

Item 5 **11/00733/FUL**

Case Officer **Mr Niall Mellan**

Ward **Wheelton And Withnell**

Proposal **Conversion of redundant agricultural building to residential use including ground floor rear extension. Demolition of detached agricultural/storage building to rear.**

Location **Lane Side Farm Brown House Lane Higher Wheelton Chorley Lancashire**

Applicant **Mr & Mrs C Nolan**

Consultation expiry: **22 September 2011**

Application expiry: **3 October 2011**

Proposal

1. The application seeks permission for the change of use of an agricultural barn to residential use. The proposal also includes a small ground floor rear extension to the barn and the demolition of a mixed use storage building to the rear.
2. The site comprises a two storey agricultural building within a group of agricultural buildings associated with an area of adjoining agricultural land. The site is accessed off Brown House Lane and is within an area designated as Green Belt. The lane primarily serves three residential properties but also provides the only access to a number of allotments. Other uses along Brown House Lane include the Golden Lion Public House at the junction with Blackburn Road to the south.
3. The building contains an area of hardstanding to the front and has an existing access. There is a large storage building to the rear of the barn which is to be demolished as part of the application. The site is surrounded by open agricultural land which is largely in the applicant's ownership. The majority of land on the east of Brown House Lane appears to be used for equestrian purposes and for a number of allotments which are let out by the applicant.

Recommendation

4. It is recommended that the application is approved subject to conditions and signing of a Section 106 Agreement

Main Issues

5. The main issues for consideration in respect of this planning application are:
 - Background information
 - Principle of the development
 - Commercial re-use
 - Impact on the neighbours
 - Design
 - Ecology
 - Traffic and Transport
 - Legal agreement

Representations

6. 4 letters of objection have been received on behalf of the two neighbouring properties at the end of Brown House Lane. These raised the following issues:
 - The agricultural land owned by Mr Nuttall has no buildings. The availability of the building would assist in the management of the land for agricultural use, whether or not it continues to be used by the current tenant.
 - Were the building available, it would be used by the current tenant and the intended tenancy would be held entirely by himself, with no sub-tenancy arrangement.
 - The offer related directly to a use which would have been consistent with the continued maintenance of the Green Belt.

- Removal of agricultural use, to create an extensive curtilage, sever building and its curtilage from the adjoining land – these have consequences for the appearance of the Green Belt and purposes of including land in it.
- The recent history of the applicant's land holding is one of severance, fragmentation and proliferation of buildings and structures which have eroded the openness and integrity of the Green Belt. The current proposal is part of this trend.
- Continuing changes in the scale and use of the land holding could precipitate further development pressures on the Green Belt.
- There is on-going pressure for new development on the applicant's land holding for new buildings, the need for which could be met by either the building proposed for conversion or those which it is intended to demolish.
- The development adds to the cumulative erosion of the character and openness of the Green Belt and raises the potential for further harm.
- Erection of the 'sheep dip' was the first step in a strategy to ultimately obtain a residential use for the agricultural building.
- The applicant has introduced as many activities as possible which adversely affect our residential amenities including the introduction of outdoor pigs and allotments, and the division of fields into separately named farms and the encouragement of non-agricultural development upon them.
- Recent proposal for further equestrian development was dismissed at appeal. The Inspector expressed concern in relation to the actual and potential erosion of the Green Belt in the Brown House Lane locality.
- We made a valid and commercial offer to rent the sheep dip as part of our agricultural holding which was dismissed.
- We have offered to buy the applicants entire land holding on Brown House Lane for £210, 000, a sum which we were professionally advised was £100,000 in excess of its market value.
- Allowing permission would be an abuse of the planning system. It would further compromise the openness of the Green Belt and harm the character and appearance of the locality.

7. **Wheelton Parish Council** objects to the proposal on the grounds that the building should be for commercial use and there are issues with parking and access.

8. **Cllr Hansford** objects to the proposal and has requested that the application is decided at Committee.

Consultations

9. **Lancashire County Council (Ecology)** – no objection subject to conditions regarding bats and nesting birds.

10. **Lancashire County Council (County Land Agent)** – The site has been a working farm in the past, it appears that the applicant no longer runs any form of commercial agricultural business from the unit and instead the scale of agricultural activities undertaken on site are of a small scale and limited to personal use. The building appears to be no longer used for the purposes of agriculture but rather is used for minimal storage purposes. Due to the applicant's decision to scale down his agricultural activities I accept that the need for the farmstead area has ceased.

11. **The Environment Agency** – no objection, comments made on sewage and discharge. An informative can be attached to the decision notice directing the applicant to these comments.

12. **United Utilities** - no objection.

13. **Lancashire County Council (Highways)** – no objection.

14. **Chorley's Waste & Contaminated Land Officer** – no comments.

15. **Chorley Planning Policy Advice** – no objection.

Assessment

Background Information

16. The application building was originally built over 20 years ago under the benefit of agricultural permitted development rights. In 1999 a further agricultural building was erected to the rear. An application to change the use of this building to mixed use storage of vehicles and caravans was refused in 2006 however it was allowed at appeal (05/00719/COU). The Inspector concluded that the change in use would not affect the Green Belt.

17. In 2006 a retrospective application for horizontal timber cladding and construction of a brick dwarf wall

to the exterior of the existing agricultural building (which this application relates to), was refused and subsequently allowed at appeal (06/00916/FUL). The Inspector considered that the use of timber cladding represented a legitimate method of improving the building's performance of its agricultural function. The building has been used for the storage of hay/straw but now it is claimed that due to changes in management of the holding, the building has become redundant.

Principle of the development

18. The site is located within an area designated as Green Belt which is controlled by PPG2 at national level and DC1 at local level, where there is a general presumption against inappropriate development. These policies provide a number of defined criteria when development may be considered appropriate. The re-use of existing buildings is considered appropriate development subject to a number of criteria set out in Policy DC7A.
19. In terms of criterion (a) of DC7A it is not considered that the proposal will have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it. Although the application proposes an extension to the rear, this is smaller than the existing lean-to structure it is to replace. Furthermore the proposal involves the demolition of the mixed use agricultural/commercial storage building and timber cabins to the rear which will increase the openness in the Green Belt location. There is significant hardstanding which forms a track for the stables to the south of the barn. Following discussions with the Council, the agent has agreed to accept a condition to re-instate part of this hardstanding through appropriate landscaping which is a further positive approach in the Green Belt location. The garden curtilage as identified on the location plan by the red-edge (received on 12 October 2011) will occupy land that is currently occupied by agricultural buildings and will not encroach further into the Green Belt. The domestic curtilage is not to be confused with the plan (titled Schedule 1) submitted with the Section 106 agreement.
20. In terms of criterion (b) the County Land Agent has advised that there is no indication that the applicant will revert back to an increase in agricultural activity. However whilst he continues to own agricultural land, the need for new agricultural buildings cannot be completely ruled out.
21. With regards criterion (c) the building was not built within four years under permitted development.
22. In terms of criterion (d) the barn is of substantial construction and capable of conversion without major or complete rebuild. The structural survey supports that the barn is structurally sound and capable of conversion.
23. With regards criterion (e) it is considered that the rear single storey extension respects the form, bulk and general design of the building and does not change the character of the existing building.
24. In relation to (f) the proposed curtilage of the conversion is restricted to the rear of the barn taking up space created from demolishing the storage building. A new fence will define the extent of the garden curtilage which in turn will separate the domestic curtilage from the remaining agricultural land to the rear. The erection of new domestic outbuildings for example a garage, would have an adverse impact on the openness of the Green Belt. This could be controlled by removing permitted development rights for outbuildings.
25. Criterion (g) requires the site to have a reasonable vehicular access without creating traffic hazards or requiring road improvements. The barn has an existing access onto Brown House Lane and would not require road improvements. LCC Highways raise no objection to the proposal.
26. In terms of criterion (h) which relates to wildlife, the County Ecologist has been consulted on the application and they have no objection subject to the imposition of relevant planning conditions.

Preference for commercial re-use

27. PPS4, which was published in 2009, deals with sustainable economic growth. Policy EC12 states that *"the 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 buildings."*
28. Local Plan Policy DC7A gives preference to the re-use of rural buildings to provide accommodation for commercial, business and employment uses although tourist and community facilities may also be considered. This is further expanded on in the Council's Conversion of Rural Buildings SPG which sets out the requirements of a statement of efforts and proof of marketing to demonstrate that the building cannot be used for employment purposes.
29. The County Land Agent was consulted on the application and has advised that that the building is no

longer be used for the purposes of agriculture and that there is little evidence to show that the building has ever served a justifiable functional need.

30. A statement of efforts and proof of marketing has been submitted on behalf of the applicant by P Wilson & Company Surveyors. Amongst other things, the barn has been marketed as available for rent for commercial use for a period of 12 months. Whilst it is considered that the barn could have been advertised as 'for sale', it is noted that the marketing efforts were agreed with the Council prior to them being carried out and a refusal on insufficient marketing would be unreasonable.

Offer from neighbour

31. The statement of marketing efforts identifies two expressions of interest which developed into offers. One of the offers was withdrawn and one of the offers was from Mr Nuttall who lives at Brown House Farm at the end of the lane. Mr Nuttall intended to use the building in connection with his tenants farming business to store animal food and hay. A material consideration in this application is whether the offer made is reasonable. The applicant turned down this offer for the following reasons:
- Due to a history of disputes between the two neighbours, the applicant did not want the neighbour as a tenant;
 - The neighbour would take the building and sub-let it. It is argued that it is normal practice for agricultural leases to prevent sub-letting;
32. It is considered that the first point is not a material planning issue to justify turning down the offer. The second point relates to that in seeking to rent the building in connection with an agricultural use, Mr Nuttall would create an unacceptable sub-tenancy arrangement.
33. The agent has submitted further information that demonstrates that subletting is normally precluded when granting agricultural tenancies. The Council has sought independent advice from Liberata on subletting which has confirmed that prohibition against agricultural subletting is implied at common law.
34. In response to this, Mr Nuttall's representations state there would be no sub-tenancy arrangement and that the building would be used by his tenant entirely by himself. If this was the case, Mr Nuttall would be renting the barn for £1,800 a year for 5 years, and letting his tenant use it without any legal financial agreement between him and his tenant. The proof of marketing shows no interest from the tenant independently which suggests he did not actually need it. The County Land Agent in his assessment makes reference to this offer and states "*whilst the offer by the applicants neighbour, Mr Nuttall, is a qualifying interest, the lack of clarification by the tenant of Mr Nuttall, of his intentions to use the building portrays an air of doubt as to the genuineness of this interest.*" For these reasons it is considered that the offer was not a reasonable one. As this was the only offer, it has therefore been demonstrated that commercial re-use cannot be secured.

Impact on the neighbours

35. The closest neighbouring property is Sitch Croft Farm which is around 100m away to the south east of the site. The other two neighbours at the end of Brown House Lane are over 120m away. Due to these distances from the site it is considered that there will be no material impacts on the amenities of these neighbours. It is recognised that both the neighbours at the end of Brown House Lane have raised objections however these primarily relate to Green Belt issues and the principle of development which is dealt with above. It is noted that there are current enforcement issues on the applicant's land adjacent to these neighbours, however these do not form part of this application and the Council's Enforcement Team are aware of the issues and investigating them.

Design

36. It is considered that the conversion has taken account of the design guidelines as set out in the SPG. The conversion will retain the existing walls, roof structures and openings as well as keeping additional windows and openings to a minimum. The new build single storey element is considered appropriate and is actually smaller than the existing lean-to structure to be removed. The proposal is therefore considered acceptable in design terms.

Ecology

37. Relevant protected species surveys have been undertaken and the County Ecologist considers the application acceptable subject to the imposition of appropriate conditions. The application is therefore considered to comply with PPS9 and Policies EP4 of the Local Plan.

Traffic and Transport

38. The proposal has an existing access from the existing track from Church Lane that serves the farmhouse. This is considered acceptable and the proposal is therefore considered acceptable in relation to policy TR4 of the Local Plan.

Section 106 Agreement

39. The application is for a new dwelling and there is therefore a requirement of a contribution towards the provision of public open space that will be secured through a Section 106 agreement. The agent has confirmed the applicant is willing to enter a Section 106 agreement to pay the commuted sum of £1379 to finance the provision of equipped play areas, casual/informal play space and playing fields within the borough of Chorley.
40. Pre-application discussions were held with the agent and it was advised that further land needed to be tied with the application building so that the future development could be controlled. Following discussions with the Council, the applicant has agreed to tie all the land which he owns to the east of Brown House Lane with the development. The Section 106 agreement ensures that all of this land will be sold as part of the dwelling.

Conclusion

41. It is considered that the conversion of the existing building will not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it.
42. The applicant has carried out a marketing scheme to try to secure a commercial use of the barn. It is noted that an offer was made by the neighbour, however it is considered that, for the reasons set out above, this offer is unreasonable and unworkable.
43. Whilst a finely balanced decision, it is considered that the proposal complies with policy and is recommended for approval, subject to appropriate conditions and the signing of a section 106 agreement.

Planning Policies

National Planning Policies:

PPG2, PPS4, PPS7

Adopted Chorley Borough Local Plan Review

Policies: DC1, DC7A, EP4, TR4

Supplementary Planning Guidance:

- Conversion of agricultural buildings

Planning History

06/00916/FUL - Retrospective application for horizontal timber cladding and construction of brick dwarf wall to the exterior of existing agricultural building – Refused, allowed at appeal - 20.06.2007

05/00719/COU - Change of use of building from agriculture to a mixed use of agriculture and non-agricultural storage – Refused, allowed at appeal - 19.12.2006

Recommendation: Permit (Subject to Legal Agreement)

Conditions

- 1. 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.
- 2. The mitigation measures outlined in paragraphs 8.1 – 8.5 and Appendix II of the report 'Inspection and Assessment in Relation to Bats and Barn Owls' (The Tyrer Partnership 2011) should be implemented in full.**
Reason: To ensure there is no detrimental effect on protected species and in accordance with PPS9 and EM4 of the Adopted Chorley Borough Local Plan Review.
- 3. Before the development hereby permitted is first commenced the existing agricultural/storage building to the rear of the barn is to be demolished (as shown on the proposed site plan DD/903/2) and any resulting materials removed from the land.**
Reason: To avoid a proliferation of buildings in the Green Belt for which there is not a continuing need and to ensure a curtilage is created for the property hereby permitted and in accordance with DC1 and policy DC7A of the Adopted Chorley Borough Local Plan Review.

4. Before the development hereby permitted is first commenced, full details of the position, height and appearance of all fences and walls to be erected to the of the property 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. The building shall be occupied pursuant to this permission before all walls and fences have been erected in accordance with the approved details. Fences and walls shall thereafter be retained in accordance with the approved details at all times.
Reason: To ensure a visually satisfactory form of development and to protect the amenities of occupiers of nearby property and in accordance with Policy GN5 and DC1 of the Adopted Chorley Borough Local Plan Review.
5. 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, unless the Local Planning Authority gives written consent to any variation.
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.
6. 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 dwelling(s) hereby permitted, or any garage, shed or other outbuilding erected (other than those expressly authorised by this permission).
Reason: To protect the openness of the Green Belt and in accordance with Policy No. DC1 of the Adopted Chorley Borough Local Plan Review.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (Schedule 2, Parts 6 and 7) or any Order amending or revoking and re-enacting that Order, no works for the erection, extension or alteration of a building for the purposes of agriculture or forestry shall be undertaken within the land holding edged red and blue on the plans hereby approved, without the prior submission to and approval by the Local Planning Authority of an application for planning permission.
Reason: To avoid the unnecessary proliferation of buildings within and detrimental to the character and appearance of the countryside and in accordance with Policy No. DC1 of the Adopted Chorley Borough Local Plan Review.
8. The permission hereby granted is for the conversion of the existing building 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 PPG2 and Policy No. DC7A of the Adopted Chorley Borough Local Plan Review.
9. 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. Specifically the plan should indicate how the track and harstanding to the south east of the barn is to be landscaped.
Reason: In the interests of the amenity of the area and in accordance with Policy No.GN5 and DC1 of the Adopted Chorley Borough Local Plan Review.
10. 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 Policy No GN5 DC1 of the Adopted Chorley Borough Local Plan Review.