

Item 4e **12/00698/FULMAJ**

Case Officer **David Stirzaker**

Ward **Eccleston And Mawdesley**

Proposal **Application for a new planning permission to replace the extant planning permission no. 08/00728/FULMAJ (which permitted the demolition of the existing bungalow, workshop and garage and the erection of 10 No. two bed apartments) in order to extend time limit for implementation**

Location **Crow Nest Cottage, Tarnbeck Drive, Mawdesley L40 2RU**

Applicant **Mr Peter Schickhoof-Brown**

Consultation expiry: 15 August 2012

Proposal

1. This application seeks planning permission to extend the time limit originally imposed on the permission granted on this site in 2009 on appeal, for the demolition of the existing bungalow and the erection of two blocks of apartments on the site.
2. The original application was refused planning permission by Development Control Committee on 16th September 2008. The applicant then appealed against the decision and permission was granted in 2009 on 6th August (08/00728/FULMAJ) following an appeal hearing.
3. The development permitted comprised two blocks of apartments. Each block is two storey in nature. One block contains 6 no. two bedroom apartments and the other block contains 4 no. two bedroom apartments. Access to the site is via a tarmac drive which leads from Tarnbeck Drive to the north. The site layout provides 20 no. parking spaces to serve the apartments.

Recommendation

4. It is recommended that this application be refused planning permission.

Main Issues

5. The main issues for consideration in respect of this planning application are:
 - Principle of the development
 - Affordable Housing
 - Levels
 - Impact on the neighbours
 - Design
 - Trees and Landscape
 - Ecology
 - Flood Risk
 - Traffic and Transport
 - Contamination and Coal Mines
 - Drainage and Sewers

Representations

6. To date, 14 no. letters of objection have been received, the contents of which can be summarised as follows: -
 - The proposed development is more appropriate in an urban rather than a rural setting

- It does not complement nor blend in with existing properties and is at odds with the streetscene
- The development would represent a considerable change in density and character of the housing
- The development would result in a shift towards high density housing on Green Belt land and would risk changing the character of the village
- The three year time limit to build the development should be adhered to otherwise where will this end
- Property prices and difficulty to sell have all been related issues and the needs of residents who are all united need to be considered in asking for this new proposal to be rejected
- During the time that planning applications have been submitted on this site, local residents have found it difficult to sell their properties
- The proposal is not in accordance with the Local Plan Review of the Site Allocations and Development Management Policies DPD
- When this application was allowed on appeal a time limit was set of three years. This was a conscious decision of the inspector and should not be disregarded. If the inspector had wanted to allow a longer period he would have done so
- The development would be totally inappropriate for such a small village
- This development appears to be inconsistent in that one dwelling is being replaced with ten
- The level of parking provision is unacceptable
- The development would be detrimental to highway safety and since the last application was approved, traffic flow through Mawdesley Village centre has increased as have parking problems in the village centre generally only a matter of yards from the Tarnbeck Drive junction
- During development there would be no alternative parking for contractors other than along Tarnbeck Drive on the approach to the existing residential properties causing further congestion
- I am the father of two children of school age who regularly walk to the local primary school, local bus stop and play out in the vicinity on there bikes, scooters etc. I feel that any further increase in vehicular activity would be a risk to the safety of not only my own family but that of other local residents
- The proposed levels detailed on the plans should be adhered to
- There does not seem any point in pursuing the Grampian condition unless the applicant is going to try and get permission on the land behind the Red Lion Public House on New Street as to get permission on this land would put a great strain on the Council as New Street and Tarnbeck Drive are far too narrow to accommodate such an influx of extra cars
- Surely 13 years is far too long to be waiting for the applicant to decide whether or not to carry out the development
- It is possible that this application is linked to an application to develop the land to the rear of the Red Lion on New Street which is owner in freehold by Taylor Wimpey Ltd
- The increase in online purchases gives rise to many more deliveries and many large vehicles now deliver goods and services to Tarnbeck Drive
- Car ownership and number of pedestrians, equestrians and cyclists have increased in the 10 year period since applications have been submitted on this site
- Residents of Tarnbeck Drive have had to live under the shadow of the numerous application to develop this site
- The property market is depressed at present and the demand for this type of development which was never apparent in the first place) has diminished even further
- In Mawdesley there is an industrial estate between New Street and Gorsey Lane which is virtually empty and has all the access roads and drainage networks in place - If there was truly a demand for some apartments or a few starter homes surely the council should be considering a change of use of this site by compulsory purchase
- If the Inspector had not considered three years a fair time surely he would have given more time

- Many hours have been spent on these applications, by The Planning Department, The Inspectors and the local community. It is now time for this developer to accept that his plans are neither appropriate or wanted - 10 years is a very long time for the community to live with Planning Blight

7. No letters of support have been received
8. **Mawdesley Parish Council** state that the original planning permission was only granted for three years with the Grampian condition requiring the applicant to obtain the adjoining land to provide the visibility splay. The owners have not been able to obtain this land in the three year period. In line with our original objections, the proposed development is out of scale and character with the rest of the village.

Consultations

9. No comments have been received from **Lancashire County Council (Ecology)**. Any comments received will be reported in the addendum.
10. **The Environment Agency** does not raise any objections to the application.
11. **The Architectural Design and Crime Reduction Advisor** comments that crime within this immediate area is low and consists mainly of criminal damage, burglary and theft, the car parking areas should be well lit, easily viewed and free from obtrusive planting and the use of boundary treatments (different ground surfaces, railings etc.) to show where areas become semi-private or private give a sense of ownership to the occupants and can prevent anti-social behaviour taking hold. Signage indicating 'Private – Residents Only" gives the same message. These methods should be incorporated into the design of the landscaped and external areas.
12. No comments have been received from **United Utilities**. Any comments received will be reported in the addendum.
13. **Lancashire County Council (Highways)** advise that given the site already has extant planning permission and the application is for extension of time limit only to implement the development, there can be little grounds for highway objection under the circumstance.
14. **Chorley's Waste & Contaminated Land Officer** advises that due to the proposed sensitive end-use (residential housing) and the proximity of the development site to land that is potentially affected by contamination, a report to identify any potential sources of contamination on the site and where appropriate, necessary remediation measures should be submitted to and approved in writing prior to the commencement of development.

Assessment

Principle of the development

15. As set out in paragraph 15 of this report, since planning permission was granted on appeal in 2009, the National Planning Policy Framework (NPPF) and the Core Strategy have now become part of the Development Plan. The Council's emerging Sites for Chorley-Issues and Options Preferred Option Paper, which is due to go to Full Council for approval for consultation on 25th September 2012, also contains a policy (HS3) which seeks to restrict the types of development that can be undertaken within the boundaries of private residential gardens.
16. In accordance with the NPPF, the application site no longer constitutes 'previously developed land' as the definition in Annex 2 of the NPPF states that 'private residential gardens' are excluded from being classified as such land. Paragraph 53 of the NPPF also states that Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.
17. Policy 1 (Locating Growth) of the Core Strategy seeks to focus growth and investment on brownfield sites and other key sites across the Core Strategy area, whilst protecting the

character of suburban areas. Criteria (f) of this policy states that in smaller villages, substantially built up frontages and Major Developed Sites, development will typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes. The proposed apartments do not meet any of the criteria set out in criteria (f) hence the development does not accord with Policy 1 of the Core Strategy.

18. Policy GN4 of the Local Plan Review, criteria (e) allows for the residential redevelopment of land in the rural settlements provided it is previously developed land. As stated, the land is no longer classified as 'previously developed' so no longer complies with these criteria, nor does it comply with any of the other criteria of Policy GN4.
19. On the basis of the above and specifically Policy GN4 of the Local Plan Review and Policy 1 of the Core Strategy, it is considered that the 'principle' of the development is no longer acceptable on this site given it no longer comprises 'previously developed land'. Given the site comprises a private residential garden, it is also contrary to Policy HS3 of the Publication version of the Site Allocations and Development Management Policies Development Plan Document, which is due to go to Full Council for approval for consultation purposes on 25th September 2012.

Affordable Housing

20. Another change since this development was granted planning permission is a requirement for affordable housing under Policy 7 of the Core Strategy. In rural areas such as Mawdesley, the development threshold for requiring affordable housing is 5 dwellings and on such developments, a level of 35% affordable housing is required. On this site, given there is an increase of 9 dwellings on the site, the requirement is for 3 of these units to be affordable.
21. Policy 7 of the Core Strategy states that the required 35% level of affordable housing on development in rural areas is subject to such site and development considerations as financial viability and contributions to community facilities. The applicant is aware of the requirements of Policy 7 & but has not submitted any information to support a lower level of affordable housing on the site.

Levels

22. The plans approved following the appeal hearing detail existing levels and the proposed levels of the site and the finished floor levels of the apartments. The finished floor levels of the apartments are such that they are similar to the existing dwellings on Tarnbeck Drive and these were considered as being acceptable at the time of the 2008 application and appeal. The levels still mean that the development meets the Council's Spacing Standards for new residential developments hence the levels proposed are still considered to be acceptable.

Impact on the neighbours

23. As this is an application to extend the time limit to implement the original planning permission, the plans remain as per those approved in 2009 following the appeal hearing.
24. The proximity of the development to the properties on Tarnbeck Drive accords with the Council's Spacing Standards and in places actually exceeds them. Moreover, to counter concerns with the level of the application site at the time of the application in 2008, the slab level of the apartment blocks was detailed as being similar to that of the properties to the east on Tarnbeck Drive by utilising a FFL (Finished Floor Level) of 21.50 facilitated by the level of the site being reduced. Retaining walls would be constructed close to the eastern and western site boundaries and adjacent to the Great Crested Newt hibernacula at the southern end of the site as a consequence of the reduction in the level of the site.
25. It should also be noted that the relationship between the apartments and the properties on Tarnbeck Drive was originally afforded in depth analysis at the Public Inquiry in relation to an earlier application on the site for ten apartments in a single block (04/00779/FUL) which was refused planning permission. The only reason why this appeal was dismissed by the determining Inspector was due to a north facing lounge window in a second floor apartment in the northern block closest to the eastern site boundary overlooking the garden area and

conservatory of 45 Tarnbeck Drive. On all other matters, the Inspector considered that the development was acceptable from a neighbour amenity perspective as it met and exceeded the Council's Spacing Standards and the FFL's of the apartment blocks was to match closely those of the facing properties on Tarnbeck Drive to the east thus matters such as outlook and light would not be detrimentally harmed by the apartment blocks nor would they appear over dominant. The 2008 application therefore addressed the issue of overlooking from the lounge window and was deemed to be acceptable on this matter and that of residential amenity impact overall hence the Council did not raise any issues during the consideration of the appeal hearing for the 2008 application on residential amenity. This remains to be the case at the present time as there have not been any changes to the Council's Spacing Standards.

26. It is therefore considered that the development would not detrimentally impinge upon the living conditions of the occupiers of the properties adjacent to the site on Tarnbeck Drive and therefore meets with the objectives of Policy No. HS4 of the Local Plan Review and accords with the Council's Spacing Standards.

Design

27. The two apartment blocks proposed comprise two storey buildings with average eaves heights of 5.1m and average ridge heights of 8.5m. These dimensions represent a very slight increase over the eaves and ridge heights of the properties on Tarnbeck Drive development, which as stated, comprises a modern residential development made up of a typical mix of property types.
28. In determining the 2008 application (08/00728/FULMAJ), it was concluded that the development was of a suitable design and scale in relation to Mawdesley in general and the adjacent residential development (Tarnbeck Drive). Also, the Council did not raise any objections to these elements of the scheme at the appeal hearing.
29. In terms of the Mawdesley Village Design Statement, this document was prepared and adopted by Mawdesley Parish Council in 2007 and whilst it is not a document adopted by the Council, it is still a useful document that can be referred to when determining planning applications due to its local focus. Recommendation 8 states that new housing developments should reach high standards of design, housing mix and arrangement and be of a scale commensurate with the village. Tarnbeck Drive is cited as a good example of this and on page 12 of the document, a photograph shows the linked properties on this development, and as already stated, the Inspector concluded that the design and scale of the apartment blocks would be in keeping with the Tarnbeck Drive development to the east of the application site and the wider context of Mawdesley hence it can only be concluded that the development is not discordant with the objectives of the Mawdesley Village Design Statement.
30. In particular, the apartment blocks include projecting gables and pediments over first floor windows, which pick up on the detailing, found on the Tarnbeck Drive development and whilst the apartment blocks are wider than the detached dwellings on Tarnbeck Drive, they are comparable to the linked properties on the same estate. Also, the use of varying ridge heights, projecting gables and different building lines would effectively and acceptably break up the massing of the apartment blocks. In terms of materials, a condition could require samples of these to be submitted for approval prior to works commencing on site.
31. In terms of wider impact, to the west of the site is an area of undeveloped and somewhat overgrown open land that provides a substantial buffer between the development site and New Street hence the development would not be prominent within the village itself. Any of the views of the site from New Street would be limited to vistas of the apartments from between buildings whilst views from Tarnbeck Drive from the north just off New Road will encompass the buildings and the existing Tarnbeck Drive development. Moreover, the reduced levels would further limit the outward impact of the development to a level that is considered acceptable.
32. On this basis, it is considered that the design, scale and massing of the proposed development is acceptable and would not cause detrimental harm to the character and

appearance of the Mawdesley locality and therefore meets the objectives of Policy Nos. GN5 and HS6 of the Local Plan Review and Policy 17 of the Core Strategy. In terms of Policy HS4 (Private Residential Garden Development) of the Sites for Chorley-Issues and Options Preferred Option Paper September 2011 and the NPPF, whilst the development is proposed on a private residential garden, as per the original proposal to which this application seeks to renew, it is considered that the development would be in keeping with the character and appearance of the local area.

Trees and Landscape

33. The Councils Arboricultural Officer did not raise any objections to the original application as the proposed hibernacula at the southern end of the site meant there would be less disturbance of the ground near to the trees on the boundary. With regards to the trees on the western boundary at the northern end of the site opposite the bin store, these are already next to the tarmac access that serves the site and all works under the canopy of these trees was required by a condition to be carried out by hand. This being the case, it is again considered that the development would meet with the objectives of Policy No. EP9 of the Local Plan Review.

Ecology

34. At the time of the original application, the applicant carried out an Ecological Survey in respect of bats and great crested newts. With regards to bats, LCC (Ecology) advised that it seemed relatively unlikely that the development would impact upon populations of bats locally.
35. This survey was amended at the request of LCC (Ecology) in respect of great crested newts and included mitigation measures to safeguard populations of them whilst a hibernacula was proposed to make up for the loss of works to an existing mound running along the southern and western ends of the site boundary. LCC (Ecology) were satisfied that a perimeter fence around the site prior to and during the course of construction works would exclude great crested newts from the site and also addressed the concerns expressed by Tarnbeck Drive residents who stated that some garden ponds contained great crested newts, by excluding them from the site during the course of construction works. A raft of other measures set out in the ecological report also needed to be carried out prior to work starting on the site which included, as stated, fencing off the perimeter of the site to prevent any further great crested newts entering the site and setting up pitfall traps to catch great crested newts still within the site so as they can then be relocated to a nearby pond prior to any work starting on site. The perimeter fence had to remain throughout the course of construction works to prevent great crested newts entering the site and LCC (Ecology) were satisfied that these measures along with the new hibernacula, would have safeguarded populations of great crested newts hence an initial objection was withdrawn.
36. In respect of this application, the applicant has not submitted an updated Ecological Survey and no comments have been received from LCC (Ecology) on the application. Therefore, any comments received from LCC (Ecology) will be reported in the Addendum.

Flood Risk

37. As stated, the Environment Agency have not raised any objections to this application having previously advised that a condition should be attached to any planning permission granted requiring the surface water run off rates to be attenuated to existing levels so as the development will not lead to an increased risk of flooding and United Utilities did not raise any objections to the previous application.

Traffic and Transport

38. The visibility splay includes land within the front garden of 49 Tarnbeck Drive and this is required to provide a satisfactory sight line along Tarnbeck Drive in an easterly direction. The previous permission granted on appeal included a Grampian condition requiring the applicant to secure this land and provide the visibility splay prior to any works commencing on site. Therefore, if the application was being recommended for approval, such a condition could be imposed again, especially given the Inspector considered this an acceptable solution at the appeal hearing, even though the applicant had not at the time secured the land. Accordingly,

if planning permission was granted and the land across which the visibility splay is proposed could not be secured by the applicant, then the development itself could not be commenced.

39. In all other respects, the impact of the development on the local road network and Tarnbeck Drive is still considered to be acceptable whilst the internal layout and parking provision levels are also deemed acceptable hence there is no reason to refuse planning permission on this basis especially given LCC (Highways) do not raise any objections to the application.
40. Suitable bin storage areas are to be provided and there would be adequate parking available for the occupiers of the apartments. Some visitor parking is also proposed and in terms of the bin storage, this is also sufficient to serve the apartments.
41. The proposed development is still therefore considered as according with Policy No. TR4 of the Local Plan Review

Contamination and Coal Mines

42. In light of the comments from the Council's Waste & Contaminated Land Officer, wherein a report to identify any potential sources of contamination on the site and if necessary, remediation measures is requested, this matter could be dealt with by a planning condition, if the application was being recommended for approval.

Drainage and Sewers

43. As with flood risk (paragraph 36), the Environment Agency have not raised any objections to this application having previously advised that a condition should be attached to any planning permission granted requiring the surface water run off rates to be attenuated to existing levels so as the development would not lead to an increased risk of flooding and United Utilities did not raise any objections to the previous application and have not made any comments on this current application.

Section 106 Agreement

44. If this application was being recommended for approval, a section 106 agreement would be required to secure the required affordable housing and a commuted sum towards off site play space.

Overall Conclusion

45. As was the case when permission was granted on appeal (08/00728/FULMAJ) for the development of this site, the design scale and layout of the development is considered acceptable in terms of how it would relate to the character and appearance of the locality. Also, there are no concerns about the impact of the development on the amenities of neighbours and likewise, adequate car parking is being proposed. A Grampian condition could also be imposed to secure the visibility splay at the junction with Tarnbeck Drive, if this application was being recommended for approval. The same can be said with all off the other issues with the application although the only matter not resolved at this time is that of ecology so this matter will be the subject of an update on the addendum once the comments of LCC (Ecology) are received.
46. However, the renewal of the permission for the development of this site now falls to be considered against the current policies of the development plan. Whilst the 'principle' of the development was previously acceptable on this site, the changes to PPS3 to the classification of garden curtilage land which have been carried forward in the NPPF, mean that this site no longer constitutes 'previously developed land'. The development therefore no longer accords with Policy GN4 of the Local Plan Review and in particular criteria (e) which allowed the re-use of previously developed land. The development is also contrary to Policy HS3 of the Publication version of the Site Allocations and Development Management Policies Development Plan Document, given it comprises a development within a private residential garden. However, this policy can only be afforded limited weight at this juncture although the Site Allocations and Development Management Policies Development Plan Document is due to go to Full Council for approval for consultation purposes on 25th September 2012 so after this time, Policy HS3, depending on its final format, is likely to be afforded a greater level of weight. An update on Policy HS3 will therefore be provided on the addendum.

47. In terms of Policy 1 (Locating Growth) of the Core Strategy, as stated, this policy seeks to focus growth and investment on brownfield sites and other key sites across the Core Strategy area, whilst protecting the character of suburban areas. Criteria (f) of this policy states that in smaller villages, substantially built up frontages and Major Developed Sites, development will typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes. The proposed apartments do not meet any of the criteria set out in criteria (f) hence the development does not accord with Policy 1 of the Core Strategy. Policy 7 also requires the provision of affordable housing on this site. The applicant is aware of this requirement but has not offered any affordable housing as part of the development nor forwarded any supporting information as to why this level could not be achieved on this site.

Other Matters

Sustainability

48. Policy 27 of the Core Strategy presently requires new developments to be built to meet Level 3 of the Code for Sustainable Homes (CfSH), Level 4 from January 2013 and level 6 from January 2016. If the application was being recommended for approval, conditions could be attached to the planning permission to secure these requirements.

Waste Collection and Storage

49. There are no objections to the application in terms of waste collection and storage in terms of the layout of the site and the accessibility of the site for refuse collection vehicles.

Planning Policies

National Planning Policies:

NPPF (National Planning Policy Framework)

Adopted Chorley Borough Local Plan Review

Policies: GN4 / GN5 / EP4 / EP9 / EP18 / HS4 / HS6 / HS21 / TR4

Supplementary Planning Guidance

- Design Guide

Joint Core Strategy

Policy 1: Locating Growth
Policy 4: Housing Delivery
Policy 5: Housing Density
Policy 6: Housing Quality
Policy 7: Affordable Housing
Policy 17: Design of New Buildings
Policy 26: Crime and Community Safety
Policy 27: Sustainable Resources and New Developments

Site Allocations and Development Management Policies Development Plan Document (Publication Version)

ST4: Parking Standards
HS3: Private Residential Garden Development
HS4A: Open Space Requirements in New Housing Developments
BNE1: Design Criteria for New Development
BNE9: Trees
BNE10: Species Protection

Planning History

08/00728/FULMAJ - Demolition of existing bungalow, workshop and garage and erection of 10 No. two bed apartments (Refused but planning permission granted on appeal on 6 August 2009)

07/01304/FULMAJ - Demolition of existing bungalow and garage/workshop and erection of 10 two bedroom apartments (Withdrawn on 20th February 2008).

04/00779/FULMAJ - Demolition of existing bungalow and garage/workshop and erection of 10 apartments (Refused on 1 October 2004 and a appeal was dismissed following a Public Inquiry).

04/00609/TPO - Works to Oak (T3) covered by TPO 5 (Mawdesley) 2003 (Consent granted for tree works on 28 July 2004).

03/01098/FUL - Demolition of existing bungalow and erection of detached house and garage (Permitted on 16 January 2004).

03/00823/TPO - Consent to prune three trees covered by Tree Preservation Order No.5 (Mawdesley) 2003 (Consent granted for tree works on 23 October 2003).

02/00528/FUL - Erection of 5 detached houses (Refused 25 September 2002). The applicant appealed and the Planning Inspectorate dismissed the appeal on

**Recommendation: Refuse Full Planning Permission
Reasons**

1. Given the development is proposed on Greenfield land (private residential garden), the application site does not constitute 'previously developed land'. This being the case, the proposed development of this site would be contrary to Policy GN4 of the Adopted Chorley Borough Local Plan Review and in particular, criteria (e), as the development of this site does not constitute the re-use of previously developed land.
2. Policy 7 of the Central Lancashire Core Strategy requires the provision of 35% affordable housing as part of development proposals in rural areas of 5 or more dwellings, subject to such site and development considerations such as financial viability and contributions to community services. No affordable housing provision has been offered as part of the application and no information has been submitted as to why such a level of provision could not be provided as part of the development proposed. In the absence of such information, the proposed development of this site without the provision of affordable housing specified would be contrary to Policy 7 of the Central Lancashire Core Strategy.
3. Policy 1 (Locating Growth) of the Central Lancashire Core Strategy and in particular criteria (f) defines acceptable forms of development in smaller villages (such as Mawdesley). The demolition of the existing bungalow and the erection of two blocks of apartments would not meet any of the criteria set out in criteria (f) in that it does not constitute a small scale form of development, does not represent appropriate infilling, would not meet a local need and no exceptional reasons have been forwarded to support a larger scale development on this site. The proposed development of this site is therefore contrary to criteria (f) of Policy 1 (Locating Growth) of the Central Lancashire Core Strategy.