

Item 4c **12/01063/FUL**

Case Officer **Caron Taylor**

Ward **Chisnall**

Proposal **Change of use of former public house to dwelling with side and rear extensions, front porch and erection of detached garage with open store below (resubmission of withdrawn application ref: 12/00802/FUL).**

Location **The Brook House, Barmskin Lane, Heskin, Chorley**

Applicant **Mr Craig Ainscough**

Consultation expiry: **18 December 2012**

Application expiry: **11 January 2013**

Proposal

1. Change of use of former public house to dwelling with side and rear extensions, front porch and erection of detached garage with open store below (resubmission of withdrawn application ref: 12/00802/FUL).

Recommendation

2. It is recommended that this application is approved.

Main Issues

3. The main issues for consideration in respect of this planning application are:
 - Background information
 - Principle of the development
 - Extensions
 - Outbuildings
 - Highways and Parking
 - Impact on the neighbours
 - Open Space
 - Trees and Landscape
 - Ecology
 - Flood Risk
 - Coal Mines

Representations

4. This is a resubmission of a previously withdrawn application (to which 26 objections and eleven letters of support were received). Any one notified of, or who commented on the previous application has been notified of this application.
5. Councillor Paul Leadbetter, Ward Councillor for Heskin asks that the application be put before full committee for their deliberation and decision. He also states:
 - It would be ideal to maintain the property as a Public House and Policy 25 of the Core Strategy aims to ensure local communities have sufficient community facilities. The Central Lancashire Rural Development Supplementary Planning Document at paragraph 43 suggests that facilities in remote locations, such as the Brook House, are of lesser community value than those that are readily accessible, I suggest that a remote facility is of greater value to the immediate community, but accept that it is of lesser value to the wider community.
 - The application is different from the earlier application in that a unilateral undertaking has

been agreed by the applicant, removing permitted development rights and therefore restricting further development of the property without planning permission. Additionally a more detailed viability assessment has been provided. The value placed on this viability assessment is important, as paragraph 44 of the Rural Development SPD requires that "...any application for a proposed change from a community use in a rural area to be accompanied by a Statement of the Efforts and Proof of Marketing.", included in appendix 1 to that SPD. This Statement of Efforts and Proof of Marketing have not been provided, however the viability assessment is detailed providing detail of trading figures and statements that there are alternative, relatively local, facilities.

- Ideally, if at all possible, the property should be maintained as a community facility. However, based on evidence provided by the applicant, a Public House in that location is not economically viable and is unlikely to be successful in the longer term. The unilateral undertaking restricts future development of the site and having a sympathetic development must be preferable to the building being left with windows boarded, unoccupied and to begin to decay, as is the case with many public houses throughout the Borough of Chorley (and even within Chisnall Ward).

6. Three objections have been received on the following grounds:

- The pub has not been advertised as a going concern in the proper manner, there were other bidders prepared to buy the property and continue it as a public house but it was sold just to the highest bidder. The applicants have also listed an incorrect list of previous tenants citing that the pub was not viable. The correct list of tenants are prepared to demonstrate that the business was viable;
- They feel that the removal of the Brookhouse facility will be a major loss to the local community. It was widely used by many people for various functions. The local farmers met most nights in there. They personally dined there on many occasions. The campers from the caravan site across the road used it regularly. In summer the beer garden was packed with visitors enjoying a tea-time drink;
- Part of the proposed changes include building on green belt land which is not acceptable at all;
- All the other bidders other than Mr Ainscough bid on the assumption that it had to be a public house. Had the property been advertised as a private house in the first instance there would most likely have been more bidders and the price would have been higher. They think that by attempting to flout the planning laws they are trying to get a cheap property;
- It is a community public house that they have been dining and socialising in for 22 years. The variety of people who used to call in there was amazing. Everyone was made to feel welcome and join the local banter, but you could also go in, have a lovely meal, and also have a private evening if that is what you wished;
- Wakes have been held here of people lost from our community, including the wake of a local farmer whom we all loved dearly and was a special local from the Brook House - the pub was bursting at the seams, also the wake for a young member of the community who was killed in action in Afghanistan;
- Many others, are 'gutted' the Brook House could be turned into a residential dwelling as we truly believe the Brook House was the 'soul' of our community, and more so upset that the fact a few local people put bids in to buy the pub to run it as a pub. The family who have bought the Brook House could buy or build the house of their dreams anywhere and it's disgraceful that they could turn the Brook House into a residence (considering these people never came into the pub or saw the community spirit that could be found here).

7. Two letters of support have been received on the following grounds:

- It is obvious that it has not been profitable as a business for quite some time, otherwise why would it have closed down, and why would the brewery have sold it;
- For the past 2 years the pub has been virtually empty every time they have been in. Consequently it is highly unlikely that anyone is going to be interested in continuing to run it as a public house. As a local resident they are in full support of the application for conversion to a private dwelling. They have no desire to see a property of this quality become derelict and boarded up like many other unprofitable public houses are in the North West of England, particularly in such a beautiful rural area. Common sense must prevail with the planners in this case. Most people who are opposing this application are doing so

for the wrong reasons;

- Conversion to a house and maintained would be a positive contribution to the area;

8. West Lancashire Borough Council raises no objections to the proposal providing it complies with Chorley Councils relevant Local Plan Policies and relevant national planning policies.
9. Heskin Parish Council objects to the resubmitted application as they did to the first application.
10. The Council's recently adopted guidelines rightly require a proper and detailed procedure to be followed before a much valued Community asset can be removed. There is no evidence at all that this procedure has been followed, indeed the applicant's agent seems to dismiss the necessity for any procedure at all. If the Planning Authority is serious in its stated intentions the application should be refused.
11. Secondly the size of the proposed extensions is far in excess of the guidelines and again in the Parish Council's view the extension should be resisted.
12. Thirdly the existence of this facility adds much to the attraction of the rural area. Walkers, cyclists and others use the facility bringing in many visitors to Chorley with the consequential benefits to the local economy.
13. They note that some of the documents sent in support of the application are extremely tenuous e.g. the consultant who is employed by the applicant and not therefore very independent, lists several pubs in Coppull as being in competition which is plainly ridiculous and indeed one is closed. Similarly the "consultant seeks to support the application by including the costs of replacing the bar fittings, which were in fact ripped out by the applicant. In other words make the pub unviable by imposing additional costs and then claim it's unviable.
14. The Parish Council would like this application refused.

Consultations

15. **Lancashire County Council (Ecology)**
Have not commented on the resubmitted application, however it is the same in terms of ecology as the previous application. Their advice on the previous application is therefore still considered relevant and they recommended that planning conditions be applied to any permission.
16. **Lancashire County Council (Highways)**
The application is a resubmission of application no 12/00802/FUL to which they state they previously raised no highway objection.
17. As such they again raise no highway objection to the proposed development in principle.
18. At the time of the previous application they stated that neither would there be any requirement for inclusion of any highway conditions as part of any grant of permission; access arrangements detailed on plan drawing no: 3019-12-15A are deemed acceptable.
19. **The Coal Authority**
Confirm that the application site falls within the defined Coal Mining Development Referral Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.
20. The applicant has obtained appropriate and up-to-date coal mining information for the proposed development site and has used this information to inform a Coal Mining Risk Assessment. The Coal Mining Risk Assessment correctly identifies that the application site is located in an area where unrecorded coal mining activity may have taken place at shallow depth. It also correctly identifies that there is a recorded mine entry (an adit) within the site boundary. The Coal Mining Risk Assessment therefore recommends that further site investigation works be undertaken to confirm coal mining conditions and to enable the design

of any necessary mitigation measures prior to commencement of the development.

21. The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. The Coal Authority therefore recommends that the Council impose a Planning Condition, should planning permission be granted for the proposed development, to require the intrusive investigation works recommended within Section 6 of the Coal Mining Risk Assessment to be undertaken prior to commencement of development. The condition should also ensure that, in the event that the site investigations confirm the need for remedial works to treat the mine entry and any areas of shallow mine workings and/or any other mitigation measures (e.g. gas protection) to ensure the safety and stability of the proposed development, these works should also be undertaken prior to commencement of development.
22. The Coal Authority considers that the content and conclusions of the Coal Mining Risk Assessment are sufficient for the purposes of the planning system and meet the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore has no objection to the proposed development subject to the imposition of the above condition.

Applicant's Case

23. The previous application attracted a number of representations, submitted both in support of and objecting to the proposals. The majority of the objections related to the loss of the public house and it is accepted that such a proposal is always likely to attract such a response. This re-submission takes account of the matters raised in the representations and also the issues identified in the committee report produced at that time.
24. The application is supported by a viability assessment produced by CBRE which has been produced following concerns expressed by the Council regarding the evidence submitted to demonstrate the non-viability of the public house.
25. There has been a public house (and formerly a hotel) on the site for many years, most recently called The Brook House. Given the location of the site in a relatively remote rural area with only a small number of nearby houses, it appears that the public house must have served a very wide catchment area, with users travelling in by car (in the past 80 or so years), rather than walking from nearby houses, as would be the case with a traditional 'village pub'.
26. In more recent years the public house on the site has struggled to attract sufficient trade to retain a viable business and the turnover of tenants in recent years has been high. The lack of trade has probably been the result of changing social habits, drink driving legislation, customer expectations and the availability of other, more attractive public houses and restaurants within the same or adjacent catchment areas.
27. A plan accompanying the application shows the location of 12 other public houses and restaurants surrounding the Brook House site, the furthest of which is just over two miles away (as the crow flies). At least six of these are on public transport routes and seven are within settlements and can therefore be easily reached on foot by local residents. Several of these are well respected restaurants which attract both local residents and customers from further afield. The Brook House public house therefore faced severe competition from other public houses and/or restaurants which were and are better located and which offer/offered a better quality, both in terms of the facilities and the available food and drink.
28. When the Applicant bought The Brook House, its premises license was surrendered. To obtain a new license, it would be necessary to bring the premises up to modern day standards in terms of the facilities it offers, including access to disabled people. The cost of doing this would be prohibitive, even if the premises were located in an area which did not have the level of competition which it does.
29. The loss of a viable community facility, such as a public house, is clearly contrary to existing

and emerging local policy and to NPPF policy and guidance. It is the applicant's case that The Brook House public house has not been a viable facility for many years and could not become a viable facility in the future due to its location and the existence of at least a dozen good quality public houses or restaurant facilities within a two mile radius.

30. The Brook House public house has struggled for many years to trade at a profit and it is understood that five tenants and lessees have attempted to effectively run the facility in the past three years and none have succeeded. Following the failure of the final tenants to run the premises at a profit earlier this year, the former owners, Punch Taverns, decided to sell the premises. The applicant, who lives in the area, became aware of the impending sale and bought the premises early in 2012.
31. A letter from Licensed Trade Associates (an independent consultancy with many years' experience in such matters) makes it very clear that The Brook House is not a viable business proposition due to its location and the existence of a very strong range of competing facilities within a two mile radius.
32. In considering the community role which The Brook House public house may have once served, it is firstly important to recognise that this is not and never has been a traditional village pub which sits at the heart of a rural community, primarily serving a village or settlement, with easy access on foot. There are only 11 dwellings within 250m of the premises and only a further handful within a further 250m.
33. Secondly, this was a public house which had an extremely small bar area, very poor facilities (toilets, kitchen etc.) and very limited access for wheelchair users. To bring such facilities up to modern day standards would have required a very significant investment. Such investment would inevitably have been funded by bank loans of some form and a business plan to demonstrate that the proposition was viable. For the reasons set out in this statement, and in the Licensed Trade Associates letter, it is highly unlikely that such a loan would have been forthcoming. This position is supported by the letter provided by Licensed Trade Associates.
34. The most relevant planning policy guidance on the retention of viable community facilities is, it is suggested, contained in paragraph 70 of the NPPF which states the following:
"70. To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:
 - *plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
 - *guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;*
 - *ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community; and*
 - *ensure an integrated approach to considering the location of housing, economic uses and community facilities and services."*
35. The first two bullet points are particularly relevant to this application. In respect of The Brook House, the former public house contributed very little to *"the sustainability of communities and residential environments"* given its location, its day to day function and the availability of a significant number of alternative, more convenient and better quality public house/restaurant facilities in the area.
36. The second bullet point specifically refers to *"the unnecessary loss of valued facilities and services"*. Clearly, The Brook House public house was not sufficiently valued by enough patrons to make it a viable business.
37. Part (c) of Policy 25 of the adopted Central Lancashire Core Strategy resists the loss of existing community facilities by requiring evidence that they are no longer viable or relevant to local needs. The Licensed Trades Associates letter very clearly states that the public house *"does not have any future as a viable public house business"* and the high turnover of tenants only

emphasises this lack of viability.

38. The fact that the premises no longer have a Premises Licence is crucial to the issue of viability. As noted in the Licensed Trade Associates letter, the expected cost to bring the premises back into a state which could be granted another Premises Licence is prohibitive.
39. It is therefore considered that it has been clearly demonstrated that a public house/ restaurant has not been and will not be a viable proposition and therefore its loss would not be contrary to adopted planning policy.

Assessment

Background Information

40. The site is located on the east side of Barmskin Lane, approximately 1.5 miles (2.4 km) south of Ecclestone and around 2.2 miles (3.8 km) north east of Parbold close to the boundary with the Borough of West Lancashire.
41. Immediately to the north west of the application site are nine residential properties. To the south east are the detached properties of Ridgemont and The Old Vicarage. Charity Farm is located to the south west in West Lancashire, a working farm but also a caravan and camping park with its own café and licensed bar.
42. The existing building Brook House public house has been extended over the years, with a side extension to the east side (which the Design and Access Statement suggests replaced a previous extension) and a series of unattractive single and two storey extensions to the rear.
43. The first floor of the building was formerly a manager's flat.
44. The former public house was served by a large tarmac car park at the front and a beer garden and concrete sitting out area to the side and rear. A pond is located to the side/rear of the building. The remainder of the site is mainly laid to lawns, which extend approximately 100m to the rear of the building, lining up with the adjoining gardens to the North West. The periphery of the site contains a number of trees and a tree survey accompanies the application.

Principle of the development

45. As a former public house, The Brook House is considered to be a community facility. The National Planning Policy Framework (NPPF) states that planning decisions should plan positively for the provision and use of community facilities such as public houses to enhance the sustainability of communities and residential environments and to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.
46. Policy 25 in the adopted Central Lancashire Core Strategy relates to community facilities and is in accordance with the NPPF. It aims to ensure that local communities have sufficient community facility provision by:
 - a) working with public, private and voluntary providers to meet demonstrable need;
 - b) encouraging and coordinating new provision at locations that are accessible by all modes of transport; and
 - c) resisting the loss of existing facilities by requiring evidence that they are no longer viable or relevant to local needs
47. Therefore, this policy aims to resist the loss of existing facilities, but does not rule out their re-use or redevelopment for other purposes, providing evidence is provided to show that they are no longer viable or relevant to local needs.
48. The Central Lancashire Supplementary Planning Document (SPD) on Rural Development was adopted in October 2012. Its purpose is to set out the approach of the Central Lancashire Councils to development in rural areas and to provide guidance on the implementation of relevant policies, including Core Strategy policy 25. The SPD aims to ensure that rural settlements retain an element of self-sufficiency and remain active communities. This proposal is not located within a designated rural settlement, but lies within a rural Green Belt location.

However, it will result in the loss of a community facility in a rural area.

49. The SPD on Rural Development states that when proposals are being considered to change the use of any local community facility the Council will need to be convinced that it is no longer required, or that adequate alternative arrangements can be made, or that the property is in an isolated location remote from public transport routes. It goes on to state that any application for planning permission for a proposed change from a community use in a rural area should be accompanied by the submission of a report demonstrating that the community facility is no longer financially viable, is surplus to local needs, is available elsewhere in the settlement, or where there is an amenity or environmental reason why a community use is not acceptable.
50. Policy DC10 and DC7A remain part of the adopted Local Plan, but these policies need to be read together with Policy 25 of the Core Strategy, which as a recently adopted policy carries full weight, and they also need to be considered in line with policy in the NPPF and guidance in its Annex 1 which provides advice on the weight that should be given to existing Local Plan policies.
51. In terms of Policy DC7A criteria a) to h) need to be considered on site, taking account of the updated Green Belt policy in the NPPF. It should also be noted that the NPPF allows housing development in rural areas which would re-use redundant or disused buildings that would lead to an enhancement of the immediate setting.
52. Policy HW6 on Community Facilities in the emerging Chorley Local Plan (Publication Site Allocations and Development Management Policies DPD) provides further policy on the loss of community facilities, but as an emerging document cannot yet be given full weight.
53. The applicant argues that the public house is no longer a viable facility and that it has not been for many years.
54. This resubmitted application is accompanied by a Viability Assessment. This concludes that the business could not generate sufficient levels of revenue and profitability and agrees with the decision of Punch Taverns to dispose of the property given its continued loss making position. The assessment does however consider the pubs ability to be viable and operational again and states that the business would be viable if there was no debt or acquisition cost attributed to it. This approach however does not consider either debt liability or a Return on Capital Employed.
55. The assessment states that there has been limited capital expenditure on the property in recent years and has been stripped prior to refurbishment.
56. The Viability Assessment states that if the pub was run as a freehouse, free of tie and chief rent, a purchaser would need £550,000 for the cost of acquisition and refurbishment (including £125,000 for complete refurbishment). By considering the availability of funding a simple capital and interest repayment over fifteen years on a principle sum of 60% of acquisition cost (£425,000) at 6.00% interest would result in annual repayments in the order of £25,000 per annum. This would exclude the additional funding required to bridge the gap between acquisition and refurbishment (a further £125,000). Alternate sources of funding such as Venture Capitalists may well provide lower percentages of funding together with significantly greater returns (in excess of 13.00%). Considering a Return on Capital Employed (of circa 10% based upon a capital outlay of £550,000 the business would need to generate an earnings (before interest, taxes, depreciation, and spreading payments over time) of circa £55,000 to meet return thresholds.
57. On the assumption that the Property has been competently run in the past by both Punch Taverns and their 'Partners' one way of generating improved profitability could be to increase the overall trading area and extend onto the patio / terraced area. However the creation of such an extension would appear to be completely unwarranted given that there are no driving forces to suggest that such a development should be considered. Furthermore it is believed that the increasing of the overall trading size would put pressure on parts of the Property which could be described as being under provisioned including parking, catering kitchen, bar server and

back of house facilities.

58. The Assessment considers that the argument for such a development is flawed in that it could equally be argued that turnover would improve by the development of a ten bedroom hotel block to the rear. Whilst this would no doubt increase turnover there is presently no demand or justification for such a speculative development. By considering the Return on Capital Employed comments above the development of an extension would not make economic sense.
59. The Assessment concludes that from the information provided, their own investigations together with their understanding of the trading environment, sector and marketplace it is considered that the Brook House does not have a viable future as a public house due to the following factors:
- The property is a remote destination public house with limited trading areas;
 - Parking is limited;
 - Trading areas are small with single bar server;
 - Fixtures and fittings need of refurbishment / replacement;
 - Punch do not dispose of profitable or successful businesses;
 - The property had been within the turnaround division although had failed to recover;
 - Levels of trade would appear to be poor;
 - The business was trading at less than one composite barrel per week;
 - In both its historic and existing guise the business would not be able to generate sufficient levels of both turnover and profitability to sustain a suitable return on investment;
 - The Property site in a highly competitive area with 10 other trading units within the postcode area.
60. In assessing the proposal the policy basis is that the Council will seek to resist the loss of existing facilities. The Council cannot retain all community facilities but before it allows them to be lost it must be convinced that The Brook House is no longer viable or it is no longer relevant to local needs, alternatives are available or there are issues that a community use is not acceptable.
61. Objectors to the previous application stated that the number of licensees has not been five in the last three years. This has been checked with the Council's licensing department. They state that it would appear that there have been 6 licensees since 1983; 1983 - Whalley, 1985 - Levenson, 1996- Johnson, 2000 - Rigby, 2005 - Highton, 2009- Kirk and a premises transfer to Punch Taverns.
62. The applicant acknowledges the inaccuracy of their original statement (in the previous application) and state that this is regretted but it was taken in good faith from the previous owners and it is now accepted that fewer tenants have attempted to run the premises than had originally been thought. However, even those people who objected to the original application appear to accept that the last two to three years of the public house's operation was problematic.
63. As noted above, CBRE have produced a comprehensive viability assessment of the premises. Current policy in the form of the NPPF, the Core Strategy and its associated SPD do not require marketing of community facilities proposed for alternative uses but they all seek to resist the loss of facilities backed up by evidence that they are no longer viable or required. It is considered that evidence has been put forward regarding the viability of the pub that was missing from the previous application. The report goes into detail on the turnover of the pub and the different options and investment that would be needed for it to continue as a pub. It is now considered that this information is sufficient to demonstrate that it is no longer financially viable and the application is therefore considered acceptable in principle.

Extensions

64. The proposal involves extending the building as part of the conversion to a dwelling. The site is in the Green Belt.

65. Policy DC7A of the Local Plan states that re-use of existing buildings in the Green Belt will be allowed subject to a number of criteria. These include that the re-use of the building must be capable of conversion without the need for additions which would change its form and character. It also states the proposal should not have a materially greater impact than the present use on the openness of the Green Belt. The Rural Development SPD also states that for a rural building to be appropriate for re-use, it must be permanent and substantial and should not require significant extension, rebuilding or extensive alteration to accommodate the proposal.
66. The extension proposed would result in approximately a 30% increase in volume over the existing. At the time of the previously withdrawn application this was considered a large increase in volume considering that policies on the conversion of buildings in the Green Belt support conversion without significant extension. Allowing conversion of the property to a dwelling would start a new chapter in the history of the building in planning terms and if extensions were permitted at the same time they would form part of the 'original dwelling' property (being in existence when the building became a dwelling). The Council would then find it difficult to resist further extensions to the property in the future.
67. The applicant has submitted a Unilateral Undertaking legal agreement in which the applicant agrees not to submit any applications for further extensions (or outbuildings) to the property in the future (which would be a covenant on the land which runs with the land rather than the applicant). This would therefore overcome the Council's concern that even further extensions could be added to the property in the future that it would be difficult to prevent. The property will therefore be extended in line with the increase that other existing dwellings in the Green Belt are permitted, which is considered acceptable.
68. The designs of the proposed extensions are considered acceptable. A two-storey side extension is proposed to the west elevation being in keeping with the property having matching proportions, roof pitch and materials. It will however have a ridge lower than the existing building which is looked on favourably as it allows the form of the original building to be seen still. A front porch and small side extension to the east elevation are also proposed and are also considered in keeping and appropriate.
69. The rear elevation will have a more contemporary lean-to extension, which will involve raising the ridge of the existing single storey side element on the east elevation and will incorporate a terrace with large areas of glazing. This is also considered acceptable and although more contemporary its design works well with the older original property.

Outbuildings

70. The site is unusual in that it is set within a former small quarry. The quarry wall encloses a large pond and garden area to the side and rear which is set at a lower level to The Brook House itself. Because of this the land drops away from the road and also from the existing patio area adjacent to the building. This unusual situation allows a proposed outbuilding to be positioned so that only the double garage will be readily visible from the road and from the access to the site. Underneath this will be a gym and garden store but this will only be visible from within the site from the north where the land has dropped away.
71. The Council normally permit the equivalent of a double garage, green house and store/shed in the greenbelt at existing properties in the Green Belt. However, the building is not currently in use as a dwelling and the proposal must therefore be considered under the policies for conversion of buildings in the Green Belt.
72. Policy DC7A of the Local Plan states that re-use of existing buildings in the Green Belt will be allowed subject to a number of criteria. These include that the re-use of the building must be capable of conversion without the need for additions or alterations which would change its existing form and character. It states particular attention will be given to curtilage formation and the requirement for outbuildings. The proposed outbuilding has been reduced in size by the removal of the store from the upper part of the building and its relocation in the lower part of the building, adjacent to the garden which it will serve and the removal of the gym proposals from the scheme.

73. The reduced size of the building is now considered acceptable and appropriate development in the Green Belt. In addition its unusual siting due to the topography of the land will mean that only the double garage is visible from public vantage points, so it is not considered the proposal will harm the openness of the Green Belt. The submitted unilateral undertaking also prevents further applications being submitted for more outbuildings in the future.

Highways and Parking

74. The frontage to the site is currently open and it is proposed to reduce this to a smaller access point to serve the dwelling by erecting a new stone wall across the frontage at a maximum height of 1m to match the existing wall with an area of grass in front of it and new planting inside it to the frontage. The wall will be set slightly further in than the current wall to allow for a visibility splay. Timber gates will be erected at the access point but set back by 5.5m from the edge of the highway to allow vehicles to park off the road while the gates are opened. The access proposed is considered acceptable and is likely to have fewer highway implications than if the building were in use as a public house.
75. The existing tarmac at the site will be overlaid with bonded gravel but overall there will be a reduction in hard surfacing at the site, however there will still be sufficient parking for several vehicles off road in excess of the Council's parking standards.
76. The proposal is considered acceptable in relation to Policy TR4 of the Local Plan.

Impact on the neighbours

77. The nearest property to the northwest is 6 Harrock View which is 60m from the existing building but its garden bounds with the site. Ridgmont is the nearest property to the southeast and is 70m away. It is considered that the property as a dwelling would have less impact on the neighbours in terms of amenity than if the building was in use as a public house as it would require less parking and the use is less likely to be noisy. Although a rear terrace is proposed on the rear of the building, the site is lower than 6 Harrock View and would not therefore overlook this property.

Open Space

78. The Council's Open Space Manager has not requested a commuted sum payment in relation to the application.

Trees and Landscape

79. There are a large number of trees on the site and a Tree Survey accompanies the application.
80. Eight trees in the survey are off-site on the other side of the watercourse that forms the eastern boundary of the site. Of the thirty trees on site nine of them are recommended for removal and their conditions and reason for removal are detailed in the report and agreed with. The proposal is therefore considered acceptable in relation to Local Plan Policy EP9. Looking specifically as some of these trees, trees numbered 21 and 22 are to be removed and are positioned where the proposed outbuilding will be situated. T21 is a single stem Sycamore with a 30% lean over the pond with extensive bark loss at its base, T22 is a single stem Ash, with extensive bark loss in the basal area and a fungus on its exposed roots. There is therefore no objection to their removal. Trees numbered 24 and 25 in the survey are the most prominent to be removed on the frontage closest to the site access, however it is evident from visiting the site that these are two sycamore trees in a poor condition having been topped in the past and there is no objection to their removal.

Ecology

81. It is considered that the application is acceptable in relation to ecology subject to conditions recommended by the County Ecologist.

Flood Risk

82. The site is not within a flood zone as identified by the Environment Agency, therefore a Flood Risk Assessment is not required.

Coal Mines

83. The building itself is within a Coal Referral Area. A Coal Mining Risk Assessment accompanies the application and has been sent to The Coal Authority. They do not object to the proposal subject to a condition.

Overall Conclusion

84. Although current planning policy in the form of the NPPF, the Core Strategy and its associated SPD do not require marketing of community facilities proposed for alternative uses, they all seek to resist the loss of facilities backed up by evidence that they are no longer viable or required. It is now considered, following receipt of a Viability Assessment for the pub that sufficient evidence has been put forward by the applicant to demonstrate that it is no longer financially viable. In such cases policy allows conversions to other uses.

85. In addition, the size of the proposed detached outbuilding has been reduced in size and a unilateral undertaking has been submitted with the application (which is a material consideration) sacrificing permitted development rights for further extensions and/or outbuildings as well as agreeing not to apply for planning permission for them in the future. Therefore even though the extensions proposed will result in them becoming part of the 'original dwelling' in terms of future extensions, the Council's precious concerns that it may not be able to prevent future extensions or outbuildings which would impact on the openness of the Green Belt have been overcome by the legal agreement submitted.

86. The application is therefore recommended for approval.

Planning Policies

National Planning Policies:

NPPF

Adopted Chorley Borough Local Plan Review

Policies: DC7A, DC10, TR4

Supplementary Planning Documents (SPD):

- Rural Development SPD

Joint Core Strategy

Policy 25

Site Allocations and Development Management Policies Development Plan Document Publication

Version

Policy HW6

Planning History

89/00637/FUL - Kitchen utility room and lounge extension. Permitted 9th September 1986.

12/00802/FUL - Proposed change of use of former public house to dwelling with side and rear extensions and front porch and erection of garage/store/gym building. Withdrawn 29 October 2012

Recommendation: Permit (subject to Legal Agreement)

Conditions

1. The dwelling hereby permitted shall be occupied until the parking and manoeuvring area 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.

2. Due to the presence of Himalayan Balsam and Crocosmia (species listed under Schedule 9 of the Wildlife and Countryside Act 1981 (as amended)) working methods shall be adopted to prevent the spread of these species.

Reason: The ecology report notes the presence of species listed in Schedule 9 of the Wildlife and Countryside Act, 1981 (as amended), including Himalayan balsam

(Impatiens glandulifera) and Crocosmia species. As it is an offence to allow these species to spread in the wild, the applicant will need to adopt appropriate working methods to prevent the spread of these species.

3. The development hereby permitted shall not commence until samples of all external facing materials to the proposed extensions and outbuilding (notwithstanding any details shown on previously submitted plan(s) and specification) have been submitted to and approved in writing by the Local Planning Authority. This shall include details of the coursing of any stone to be used. The development shall only be carried out using the approved external facing materials.
Reason: To ensure that the materials used are visually appropriate to the locality and in accordance with Policy Nos. GN5 of the Adopted Chorley Borough Local Plan Review and Policy 17 of the Core Strategy.
4. The garage hereby permitted shall only be used for purposes incidental to the enjoyment of the dwellinghouse, including the parking of cars. The garage shall not be used for any trade or business purposes and the open store beneath the garage shall not be enclosed or used as living accommodation.
Reason: In order to safeguard the residential amenity and character of the area and to prevent the need for other outbuildings in the Green Belt and in accordance with Policy Nos. DC1, and DC8A of the Adopted Chorley Borough Local Plan Review and the NPPF.
5. Within three months of occupation of the dwelling the front boundary wall as shown on the approved plans shall be built in accordance with the approved plan(s).
Reason: In the interests of the character and amenity of the area and in accordance with Policy 17 of the Core Strategy.
6. That part of the access extending from the kerb line/edge of carriageway for a minimum distance of 5 metres into the site shall be paved in permanent construction rather than loose material before the access is used for vehicular purposes connected with occupation of the dwelling.
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 and in accordance with Policy No.TR4 of the Adopted Chorley Borough Local Plan Review.
7. During the construction period, all trees to be retained shall be protected as specified BS 5837: 2012 Trees in Relation to Design, Demolition and Construction – Recommendations, at a distance from the tree trunk equivalent to the outermost limit of the branch spread, or at a distance from the tree trunk equal to half the height of the tree (whichever is further from the tree trunk). No construction materials, spoil, rubbish, vehicles or equipment shall be stored or tipped within the area(s) so fenced. All excavations within the area so fenced shall be carried out by hand.
Reason: To safeguard the trees to be retained and in accordance with Policy Nos. EP9 of the Adopted Chorley Borough Local Plan Review.
8. Ponds and watercourses will be protected during construction in accordance with relevant Pollution Prevention Guidelines.
9. Any lighting scheme for the site shall avoid artificial illumination of bat roost entrances or key flight lines, and there shall be no additional light spill over the pond or watercourse.
Reason: In addition to maintaining bat roosting at this site, it will be important to ensure that bat roost entrances (and flight lines to the roost) are not artificially illuminated. NPPF paragraph 125 emphasises that planning decisions should limit the impact of pollution from artificial light on nature conservation and it will therefore be appropriate to address this by planning condition.
10. Any scheme of landscaping for the site should incorporate the recommendations of paragraphs 5.6.1 – 5.6.6 of the report 'Brook House, Barmskin Lane, Heskin. Ecological Survey and Assessment (including a Licensed Bat Survey)' (ERAP Ltd, July 2012).

Reason: Planning decisions should address the integration of new development into the natural environment (NPPF Para 61) and opportunities to incorporate biodiversity in and around developments should be encouraged (NPPF Para 118). In this case, the ecology report makes a number of recommendations for appropriate planting to enhance biodiversity (for invertebrates, birds and bats). These recommendations should be incorporated into any landscaping scheme for this site.

11. The Development should not proceed without the prior acquisition of a licence from Natural England for the derogation of the protection of bats under the Habitats Directive.

Reason: According to the results of surveys for bats (ERAP Ltd, July 2012. Brook House, Barmskin Lane, Heskin. Ecological Survey and Assessment (including a Licensed Bat Survey)), the building supports two bat roosts and the proposed work would result in a breach of The Conservation of Habitats and Species Regulations 2010, unless a Natural England licence is issued prior to commencement of works. In this case, the ecology survey has identified the status of the bat roosts and the species of bat affected, and has proposed mitigation which is appropriate and proportionate to the scale of the impact. The mitigation proposals may therefore be adequate to form the basis of a mitigation method statement to address the third test (the proposal will not be detrimental to the maintenance of the population of the species at a favourable conservation status) of the Habitats Regulation in a licence application.

12. 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.

13. Prior to commencement of the development hereby permitted the intrusive investigation works recommended within Section 6 of the Coal Mining Risk Assessment dated 23rd August by PSA Design Ltd shall be undertaken. In the event that these site investigations confirm the need for remedial works to treat the mine entry and any areas of shallow mine workings and/or any other mitigation measures (e.g. gas protection) to ensure the safety and stability of the proposed development, these works should also be undertaken prior to occupation of the dwelling hereby permitted.

Reason: Coal mining legacy potentially poses a risk to the proposed development and intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site and in accordance with the NPPF to ensure that the application site is, or can be made, safe and stable for the proposed development.

14. Tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds will be avoided between March and August inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections submitted to and approved in writing by the Local Planning Authority. If breeding birds are present, works must be delayed until such time as nesting is complete, i.e. the young have fledged and left the nest and the nest has been abandoned, and dependent young are absent.

Reason: Habitats on the site, including existing buildings, have the potential to support nesting birds. It needs to be ensured that detrimental impacts on breeding birds are avoided. A planning condition is recommended above for the avoidance of impacts on nesting birds.

15. The approved plans are:

Plan Ref.	Received On:	Title:
3019-12-12K	5 November 2012	Proposed Garage Plans & Elevations
3019-12-04G	5 November 2012	Proposed Plans
3019-12-05G	5 November 2012	Proposed Elevations
3019-12-15D	5 November 2012	Proposed Site Plan

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