

**Case Officer** Liz Beard

**Ward** Eccleston And Mawdesley

**Proposal** Change of use and works to existing buildings to create 2 dwellings and 2 garages (resubmission of planning application No 10/00604/FUL)

**Location** Land North West Of And Adjacent To Back House Barn Hall Lane Mawdesley Lancashire

**Applicant** Thomas Mawdsley Building Contractor

**Consultation expiry: 9 February 2011**

**Application expiry: 10 February 2011**

**Recommendation: Permit subject to legal agreement**

### **Proposal**

1. The proposal is for the change of use of the existing buildings to create two dwellings and two garages. This is a resubmission of an application that was withdrawn last year (reference 10/00604/FUL).
2. The applicant bought the land towards the end of 1996 and it was transferred at the beginning of 1997, and there have been various uses carried out on the site. The site is overgrown in places and there are a mixture of buildings on the site, along with a frame for a polytunnel and a base for another building.
3. This application is to use two of the existing buildings as dwellings, one to the south of the site (Building 1) and one towards the middle of the site (Building 3). It is proposed to retain a part wooden and part brick outbuilding (Building 4) for use with one of the dwellings, and retain a further wooden outbuilding (Building 6), towards the north-eastern corner for owls to roost/nest. Two double garages are shown for each dwelling. One building has already been demolished and all the other buildings and structures are to be demolished.
4. Access is proposed via the existing access from Backhouse Barn Hall Lane. This is a narrow track, which is also a Public Right of Way (Public Footpath no.39), which has limited passing areas. This will then split off into two driveways to the separate dwellings. The driveway to building 1 will have a turning circle. The boundary treatment around the perimeter of the site will remain as existing and there will be 1.8m high screen fencing shown to separate the two dwellings. The remaining land will be included as private garden.
5. **The application was deferred at the last Committee for a site visit.**

### **Recommendation**

6. It is recommended that this application is granted conditional full planning approval subject to the associated Section 106 Agreement

### **Main Issues**

7. The main issues for consideration in respect of this planning application are:
  - Principle of the development

- Impact on the neighbours
- Design
- Ecology
- Traffic and Transport
- Public Right of Way
- Drainage and Sewers
- Land Ownership

### **Representations**

8. 13 letters of objection has been received which raises the following issues:

- Wear and tear on the access track is difficult to maintain and with additional vehicles will compound the problem.
- There are no official passing places along the track unless to pull into driveways of other residents.
- The track is a public footpath regularly used by walkers and locals who frequently let their pets run off the lead, as it safe and away from the regular flow of traffic.
- Pulling out onto Hall Lane is difficult and at times treacherous, and more vehicles using the track would certainly have a need for more improved vision.
- The proposed house is situated 2.5m away from my hedge and is adjacent to an area where we rear livestock and fowl. There are times throughout the year where lights are on at all times which would cause a problem with a neighbour within such close proximity.
- Concerned that the reports, which support the application are not correct. I have lived here for three years and have never seen any vehicles on the site until very recently. The area is derelict with a few bricks and old pieces of wood lying around, which do not look as if they have been moved for many years.
- The land shown within the application site is not registered.
- If development is approved the added use of water and electricity on the new site will cause a problem not only with the three existing dwellings at Back House Farm but also the other residents which are also serviced in this way.
- The buildings within the site are ramshackle and not worthy of retention being unsuitable for conversion without substantial works.
- Apart from the rebuilding, the changes in materials and roof height will impact upon the openness of the greenbelt.
- No existing heights are shown on building 3 but the proposed new height is almost 6 metres. The changes will severely impact upon the openness of the greenbelt and will alter the character of the site.
- No planning permissions have been granted and no Certificate of Lawfulness has been obtained. Any lawful uses have been abandoned and the use of the site for agricultural purposes broke any qualifying period, which might be obtained used to obtain a Certificate of Lawfulness.
- Bat and Owls are present in the locality and they have used the buildings in the past. Any development of the site will impact on upon the ecology of the area.
- The site is unsuitable for use as a builder's yard for which planning permission is now needed.
- The access road is unsuitable for use by large vehicles being narrow and having no passing places in the control of the applicant. There are no fall back positions upon which the applicant can rely except the agricultural use if planning permission is refused.
- The site is in greenbelt where there is a general presumption against inappropriate development.

- Any development for residential purposes is inappropriate because neither building is suitable for conversion without major reconstruction.
- The access to the site is long, narrow and tortuous. The junction with Hall Lane is dangerous. Any intensity of use of the track for any reason is unsafe.
- The second proposed house overlooks our house and garden, particularly the intended upstairs windows, and the proposed garage will completely obliterate our only view across the fields.
- This will result in total loss of privacy and being surrounded on two sides will significantly increase noise levels.
- The impact of two more dwellings on a tiny hamlet of three existing houses will be enormous. All traffic would have to approach within feet from walls of our houses.
- We consider the construction of development on such a scale to be totally unnecessary and inappropriate due to the location of the site and its inherent inaccessibility, creating further commuting difficulties for existing residents and an increased hazard for users of the public footpath, which constitutes the only access to the proposed site.
- The access to the proposed site is down a single track cart road that is also a well used public footpath, there are already 3 properties down this lane which is far too many as it is, further development will create a dangerous situation for people using the footpath.
- Another area of concern is the fact that as well as the detached houses there are also separate detached garages. We have experienced in the past (by the applicant) where this type of garage is applied for conversion to a dwelling at a later date, thereby creating four dwellings not two.
- There cannot be any "special need" to justify building in the Green Belt of Mawdesley.
- Not only is this field Green Belt it should be treated as green field.
- It was once part of Backhouse Farm, used for poly-tunnels and wooden sheds. Since then it has had a stable built (with planning permission) and hard-core tipped without planning permission. It is still an isolated rural area unsuitable for housing development.
- Additional properties would substantially increase the traffic and impact on the environment.
- As the proposed development is for two large 4 bedroom properties this will undoubtedly increase the traffic along the track and create noise and pollution.
- It is unusual for 4 bedroom properties to have a large garage.
- The site is described as a joinery and builders yard. We have lived here for 6 months and there has been no activity whatsoever on the site. In our view it is not used as a joinery and builders yard, the only activity has been putting in of foundations and adding to existing structures and no traffic has been seen during the entire time.
- Ecology report believed to be inaccurate as based on 4 visits over the last two years.
- The track is described as an unadopted road, this is highly misleading and indeed the whole report in our view entirely misrepresents the true position.
- The track is in very poor condition from start to finish, it is very narrow and is overgrown with hedges and trees, there are numerous blind spots, and no passing places.
- Several entrances along the track, but these are not passing places and are in private ownership.
- The report states visibility is good, which with respect is blatantly incorrect. Vision is severely impaired, particularly to the right of the track when it meets the main road, due to extensive hedging.

- The highway report also fails to make clear that the track has a public footpath running the entire length of the same and furthermore is unlit. Increased traffic would only serve to increase the risk of further accidents and would be dangerous for pedestrians and walkers.
  - Materials used are out of character with the setting. The architecture and external styling do not compliment the surrounding rural setting.
  - I jointly with my wife own the last third of the drive leading from the 90 degree bend to Back House Farm and the track in front of the three houses including the proposed entrance. We are not prepared to allow the developer's right to pass by foot or vehicle to his land to be converted to rights for others to do so. Accordingly, whilst he personally can enjoy that right, he cannot extend it to others.
9. There were also two letters submitted, which clarify some of the points/matters provided in the supporting information and in relation to the application. One was from the previous owner of the land, and the other from someone who used the stables.
- The application site was sold to Mr Mawdesley in 1996 together with right of access, for him only, along the track, which I also owned.
  - Building 1 was used as a piggery until 1980's after which it was used as storage and then horticultural use in connection with the farm.
  - From 1996 the building was used to store building materials in connection with the conversion of Backhouse Barn to a dwelling. It was never used separately as a joinery workshop up until 2002.
  - Building 3 did not exist when I sold the land. There were previously a number of timber constructed poultry cabins, which have been demolished. Building 3 was constructed in 1996, which was rented out.
  - Stables were used, 1996 to 1999 but not as a commercial enterprise.
10. **Mawdesley Parish Council** raise an objection as the proposed development is located in Green Belt. The Parish Council question the validity of a number of the statements made in the supporting information. The premises has never been used as a 'builder's yard' or 'livery stable's' commercial or otherwise where they have been informed by owners of neighbouring properties.
11. The access road is a rough track without any real passing places. Access to the site is via a private road. It is not clear whether the proposed residential development will enjoy full right of way, as the adjacent land, which is currently used for access, is owned by one of the neighbouring properties.
12. Concern has been expressed by the neighbours, that there is no main sewer near to the site and the designated water supply is privately owned. Any future development proposing to access the water supply will have a detrimental effect on existing users. Confirmation is also needed that the existing electrical services to the plot are suitable for two residential dwellings.
13. The Mawdesley Village Design Statement 1997 states there should be no reduction in the area of land around Mawdesley, which is set aside and described as Green Belt. Also in relation to Local Plan Policy DC1 no special circumstances apply to this development proposal.
14. **Update Following Previous Committee:** A request for a deferral was received by the agent (Richard Percy), and was reported on the addendum. It read as follows:

15. *'I can confirm that my client, Andrew Mawdesley, has been speaking to Mr Austin, owner of Back House Farm, regarding various ownership and rights of way issues of which you are aware. There is a good level of agreement between them regarding these issues and I understand that the other residents in the area around the application site are also in agreement with the substance of the discussions.'*
16. *However, to protect the interests of all parties, it is likely that letters will need to be exchanged which will set out the agreement which have been, in principle, agreed. This is likely to take several days, particularly as Messrs Mawdesley and Austin cannot now meet again until the weekend. I have therefore been asked by the applicants to request that consideration of the application is deferred until the next meeting of the Committee at the end of March. This will allow all the loose ends to be cleared up and all parties will benefit from this deferral. As this process is clearly what the Government has in mind in terms of giving more power to local residents in relation to the planning process, I trust the chairman of the Development Control Committee will agree to this deferral.'*
17. In reply to the above, Mr Austin has written the following letter, which was received on 9 March 2011. Mr Austin would like the Committee to be made aware of the following:
18. *'I was very surprised indeed to learn at last night's planning committee that a further addendum had been provided by your team referring to an email from the Mawdesley's concerning the without prejudice and subject to contract discussions I am having with Andrew Mawdesley. I would like you to make it absolutely crystal clear to the planning committee that whilst without prejudice and subject to contract negotiations did take place, there was no consensus or agreement reached between myself and Andrew Mawdesley on behalf of the residents. The residents remain opposed to the application and no further meetings are planned. Please acknowledge receipt and confirm that you will make the planning committee aware of the above and that no consensus or agreement exists.'*

### **Consultations**

19. **Lancashire County Council (Ecology)** state that the main ecological issues relating to this application are potential impacts on bats, common toad, barn owls and other breeding birds. Because Bats (European Protected Species) would be affected by the proposal the three tests that have to be met are the development is of overriding public interest, there is no satisfactory alternative, the development would not be detrimental to maintaining the population of the species concerned at a favourable conservation status. Mitigation and compensation proposals are given in Section 5 and Appendix 2 of the ecological survey and assessment report (ERAP, June 2010), including an outline method statement to address the third test. In my opinion, provided that the proposed mitigation/compensation measures are implemented in full, detrimental impacts on bats, common toads, barn owls, breeding birds and other features of ecological interest can be avoided or adequately off-set. If all the above tests can be met and Chorley Borough Council is minded to approve the application, then full implementation of the recommendations given in Section 5 and Appendix 2 of the ecological report, incorporating any amendments required by Natural England at licensing stage, should be subject to a planning condition.
20. **Chorley Council Planning Policy** comments that applicants proposing residential conversions are expected to demonstrate the sufficient efforts have been made to secure a viable economic use for the building(s). A building's proposed new use must reflect the existing architectural qualities and features. Whilst not resulting in an overall net increase in buildings, the demolition of existing outbuildings and erection of two double garages as replacement buildings may not be considered as necessary. PPS3

(Housing) encourages development that is easily accessible and well-connected to public transport and questions are raised over the sustainability of the proposal.

21. **United Utilities** have no objection to the proposed development. A separate metered supply to each unit will be required at the applicant's expense. United Utilities encourages the use of water efficient designs and development wherever this is possible, including the latest water efficient products, e.g 4.5l flush toilet, minimise the lengths of hot and cold water pipes from storage to tap/shower areas, utilising drought resistant varieties of trees, plants and grasses when landscaping and install water efficient appliances. It is the applicant's responsibility to demonstrate the exact relationship on site between any assets that may cross the site and any proposed development.
22. **Lancashire County Council (Highways)** comments that the development has shown adequate car parking facilities within the properties. The proposal does not have a significant effect on the adjacent highway network safety or traffic volume. Further comments have been provided, where the issue of the sight lines were looked at. He states with 40mph speed limits, manual for streets, suggests a sight line is not achieved. In view of the safety for other road users and those using the private road at the junction with Hall Lane, I have reconsidered my earlier decision. The proposal will bear a risk of safety for other road users and those using the private road at the junction with Hall Lane; I have reconsidered my earlier decision.
23. An additional response was received following Cllr Iddon contacting the Highways Engineer, where they state that the speed limit on Hall Lane in the vicinity of its junction with the private road is 30mph and not 40mph. However, taking this into account the visibility particularly to the right, as you leave the site, is substandard and they still have a concern for all the safety of all road users including those already using the private road.
24. **Lancashire County Council (Public Rights of Way Officer)** has provided comments that it is apparent that the application area abuts Public Footpath no. 39, but it is not clear whether the application will affect the Public Footpath. He goes on to say that Public Rights of Way must not be obstructed during the proposed development. It is the responsibility of the landowner to ensure that the necessary procedures are followed for the legal diversion of the Public Rights of Way if this should be necessary.
25. **Building Control** checked the structural appraisals and conclude that: A lot of work would be required, but it is possible that the works can be completed, to the existing buildings, to bring the buildings up to an acceptable standard.

## **Assessment**

### Principle of the development

26. The site lies within Green Belt where Planning Policy Guidance (PPG) Note 2: Green Belts is of relevance. Within PPG2 there is a general presumption in favour of the reuse or the conversion of rural buildings for commercial or business use. However, where the reuse or conversion for such a use is not possible or viable, then a residential use would be considered rather than allow the building to fall vacant or go into disrepair. Therefore it is for applicants to demonstrate that sufficient efforts have been made to secure a viable economic use, which is outlined towards the end of Policy DC7A of the Chorley Local Plan Review.
27. Policy DC7A lists the criteria where one or other of the following apply, which the applicant is required to demonstrate. Part i) states that a Statement of Efforts and Proof of Marketing should be submitted. Part ii) it should be shown that the residential

conversion is ancillary to the business use and part iii) the building is demonstrably unsuitable for business use. The supporting information provided highlights that given the location of the site at the head of a 730m long single private track private road, it is not suitable for a business use. It is acknowledged given its location that it would be unsuitable for use as a business, although tourist and community facilities may be considered as part of any marketing exercise. The policy does state that one of the criteria have to be met and it is felt that given its location then it is not suitable for a commercial use, therefore this part of the policy (part iii) has been complied with. It should also be noted that Planning Policy Statement (PPS) 4: Planning for Sustainable Economic Growth, which post dates the Chorley Local Plan Policy, and is the most up to date policy advice, states in paragraph EC12.1 that; *'Re-use of buildings in the countryside for economic development purposes will usually be preferable, but residential conversions may be appropriate in some locations and for some types of building.'* This has changed some of the emphasis from reusing buildings in the countryside for business use only and these should be retained in rural locations. Now there is more flexibility in that residential use may be more appropriate. It is considered that a business or commercial use is not suitable in this location.

28. The first part of Saved Policy DC7A of the Chorley Local Plan Review lists further criteria for the re-use of existing buildings and these all have to be met. The Planning Statement that was submitted with the application states how the proposal accords with each part of the policy; as shown below:
29. (a) The proposal does not have any impact on the openness of the Green Belt. The Planning Statement says, the two buildings already have a presence in the Green Belt. The development proposals would involve the removal of a large building plus the remains of others and would be replaced with smaller garage structures. The overall effect would be to reduce the built impact of the site on the openness of the Green Belt.
30. (b) Re-use of the building will not create pressure for additional farm buildings elsewhere in the Green Belt. The Planning Statement says this is not relevant as this relates to existing agricultural buildings.
31. (c) If an agricultural building then no permitted development issues arise. The Planning Statement says this is not relevant as they relate to existing agricultural buildings. The applicant does not own any of the surrounding fields, therefore these buildings are not used in relation to these.
32. (d) The buildings to be converted must be of a permanent and substantial construction. Structural surveys have been submitted and show that they are both capable of conversion. This has been confirmed by Building Control. However, a methodology statement outlining the actual works that will be taking place, and at what stages, has been requested, following the comments made at Committee.. An update will be provided on the addendum.
33. (e) The development respects the form, bulk and general design of the buildings and its surroundings. The plans submitted show the basic form, bulk and design is to be maintained.
34. (f) The change of use has been accommodated without the needs for any additions or alterations to the building. Particular attention will be given to the curtilage and the requirement for outbuildings. The curtilage will not be altered in anyway. The Planning Statement has not provided comment on the provision of two double garages.

35. (g) The building must have reasonable vehicular access. The existing private road provides such access and is already used by three adjacent dwellings adjacent to the application site. The Planning Statement goes on to say that *'..plus potentially more intensive use, by larger vehicles, for the lawful uses of the site. The issue of acceptability of the private road for the proposed use is addressed by the amended highways report produced by AECOM and included in Appendix 2.'*
36. (h) The development would not result in the loss of wildlife or habitat of importance as a result of the change of use. This is addressed in the ecological statement by ERAP Ltd.
37. Following the assessment of the proposal against the above criteria, the proposal does not fully meet criteria f). Criteria f), when read in conjunction with the Supplementary Planning Guidance (SPG) Conversion of Rural Buildings in the Countryside where para. A3 states *'Any range of buildings should be protected in their entirety, and there should not be selective demolition to facilitate an enhancement to the proposed conversion. Any smaller buildings should be used for garaging, storage, or other ancillary purposes. Additional curtilage buildings will not normally be permitted.'* This guidance was designed to protect rural buildings, which collectively have architectural merit, these buildings do not have a great design presence, however, there still needs to be an assessment made on the overall impact. There is the issue of whilst not resulting in an overall net increase in buildings whether these additional buildings are not necessary when existing buildings could be used.
38. Within PPG2 paragraph 3.8, it goes a bit further as it says *'..strict control is exercised over the extension of re-used buildings, and over any associated uses of land surrounding the building which might conflict with the openness of the Green Belt and the purposes of including land in it (eg because they involve extensive external storage, or extensive hardstanding, car parking, boundary walling or fencing)'*
39. There is also the consideration with regards to the General Permitted Development Order, where there is the allowance for certain development to be built without planning permission. This includes for double garages, and various outbuildings. Therefore a balance has to be looked at between what is allowed under permitted development rights and conflict with the openness of the Green Belt.
40. This scheme as a whole is for the removal of a number of structures and outbuildings, and the reuse of two of the buildings (plus an additional one as an outbuilding) and two double garages. Although it does not strictly comply with the SPG part f) of Policy DC7A does not rule out the requirement of outbuildings completely. It says that *'particular attention'* will be given to them. It is considered that overall the impact of the Green Belt will not be detrimental and cause harm and the proposal does not have impact on the openness. The removal of the existing structures and buildings will improve the openness and although there will be two double garages built these will not have a materially greater impact on the openness of the Green Belt than the existing situation. To ensure that this is retained then a condition can be added removing permitted development rights for all extensions, outbuildings, further garages, additional hardstanding and additional fencing.
41. Planning Policy Statement (PPS) 3: Housing is also of relevance, where housing development is encouraged where it is easily accessible and well-connected to public transport and community facilities and services. Saved Policy GN9 of the Chorley Local Plan reiterates this. It is stated in the Planning Statement that it is 730m away from a bus stop. However, in this location this is considered to be within the normal



limits according to the Institute of Highways Engineers guidelines. The emphasis in Planning Policy Guidance Note (PPG) 7: Sustainable Development in Rural Areas is that development in isolated areas should be justified. This is not an isolated area, as there are three other properties in the immediate vicinity and other properties along the track. It is normal in rural areas for there to be further distances to bus stops, shops, GPs, schools etc. and this area is such an area, and therefore it is not so isolated that it could not be refused for reasons of being in an unsustainable location.

#### Impact on the neighbours

42. The issue of amenity has been raised in relation to the additional cars using the track. The Highways Engineer has commented that he does not think that the additional cars will have a significant effect in terms of volume, but has raised another issue, in relation to the visibility splay, which is discussed below.
43. The neighbouring resident has raised concerns that the future resident's amenity will be compromised due to the lights used for their livestock and fowl. Whilst this can cause an impact there is suitable screening available and it is not considered to be a justifiable reason for refusal.
44. The issue of overlooking and impacts on privacy from the upstairs windows of Building 1 has been raised. There are no issues with residential amenity in relation to Building 3. In relation to Building 1 it is considered that that the privacy distances as outlined in the SPG on Design Guidance can be met and therefore there will not be a detrimental impact on the neighbours or future residents.

#### Design

45. The proposal has been amended from that was originally submitted. Building 1 will now remain the same footprint with no extensions, in addition the height of the roof will remain the same. The roof will be removed and the trusses changed with the tiles to be agreed. There will be a main door and back door installed along with three full length patio style window and various windows. Whilst the majority of the openings are used these will be made bigger to install windows.
46. Building 3 is shown to have the existing trusses altered or replaced and a new roof to enable first floor accommodation to be provided. The floor will be lowered to ensure the eaves height and ridge remains the same. There will be additional windows included and roof lights and two doors.
47. Structural surveys were submitted with the application, where it highlights that a lot of work would be required. Building Control acknowledge that a lot of work would be required, and it is possible, to bring it up to an acceptable standard. A methodology statement has been requested, which will outline what works will be carried out and at what stage. An update will be provided on the addendum. If this is not received in time for the Committee then a pre-commencement condition can be added.
48. The plans show that both the buildings to be clad with clay facing brick, artstone heads and cills, grey concrete tiles and upvc windows and timber doors. All materials are to be agreed, which can be dealt with by way of condition. It is proposed to provide hardstandings for both the properties, where a condition can be attached to ensure the materials are submitted for approval.
49. The existing boundary treatment is going to be retained. This includes a mix of timber fencing, timber post and panel fencing, and hedging. There are areas where new planting will be required and fencing will need to be replaced; a condition can be added accordingly to ensure details are provided prior to the commencement of

development. The plans show where a new 1.8m screen fence will separate the two properties, however, there has not been any detail provided. A condition can be added in relation to new fencing as well.

50. Whilst these buildings are not considered to have great architectural quality and the SPG states that the existing openings should be utilised, new windows and doors should be in timber, either stained or painted and additional openings are only permitted where essential, this SPG is for guidance and has more relevance to barn conversions and buildings which have architectural quality. These buildings, are not typical barn type buildings and do not have any significant features, however, they are capable of conversion. Whilst the SPG 'Conversion of Rural Buildings in the Countryside' is of relevance and it has been considered in the processing of the application, some of the detailed requirements, set out in the SPG, are not relevant to these buildings. The additional windows, which are uPVC, will not have an adverse impact and are considered appropriate in relation to these buildings. However, a condition can be added to ensure the windows are set back in the reveals. The roof will be replaced, however, the replacement will improve the building from a visual point of view, and will not be any higher than the existing roof. It is considered that the materials used will also improve the buildings visually. Therefore on balance whilst the specific requirements, as set out in the SPG, are not met in this application, it is considered that the materials used and the design proposed will improve the buildings visually and it would be difficult to refuse the application in terms of design.

#### Ecology

51. There was an ecological survey submitted with the application, which was compiled by ERAP Ltd, its conclusions were that there are no national or statutorily designated areas or no non-statutory designated sites within the site or the local area. There is no evidence of protected species on the site or immediate area. Great Crested Newts have been reported on a site 840 metres to the south of this site. Smooth Newts were reported in the local area.
52. The tests as outlined in Defra guidance 01/2005 paras 22-28 need to be applied. The first consideration is whether the site integrity is not adversely affected and whether conditions can be added to any proposal. If this is not appropriate then alternative sites need to be considered and then the issue of overriding public interest is considered if there is a potentially negative impact on the site integrity.
53. There are some recommendations suggested within the report, within Section 5 and appendix 2. These include protection of the grassland and adjacent hedgerows by protective fencing during the construction stage. It is recommended that any clearance works are carried out outside the bird nesting season, and that bird nesting boxes are suggested to be installed in appropriate locations. It is considered that the with the proposed mitigation and compensation measures outlined in the report that there will not be an adverse impact. This is outlined in the comments provided by the Lancashire County Council Ecologist. The recommendations as outlined in the ERAP Ltd report can be conditioned accordingly.
54. Building 6 is to be retained as a potential roosting site for owls. A further recommendation requesting details of a habitat/management plan for the site as a whole and to include for the recommendations as outlined in the report can be added as well. A mitigation strategy for bats and barn owl can also be conditioned, therefore it is considered that with these appropriate measures then the detrimental impacts on the ecology on the site will be avoided or adequately of-set.

### Traffic and Transport

55. The issue of highway safety has been raised by the neighbours in relation to the increase in cars using it, and in relation to the existing use, which is disputed. The Highways Engineer has provided comments that he raises no objections to the increase in volume, but he has objections in relation to the sight lines with Hall Lane. With a 40mph speed limit, Manual for Streets suggests a sight line is not achieved. In view of the safety for other road users and those using the private road at the junction with Hall Lane, he reconsidered his earlier decision.
56. The Highways Engineer has since revised his comments that the speed limit in the vicinity of the junction with Hall Lane is 30mph. However, the concern over the visibility of the junction, particularly in the lead direction (i.e to the right as you leave the site), is substandard and there is concern for the safety of all road users including those already using the private road.
57. It is noted that the visibility splay with Hall Lane is below the required standard according to Manual for Streets. The agent requested further details from the transport consultant, where the following comments were provided:
58. 'The change from 40mph to 30mph is around 120m to the East of the site access-it is therefore definitely within the Mawdesley 30mph area.
59. Manual for Streets 2 was released in November 2010 and essentially reduces the significance visibility as a safety concern. Considerable amounts of research has been carried out extracts of the most pertinent elements are included below:
60. Para 10.4.2 of MfS2 states: 'It has often been assumed that a failure to provide visibility at priority junctions in accordance with the values in MfS1 or DMRB will result in an increased risk of injury or collisions. Research carried out...for MfS2 has found no evidence of this.'
61. In summary the research findings p77 of Mfs: 'A series of collision types at high-risk locations where Y distance was less than 45m were compared with locations with more than 45m visibility. There were no statistically significant differences between the two sets of data.'
62. MfS2 as a result does not have a set visibility standards-indeed para. 10.5.9 concludes this section with...'unless there is local evidence to the contrary, a reduction in visibility below recommendation levels will not necessarily lead to a significant problem.'
63. This is an existing access, which is currently used by a number of properties, and is out with the planning application boundary (red line). The fall back position is therefore that it is as existing and that the situation would not be any different for cars using the access from the application site, to those from existing properties, therefore it could not be refused on highway safety grounds. The supporting information provided by the highways consultants mentions the previous lawful use as being a builder's yard and that the traffic generation will be less. It is considered that it is not clear what the lawful use of the site is, and this could only be established through a certificate of lawfulness. Therefore the traffic figures quoted have not been taken into consideration, it has only been assessed on what the likely traffic is to be generated from two residential units, that there are existing users, the track does not lead anywhere so the only users would be the people living there and their visitors and that the access is existing.
64. The access to the proposal is a narrow track, which also serves as a Public Right of Way. There are a number of properties that use this track as access to their properties,

including three houses adjacent to the application site. There is no vehicular access beyond the application site as it is too narrow to negotiate and it leads to a field. However, the Public Right of Way continues across the fields. There have been a number of objections from the neighbouring properties about additional vehicles using the right of way, which will cause additional wear and tear and be a safety issue. As with the visibility splay the existing situation needs to be considered and whether there will be such an increase in vehicles that the application could be refused. It is considered in the AECOM report (which was submitted with the previous application 10/00604/FUL) that the general traffic generation from a residential use is 1-2 arrivals/departures per peak hour. Due to the nature of the track the speed that you can travel at is very slow which minimises the risk of collision with other cars and pedestrians. There is not through route so the only drivers are likely to be people who live their and their visitors, who will be aware of the track. It is acknowledged that there are very few places to pass, which are in private ownership as they are accesses to other pieces of land. However, there are a number of cars that already use this route and successfully use this on a daily basis. It is not considered that the number of cars that would be generated from this proposal would increase significantly and that the impacts on highway safety and pedestrian safety would remain as existing, therefore it would not be reasonable to refuse the application on highways grounds.

#### Public Right of Way

65. As already discussed the access to the proposal site is also a Public Right of Way. Lancashire County Council's Public Rights of Way Officer stated that he acknowledges that the proposal abuts the footpath no. 39, but was unsure whether the application will affect the Public Footpath. The proposal will not affect the footpath as this runs outside of the application site. It is discussed above about the conflict with vehicles and pedestrians, using the route, which is an existing situation. The footpath is to remain open at all times and there is legislation in place that ensures that this is adhered to. An informative can be added to the decision notice highlighting this. The proposal will not have an impact on the Public Right of Way.

#### Land Ownership

66. There have been issues raised in relation to the ownership of the application site, the access track and rights of access, from neighbouring residents, and it has been requested that it is brought to the attention of the Committee. The information has been forwarded to the applicant and proof of title of the land has been provided, as well as the signing of Certificate A on the application form. In relation to rights of access there is still an issue in relation to the right of access over the track. There are also various restrictive covenants imposed on the land which, include the construction of a stockproof fence, payment for upkeep of septic tank and right of access, to use any building on the land as a single private dwellinghouse and for no other purpose whatsoever, not to change the use of any building now on the land or to be erected on the land except to convert the existing brick and slate barn on the land into a private domestic dwelling, not to alter, convert or add to any building now on the land nor to erect any further building on the land without first having the plans, elevations and specifications thereof approved in writing by the Transferor and not to connect into the water main running through the land other than for domestic purposes and subject to the Transferees installing their own water meter. These are not material planning considerations and are private matters to be resolved between the relevant parties.

#### Drainage and Sewers

67. United Utilities have been consulted in relation to this proposal and they do not raise any objection. The application forms state that, in relation to the foul sewage, they will not be connecting to the existing drainage system and the foul sewage will be disposed of through a package treatment plant.

### Section 106 Agreement

68. To comply with Policy HS21 of the Chorley Local Plan Review a Section 106 is required for provision of open space/play space. The applicant has agreed to enter into an agreement with a commuted sum of £2658.

### **Overall Conclusion**

69. The proposal has been considered under PPS2 and the reuse of buildings within the Green Belt. Whilst there is a presumption in favour of reusing such buildings for commercial/business use, it is considered that due to its location that the site is not suitable for such a use. It is now recognised through PPS4 that rural buildings do not necessarily have to be used for business purposes, and some buildings, due to their location, may be more suitable for residential development.
70. With regards to the existing use, there appears to be some anomalies with some of the information provided and information provided by neighbours and other local residents. The way to determine what the use is would be by way of an Certificate of Lawfulness, which would be looked at as a separate application. This does not preclude a full planning application being submitted, and this application has been considered in terms of PPS2 and the reuse of the buildings, as well as Policy DC7A and therefore looked at on its own merits.
71. The proposed buildings are considered to be capable of conversion and the design is considered acceptable. Privacy distances are met and the proposal will not impact in terms of amenity for both the existing and future residents. Whilst the Highways Engineer has raised concern in relation to the visibility splay, this is an existing situation and used by all other residents along this track. It is not considered that there will be such a significant amount of traffic generated from such a proposal and there will not be any additional harm to the users of this junction to justify refusing the application on highways grounds. In relation to the track and the limited number of places to pass, it is also considered that given the nature of the track and only being able to travel at a slow speed, and the few additional vehicles that will be using it that the application could not be refused on highway safety grounds.
72. In relation to the land ownership, the applicant has signed certificate A, of the planning application form and provided evidence that the land had been sold to him, which enables the S106 legal agreement to be signed. The other issues in relation to right of access are not a material planning consideration and are a private matter for the parties involved to resolve. The information provided for the planning application, in relation to land ownership, complies with the requirements for validation and processing the application.
73. It is therefore considered because of the reasons above that the conversion of the two buildings and retention of two others, the removal of the remaining existing structures and buildings and replacing these with two double garages are on balance acceptable in terms of Green Belt Policy. The proposal will not provide any material greater impact than the existing development, and is therefore recommended for approval with conditions subject to the signing of a Section 106 agreement.

### **Other Matters**

#### Sustainability

74. There are no details provided in relation to this, therefore to comply with Policy SR1 Incorporating Sustainable Resources in New Development of Chorley's LDF and the relevant DPD and SPD two conditions can be added to ensure that the appropriate standards are met.

### Waste Collection and Storage

75. There are no details provided, therefore a condition can be added to show where the waste storage will be located.

### **Planning Policies**

#### National Planning Policies:

PPS1, PPG2, PPS3, PPS4 and PPS7

#### North West Regional Spatial Strategy

Policy DP1

#### Adopted Chorley Borough Local Plan Review

Policies: DC1, DC7A, GN5 and GN9

Supplementary Planning Guidance:

- Statement of Community Involvement
- 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

#### Joint Core Strategy

Policy 17: Design of New Buildings

### **Planning History**

**10/00604/FUL** Change of use and works to existing buildings to create two dwellings and two garages; withdrawn October 2010.

### **Conditions**

1. Any delivery of materials and construction work shall only be carried out between 08.00 hours and 18.00 hours Monday to Friday and between 08.00 hours and 13.00 hours on Saturday and there shall be no deliveries or construction work shall be carried out on Sundays or Bank/Public Holidays.  
*Reason: To safeguard the amenities of local residents and in accordance with Policy HS4 of the Chorley Local Plan Review.*
2. The proposed development must be begun not later than three years from the date of this permission.  
*Reason: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004.*
3. There shall be no site clearance, site preparation or development work to take place until a habitat enhancement and management plan for the land as indicated on the location plan submitted with the application (within the ownership of the applicant). This shall be submitted to and agreed in writing by the local planning authority in consultation with specialist advisors. Once agreed then this shall be implemented in full and maintained throughout the lifetime of the development. *Reason: In the interests of the safeguarding of the natural habitats of the area and to ensure accessibility within the area in accordance with saved Policy EP2 of the Adopted Chorley Borough Local Plan Review.*

4. The development hereby permitted shall be carried out in accordance with the amended plan(s), 08/133/P01 Rev D (Proposed Site Layout), 08/133/P02 Rev B (Building 1-Proposed Plan, Section & Elevations), 08/133/P04 Rev B (Building 1-Proposed Elevations) and 08/133/P03 Rev D (Building 3-Proposed Plans & Elevations) received on 1 February 2011.  
*Reason: To define the permission and ensure a satisfactory form of development.*
5. The permission hereby granted is for the conversion of the existing buildings only and does not imply or grant consent for any demolition and rebuilding of any external walls of the building.  
*Reason: To define the permission and to prevent inappropriate rebuilding or new build within an area subject to policies of development restraint and in accordance with saved Policy DC7A of the Chorley Local Plan Review.*
6. Each dwelling hereby permitted shall be constructed to achieve the relevant Code for Sustainable Homes Level required by Policy SR1 of the Sustainable Resources DPD (Level 3 for all dwellings commenced from 1 January 2010, Level 4 for all dwellings commenced from 1 January 2013 and Level 6 for all dwellings commenced from 1 January 2016) and achieve 2 credits within Issue Ene7: Low or Zero Carbon Technologies.  
*Reason: To ensure the development is in accordance with Government advice contained in Planning Policy Statement: Planning and Climate Change- Supplement to Planning Policy Statement 1 and in accordance with SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.*
7. No dwelling shall be occupied until a Code for Sustainable Homes 'Post Construction Stage' assessment has been carried out and a Final Code Certificate has been issued certifying that the required Code Level and 2 credits under Issue Ene7 have been achieved and the Certificate has been submitted to and approved in writing by the Local Planning Authority.  
*Reason: To ensure the development is in accordance with Government advice contained in Planning Policy Statement: Planning and Climate Change- Supplement to Planning Policy Statement 1 and in accordance with SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.*
8. Before the development hereby permitted is first commenced full details of existing and proposed ground levels and proposed building slab levels (all relative to ground levels adjoining the site) shall have been submitted to and approved in writing by the Local Planning Authority, notwithstanding any such detail shown on previously submitted plan(s). The development shall only be carried out in conformity with the approved details.  
*Reason: To protect the appearance of the locality, in the interests of the amenities of local residents and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.*
9. Before the development hereby permitted is first commenced, full details of the position, height and appearance of all fences and walls to be erected (notwithstanding any such detail shown on previously submitted plan(s)) shall have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until all fences and walls shown in the approved details to bound its plot have been erected in conformity with the approved details. Other fences and walls shown in the

approved details shall have been erected in conformity with the approved details prior to substantial completion of the development.

*Reason: To ensure a visually satisfactory form of development, to provide reasonable standards of privacy to residents and in accordance with Policy No. HS4 of the Adopted Chorley Borough Local Plan Review.*

10. Before the development hereby permitted is first commenced, full details of the position, height and appearance of all fences, walls and hedging to be erected to the site boundaries (notwithstanding any such detail shown on previously submitted plan(s)) shall have been submitted to and approved in writing by the Local Planning Authority. No building shall be occupied or land used pursuant to this permission before all walls and fences have been erected in accordance with the approved details. Fences, walls and hedges shall thereafter be retained in accordance with the approved details at all times.

*Reason: To ensure a visually satisfactory form of development, to protect the amenities of occupiers of nearby property and in accordance with Policy Nos. GN5 and EM2 of the Adopted Chorley Borough Local Plan Review.*

11. No development shall take place until details of the proposed surface water drainage arrangements have been submitted to and approved by the Local Planning Authority in writing. No part of the development shall be occupied until the approved surface water drainage arrangements have been fully implemented.

*Reason: To secure proper drainage and to prevent flooding and in accordance with Policy No. EP18 of the Adopted Chorley Borough Local Plan Review.*

12. Before the development hereby permitted is first commenced full details of the means of foul water drainage/disposal shall have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the works for foul water drainage/disposal have been completed in accordance with the approved details.

*Reason: To ensure proper drainage of the development and in accordance with Policy No. EP17 of the Adopted Chorley Borough Local Plan Review.*

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

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

14. During the construction period all hedges, trees and rough grassland, as specified within the ERAP Ltd report, shall be protected by 1.2m high fencing as specified in paragraph 8.2.2 of British Standard BS5837:2005. No construction materials, spoils, rubbish, vehicles or equipment shall be stored or tipped within the area(s) so fenced. Reason: To safeguard the hedges, hedges and rough grassland in accordance with Policy EP9 of the Chorley Local Plan Review.

15. The development hereby permitted shall not commence until samples of all external facing materials to the proposed building(s) (notwithstanding any details shown on previously submitted plan(s) and specification) have been submitted to and approved



in writing by the Local Planning Authority. The development shall only be carried out using the approved external facing materials.

*Reason: To ensure that the materials used are visually appropriate to the locality and in accordance with Policy Nos. GN5, and HS4, of the Adopted Chorley Borough Local Plan Review.*

16. The development hereby permitted shall not commence until full details of the colour, form and texture of all hard ground- surfacing materials (notwithstanding any such detail shown on previously submitted plans and specification) have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in conformity with the approved details.  
*Reason: To ensure a satisfactory form of development in the interest of the visual amenity of the area and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.*
17. The garages hereby permitted shall only be used for purposes incidental to the enjoyment of the dwellinghouse, including the parking of cars and shall not be converted to living accommodation.  
*Reason: In order to safeguard the residential amenity and character of the area and in accordance with Policy Nos. DC7A and HS4 of the Adopted Chorley Borough Local Plan Review.*
18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (Schedule 2, Part 1, Classes A to E), or any Order amending or revoking and re-enacting that Order, no alterations or extensions shall be undertaken to the dwellings hereby permitted, or any garage, shed or other outbuilding erected (other than those expressly authorised by this permission).  
*Reason: To protect the appearance of the locality and in accordance with PPS2, DC7A and Policy No. HS4 of the Adopted Chorley Borough Local Plan Review.*
19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (Schedule 2, Part 2, Class A) (or any Order revoking and re-enacting that Order) no fences, gates or walls shall be erected within the curtilage of any dwelling hereby permitted (other than those expressly authorised by this permission).  
*Reason: To protect the appearance of the locality and in accordance with PPS2 and Policies DC7A and HS4 of the Adopted Chorley Borough Local Plan Review.*
20. Prior to the commencement of development full details of proposed sparrow nesting opportunities shall be submitted and approved in writing by the local planning authority in consultation with specialist advisors. Once the details have been approved then the details shall be implemented in full.  
*Reason: To ensure that nesting opportunities and habitats are provided which will be lost with the demolition of some buildings on site and to comply with saved Policy GN5 part (e) of the Chorley Local Plan Review.*
21. The recommendations as outlined in Section 5.0 of the ERAP Ltd Ecological Survey and Assessment June 2010 shall be implemented in full.  
*Reason: To ensure the appropriate safeguards for the Habitats on Site in accordance with saved Policy EP2 of the Adopted Chorley Borough Local Plan Review.*
22. Prior to the commencement of development a mitigation strategy for bats and barn owls shall be submitted and approved in writing by the Local Planning Authority in consultation with specialist advisors. Once the details have been approved then the details shall be implemented in full. To ensure that nesting opportunities and habitats

are provided which will be lost with the demolition of buildings and to comply with saved Policy GN5 part (e) of the Chorley Local Plan Review.

23. No additional windows shall be inserted unless otherwise agreed in writing by the local planning authority.

*Reason: To protect residential amenity and to comply with Policy HS4 of the Chorley Local Plan Review.*

24. This consent relates to the following plans:

Plan Ref.	Received On:	Title:
08/133/P06	16 December 2010	Double Garage
08/133/E02	16 December 2010	Topographical Site Survey

*Reason: To define the consent and to ensure all works are carried out in a satisfactory manner.*

25. Prior to the commencement of development details of the windows set back in their reveals shall be submitted and agreed in writing. Once approved these shall be retained at all times throughout the lifetime of the permission.

*Reason: In the interests of the character and appearance of the building and in accordance with Policies GN5 and HS4 of the Chorley Local Plan Review.*