

Item 11/00085/FULMAJ

Case Officer Mrs Nicola Hopkins

Ward Chorley North West

Proposal Application for new planning permission to replace extant planning permission for 16 apartments and dwelling (ref: 07/01140/FULMAJ)

Location Garage Westminster Road Chorley Lancashire PR7 2DD

Applicant Mr A Allen

Consultation expiry: 3 March 2011

Application expiry: 3 May 2011

Proposal

1. This application relates to an extension to the time period for implementation of a previously approved planning application (which was extant at the time of submission) for 16 apartments at the garage site between Westminster Road and Alker Street, Chorley
2. Full planning permission was granted for the development on 28 February 2008 and the applicants had until 28 February 2011 to commence the development. This development has not commenced however in October 2009 legislation was introduced, subsequent to the 2008 Planning Act, which allows applicants to extend the time period for implementation of extant planning approvals.
3. This legislation was introduced in order to make it easier for developers to keep planning permissions alive for longer during the economic downturn. A new planning permission is applied for to replace the existing permission.

Recommendation

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

Main Issues

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

Representations

6. 1 letter of objection have been received raising the following points:
 - Lack of parking
 - Block of flats not appropriate in design terms
 - Loss of light
 - Noise
 - Additional traffic

Consultations

7. **Planning Policy** no policy objections in principle and have confirmed Policy HS7 in the Local Plan Review states that housing redevelopment of this site (HS7.4) should be given favourable consideration, as it is an identified site of uses that cause amenity problems in the neighbourhood. HS7 sites were not subject to the windfall housing restrictions as it was considered beneficial to redevelop them for housing purposes and there would have been no requirement for affordable housing provision on this site when the Windfall Housing SPG was in force. Provided this proposal accords with the design principles in PPS3 and Local Plan Review Policies GN5 and HS4, there should be considerable amenity benefits. The

applicants also propose a range of units, including one bedroom units, which should be amongst the cheaper new build units available in the town. Therefore, it is not considered necessary to request affordable housing provision on this site.

8. **The Environment Agency** no comments to make
9. **The Architectural Design and Crime Reduction Advisor** no observations to make
10. **Lancashire County Council (Highways)** no objection
11. **Chorley's Waste & Contaminated Land Officer** no objection subject to appropriate conditions
12. **Lancashire County Council (Planning Contributions)** have requested £78,719 towards education and waste management

Applicants Case

13. The applicants agents has made the following points in support of the application:
 - The planning permission has not been implemented by reason of the fact that its granting coincided with first evidence of a world wide financial markets crisis followed by a mounting recession
 - The site is located in a very sustainable location close to the town centre and it is still considered that it remains a valuable consent and one which represents a good and realistic development opportunity
 - The applicant does seek the further period of three years in order to ensure that it gives them the optimum amount of opportunity to enable the site to be developed
 - The application site has been marketed on an ongoing basis since the approval professionally with Peter Gilkes & Co and also by the applicant/ owner. There has been no success. In order to gain some financial return on the property the applicant has had to engage in a couple of short term lets of the existing building for commercial use. These have now ceased and the site is again vacant.
 - The applicant remains fully committed to securing the sale of the site for redevelopment for residential purposes
 - The development on the other side of Alker Street has now been for the most part constructed. It is felt that the commitment to a smaller development in this case has enabled that site to be completed despite the recession and other financial implications
 - The Council clearly found the site layout and elevation treatment appropriate in approving the application initially and there would appear no reason to take an alternative view on this occasion
 - A lesser time period extension to commence the development, for say one or two years, would not offer the applicant adequate assurance that he could realise the best prospects for the development of the site. For any degree of confidence to return to the new build flat market will take time.

Assessment

Principle of the development

14. Guidance issued by the Department of Communities and Local Government states that when determining applications for extensions to time limits the development will by definition have been judged to be acceptable in principle at an earlier date (in this case by permitting application 07/01140/FULMAJ). While such applications must be decided in accordance with the plan, unless material considerations indicate otherwise, Local Planning Authorities should in making their decision focus their attention on development plan policies and other material consideration which may have changed significantly since the original grant of planning permission.
15. In this case there has not been any physical change to the site however, there have been a number of changes to policy that the proposal should be assessed against. The Government have amended PPG13 which previously required local authorities to set limits for off street parking in residential developments. The revised PPG13 removes this requirement and

allows local authorities to set their own parking levels.

16. Parking and highway safety formed a consideration of the previous application particularly as the proposal incorporated no off street parking. As the time of the previous approval the site was considered to be within a sustainable location in terms of its proximity to the town centre and local services. The site is well served by public transport, being approximately 200m from a major bus route, and as such the site is considered to be very accessible.
17. Additionally an application for five terraced dwellings was approved, at a similar time to the previous application, on the opposite side of Alker Street (07/00871/FUL). LCC Highways did not consider that off street parking was required as part of that scheme as on street parking will be available to the front of the properties.
18. As part of the previously approved application and the approval on the opposite side of Alker Street the applicants agreed to make the highway in front of both respective developments up to adoptable standards. This will be subject to a separate legal agreement with Highways. This adopted highway is considered to be sufficient for bin wagon access in accordance with the guidance contained in the 'Manual for Streets' document. The highway between no. 20 and 26 Regent Road will remain unadopted, although this is still passable for vehicular access. Whilst it would be preferable if the whole of the unadopted stretch of highway were adopted, due to uncertainty over land ownership, Highways had no objection to this scheme as a 'stop-gap' measure.
19. However following the completion of the Committee report the Highways Authority did raise objections to the scheme on grounds of insufficient parking. This was reported to the Members via the addendum along with confirmation that the applicant had agreed to enter in a Section 106 Agreement and provide a commuted sum to improve the nearby West Street car park to encourage people to use this car park. The improvements included resurfacing the car park and providing further CCTV coverage. However in the event that further car parking was identified closer to the site the commuted sum will be used to improve parking in the immediate vicinity of the site.
20. The application was considered at DC Committee in December 2007. Following discussion between the Members it was resolved to grant planning permission, subject to: (i) the prior completion of a Section 106 legal agreement to secure the making up of the highway in front of the development to an adopted standard; (ii) the deposit of a commuted sum to be used for the improvement of car parking facilities either at West Street or other identified location closer to the application site and (iii) various conditions.
21. The applicant entered into a S106 Agreement on 28th February 2008 which was followed by the grant of planning permission. The S106 Agreement included the following obligations
 - A commuted sum of £19,192 for equipped play space
 - A commuted sum of £10,000 for CCTV mainly at West Street car park
 - A commuted sum of £15,000 for resurfacing West Street Car Park or alternative car parking provision closer to the site.
22. The following condition was also attached to the planning approval:

Prior to the commencement of the development full details of the laying out of Alker Street shall be submitted to and approved in writing by the Local Planning Authority. The information shall include details of the proposed marking out of the highway and available parking provision. The development thereafter shall be carried out in accordance with the approved details.

Reason: In the interests of Highway Safety within the area and in accordance with Policy 7 of the Joint Lancashire Structure Plan.
23. Following the grant of planning approval the scheme did not commence on site, although the 5 terraced dwellings on the opposite side of Alker Street have commenced and are practically complete.
24. In September 2009 a meeting was held with the Principal Planning Officer, Jane Meek, the

applicant, his agent and Councilor Snape to discuss the progression of this development and the financial implications, in particular the S106 contributions which, together with the requirements of the condition to make up Alker Street, equated to £55,192 prior to any construction works. The applicant confirmed that these costs were stalling the development.

25. Following this meeting the planning officers looked into the required contributions and the Council's Architectural Liaison Officer confirmed that the CCTV coverage at West Street car park was fit for purpose with no upgrade required. There was some resurfacing still required at a cost of £5000. Following this confirmation it was agreed that the obligations of the S106 would be amended to:

£19,192 for equipped play space to be paid on the occupation of the first dwelling

£5,000 for improvements to West Street car park to be paid within 30 days of commencement unless adequate private car parking provision can be provided, in agreement with the Highway Authority, closer to the site.

26. A supplemental S106 Agreement was entered into on 21st December 2009 removing the previous obligations and replacing them with the above obligations. This was entered into on the understanding that making the S106 obligations less onerous would assist in the delivery of the development.

27. Although the development has yet to be delivered the applicant has shown a commitment to the scheme by the submission of this time limit extension application. This notwithstanding the Council entered into a supplemental S106 Agreement, with less onerous obligations, to assist in the delivery which has not occurred. Taking this into account it is considered that a two year permission allows for an adequate time period to commence the development whilst putting the onus on the applicant to commence this development in a timely manner. This is reflected in the suggested conditions.

28. It is acknowledged what the agent for the application states within his supporting statement, *a lesser time period extension to commence the development, or say one or two years, would not offer the applicant adequate assurance that he could realise the best prospects for the development of the site. For any degree of confidence to return to the new build flat market will take time*, however it is considered that the Council has assisted as much as possible to ensure the delivery of this scheme. A two year extension is sufficient to gauge how/if the flat market improves and in the event that no upturn is achieved an alternative scheme for this site may be the only foreseeable way forward.

29. In September 2008 the first policy document, Sustainable Resources DPD, within Chorley's new Local Development Framework (LDF), was adopted which post dates the planning approval and is a material planning consideration in respect of this application. The agent for the application acknowledges this within his submission documents and has submitted a Sustainable Resources Statement which states that the development can achieve significant carbon reductions through principally low energy factors from energy efficiency measures but also from renewables in respect of the intended water heating by means of solar powered panels and the criteria of Policy SR1 can be met. Appropriately worded conditions are suggested to ensure this.

Other Issues

30. The application incorporates the erection of 16 apartments however there is no requirement within the S106 for any of these units to be affordable accommodation. This is due to the fact that at the time of the previous approval it was considered that the redevelopment of this site enabled the regeneration of a brownfield site within a predominantly residential area. The site is allocated under Policy HS7 of the Local Plan. Such sites were not subject to the Windfall Housing Restrictions as it was considered beneficial to develop them for housing. As such there would have been no requirement for affordable housing when the Windfall Housing SPG was in force. Additionally the proposal incorporates a range of units including one bedroom apartments. These would be amongst the cheapest new build within the town centre. Taking into account the above considerations the provision of affordable housing was not considered to be required as part of the original planning approval.

31. Policy HS7 is a saved planning policy and as such the Policy considerations in respect of this

site have not altered. Therefore it is not considered necessary to request affordable housing provision on this site.

32. One letter of objection has been received raising several concerns which include parking, design, loss of light, traffic and noise. Parking is dealt with above. The other elements of concern were considered as part of the previous planning application and as set out above the Planning Authority is restricted to purely considering whether development plan policies and other material consideration have changed significantly since the original grant of planning permission.
33. In respect of noise the sites authorised use is as an employment site which has the potential to have greater impact on the neighbours' amenities than the proposed residential use. The configuration of the properties has been designed to protect the amenities of the future residents. Although only a small distance is retained between the properties windows, habitable rooms do not directly face one another and as such there will be no loss of privacy or amenity to the detriment of the future residents. In respect of design the properties are designed as two storey terraced properties replicating the street scene although the proposed dwellings do incorporate living accommodation within the roof space.

Section 106 Agreement

34. As set out above the applicant originally entered into a S106 Agreement and then a supplemental S106 Agreement in respect of equipped play space and improvements to parking in the area. As this application results in the issuing of a new planning permission the obligations of the supplemental agreement, set out in paragraph 25, will be incorporated into a new S106 Agreement to accompany this planning approval, if members are minded to grant this time limit extension application.
35. Lancashire County Council Planning Obligations Team have requested S106 contributions towards education and waste. However this application purely relates to extending the time period for commencing the development and as set out above the S106 obligations have previously been agreed. As such it would not be possible to justify further S106 obligations in respect of this application.

Overall Conclusion

36. The Planning Policy changes which have occurred since the original grant of planning permission would not have resulted in a different outcome if a new planning application for this site was submitted now. As such it is recommended that a two year extension for the commencement of this development is approved.

Other Matters

Waste Collection and Storage

37. As set out within paragraph 18 the highway serving the development was considered to be sufficient for a bin wagon. Details of the bin storage are required via condition.

Planning Policies

National Planning Policies:

PPS1, PPS3, PPS23, PPG13

Adopted Chorley Borough Local Plan Review

Policies: GN1, EP4, HS4, HS7, EM9, 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

Joint Core Strategy

Policy 1- Location Growth
Policy 4- Housing Delivery
Policy 10- Employment Premises and Sites
Policy 17- Design of New Buildings
Policy 22- Biodiversity and Geodiversity

Sites for Chorley- Issues and Options Discussion Paper December 2010
CS0046- Devonshire Road/ Alker Street- Housing Development

Planning History

07/00871/FUL-Erection of 5 terraced houses. Approved October 2007

07/01140/FULMAJ- Proposed 16 No. apartments and dwellings. Approved 28 February 2008

Recommendation: Permit Full Planning Permission Conditions

1. The proposed development must be begun not later than two years from the date of this permission.
Reason: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall not commence until samples of all external facing materials to the proposed buildings (notwithstanding any details 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 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. HS4 of the Adopted Chorley Borough Local Plan Review.
3. 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.
4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
Reason: In the interest of the appearance of the locality and in accordance with Policy No GN5 of the Adopted Chorley Borough Local Plan Review.
5. Surface water must drain separate from the foul and no surface water will be permitted to discharge to the foul sewerage system.
Reason: To secure proper drainage and in accordance with Policy Nos. EP17 of the Adopted Chorley Borough Local Plan Review.
6. 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. HS4 of the Adopted Chorley Borough Local Plan Review.

7. The development hereby permitted shall not commence until the applicant has submitted to and had approved in writing, by the Local Planning Authority, a report to identify any potential sources of contamination on the site and where appropriate, necessary remediation measures. The report should include an initial desk study, site walkover and risk assessment and if the initial study identifies the potential for contamination to exist on site, the scope of a further study must then be agreed in writing with Local Planning Authority and thereafter undertaken and shall include details of the necessary remediation measures. The development shall thereafter only be carried out following the remediation of the site in full accordance with the measures stipulated in the approved report.

Reason: To protect the environment and prevent harm to human health by ensuring that the land is remediated to an appropriate standard for the proposed end use and in accordance with Government advice contained in PPS23: Planning and Pollution Control

8. Prior to the commencement of the development full details of the proposed bin stores shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenities of the area and in accordance with Policy GN5 of the Adopted Chorley Borough Local Plan Review.

9. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: To protect the environment and prevent harm to human health by ensuring that the land is remediated to an appropriate standard for the proposed end use and in accordance with Government advice contained in PPS23: Planning and Pollution Control

10. Prior to the commencement of the development full details of the laying out of Alker Street shall be submitted to and approved in writing by the Local Planning Authority. The information shall include details of the proposed marking out of the highway and available parking provision. The development thereafter shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety within the area and in accordance with Policy TR4 of the Adopted Chorley Borough Local Plan Review

11. The approved plans are:

Plan Ref.	Received On:	Title:
	26 February 2008	Site Location Plan
ADDO5/011/010A	2 October 2007	Proposed Site Layout
ADD05/011/030C	26 November 2007	Block B
BAAD05/011/020	2 October 2007	Block A
AADD05/011/001	2 October 2007	Existing Layouts and Elevations

Reason: To define the permission and in the interests of the proper development of the site.

12. 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 1st 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 Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.

13. No phase or sub-phase of the development shall begin until details of a 'Design Stage' assessment and related certification have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out entirely in accordance with the approved assessment and certification unless the Local Planning Authority otherwise approve in writing.
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 Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.
14. 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 Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.
15. 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 plans) 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.
16. 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 plans. 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.