facilities etc., it is not considered additional accident mitigation or traffic management measures are currently necessary. Therefore, given the scale of proposed development, the applicant would not be required to implement additional accident alleviation measures on Preston Road.
35. The site is within an acceptable walking distance of local services and amenities on Preston Road including bus stops, where regular high frequency public services are available. Kem Mill Lane and Factory Lane as PROWs are interconnected by other PROWs in the area and Factory Lane is part of the District Cycle Route 9, which extends from Preston Road towards west. It is therefore considered that the site is in a sustainable location and would enable good accessibility by walking, cycling and public transport consistent with the local transport plan and the Framework.

36. The proposed development is in effect a second phase of the recent development to the south (Chapel Fold) developed under planning permission 13/00715/FUL. The submitted proposed site plan referenced 19/114/P01 (17:02:2020) shows the section of the existing Kem Mill Lane within the application site boundary is to be reconstructed with a slight change in alignment to a width of 4.8m with no footways to serve as the site access. The layout includes a turning head, the tracking of which is shown on drawing no. 134-20-1 (30.04.2020) and demonstrates that the turning head is adequate to accommodate safe turning of a 10.2 x 2.5m refuse vehicle.
37. As part of the development, the current site frontage to Factory Lane and the Cuerden Valley Cycle Path is to be permanently closed off with provision made at the proposed turning head for pedestrian/cyclist access to and from Factory Lane. Based on the drawings, the access would be provided to a width of 2.0m and incorporate barriers to prevent through access for motorcycles and vehicles. The barriers would require a cyclist to dismount to be able to pass through this access, which would ensure that cyclists slow their speed within the cul-de-sac formed by the proposed development.
38. The site plan shows that the line of the PROW (FP-5) as recorded on the Definitive Map of Public Rights of Way is affected by the proposed layout and as such constitutes an obstruction to the PROW. Therefore, if the applicant considers it necessary to divert the PROW, then the necessary Orders must be confirmed prior to commencement of development. The Highways Act 1980 has provision for the diversion of Definitive Rights of Way, however, for new developments, the Town and Country Planning Act 1990 is the appropriate legislation to use although the procedures using both Acts are subject to public consultations, the objections to which would need to be resolved for the proposed development to go ahead. The applicant should note that the grant of planning permission does not constitute the diversion of a Definitive Right of Way. The applicant is currently seeking to divert the PROW through the Town and Country Planning Act 1990.

#### Ecology

39. The site was subject to an ecological assessment, undertaken in March 2020 and the application is accompanied by an Ecological Report/Letter. This was undertaken by suitably qualified ecologists and appears to have followed best practice guidelines.
40. The site is predominantly hard standing and commercial units, holding very little nature conservation value. Some trees are present on the boundaries of the site and the River Lostock is adjacent to the eastern boundary of the site, which is the most important ecological feature in relation to the development and is a habitat of principal importance. An 8m easement between the river and the development is shown on the proposed plan, and mitigation measures within the ecology report are suggested to protect the river corridor.
41. Some trees are proposed for felling and it is, therefore, considered that adequate compensatory planting be required.
42. The ecology report makes recommendations in relation to protection of the water course, and it is advised that a Construction Environmental Management Plan (CEMP) is secured via a condition to any planning permission which may be granted. This must be submitted in writing to the Local Planning Authority (LPA) for approval, prior to any development commencing and should include measures to avoid any adverse impacts of the development on the water course and to retain and protect the existing trees. Once approved in writing by the LPA the method statement must be followed in full.
43. Furthermore, biodiversity enhancements for the watercourse/riparian habitat along the development should be secured, as well as for the wider site. This could include a management regime for the riverside to develop a wildlife corridor of native vegetation, and it is recommended that measures such as these are included within the scheme. The removal of invasive species in this area would also improve the biodiversity of the river corridor.

44. The buildings on the site, which are proposed for demolition, were assessed for their potential to support roosting bats and internal and external inspections to look for evidence of bats was undertaken. The trees were also examined for their potential to support roosting bats. No evidence of bats was found and the buildings were judged to have low potential for roosting bats, limited to some gaps in the fascia boards of the single storey extension. Mitigation measures are suggested to address the low roost potential of the buildings and given the nature of the features this approach is considered reasonable in this instance. A single ash tree on the site was identified with having features which could support roosting bats. From examining the arborist report, this appears to be T4, which is shown to be protected and retained during the proposed development.
45. Any new external lighting for the site must be designed to minimise its impact on biodiversity, paying particular attention to retained trees and the River Lostock. The ecology report makes suitable suggestions for compensation for the loss of the roosting opportunities in the building, which it is recommended should be followed. It also advised that additional bat boxes could be installed to provide biodiversity enhancements.
46. The vegetation on the site is suitable to support nesting birds, as are the commercial buildings, where evidence of nesting was confirmed. Nesting potential was also identified within the riverside wall. The nests of all wild birds are protected by the Wildlife and Countryside Act, 1981 (as amended). As such it is recommended that a condition be attached to any grant of planning permission restricting works during the nesting season. Furthermore, the guidance in the ecology report in relation to compensatory nest boxes, should be integrated into the scheme, in line with the ecology report.
47. Several species of plant which are listed on Schedule 9 of the Wildlife and Countryside Act, 1981 (as amended) making it an offence to plant or otherwise cause the spread of these species in the wild, were recorded on or in close proximity to the site. These species include Japanese knotweed, Himalayan balsam and cotoneaster species. It is, therefore, recommended that a condition requiring an investigation and a method statement detailing eradication and/or control and/or avoidance measures for any such species that are found to be present on site be attached to any grant of planning permission.

#### Flood risk and drainage

48. Part of the application falls within flood zone 2, according to Environment Agency mapping data. The planning application is accompanied by a Flood Risk Assessment (FRA) prepared by Reid Jones Partnership, reference 10453, dated 24 August 2020, Revision 01. This has been reviewed by the Environment Agency, who have confirmed that they are satisfied that the development would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures as set out in the FRA are implemented. The proposed development must, therefore, proceed in strict accordance with the FRA and the mitigation measures identified, which shall form part of any subsequent planning approval. As such it is recommended that a condition be attached to any grant of planning permission requiring that the development be carried in accordance with the FRA and mitigation measure specified therein.
49. In accordance with the Framework and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.
50. The NPPG clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy. As such the developer should consider the following drainage options in the following order of priority:
1. into the ground (infiltration);
  2. to a surface water body;
  3. to a surface water sewer, highway drain, or another drainage system;
  4. to a combined sewer.

51. It is recommended that the applicant implements the scheme in accordance with the surface water drainage hierarchy outlined above.

#### Archaeology

52. The application site is the former site of Kem Mill, a non-designated heritage asset recorded on the Lancashire Historic Environment Record, PRN 7109. The mill (in the area of proposed plots 1-3) was originally a water-powered corn mill, then a calico works from 1784-c.1848 when it is shown on the 1st Edition Ordnance Survey of that year as a cotton mill. The mill was demolished sometime between 1848 and 1894, by which time it had been rebuilt slightly to the east (proposed plots 4-6).
53. It is considered unlikely that the mid-late 19th century demolition of the mill will have resulted in the complete removal of all former below-ground remains of the former mill. As such there is a potential for the buried structural remains of the former mill, as well as evidence for the use of water-power such as a wheel-pit and leat (a waterwheel is mentioned in sale documents of 1858), and the change to the use of steam power whether that be in the form of vertical or horizontal engines.
54. It is, therefore, advised that the applicants be required to undertake a programme of archaeological work within the western half of the development (plots 1-3 and associated access road) and it is recommended that such work is secured by means of a condition attached to any grant of planning permission.

#### Sustainability

55. Policy 27 of the Core Strategy requires all new dwellings to be constructed to Level 4 of the Code for Sustainable Homes or Level 6 if they are commenced from 1<sup>st</sup> January 2016. It also requires sites of five or more dwellings to have either additional building fabric insulation measures or reduce the carbon dioxide emissions of predicted energy use by at least 15% through decentralised, renewable or low carbon energy sources. The 2015 Deregulation Bill received Royal Assent on Thursday 26th March 2015, which effectively removes Code for Sustainable Homes. The Bill does include transitional provisions which include:

*“For the specific issue of energy performance, local planning authorities will continue to be able to set and apply policies in their Local Plans which require compliance with energy performance standards that exceed the energy requirements of Building Regulations until commencement of amendments to the Planning and Energy Act 2008 in the Deregulation Bill 2015. This is expected to happen alongside the introduction of zero carbon homes policy in late 2016. The government has stated that, from then, the energy performance requirements in Building Regulations will be set at a level equivalent to the (outgoing) Code for Sustainable Homes Level 4. Until the amendment is commenced, we would expect local planning authorities to take this statement of the government’s intention into account in applying existing policies and not set conditions with requirements above a Code Level 4 equivalent.”*

*“Where there is an existing plan policy which references the Code for Sustainable Homes, authorities may continue to apply a requirement for a water efficiency standard equivalent to the new national technical standard, or in the case of energy a standard consistent with the policy set out in the earlier paragraph in this statement, concerning energy performance.”*

56. Given this change, instead of meeting the code level, the dwellings should achieve a minimum dwelling emission rate of 19% above 2013 Building Regulations in accordance with the above provisions. This can be controlled by a condition.

### Public open space (POS)

57. Policy HS4 of the Chorley Local Plan 2021-2026 requires public open space contributions for new dwellings to be provided in order to overcome the harm of developments being implemented without facilities being provided.
58. Until recently the National Planning Practice Guidance (NPPG) previously set out a threshold for tariff-style contributions, stating that planning obligations should not be sought from developments of 10 or less dwellings and which have a maximum combined floorspace of no more than 1000 square metres. This guidance has been removed from the latest NPPG and has been replaced with a requirement that planning obligations for affordable housing should only be sought for residential developments that are major developments.
59. Specifically the guidance as of last year was derived from the order of the Court of Appeal dated 13 May 2016, which gave legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014 which has not been withdrawn and which should, therefore, clearly still be taken into account as a material consideration in the assessment of planning applications
60. To this end whilst it would normally be inappropriate to require any affordable housing or social infrastructure contributions on sites below the thresholds stated, local circumstances may justify lower (or no) thresholds as an exception to the national policy. It would then be a matter for the decision-maker to decide how much weight to give to lower thresholds justified by local circumstances.
61. Consequently, the Council must determine what lower thresholds are appropriate based on local circumstances as an exception to national policies and how much weight to give to the benefit of requiring a payment for 10, or fewer, dwellings. The Council has agreed to only seek contributions towards provision for children/young people on developments of 10 dwellings or less.
62. There is currently a surplus of provision in Whittle-le-Woods 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 settlement is, therefore, not required from this development. 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 (site 1535.1 Play area opposite 17 Delph Way, Whittle-le-Woods). A contribution towards improvements to these sites is therefore required from this development. The amount required is £134 per dwelling

### Community Infrastructure Levy

63. The Chorley CIL Infrastructure Charging Schedule provides a specific amount for development. The CIL Charging Schedule was adopted on 16 July 2013 and charging commenced on 1 September 2013. The proposed development will be a chargeable development and the charge is subject to indexation in accordance with the Council's Charging Schedule.

### Other matters

64. Potential damage to the bridge on Kem Mill Lane or the bridge on Factory Lane during construction: A condition is recommended to require a construction method statement to include details of construction vehicle routing, and should be subject to consultation with the Local Highway Authority.
65. Safety issues caused by construction traffic using Kem Mill Lane or Factory Lane: A condition is recommended to require a construction method statement to include details of construction vehicle routing, and should be subject to consultation with the Local Highway Authority.

66. The loss of the Cheeky Monkeys car park may result in access issues along Kem Mill Lane as users of the playing fields will no longer be able to park there: Users of the playing fields are not authorised to use the Cheeky Monkeys car park, which is not a public car park and cannot, therefore, be retained or its loss mitigated against as part of the planning process.

## **CONCLUSION**

67. The proposed development would have the benefit of providing new housing on a previously developed site in a sustainable location. The proposal would have no unacceptable detrimental impact on the character of the area or the amenity of neighbouring occupiers. In addition, there would be no unacceptable impact on highway safety. On the basis of the above, it is recommended that planning permission be granted.

## **RELEVANT HISTORY OF THE SITE**

**Ref:** 14/00386/FUL      **Decision:** PERFPP      **Decision Date:** 4 June 2014  
**Description:** Single storey extension to form store room with roller shutter door

**Ref:** 14/00953/FUL      **Decision:** PRRRTF      **Decision Date:** 7 November 2014  
**Description:** Retrospective application to regularise the erection of an external fire escape staircase

**Ref:** 18/00529/FULMAJ      **Decision:** WDN      **Decision Date:** 5 November 2018  
**Description:** Erection of building to be used as a children's indoor play and adventure centre and associated car parking

**RELEVANT 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 Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/guidance considerations are contained within the body of the report.

### Suggested conditions

To follow