

Item 10/00703/FUL

Case Officer Caron Taylor

Ward Clayton-le-Woods And Whittle-le-Woods

Proposal Demolition of existing dwelling (No 7 Chorley Old Road) and various outbuildings and the erection of 8 No detached dwellings (some with detached garages)

Location 5 - 7 Chorley Old Road Whittle-Le-Woods Lancashire PR6 7LB

Applicant Wainhomes (North West) Ltd

Consultation expiry: 23 September 2010

Application expiry: 8 October 2010

Proposal

1. The application is for the demolition of an existing dwelling (no 7 Chorley Old Road) and various outbuildings and the erection of 8 detached dwellings (some with detached garages).
2. It should be noted that the applicant has appealed to the Planning Inspectorate against non-determination of this application as the Council did not make a decision on the application within the 8-week statutory period. This application is therefore brought to Committee for a 'minded to' decision which will be advised to the Planning Inspectorate as part of the appeal process.
3. An application was refused in July this year at the same site for 9 dwellings and associated works and amendments to the access into no. 5 Chorley Old Road with new garage provision/location (ref: 10/00238/FUL). The applicant has appealed against this refusal and a public inquiry is scheduled for 1st February 2011.

Recommendation

4. It is recommended that the Committee advise the Planning Inspectorate that they would have been minded to refuse planning permission.

Main Issues

5. The main issues for consideration in respect of this planning application are:
 - Principle of Proposed Residential Development
 - Impact on the Neighbours' amenities
 - Highway Safety and Traffic
 - Section 106 Agreement
 - Ecology

History

1. Ref: 95/00806/OUT Decision: Permit outline permission
Decision Date: 9 April 1997
Description: Outline application for detached bungalow

Ref: 97/00053/COU Decision: Permit full planning permission
Decision Date: 21 May 1997
Description: Use of land as training ménage

Ref: 09/00145/FUL Decision: Application withdrawn by applicant
Decision Date: 4 August 2009

Description: Demolition of existing dwelling (No. 7 Chorley Old Road) and various outbuildings, erection of 9 no. detached dwellings (some with detached garages), formation of internal road along with upgrade works to the existing access to the site from Chorley Old Road resulting in the creation of a single access serving the site and No. 5 Chorley Old Road and the erection of a double garage, part of which will serve this property

Ref: 09/00960/FUL Decision: Withdrawn by Council (due to incorrect certificates)

Decision Date: 20 January 2010

Description: Demolition of existing dwelling (No. 7 Chorley Old Road) and various outbuildings, erection of 9 no. detached dwellings (some with detached garages and some with integral garages), formation of internal road along with upgrade works to the existing access to the site from Chorley Old Road resulting in the creation of a single access serving the site and No. 5 Chorley Old Road

Ref: 10/00238/FUL Decision: Application refused

Decision Date: 2 July 2010

Description: Demolition of No. 7 Chorley Old Road together with associated outbuildings. Construction of 9 No. residential dwellings and associated works and amendments to the access into No. 5 Chorley Old Road with new garage provision/location.

Representations

6. 5 letters raising objections to the application have been received from local residents. One of these letters has been written by Janet Dixon Town Planning on behalf of the occupier of 11 Chorley Old Road. The contents of these letters can be summarised as follows: -
- The current foul and surface water drainage systems would be overloaded
 - Garden grabbing policy – no need to build in a garden;
 - The access point is already very busy and dangerous due to its position on a blind bend. Due to on-road parking cars drive round the bend on the wrong side of the road. It is also on a hill which adds to the hazard. There is no footpath;
 - Impact on privacy of neighbouring residents. The proposal will overlook properties, block light and add to noise, especially as the properties will sit higher than some of the surrounding existing houses. Windows of the proposed properties will directly face nos. 27 and 28 Langdale Grove;
 - The houses will be visible from the bottom of Chorley old Road and have an adverse effect on the character of the area;
 - Impact on infrastructure – not enough amenities in area to cope;
 - The style of the proposed dwellings is out of character with the area. They have no regard to the appearance of the existing housing in the area;
 - The number of dwellings is an overdevelopment of the site;
 - Any pilling under plot 3 could damage the root structures of the mature trees adjacent to this plot. Loss of trees compromises privacy;

Consultations

7. Lancashire County Council Highways – Object to the application on highway safety grounds:
8. Lancashire County Highways Engineer states that the applicant has submitted a Transport Statement done by Ashley Helme Associates (AHA). However, they note it is only as a refreshed version of the earlier Wainhomes' application, along with the repeated view that if lower traffic speeds are shown in the calculations, lower Standard Stopping Distances can be used at all locations. The Statement then goes on to try and justify this stance. They state they have previously commented on this argument which they consider to be fundamentally flawed. Ashley Helme Associates have taken Manual for Streets (which is a design document fully supported by LCC) and tried to take parts that they think support their argument for this Wainhomes new road proposal. The Statement quotes sections of Manual for Streets but does not refer to the LCC supporting document, Creating Civilised Streets. This states that *"In all situations the local environment and terrain must be considered to ensure safety is not compromised."* What Wainhomes are proposing will very much compromise safety. In 3.3 of the Statement, it states that Chorley Old Road is "residential in nature" and then they "concluded

that Chorley Old Road is lightly trafficked and hence, the visibility standards set out in Manual for Streets are applicable."

9. Chorley Old Road has residential development but is a classified road, categorised as a Secondary Distributor. Manual for Streets is therefore not the document to seek full guidance at this location. AHA also want to use the 85% percentile speeds (from the old survey from the previous application) at this unsuitable location, but that in itself confirms that some traffic does indeed travel at the 30mph speed limit. AHA is simply saying these drivers proceeding at 30mph on Chorley Old Road should be ignored. That means the drivers who would be trying to exist the new development will be hit if they pull out when a driver not in the percentile figure is arriving on Chorley Old Road. Most junctions with poor visibility still tend to allow for cautious motorists to creep forward and then see any approaching traffic. The sight line being promoted here does not improve at any point as the new junction is shown on the blind bend, so at no point would an existing motorist be safe to leave this site.
10. Highways therefore ask that this application be strongly refused on serious highway safety grounds due the lack of adequate sightlines at the proposed entrance.
11. LCC Highways also comment on the internal layout of the site. The Highways Engineer states he previously suggested the internal layout of the site shown on the last Wainhomes' application must take on the Manual for Streets philosophy. AHA has tried to use parts to support the entrance proposals, but then the rest of the document has been ignored. He states he criticised the last layout as it did not take on the most basic point promoted by the Manual and that is the walking experience. Surprisingly this application is even worse. The layout now shows a totally car-dominated road with nowhere for pedestrians, making anyone not want to walk and risk using the road areas. The present arrangements are severely lacking and entirely unacceptable. Regardless of the entrance difficulties, they would repeat their request for strongly refusing this application on highway safety grounds on the internal layout, as well as the entrance.
12. LCC Ecology –
The following matters will need to be addressed before the application is determined:
 1. Further assessment/survey for bats using trees (see 3.1) [this is in relation to the tree to be removed].
If the above matter can be adequately addressed and Chorley Council is minded to approve the above application or any amended proposals, the following planning conditions are recommended:
 2. *If required*, approved bat mitigation measures will be implemented in full.
 3. Tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds will be avoided between March and August inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections.
The applicant should be made aware of the following matters:
 - Licences from Natural England may be required if protected species will be affected.
13. Parish Council – The concealed entrance is appalling from a highways point of view. They have the same concerns as the previous application – overdevelopment. Increased traffic coming onto Chorley old Road is potentially dangerous. The proposal takes away the character of the village and produces a lack of privacy caused by overdevelopment.
14. United Utilities - have no objection subject to various conditions/ informatives
15. The Architectural Design and Crime Reduction Advisor - has asked that a condition be applied that all properties be fitted with a British Standard Home Alarm System.
16. Environment Agency – make no comments on the application.
17. Environmental Protection – have no comments in relation to environmental protection issues.

18. Chorley's Contaminated Land Officer – request a condition in relation to land contamination and the addition of informative notes.
19. Chorley Council Planning Policy – This application involves the development of Greenfield and Brownfield land. However, the vast majority of Greenfield land where new housing is proposed is in the form of grassed paddock areas, a sand paddock and stabling, and is not private residential garden land. Therefore, these elements of this application are not affected by recent changes to national policy that now classify private residential garden land as Greenfield land. Consequently the Council's proposed Interim Garden Development Policy is not applicable. The existing dwelling at no. 7 Chorley Old Road is being demolished and is being replaced by a new dwelling, albeit slightly to the south. This is a replacement dwelling, so is not considered contrary to the proposed Interim Policy on Private Residential Garden Development.
20. Criterion (f) of Policy HS6 of the Local Plan states that in the case of previously undeveloped sites applicants are required to demonstrate that there are no suitable allocated or previously developed sites available in the settlement. Some of this site is Brownfield, but a substantial proportion is Greenfield. In the Design and Access Statement accompanying the application the applicants state that they are not aware of any alternative allocated or Brownfield land available for development in Whittle-le-Woods.
21. There are no allocated housing sites in Whittle-le-Woods and the Council do not currently have information that demonstrates that there are alternative Brownfield sites available for development in this settlement. In the appeal decision for a predominantly Greenfield site at 202 Chorley Old Road in Whittle-le-Woods the Inspector took the stance that in light of the lack of demonstrable alternative Brownfield sites in Whittle-le-Woods the objectives of criterion (f) of Policy HS6 had been met and that the priority given to the development of Brownfield land would not be prejudiced. Therefore, on balance, it is not considered appropriate to maintain an objection on these grounds.
22. There is considered to be a five-year deliverable housing supply in Chorley, so there is not considered to be an additional presumption to consider this planning application favourably.
23. See body of this report in relation to sustainable resources.

Assessment

24. A previous application at this site was refused on the following grounds:
 1. The intervening land between the application site and Chorley Old Road to the south slopes steeply thus elevating the site from Chorley Old Road. The development, by virtue of its proximity to the southern boundary of the site, would appear substantially elevated above Chorley Old Road, particularly plots 4 and 5, during periods of the year when the mature trees on the intervening land no longer have leaf cover. The elevated nature of the development adjacent to the southern boundary, particularly in the autumn and winter months, means it would tower over Chorley Old Road and would appear incongruous in the street-scene thus resulting in detrimental harm to its character and appearance. The proposed development is therefore contrary to Policy Nos. GN5 and HS4 of the Chorley Borough Local Plan Review.
 2. The proposed development would not provide reasonable levels of privacy for its occupiers. In particular, the distance from the first floor windows in plot 5 to the boundary with plot 7, which should be at least 10m, coupled with the higher slab level of plot 5 in relation to plot 7, means the occupiers of plot 7, when utilising the outdoor space associated with the property, would not have a reasonable level of privacy hence the relationship would be harmful to residential amenity. The development proposed is therefore contrary to Policy HS4 (c) of the Chorley Borough Local Plan Review.
 3. The development would have a detrimental impact on the amenities of the occupiers of the adjacent properties on Langdale Grove. In particular, due to the difference between the proposed slab levels of the dwellings proposed on plot nos. 4, 5 and 7 and the level of the garden of 30 Langdale Grove and the proximity of these dwellings to the garden boundary of this property, the views attainable from the first floor windows of the

properties on these plots would unacceptably overlook the garden of this property. The proposed development is therefore contrary to Policy Nos. HS4 (c) and HS6 (C) & (d).

4. The proposed junction with Chorley Old Road does not provide the necessary visibility splays required for a 30mph road as set out in Manual for Streets and it has not been suitably demonstrated to the Council why a reduction in the visibility splay requirements in Manual for Streets should be accepted for this site. Also, the internal layout of the site does not provide suitable design features to cater for pedestrians. The development proposed would therefore result in detrimental harm to highway and pedestrian safety contrary to Manual for Streets and Policy TR4 and HS4 (d) of the Chorley Borough Local Plan Review.

25. The assessment of the application therefore needs to consider if these reasons have been overcome or if there are any new issues raised by the current proposal or if there are any other new material circumstances since it was determined.

Design and Appearance

26. The first reason for refusal was that due to the level difference between the site and Chorley Old Road and its proximity to the southern boundary of the site, it would appear substantially elevated above Chorley Old Road, particularly plots 4 and 5 when the intervening trees have lost their leaves. This would mean it towers over Chorley Old Road, it would appear incongruous in the street-scene thus resulting in detrimental harm to its character and appearance. In terms of the current application the Gainsborough house type on the southern boundary (plot 3) would still be substantially elevated in the streetscene during the winter months when viewed from Chorley old Road to the southwest of the site (looking at the previous application it is clear the previous case officer labelled the plots mistakenly as plots 4 and 5 in the previous refusal due to a dashed line on the plans).
27. Although the property on plot 4 in the current application (mistakenly labelled plot 5 in the previous application report) is re-orientated in the current site layout and brought further away from the southwest boundary, and that both properties have a slightly lowered slab level compared to the previous application (plot 3 on the current application is 0.5m lower and plot 2 is 0.25m lower), it is not considered that the previous reason for refusal has been overcome. The properties will still be substantially elevated in relation to Chorley old Road to the southwest particularly in the winter months, and would still have a detrimental impact on the character and appearance of the area. The proposed development is therefore contrary to Policy Nos. GN5 and HS4 of the Chorley Borough Local Plan Review.

Neighbour Amenity

28. The second reason for refusal stated that the proposal would not provide reasonable levels of privacy for its occupiers. In particular, the distance from the first floor windows in plot 5 to the boundary with plot 7 means the occupiers of plot 7, when utilising the outdoor space associated with the property, would not have a reasonable level of privacy hence the relationship would be harmful to residential amenity. In the current layout one dwelling has been removed and this problematic relationship no longer exists. The internal layout within the site, largely complies with the Council's interface guidelines, except the distance between the front windows of plot 7 and the rear garden boundary of plot 8 with is 1m short of the 10m guideline. However the property on plot 7 will be 0.7m lower than that on plot 8 and planting is proposed on the boundary. This relationship is therefore considered acceptable. In terms of the relationship with the properties surrounding the site, the proposals comply with the Council's interface guidelines. It is therefore considered that the second reason for refusal has been overcome.
29. The third reason for refusal related to the unacceptable relationship of the proposed dwellings with the garden of no. 30 Langdale Grove, particularly due to the difference between the proposed slab levels of the dwellings proposed on plot nos. 4, 5 and 7 and the proximity of these dwellings to the garden boundary of this property, which would unacceptably overlook the garden of this property. Plots 4 and 5 of the scheme now under consideration would still face towards the garden of no. 30 Langdale Grove. The garden of no. 30 is at a lower level than the proposed properties on plots 4 and 5 - the boundary with the garden of no. 30 being 2.4m lower than the slab level of the proposed property on plot 5 and 1.82m lower than the proposed

property on plot 4. This difference in slab levels would normally lead the Council to increase the standard interface distance of 10m between a first floor window and the boundary with another property. In this case the garden of no. 30 is particularly long and plot 4 looks over part of the garden of no. 30 that is away from the house, not the most private part immediately adjacent to the house. The relationship of plot 4 to the garden is therefore considered acceptable. However plot 5 overlooks the part of the garden that is nearer to the house and has a greater level difference with the boundary, of 2.4m. It is considered therefore that this relationship is unacceptable as due to the level difference it will result in an unacceptable level of privacy to the garden of no. 30, hence the relationship would still be harmful to residential amenity. The development proposed is therefore still considered contrary to Policy HS4 (c) of the Chorley Borough Local Plan Review in this regard.

Highway Safety

30. The fourth reasons for refusal related to highway safety. LCC Highways have objected to the current proposal and state that the access remains unacceptable and the internal layout in relation to pedestrian safety is worse than the previous proposal. The previous reasons for refusal in terms of highway safety have not therefore been overcome and the proposal is contrary to Policy TR4 and HS4 (d) of the Chorley Borough Local Plan Review. Parking provision of at least 3 spaces per dwelling is however considered acceptable.

Trees and Ecology

31. A Tree Preservation Order covers some of the trees on the site. The applicant submitted a tree survey which originally proposed felling a mature tree which at some time in the past has been struck by lightning. Although this would not warrant retention due to the lightning strike, the County Ecologist was concerned that the bat survey carried out did not include this tree and it has the potential for roosting bats. The applicant therefore proposes to retain this tree and has sent in an amended plan showing this.

Sustainable Resources

32. The application is required to conform to Policy SR1 of the Sustainable Resources Development Plan Document. The submitted Sustainable Resources report makes no reference to this policy, but the Planning Design and Access Statement does refer to it and also to the Inspector's appeal decision at 202 Chorley Old Road, Whittle-le-Woods. The Planning Policy Team does not agree with the Inspector's interpretation of Policy SR1 in the Appeal Decision at 202 Chorley Old Road. The requirement to meet certain Code Levels within Policy SR1 of the Sustainable Resources DPD is considered to be fully in accordance with PPS1 and in line with changes to Building Regulations. This was confirmed by the Inspector at the Examination of the Sustainable Resources DPD, who found the DPD to be 'sound'. It is therefore considered that the Council would be justified in adding conditions to planning permissions to ensure that the requirements of Policy SR1 are achieved. There is also an error in Paragraph 6.32 of the applicant's Design and Access Statement, which refers to a 10% reduction in carbon emissions. The required reduction in carbon emissions is 15% for this application as it has been received in 2010.

Section 106 Agreement

33. If the application had proved acceptable a s106 Agreement would have been required in relation to the provision of £9,289 for the provision of equipped play areas, casual/informal play space and playing fields.

Overall Conclusion

34. It is not considered that the current proposal addresses the reasons for refusal of the previous application. The proposal would have a detrimental impact on the character and appearance of the area, particularly in the winter months, given that it is substantially elevated in relation to Chorley Old Road. The proposal is therefore contrary to policy Nos. GN5 and HS4 of the Chorley Borough Local Plan Review. It would also have an unacceptable impact in terms of amenity on the garden of no. 30 Langdale Grove due to the proximity to the boundary and the difference in land levels. The proposed development is therefore contrary to Policy Nos. HS4 (c) and HS6 (C) & (d).

35. In terms of highway safety, there is still a strong highways objection from the County Highways Engineer. The access to the site and the internal layout in terms of pedestrian safety is not considered acceptable and is contrary to Manual for Streets and Policy TR4 and HS4 (d) of the Chorley Borough Local Plan Review.

Planning Policies

National Planning Policies:

PPS1, PPS3, PPS9, PPS22, PPS23

Manual for Streets

Adopted Chorley Borough Local Plan Review

Policies: GN1, GN5, HS4, HS6, TR4

Supplementary Planning Guidance:

- Design Guide

Chorley's Local Development Framework

- Policy SR1: Incorporating Sustainable Resources into New Development
- Sustainable Resources Development Plan Document
- Sustainable Resources Supplementary Planning Document

Recommendation: Refuse Full Planning Permission

Reasons

1. The proposed development is within the settlement boundary of Whittle-le-Woods on an unallocated and un-developed 'Greenfield' site. It has not been demonstrated that there are no suitable allocated or previously developed sites available within the settlement and as such the proposal is contrary to criteria (f) of Policy HS6 of the Chorley Borough Local Plan Review and PPS3: Housing.
2. The proposed junction with Chorley Old Road does not provide the necessary visibility splays required for a 30mph road as set out in Manual for Streets and it has not been suitably demonstrated to the Council why a reduction in the visibility splay requirements in Manual for Streets should be accepted for this site. Also, the internal layout of the site does not provide suitable design features to cater for pedestrians. The development proposed would therefore result in detrimental harm to highway and pedestrian safety contrary to Manual for Streets and Policy TR4 and HS4 (d) of the Chorley Borough Local Plan Review.
3. The development would have a detrimental impact on the amenities of the occupiers of the adjacent property on Langdale Grove. In particular, due to the difference between the proposed slab level of the dwelling proposed on plot no. 5 and the level of the garden of 30 Langdale Grove and the proximity of this dwelling to the garden boundary of this property, the views attainable from the first floor windows of the properties on this plot would unacceptably overlook the garden of this property. The proposed development is therefore contrary to Policy Nos. HS4 (c) and HS6 (C) & (d).
4. The intervening land between the application site and Chorley Old Road to the south slopes steeply, thus elevating the site from Chorley Old Road at its junction with Town Lane. The development, by virtue of its proximity to the southern boundary of the site, would appear substantially elevated above Chorley Old Road, particularly plots 3 and 4, during periods of the year when the mature trees on the intervening land no longer have leaf cover. The elevated nature of the development adjacent to the southern boundary, particularly in the autumn and winter months, means it would tower over Chorley Old Road and would appear incongruous in the streetscene thus resulting in detrimental harm to its character and appearance. The proposed development is therefore contrary to Policy Nos. GN5, HS4 and HS6 of the Chorley Borough Local Plan Review.