

## **APPLICATION REPORT – 20/01149/FUL**

**Validation Date: 27 October 2020**

**Ward: Croston, Mawdesley And Euxton South**

**Type of Application: Full Planning**

**Proposal: Erection of 1no. detached dwellinghouse**

**Location: Land 60M West Of No. 3 Castle Walks Croston**

**Case Officer: Amy Aspinall**

**Applicant: Mr Philip Davidson**

**Agent: Mr Chris Weetman, CW Planning Solutions Ltd**

**Consultation expiry: 14 May 2021**

**Decision due by: 25 March 2020**

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### **UPDATE**

1. The recommendation remains to refuse the application.
2. Members will recall that consideration of the application was deferred at Planning Committee on 15 June 2021 to give members the opportunity to visit the site. The original committee report follows on below.
3. Members will also recall that the following was included on the addendum:

#### **ITEM 3b - 20/00149/FUL – Land 60M West Of No. 3 Castle Walks, Croston**

**The recommendation remains as per the original report.**

**The report is updated as follows:**

#### **2no. further objections have been received as below:**

- Considerable work has already been carried out on this site, comprising:
- Clearing of trees not included in notification 20/00992/TCON.
- Considerable reprofiling by excavation and the laying of a large area of hardstanding.
- Storage of heavy plant machinery on the site.
- Considerable disruption to local residents moving heavy plant over the unadopted section of Yarrow Close.
- Amendments to the plans dated 26/1/21 were not notified to residents
  
- The accompanying case officer report clearly sets out the reasons why the application is contrary to local and national policies and why it should be refused. I repeat my previous objection for the reasons ably set out in your officer report.
  
- Members are of course not bound to follow your recommendation; after all the reasons why more sensitive planning applications are determined by committee is so that they can be debated properly. Were the planning committee to go against your recommendation there must be good reason to do so and those reasons clearly identified and articulated (see for example

The Lawyers in Local Government Model Council Planning Code and Protocol). This must especially be the case here, as little weight can be given to the benefits deriving from the delivery of a single "high end" dwelling.

- Additionally, if members of the Planning Committee were minded to approve the application I would ask that their attention be especially drawn to the potential for significant archaeological remains and the lack of appropriate field evaluation (contrary to NPPF 189). Therefore if Members do not agree with your recommendation for refusal, then clearly the decision should, at the very least, be deferred (see again The Lawyers in Local Government Model Council Planning Code and Protocol) until such field evaluation works have been carried out.

**Officer comment:**

Site clearance /excavations / hardstanding – An objection states that a number of works have recently been carried out at the site. This has been reported to reported to planning enforcement to investigate.

Amended plans and no re-notification to neighbours – as the revisions to the plans were relatively minor in the context of the scheme as a whole it was not necessary to re-notify to neighbours.

**Impact on ecological interests**

Policy BNE9 (Biodiversity and Nature Conservation) of the Chorley Local Plan 2012 – 2026 stipulates that Biodiversity and Ecological Network resources will be protected, conserved, restored and enhanced in a number of ways which includes protecting, safeguarding and enhancing habitats for European, nationally and locally important species.

In their original comments the Council's appointed ecologist at Greater Manchester Ecology Unit (GMEU) advised that the submitted ecological survey provided not no assessment of the impacts of the proposal on the habitats present. GMEU have clarified that this is in relation to the site supporting swap and scrub, which are potentially valuable habitats and no mitigation is proposed for its loss. In addition, a landscaping scheme has not been submitted as part of the planning application and it would, therefore, appear that the scheme would result in a net loss in biodiversity. It is, however, considered that mitigation and biodiversity gains could be addressed by way of condition. The landscaping scheme would also need to incorporate native species and a number of suitable species for the site has been identified in the ecological report at Appendix III

The submitted ecological report identifies that the proposed development would not harm protected species interests. In particular the surveyed trees have been identified as having negligible bat roost potential and suggested bat enhancements have been provided at Appendix II of the ecological survey. Such details could be controlled by way of a suitably worded condition. In respect of Great Crested Newts the report identifies that given the isolation of pond within the contiguous landscape, coupled with poor connectivity to extending areas of suitable habitat, it is considered to be highly unlikely that this development will impact upon great crested newts. The Rapid Risk Assessment provides that an offence is highly unlikely. Himalayan Balsam is an invasive species and this has been identified at the site and measures for its control /eradication could be controlled by way of a suitably worded condition. The report identifies no evidence of use of the site by barn owl or kingfisher, however, the habitat supports nesting birds. An appropriate condition could control clearance or vegetation removal to avoid the main nesting season. The ecological report suggests a number of enhancement measures for birds and such details could be controlled by way of a suitably worded condition.

Subject to various conditions, the proposed development would not be detrimental to nature conservation interest and would accord with Chorley Local Plan 2012 -2026 policy BNE9.

## **RECOMMENDATION**

1. It is recommended that planning permission is refused for the following reasons:
  1. The proposed development would result in the loss of protected open space which is identified of high value and makes a significant contribution to the character of the area in terms of visual amenity. There is currently a deficit of amenity greenspace in the ward and the loss of this site would exacerbate this deficit. The proposal is, therefore, contrary to policy HW2 (Protection of Existing Open Space, Sport and Recreational Facilities) of the Chorley Local Plan 2012 -2026.
  2. The proposed development would fail to meet the statutory test to preserve and would cause harm to both the character and appearance of the conservation area and the visual amenities of the area. The proposed development is, therefore, contrary to policies BNE1 and BNE8 of the Chorley Local Plan 2-12 -2026, policy 16 of the Central Lancashire Core Strategy (2012) and the National Planning Policy Framework at Chapter 16.
  3. Insufficient information has been submitted to assess the archaeological value of the site which has significant potential as the site of castle, moat or other fortified structure. The proposed development is, therefore, contrary to policy BNE8 of the Chorley Local Plan 2012 -2026, policy 16 of the Central Lancashire Core Strategy (2012) and the National Planning Policy Framework at Chapter 16.
  4. The application site falls within flood zone 3 and the Exception Test of paragraph 160 (a) of the Framework is failed as it is not considered that the wider sustainability benefits to the community have been demonstrated.

## **SITE DESCRIPTION**

2. The application site is comprised of a large parcel of land situated between the River Yarrow and the houses of Yarrow Close. The land is situated within the settlement boundary of Croston and falls within flood zone 3. It is designated as existing open space and falls within the defined Croston Conservation Area. The site is also identified as having archaeological potential in the form of a castle, moat or other fortified structure.
3. To the north of the site is a public footpath which runs along the boundary, and residential properties are situated to the north, north east and west. To the east is further land designated as open space and to the south is the River Yarrow, with the designated Green Belt beyond.

## **DESCRIPTION OF PROPOSED DEVELOPMENT**

4. The application proposes 1no. detached dwellinghouse which would be access via Yarrow Close.
5. On 26<sup>th</sup> January 2021 revised plans were submitted with changes to the siting and layout of the proposed dwellinghouse and also to remove the detached 'sunken garage' which was proposed to the west of the site.

## **REPRESENTATIONS**

6. 19no. objections have been received citing the following summarised grounds of objection:
  - Harm to designated Croston Conservation Area / impact on views of conservation area
  - Impact on heritage trail
  - Not in-keeping / design out of character
  - Access would cut across public footpath / footpath is part of the heritage trail / pedestrian safety
  - Flood zone / flood risk would be increased / regularly floods

- Previous applications have been refused
- Loss of owl habitat / impact of any artificial light from the development
- Loss of rural space in the village
- Villagers value the green space
- Loss of rural views from Yarrow Close
- Site has significant archaeological potential as a medieval castle or defended site / manorial home
- Site is protected open space / has communal value
- Central Lancashire Local Plan does not identify the site for housing
- Proposal would be oppressive to Castle Walks and turns it back on the village
- The previous appeal decision and the planning Inspector's decision still apply to this current application

1 no. representation of support has been received which is set out below:

There have been several proposals to develop this land in the past and all have been rejected for various reasons. This proposal seems to have taken account of the history of Croston as a farming community with its modern "Grand Designs" triple barn style of dwelling. Rather than trying to be an ill-considered imitation or pastiche of traditional Croston houses it is recognizably of our age yet draws inspiration from the profile of the adjacent Yarrow Close housing. I think that the use of modern materials with natural stone and larch cladding will enhance the aesthetics of the conservation area.

The site is on the edge of the historic conservation area and yet does nothing to enhance a feeling of pride in the village. This land has been derelict and unkempt for some time and has been used for fly tipping. This creates an eyesore and a potential to be a pollutant for the adjacent river and a hazard to wildlife.

The native hawthorn hedge along Castle Walks is frequently overgrown and it is difficult to pass other pedestrians or cyclists especially when I am out with the wheelchair. Having a home owner in residence here would most likely lead to a thicker and better maintained hedgerow for people and wildlife

By stipulating that the recommendations in the specialist ecological report are adhered to then there would be a net gain of biodiversity on the land and nuisance species such as the Himalayan Balsam would be better controlled. I particularly like the inclusion of various habitats and the earth disguised garage to encourage birds, bats and wildlife.

## **CONSULTATIONS**

7. Croston Parish Council: Have commented that:

- The site lies within the Croston Conservation Area and is identified as open space under policy HW2 of the Chorley Local Plan.
- The proposed access to the site crosses a well-used public right of way (FP5).
- The site has been identified as being of potential archaeological importance (pages 14, 15 and 24 of the attached report refer).
- It is understood Japanese Knotweed may be present on the site.

8. CIL Officers – Have commented that the proposed development would be a chargeable development

9. Environment Agency (EA): In their comments of 13<sup>th</sup> May 2021, the EA advise that they withdraw their objection and recommend that the development should proceed in strict accordance with the Flood Risk Assessment and the mitigation measures identified. They also advise that it is for the Local Planning Authority to determine if the sequential test has to be applied and whether or not there are other sites available at lower flood risk.

10. Waste & Contaminated Land: Have confirmed that they have no comments to make in this instance.

11. Lancashire County Council Highway Services (LCC): In their comments of 10<sup>th</sup> May 2021 LCC Highways advises that the grant of planning permission does not entitle a developer to obstruct a public right of way and any proposed stopping-up or diversion of a right of way should be the subject of an Order under the appropriate Act.

12. United Utilities: Advise that the proposed drainage strategy is unacceptable to them and request drainage conditions.

13. Council's Tree Officer: Advises that the site has already largely been cleared and that the two mature trees identified for retention should be protected in accordance with BS 5837:2012.

14. Historic England: State that they do not wish to offer any comments.

15. Lancashire County Council Archaeology Service: Comment that further information is required.

16. Greater Manchester Ecology Unit – Comments to be reported on Addendum.

## **PLANNING CONSIDERATIONS**

### Principle of the development

17. The application site falls wholly within the settlement boundary of Croston, as defined by the Chorley Local Plan Policies Map.

18. Policy 1 of the Central Lancashire Core Strategy (2012) seeks to focus growth and investment in certain areas, allowing for small-scale development in 'other places' which includes smaller villages. The proposal is for 1 no. dwellinghouse which is small-scale development and, therefore, considered to be compliant with policy 1.

19. Policy V2 (Settlement Areas) of the Chorley 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, subject to material planning considerations and the other Policies and Proposals within this Plan.

20. The principle of the development is, therefore, acceptable subject to other considerations set out in this report.

### Existing Open Space

21. The application site is designated as open space under policy HW2 (Protection of Existing Open Space, Sport and Recreational Facilities) of the Chorley Local Plan 2012 - 2026. The site is identified as amenity greenspace Ref 1487: Croston Walls, Castle Walk.

22. Policy HW2 states that land and buildings currently or last used as, or ancillary to, open space or sports and recreational facilities will be protected unless:

a) Alternative facilities of an equivalent or enhanced standard are provided nearby before the existing facilities cease to be available; or

b) It can be demonstrated that the loss of the site would not lead to a deficit of provision in the local area in terms of quantity and accessibility; and

The site is identified as amenity greenspace (Ref 1487: Croston Walls, Castle Walk). There is currently a deficit of amenity greenspace in the ward. The loss of this site would, therefore, make the deficit worse.

c) The site is not identified as being of high quality and/or high value in the Open Space Study; and

The site has been assessed as scoring low quality but high value.

d) It can be demonstrated that retention of the site is not required to satisfy a recreational need in the local area; and

The site forms a significant area of amenity greenspace. However, the site is currently not accessible to the public so does not serve any recreational need.

e) The site does not make a significant contribution to the character of an area in terms of visual amenity.

The site contributes significantly to the character of the area due to its location adjacent to the River Yarrow and an area of housing. It is situated within Croston Conservation Area and has a positive role in its character and appearance. There is also a public footpath (Number 5) along the northern site boundary and the site provides visual amenity to people walking along this footpath, including other wider views of the site.

23. In a previous appeal at this site (APP/D2320/W/15/3135608) the Inspector notes:

“I think that the open character of the appeal site is a noticeable feature here. It is evident through the hedgerow (albeit mainly in winter) and at the gate beside Yarrow Close and, as such, it contributes to the character of the ‘heritage footpath’. It is also evident from Turflands (another section of the ‘heritage trail’) across the intervening paddock. From that vantage point it is seen to complement the openness of the river banks, thereby contributing to a charming feature of the village and, with its hedges and foliage, obscure elements of the suburban housing beyond, thereby enhancing the rural quality apparent here”

24. The application is accompanied by a report titled ‘Landscape Assessment’ and also a Supplementary Statement with regard to policy HW2. The latter states the following:

- Policy HW2 is an either/ or policy.
- Either alternative facilities have to be provided, or, the proposal has to be in an area where there is no deficit and the site is of poor quality, is not required for a recreational need and does not make a significant contribution to the character of the area in terms of visual amenity.
- The applicant contends that d) and e) has already been addressed in other submissions.
- The 2019 Open Space Standards Paper identifies this site (assuming it is a typo on page 38) as low quality. There is no further explanation as to why it is low quality.
- The site is identified as being high value, but then again the report identifies all but 1 open space across the whole Borough as being high value which strongly suggests that the this element of the report is not objective. Again, there is no explanation of why it is considered to be high value.
- Page 45 goes onto say that its quality should be enhanced by “Enhancing quality should be explored where possible (i.e. improved maintenance, general appearance / additional ancillary).”
- The site is in private ownership and there is no realistic way of achieving this somewhat vague approach.
- In terms of local area provision, Chorley West has an over provision of 0.58 the largest of any area in the whole Borough.
- In conclusion therefore it is considered that Policy HW2 is satisfied.

25. It is not considered that the submission satisfactorily addresses policy HW2. The proposal is, therefore, contrary to policy HW2.

### Flood Risk

26. Policy 29 (Water Management) of the Central Lancashire Core Strategy seeks to improve water quality, water management and reduce the risk of flooding in a number of ways, including appraising, managing and reducing flood risk in all new developments, avoiding inappropriate development in flood risk areas particularly in Croston, Penwortham, Walton-le -Dale and Southwest Preston.

27. At paragraph 155 the National Planning Policy Framework (The Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future) and that where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. The thrust of planning policy is, therefore, to guide to development to areas which are at lower risk of flooding.

28. At paragraph 163 the Framework advises that when determining any planning applications, Local Planning Authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment and development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

29. The application site falls within flood zone 3, as shown on the Flood Maps for Planning and as confirmed by the Environment Agency.

30. The proposed use, i.e. dwellinghouses is a 'more vulnerable' classification as set out in Table 2: Flood risk vulnerability classification. Table 3 shown below sets out the flood risk vulnerability and flood zone 'compatibility' and identifies dwellings as being 'appropriate' in flood zones 1 and 2. For flood zone 3, an exception test is required.

| Flood Zones | Flood Risk Vulnerability Classification |                         |                         |                 |                  |
|-------------|---|-------------------------|-------------------------|-----------------|------------------|
|             | Essential infrastructure                | Highly vulnerable       | More vulnerable         | Less vulnerable | Water compatible |
| Zone 1      | ✓                                       | ✓                       | ✓                       | ✓               | ✓                |
| Zone 2      | ✓                                       | Exception Test required | ✓                       | ✓               | ✓                |
| Zone 3a †   | Exception Test required †               | x                       | Exception Test required | ✓               | ✓                |
| Zone 3b *   | Exception Test required *               | x                       | x                       | x               | ✓*               |

Key:

✓ Development is appropriate

x Development should not be permitted.

31. It should be noted that table 3 does not show the application of the Sequential Test which is required. The Sequential Test should be applied first to guide development to areas with the lowest probability of flooding, this being Flood Zone 1. Where there are no reasonably available sites in Flood Zone 1, Local Planning Authorities, in their decision making, should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (areas with a medium probability of river or sea flooding), applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the

suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required. Having regard to the table above, the exception test would be triggered.

32. During the course of the application, the Flood Risk Assessment (FRA) has been updated in line with the original comments from the Environment Agency (November 2020). Following the submission of an updated FRA to assess the risk of fluvial flooding, the Environment Agency no longer object to the application. They advise that they are satisfied that the development would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures were implemented. The EA advise that the Sequential Test is a matter for the Local Planning Authority to address.

33. The submitted Sequential Test assesses sites within the Croston area which is appropriate for the scale of the development proposed and the relevant settlement. Data has been used from the Central Lancashire SHLAA and more recently evidence base from the SHELAA (2019). Whilst some of the assertions in the Sequential Test in relation to the designation of some sites is incorrect, this does not necessarily impact upon the assessment.

34. Planning Practice Guidance advises that when applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. A development proposal will only fail to pass the sequential test if alternative sites are identified within the search area that are at lower risk of flooding, appropriate for the proposed development and are 'reasonably available' for development. A site is only considered to be reasonably available if it is both 'deliverable' and 'developable' as defined by the Framework and further clarified in the Council's Central Lancashire Strategic Housing Land Availability Assessment.

35. The definition of 'deliverable' is set out in the Framework at Annex 2: Glossary:  
*To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years.*

*In particular:*

*a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*

*b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five year.*

36. The definition of 'developable' is also set out in the Framework:

*To be considered developable, sites should be in a suitable location for housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged.*

37. The Council's Central Lancashire Strategic Housing Land Availability Assessment which provides that to be considered deliverable sites should:

*Be Available – the site is available now.*

*Be Suitable – the site offers a suitable location for development now and would contribute to the creation of sustainable, mixed communities.*

*Be Achievable – there is a reasonable prospect that housing will be delivered on the site within five years.*

38. The Sequential Test (ST) has assessed a number of sites, as contained in the body of the submitted report. It is considered that the ST has made a satisfactory assessment of other sites and has established that there are no other suitable sites having regard to the above. The Sequential Test is, therefore, passed.



39. Table 3 Flood Risk Vulnerability Classification identifies that an Exception Test is required. The submitted Sequential Test report seeks to address the Exception Test.

40. The Framework at paragraph 160 provides that the application of the exception test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. For the exception test to be passed it should be demonstrated that:

- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

41. In respect of the first test the development must provide wider sustainability benefits to the community that outweigh the flood risk.

42. The application provides that the benefits are:

- A residential use for which there is an identified need and that there is a shortage of alternative sites in Croston
- Betterment in terms of flood risk to the wider community
- Available access via Yarrow Close to the north side boundary of the field to alleviate traffic issues within Croston Village
- That the site is predominantly greenfield where previous planning permission has been submitted
- The site is developable due to a flood defence berm which will be partly maintained by the applicant, in particular access to the berm which is beneficial for good maintenance.

43. In terms of housing delivery the benefits of a single dwellinghouse is afforded limited weight. It is unclear what the flood risk betterment to the wider community entails. The site currently has access for maintenance and riparian responsibilities already exist. It is unclear how the addition of a dwellinghouse on this site would alleviate traffic issues within Croston Village.

44. It is not considered that the wider sustainability benefits to the community have been demonstrated.

45. In respect of the second test, the Environment Agency are satisfied that the proposed development the proposed development would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures were implemented.

46. At paragraph 161 the Framework is clear that both elements of the exception test should be satisfied for development to be allocated or permitted. The proposal does not satisfactorily address the first test and, therefore, the application fails the Exception Test.

#### Design and heritage

47. The principle statutory duty under the Planning (Listed Building and Conservation Areas) Act 1990 is to preserve the special character of heritage assets, including their setting.

48. Section 72(1) provides that in undertaking its role as a planning authority the Council should, in respect to conservation areas, pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

49. The Framework at Chapter 16 deals with conserving and enhancing the historic environment. The following paragraphs contained therein are considered to be pertinent in this case:

50. The Framework at paragraph 184 recognises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

51. At paragraph 189 the Framework states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

52. At paragraph 190 The Framework states that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

53. Paragraph 192 provides that in determining applications, Local Planning Authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

54. When considering the impact of proposal on the significance of a designated heritage asset, The Framework is clear at paragraph 193 that great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be applied. This is irrespective of whether any harm is identified as being substantial, total loss or less than substantial harm to its significance.

55. Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

56. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, paragraph 194 advises that Local Planning Authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

57. Paragraph 196 identifies that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

58. At paragraph 200 the Framework states that Local Planning Authorities should look for opportunities for new development within conservation areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals which preserve those elements of the setting that make a positive contribution to the asset should be treated favourably.

59. Central Lancashire Core Strategy (2021) policy 16 (Heritage Assets) seeks to protect and seek opportunities to enhance the historic environment, heritage assets and their settings in a number of ways including safeguarding heritage assets from inappropriate development that would cause harm to their significances. Development involving the demolition or removal of significant heritage assets or parts thereof will be granted only in exceptional circumstances which have been clearly and convincingly demonstrated to be in accordance with the requirements of the Framework

60. Policy BNE1 (Design Criteria for New Development) of the Chorley Local Plan 2012 -2026 stipulates that planning permission will be granted for new development, including extensions, conversions and free standing structures, provided 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; that the layout, design and landscaping of all elements of the proposal, including any internal roads, car parking, footpaths and open spaces, are of a high quality and respect the character of the site and local area; and that the proposals would not adversely affect the character or setting of a listed building and/or the character of a conservation area and/or any heritage asset including locally important areas.

61. Policy BNE8 (Protection and Enhancement of Heritage Assets) of the Chorley Local Plan 2012 -2026 stipulates the following

- a) Applications affecting a Heritage Asset or its setting will be granted where it:
  - i. Is in accordance with the Framework and relevant Historic England guidance;
  - ii. Where appropriate, takes full account of the findings and recommendations in the Council's Conservation Area Appraisals and Management Proposals;
  - iii. Is accompanied by a satisfactory Heritage Statement (as defined by Chorley Council's advice on Heritage Statements) and;
- b) Applications will be granted where they sustain, conserve and, where appropriate, enhance the significance, appearance, character and setting of the heritage asset itself and the surrounding historic environment and where they show consideration for the following :
  - iii. The conservation of features and elements that contribute to the heritage asset's significance and character. This may include: chimneys, windows and doors, boundary treatments, original roof coverings, earthworks or buried remains, shop fronts or elements of shop fronts in conservation areas, as well as internal features such as fireplaces, plaster cornices, doors, architraves, panelling and any walls in listed buildings;
  - iv. The reinstatement of features and elements that contribute to the heritage asset's significance which have been lost or damaged;
  - v. The conservation and, where appropriate, the enhancement of the setting of heritage assets;
  - vi. The removal of additions or modifications that are considered harmful to the significance of any heritage asset. This may include the removal of pebbledash, paint from brickwork, non-original style windows, doors, satellite dishes or other equipment;
  - vii. The use of the Heritage Asset should be compatible with the conservation of its significance. Whilst the original use of a building is usually the most appropriate one it is recognised that continuance of this use is not always possible. Sensitive and creative adaptation to enable an alternative use can be achieved and innovative design solutions will be positively encouraged;
  - viii. Historical information discovered during the application process shall be submitted to the Lancashire Historic Environment Record.

62. The impact of the proposal on the character and appearance of the area is a key consideration in the determination of the application. The site falls within the Croston Conservation Area which is a designated heritage asset and it is necessary to consider whether or not the character or appearance of this conservation area would be harmed by the proposed development. Notwithstanding this, there is the possibility that the site is the location of a former castle and its moat, and later, a moated manor home which replaced the former castle. The site itself is a large part of a wider area of designated open space under policy HW2 of the Chorley Local Plan 2012 – 2026.

63. The site is an open area of land situated to the edge of the built-up area of Croston, with the River Yarrow running along the southern boundary and the Green belt beyond. The application

proposes a single dwellinghouse which would occupy a central position within the site and has been designed as three distinct two storey blocks with a connecting glazed atrium. The development would have a large footprint, combined with a large area of bonded gravel as shown on the entrance plan, and patio areas, which further adds to the developed form of the site. The dwellinghouse would have a modern aesthetic with a 'barn-like' appearance with timber strip cladding and slate, although more domestic elements would be highlighted in stone cladding.

64. The site exists as open land which contributes significantly to the character, appearance and visual amenity of the area and creates a sense of openness, providing a clear rural connection between the village and the countryside beyond. Views of the site are achieved from Yarrow Close through the rural access gate at Yarrow Close, glimpses through the hedgerow and more widely from the south, including from the heritage trail. A footpath runs along the northern boundary of the site which is enclosed on one side by built form and the rear gardens of properties along Yarrow Close and on the other side by a mature hedgerow and the open land of the site itself, contributing to the character of the heritage footpath and boundary of the conservation area. The site undoubtedly has a positive role in the character and appearance of Croston Conservation Area. This was recognised by the Inspector in a previous appeal at this site, which was dismissed.

65. Although the proposal is for a single dwellinghouse, it is a large scale dwelling which would be seen as a group of buildings which would occupy a large portion of the site, adding to its visual prominence from surrounding receptors. Whilst a paddock is identified on the submitted plan, it appears that this would essentially be the garden to serve the dwellinghouse, along with its associated domestication of the site. The proposal would extend the suburban form of Croston with a large dwellinghouse which would itself be at odds with those generally found in the conservation area which characterise the village, and would result in a loss of open character of the site which is a key feature in the conservation area.

66. It is not considered that the proposal would meet the statutory test to preserve and would cause harm to both the character and appearance of the conservation area. This harm is afforded great weight. The Framework advises that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

67. The site may also yield some evidential value relating to a medieval castle, plus the possibility of the site also being the location of a moated manorial home. This potential presence was recognised in a previous application on this site and was referred to in the appeal. The current application does not provide any assessment in relation to the archaeological significance of the site which has yet to be properly tested beyond a desk-based study. The presence of a previously unknown defended site in the form of a castle would be considered to be of the highest archaeological significance of national importance. Field work investigation would be required pre-determination to fully understand the impact of the proposed development on archaeological interests as the land has significant potential as being the possible site of a castle, moat or other fortified structure.

#### Impact on neighbouring amenity

68. Policy BNE1 (Design Criteria for New Development) of the Chorley Local Plan 2012 -2026 stipulates that planning permission will be granted for new development, including extensions, conversions and free standing structures, provided that, where relevant to the development the proposal would not cause harm to any neighbouring property by virtue of overlooking, overshadowing, or by creating an overbearing impact; and that the proposal would not cause an unacceptable degree of noise disturbance to surrounding land uses.

69. In land use terms, the proposal would be a small scale domestic development which would be a compatible form of development with neighbouring residential uses.

70. The nearest neighbouring dwellings are those of Yarrow Close where the rear of these properties face towards the north of the application site. The proposed northern elevation of the dwellinghouse does not contain any principal windows and given the separation distances

achieved (approximately 17 metres at its nearest point) the proposal would not give rise to loss of privacy impacts or result in adverse impacts of loss of light or overbearing effects.

#### Impact on ecological interests

71. *Policy BNE9 (Biodiversity and Nature Conservation) of the Chorley Local Plan 2012 – 2026 stipulates that Biodiversity and Ecological Network resources will be protected, conserved, restored and enhanced; and that priority will be given to, among other things, protecting, safeguarding and enhancing habitats for European, nationally and locally important species.*

72. An update will be provided on the Addendum following receipt of final comments from the council's ecological advisors.

#### Highway safety

73. *Policy BNE1 (Design Criteria for New Development) of the Chorley Local Plan 2012 -2026 stipulates that planning permission will be granted for new development, including extensions, conversions and free standing structures, provided that the residual cumulative highways impact of the development is not severe and it would not prejudice highway safety, pedestrian safety, the free flow of traffic, and would not reduce the number of on-site parking spaces to below the standards stated in Site Allocations Policy – Parking Standards, unless there are other material considerations which justify the reduction.*

74. The existing field access to the site from Yarrow Close would be upgraded to access the site with dropped kerbs and a warning sign. The site would be able to accommodate on-site parking provision for at least 3no. spaces which accords with the Council's parking standards as set out in the Chorley Local Plan at Appendix A, including appropriate turning area to enter and exit in a forward gear. Lancashire County Council Highways have assessed the application and raise no objection. In particular they do not raise any objections on safety grounds in relation to the access cutting across a public footpath.

75. The application is for a single dwellinghouse and based on the advice obtained from LCC Highways it is considered that the proposal accords with policy BNE1 of the Chorley Local Plan 2012 – 2026 in respect of highways safety matters.

#### Provision of public open space

76. Policy HS4 of the Chorley Local Plan 2012 – 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.

77. 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.

78. Specifically, the guidance 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.

79. 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.

80. 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.

81. Notwithstanding this, the Council must also decide how much weight to give to the benefit of receiving a payment for 1 or 2 dwellings. It is, therefore, considered that the benefit of securing a public open space contribution on the basis of a single dwellinghouse in this case, would not outweigh the high cost of managing the end to end process of delivering those improvements, and would not be commensurate to the benefit.

82. Therefore, a public open space commuted sum is not requested for this scheme.

### Sustainability

83. 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 1st 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.”

84. 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 could be controlled by a condition.

### Community Infrastructure Levy

85. 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 would be a chargeable development and the charge is subject to indexation in accordance with the Council’s Charging Schedule.

## **CONCLUSION**

86. The proposal would be harmful to the character and appearance of the conservation area and fails the statutory duty to ‘preserve’. No public benefits are identified to outweigh the harm to this heritage asset. The application contains insufficient information in relation to the archaeological potential of the land as a possible site of a castle, moat or other fortified

structure. The site is situated within flood zone 3 and although the Sequential Test is passed, the application fails the Exception Test. The proposal would result in the loss of protected open space and this is contrary to policy HW2. It is, therefore, recommended that the application is refused.

**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.

#### **RELEVANT HISTORY OF THE SITE**

**Ref:** 81/01031/OUT                   **Decision:** REFOPP                   **Decision Date:** 28 September 1982  
**Description:** Outline application for 7 houses and 1 bungalow

**Ref:** 84/00046/FUL                   **Decision:** REFFPP                   **Decision Date:** 17 April 1984  
**Description:** Erection of one detached bungalow

**Ref:** 89/00221/OUT                   **Decision:** REFOPP                   **Decision Date:** 22 August 1989  
**Description:** Outline application for residential development on 0.8 hectares of land

**Ref:** 92/00074/OUT                   **Decision:** WDN                   **Decision Date:** 9 May 1992  
**Description:** Outline application for residential development

**Ref:** 14/00791/FUL                   **Decision:** REFFPP                   **Decision Date:** 1 April 2015  
**Description:** Construction of six detached two bedroom bungalows and formation of access road

**Ref:** 20/00992/TCON                   **Decision:** PERTCN                   **Decision Date:** 2 November 2020  
**Description:** Notification of proposed works to trees within a conservation area including the felling of 4no. birch trees and removal of self-seeded trees