

Item 4g **12/00485/FUL**

Case Officer **Mr Ian Heywood**

Ward **Lostock**

Proposal **Demolition of Existing Detached Cottage and Application for Retrospective Erection of New Build Detached Dwelling and Integral Garage**

Location **The Cottage Back Lane Bretherton Leyland Lancashire**

Applicant **Mr & Mrs Neale Graham**

Consultation expiry: **4 July 2012**

Application expiry: **23 July 2012**

Proposal

1. This is a retrospective application for the demolition of existing detached cottage and the erection of a detached dwelling with an integral garage.

Site Description

2. The site is located on Back Lane, Bretherton on the edge of the Bretherton Conservation Area and within the Green Belt. Properties in the immediate area are set in large plots, many having previously been agricultural small holdings. The site is currently occupied by an unoccupied and semi-dilapidated cottage, which was formerly two cottages, which is located immediately at the edge of the highway. Behind this building is a new building that is not yet completed. It is the structure of a detached dwelling with an integral garage, however the construction is only complete as far as the shell is concerned. There are no ceilings in place, no plaster, no first fix electrics or plumbing, no staircase and no drainage connections for foul or surface water discharge. To the south of the buildings the land is open and the site is bordered by Back Lane and a substantial native hedge line that is for the most part in excess of 2 metres in height.

Background Information

3. This application has been submitted following the submission of an earlier application, 12/00156/FUL, that proposed extensions to the new building. Upon investigation of previous records and by taking measurements on the site it transpired that the current new building was in fact unlawful.
4. This application is being brought to Committee because should Members be minded to refuse the application, the consequence would be that enforcement action would have to be taken which could require the complete demolition of the building.
5. An application was granted consent by the Council in 2003, 03/00258/FUL, for the demolition of the cottage and outbuildings and the erection of a new dwelling. Works on site were started but the development was never completed and the works of demolition were never undertaken – there was no condition requiring the demolition of the cottage.
6. In 2007 the site was acquired by a new owner, the current applicant, who employed the original agent to draw up a new application that proposed extensions to the new 'dwelling'. When the case officer checked the submission drawings and visited the site to take measurements he discovered that the building had not been built in accordance with the approved plans. Not only was the building larger than that for which permission had been granted it was also located in the wrong position within the plot. The building was wider by 1.39 metres at the front, 1.6metres deeper, 1.1metres taller than the building that was approved and included a substantial two-storeyed porch instead of the approved single storey version. The building was located

approximately 5 metres further north within the plot than it should have been. Furthermore as the building had not been completed it was not possible to determine an established use for it.

7. The current application has been submitted following advice obtained from the Council's legal department and passed on to the applicant by the case officer that this was his only option to regularise and legalise the situation. As the current building is unlawful it is not possible to determine an application for its extension.
8. The agent claimed that agreement for the changes was given verbally by the then Head of Planning. Whilst a Building Control Plan subsequent to the original, 2003, planning application showing the building as built does exist, there is no record within the planning system or held by the agent that confirms in writing that these changes were agreed by the Council. The former Head of Planning, when questioned on this, had no recollection of this agreement and in his view he thought such an agreement would have been unlikely.
9. In 2003 at the time the original consent was granted the policy position was that replacement dwellings could be up to 70% larger than the original. Taking the known information regarding the size of the original buildings that occupied the site (some outbuildings have been demolished) and the cottage, the new building as built equates to a 65% increase over the volume of the original buildings. It would therefore have been acceptable in terms of the 2003 policy position.

Recommendation

10. It is recommended that this application is granted full planning permission subject to conditions.

Main Issues

11. The main issues for consideration in respect of this planning application are:
12. Principle of the development The application site is located within the Green Belt. The NPPF, paragraphs 87 and 88, continue the previous national and local policy stance that inappropriate development is by definition harmful to the Green Belt. Local Planning Authorities are advised to ensure that substantial weight is given to any harm to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Paragraph 89 suggests that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, but that an exception to this is where the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. This policy stance is mirrored by that taken by DC1 and DC8A of the Adopted Chorley Borough Local Plan Review 2003 and also Policy HS12 of the emerging 'Sites for Chorley site allocations and development management policies DPD
13. Under the terms of accepted policy in 2003, as we have seen at paragraph 9, the development would have been considered acceptable as it fell within the then acceptable figure of a 70% increase in volume over that of the original buildings on the site. However the current accepted policy, listed in the previous paragraph, has reduced this figure to 30%. Whilst there is no wording in any current policy that expressly quotes this figure, it is that which is generally accepted and also that which has been accepted by the Planning Inspectorate. At 65% the current building when judged in terms of current policy is clearly not acceptable.
14. Impact on the neighbours The nearest neighbouring properties to either the north or south of the site are both in excess of 70 metres distant. In both cases the views from these properties to the application site are screened by trees, shrubs and hedges. The impact upon the amenity of these neighbours is minimal, and quite probably nil. This is also evidenced by a lack of concern or objection being received from any neighbour to the development site.
15. Design and Impact upon the Conservation Area Section 12 of the NPPF, Policy 16 of the Central Lancashire Core Strategy and Policy BNE6 of the emerging Sites for Chorley Site Allocations and Development Management DPD refer to conserving and enhancing the historic environment and Section 7 of the NPPF together with Policy 17 of the Central

Lancashire Core Strategy emphasise the importance of good design in new developments. The design of the building is considered to be sympathetic to the character of the Bretherton Conservation Area, which was designated by Chorley Council on 1st February 1990. The architect clearly has empathy with the needs of the location. The design imitates to some extent the form of traditional farmhouses and has used a brick that closely matches the hand made bricks used on vernacular buildings throughout the area together with the ubiquitous Welsh slate for roofs. At the same time there are contemporary touches to define this clearly as a modern building. As a result the building sits comfortably in its setting and has an acceptable relationship to its neighbours. It is considered therefore that the design is both appropriate and sympathetic to the location and that the significance of the conservation is sustained.

16. Ecology The applicant is required by condition, should permission be granted, to undertake appropriate ecological surveys prior to the demolition of the cottage and to implement any mitigation measures that may result from these, also before the works of demolition commence. These shall include surveys for bats, owls, newts or any other protected species. An informative advises the applicant of the statutory implications of this work.
17. Traffic and Transport The resultant development will not result in an unacceptable level of additional traffic and will have no material impact upon traffic generation in the area. A condition requiring the formation of an appropriate entrance and highway surface to be provided is to be attached to any permission that may be granted.
18. Drainage and Sewers The applicant is advised to liaise with the appropriate person at United Utilities as regards the formation and connection of sewers and surface water drainage. As regards the latter the applicant is advised to provide for independent surface water disposal.

Representations

19. No letters of objection have been received
20. No letters of support have been received
21. Bretherton Parish Council have so far made no comment on the application.

Consultations

22. **Lancashire County Council (Ecology)** No comments so far received – standard advice anticipated.
23. **Natural England** No comments received so far – likely to be as above.
24. **The Environment Agency** No objection
25. **United Utilities** No objection, advice given re connections to foul water sewer and surface water drainage.
26. **Lancashire County Council (Highways)** No objection.
27. **Chorley's Waste & Contaminated Land Officer** No comment.

Overall Conclusion

28. There are no 'in principle' objections received from any consultees and no complaints have been received from neighbours. This is despite the fact that the building on the site is slightly larger and located in the wrong position within the plot when compared to the original consent granted in 2003 by Chorley Borough Council.
29. Whilst in terms of current policies (DC1 and DC8A of the adopted Chorley Borough Local Plan Review 2003, HS12 and BNE6 of the Sites for Chorley emerging LDF DPD and Policies 16 and 17 Central Lancashire Joint Core Strategy DPD) the development would, at a 65% increase above the volume of the original buildings on the site – the cottage and an outbuilding – be

considered unacceptable (current policy suggests 30%). However when viewed in the context of the prevailing policy at the time the original consent was granted, 2003, the development, even allowing for its slightly increased size, would have been considered acceptable.

Planning Policies

National Planning Policies:

National Planning Policy Framework (NPPF)

Adopted Chorley Borough Local Plan Review Policies:

DCI, Development in the Green Belt

DC8A, Replacement Dwellings and Extensions in the Green Belt

Supplementary Planning Guidance:

- Statement of Community Involvement
- Householder Design Guidance

Chorley's Local Development Framework – 'Sites for Chorley'

- Policy HS12, Rural Replacement Dwellings and Extensions
- Policy BNE6, Heritage Assets

Joint Core Strategy

Sites for Chorley- Issues and Options Discussion Paper December 2010

- Policy 16, Heritage Assets
- Policy 17, Design of New Buildings

Planning History

Ref: 03/00258/FUL **Decision:** PERFPF **Decision Date:** 29 October 2003

Description: Demolition of existing building and erection of detached dwelling with integral garage,

Ref: 12/00156/FUL **Decision:** WDN **Decision Date:** 15 May 2012

Description: Proposed Alterations & Extension to Existing Dwelling to form Conservatory and Construction of Detached Garage

Ref: 12/00485/FUL **Decision:** PDE **Decision Date:**

Description: Demolition of Existing Detached Cottage and Application for Retrospective Erection of New Build Detached Dwelling and Integral Garage

Recommendation: Permit Full Planning Permission 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 approved plans are:**

| Plan Ref. | Received On: | Title: |
|------------------|----------------------------|---------------|
| 14/05/2012 | Site Plan | |
| 28/05/2012 | Proposed W & N Elevations | |
| 28/05/2012 | Proposed S & E Elevations | |
| 28/05/2012 | Proposed Ground Floor Plan | |
| 28/05/2012 | Proposed First Floor Plan | |

Reason: To define the permission and in the interests of the proper development of the site.
3. **No part of the development hereby permitted shall be occupied or used until a means of vehicular access has been constructed in accordance with the approved plans.**

Reason: In the interests of highway safety and in accordance with Policy No.TR4 of the Adopted Chorley Borough Local Plan Review.

- 4. 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.
- 5. 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, DC8A, DC8B, HT2, HT3, HT7, HS4, HS9, EM3, EM4A and EM5 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 appearance of the locality and in accordance with Policy No. HS4 of the Adopted Chorley Borough Local Plan Review.
- 7. Before the development hereby permitted shall be occupied the works of demolition as specified in the application and specifically including the two cottages that are currently located facing Back Lane shall have been completed.**
Reason to safeguard the permission in accordance with policy DC8A of the Adopted Chorley Borough Local Plan Review 2003.
- 8. Before the development (demolition) hereby permitted commences the applicant shall have completed and submitted to the Local Planning Authority an Ecological Survey to include all protected species, for example Bats, Owls, Great Crested Newts, Natterjack Toads etc. Any mitigation measures that may be required as a result of these surveys must be implemented before the development (demolition) commences.**
Reason: To ensure the safeguarding of nationally protected species in accordance with the Wildlife and Countryside Act
- 9. The level of the driveway shall be constructed 0.150m above the crown level of the carriageway of Back Lane.**
Reason: To safeguard the future reconstruction of the highway
- 10. Before the access is used for vehicular purposes, any gateposts erected at the access shall be positioned 5m behind the nearside edge of the carriageway and visibility splay fences or walls shall be erected from the gateposts to the existing highway boundary, such splays shall be 45° to the centre line of the access. The gates shall open away from the highway. Should the access remain ungated 45° splays shall be provided between the highway boundary and points on either side of the drive measured 5m back from the nearside edge of the carriageway.**
Reason: To permit vehicles to pull clear of the carriageway when entering the site and to assist visibility.
- 11. Before the access is used for vehicular purposes, that part of the access extending from**

the highway boundary for a minimum distance of 5m into the site shall be appropriately paved in tarmacadam, concrete, block paviours, or other approved materials.

Reason: To prevent loose surface material from being carried on to the public highway thus causing a potential source of danger to other road users.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 there shall not at any time in connection with the development hereby permitted be erected or planted or allowed to remain upon the land hereinafter defined any building, wall, fence, hedge, tree, shrub or other device.

The visibility splay to be the subject of this condition shall be that land in front of a line drawn from a point 2.0m measured along the centre line of the proposed road from the continuation of the nearer edge of the carriageway of Back Lane to points measured 43m in each direction along the nearer edge of the carriageway of Back Lane, from the centre line of the access, and shall be constructed and maintained at footway/verge level in accordance with a scheme to be agreed by the Local Planning Authority in conjunction with the Highway Authority.

Reason: To ensure adequate visibility at the street junction or site access.

13. The existing access shall be physically and permanently closed and the existing verge/footway and kerbing of the vehicular crossing shall be reinstated in accordance with the Lancashire County Council Specification for Construction of Estate Roads (concurrent with the formation of the new access/within */prior to *)

Reason: To limit the number of access points to, and to maintain the proper construction of the highway.