

**Item 4f**                    **13/00978/OUTMAJ**

**Case Officer**            **Caron Taylor**

**Ward**                      **Chorley North West**

**Proposal**                **Outline application (specifying access, layout and scale) for the erection of eleven terraced townhouses**

**Location**                **Garage Westminster Road Chorley PR7 2DD**

**Applicant**                **Mr Andrew Allan**

**Consultation expiry: 12 December 2013**

**Application expiry: 4 February 2014**

**Proposal**

1. Outline application (specifying access, layout and scale) for the erection of eleven terraced townhouses.

**Recommendation**

2. It is recommended that this application is approved subject to a Section 106 legal agreement.

**Main Issues**

3. The main issues for consideration in respect of this planning application are:

- Background information
- Principle of the development
- Density
- Levels
- Layout and scale
- Impact on neighbours
- Open space
- Trees and landscape
- Flood risk
- Traffic and transport
- Contamination and Coal Mines
- Drainage and Sewers
- Section 106 Agreement

**Representations**

4. One letter has been received stating they conditionally object unless agreement is reached with Lancashire County Council to introduce further resident parking along part of the even side of Westminster Road;
  - As these and the remaining houses front directly on to the pavement in Westminster Road, measures should be considered by Lancashire County Council to help deter habitual pavement parking on the even side of Westminster Road. Giving much more weight to the responses from Alker Street residents, as a neighbourhood resident they also recommend if not included in the plans, that the remainder of Alker Street where it joins with Regent Road be fully resurfaced where it currently isn't by the developer and recommend it becomes adopted by Lancashire County Council allowing further resident parking facilities near the new homes that already exist. If agreed, that residents parking in Alker Street should also be considered for extending.

## Consultations

### 5. Lancashire County Council (Education)

Request a contribution of £47,522 towards primary school places [see other issues section of this report].

### 6. The Environment Agency

Has no comment to make on the application.

### 7. The Police Architectural Design and Crime Reduction Advisor

Within the local area, crime in the last 12 month period includes burglary and criminal damage in low levels but there are a greater number of reports of criminal damage to vehicles.

8. These offences involve tyres being slashed, wing mirrors knocked off, glue in locks and scratches in paintwork.

9. Off road parking would reduce the risk of this type of crime and would help to alleviate some of the pressure involved in parking for the residents. In order to provide this facility the number of properties would have to be reduced.

10. 'Alley gates' are already in place where required to reduce the risk of burglary at the rear of the properties.

### 11. Planning Policy on Public Open Space

There is justification for commuted sums towards open space and pitches in the Borough for this site in line with policies HS4A and HS4B as follows:

Amenity green space = £1,540

Equipped play area = £1,474

Parks/Gardens = £0

Natural/semi-natural = £0

Allotments = £165

Playing Pitches = £17,589

**Total = £20,768**

### 12. United Utilities

Have no objection to the proposed development subject to conditions.

### 13. Lancashire County Council (Highways)

The current application, 13/00978/OUTMAJ is seeking approval for a development of two blocks of terraced townhouses. Six townhouses would front Westminster Road, while five would front Alker Street. As with the previous planning permission on the site, no provision is made in the development for off-street car parking. The applicant states that the reasons for not providing off-street parking spaces are:

- That when the development of the 5 terraced townhouses opposite the application site was permitted, no off-street parking was required by Highways;
- That the site is in a sustainable location in relation to Chorley Town Centre where residents could walk and cycle or use public transport to access local amenities;
- Those 16no. apartments/dwellings were already approved for the site with s106 commuted sum for improvement of West Street car park and that this proposal is smaller in comparison.

14. In response to the first point, while it is acknowledged that Highways did not require parking in association with the 5 terraced townhouse opposite development completed in the last few years, this was based on the fact that there was then scope for some parking to be accommodated on-street in front of the development. Moreover, the 5 terraced townhouse developments required far less parking than the previously approved 16 apartments and the currently proposed 11 terraced townhouses. Therefore the applicant's use of the development opposite as reason for not providing parking in this and the previous proposal seems unjustifiable.

15. For the second point, it is accepted that the site is in a sustainable location; however there is need for improvements to some of the existing local infrastructure to encourage walking, cycling and use of public transport.
16. Lastly, given the time lapse since the original approval, 07/01140/FULMAJ, resurfacing of West Street car park is no longer considered a priority for the development as surface improvements have since been carried to the car park. The specific transport requirement identified for the proposed development is for the existing bus stop in Devonshire Road near its junction with Regent Road to be upgraded to DDA compliant quality standard with raised kerbs and shelter to assist in securing modal shift from car use by residents of the area. The cost of the bus stop upgrade is estimated to be in region of £12,000, which is obviously more than the £5,000 agreed for the West Street car park improvements. Therefore, financial contribution would be required from the applicant towards the upgrade. This would probably necessitate the renegotiation of the existing s106 agreement to allow the applicant to 'top up' the £5,000 towards the bus stop upgrade which is to be delivered through the s278 agreement.
17. Parking on one side of Westminster Road is restricted to permit holders only, while waiting is prohibited on the other side between 10am-4pm. They consider however that outside these hours when businesses are closed, there is the possibility of some parking being available on-street to allow residents to park. It is however possible that due to its narrow width parking on both side of Westminster Road might lead to obstruction of free flow of traffic at some sections.
18. The applicant for the previous permission on the site was to have improved the section of Alker Street from no. 10 to 20 in conjunction with the developers of the opposite 5 terraced townhouses. This section of road has now been improved, but does not seem to have been improved to the County Council specification and no agreement seems to have been entered into by the developers with County Council to adopt this section of road, although it can remain unadopted if the developer so wishes.
19. It was agreed for the section of Alker Street from no. 20 to Regent Road to remain unadopted when the previous planning approvals were being granted due to land ownership issues; however, this section of road is now in a very deplorable condition. Therefore if this application is to be approved, then Highways would require that the surface of this section of Alker Street is made safe for public use prior to the development being occupied. As this section is a private street with access to the public highway, the proposed development would lead to further degradation of the road surface due to increased vehicular movements.
20. Where repairs are necessary to prevent danger to traffic using an unadopted road, the County Council has powers under Section 230 of the Highways Act 1980, to serve notice upon frontages to all or part of an unadopted road requiring them to undertake specified repairs within a specified time period. The highway authority can undertake the repairs in default and recover the costs, in this case from the developer.
21. Therefore, a suitable condition should be attached to any approval to require the developer to provide details of an improvement scheme and its subsequent implementation.
22. There is considerable demand for on-street parking in the area and the proposed development, notwithstanding the previous approval seems over-intensive in its impact on parking demand and supply. Therefore while Highways does not object to the proposal in principle, if the improvements relating to the bus stop and the section of Alker Street from no 20 to Regent Road cannot be undertaken, then Highways would seek to object to the application.
23. **Chorley's Waste & Contaminated Land Officer**  
Request a condition in relation to land contamination.
24. **Lancashire County Council (Education)**  
Have requested £47,522 towards four primary school places.

## **Assessment**

### Background Information

25. The application site currently comprises of two buildings and an associated yard area in use as a car repair garage. The largest building, in respect of floor area, and size adjoins the Alker Street while the smaller building directly fronts Westminster Road.
26. In 2007 planning permission was granted for 16 no. apartments and dwellings (ref: 07/01140/FULMAJ). This was renewed in 2011 (ref: 11/00085/FULMAJ) and remains extant until 20 April 2014.
27. In 2007 five terraced houses were permitted (ref: 07/00871/FUL) on a site opposite the application site that was a former builders yard with associated garages and outbuildings. These have been built.

### Principle of the development

28. The application is made in outline specifying access, layout and scale.
29. The principle of redevelopment the site for dwellings has already been established by the extant planning permission.

### Density

30. The proposal is equivalent to 157 dwellings per hectare. This is high but two sets of terraced houses with rear yards backing onto one another as proposed are in keeping with the surrounding properties, so is considered acceptable.

### Levels

31. The site is flat and it is considered suitable finished floor levels can be controlled by a condition.

### Layout and Scale

32. The proposal will involve erecting two sets of terraced properties with rear yards backing onto each other with a rear alleyway to allow access to the rear.
33. Five of the properties will face Alker Street and six will face Westminster Road. The properties surrounding the site are all terraced properties so the layout will reflect the immediate surrounding area.
34. The appearance of the properties is not applied for at this stage, however their scale is. It is proposed that the properties will be two-storey, with room in the roof and a ridge height to match that of the surrounding terraces which is considered acceptable.
35. The comments of the Police Architectural Design and Crime Reduction Advisor are noted, however it is considered that to incorporate off-road parking would result in a fundamentally different layout that would not be as in-keeping with the existing development surrounding the site. In addition the fall-back of the previous extant permission is a material consideration and this did not provide off-road parking for the properties.
36. The layout and scale of the proposal is therefore considered to be in accordance with Policy 17 of the Joint Core Strategy and is acceptable.

### Impact on the neighbours

37. There will be 11.8m between the rear first floor facing windows of the proposed properties and 5.9m from these windows to the boundary with the property it backs onto.
38. There will be 10.8m from the front first floor windows of the proposed properties facing Alker Street to the windows of the properties opposite, and 11m from the front first floor windows of the proposed properties facing Westminster Road to the windows of the existing properties opposite on Westminster Road. There will be approximately 9.5m between the gable end wall of the proposed properties and the existing properties that will face then at nos. 14 and 20 Regent Road.

39. None of these meet the Council's interface guidelines of 21m between facing first floor windows, 10m between a first floor window and a boundary with another property and 12m between a first floor window and a blank wall, however they do reflect the layout and spacing distances of the existing surrounding properties. It is considered that to require the proposal to meet the normal guidelines would result in a layout that would be out of character with its immediate surroundings. This is material consideration that is given significant weight considered sufficient to outweigh the Council's normal guidelines. The proposal will also result in a relationship with the surrounding properties very similar to that of the apartments permitted under the extant permission ref: 11/00085/FULMAJ. For these reasons the proposal is considered acceptable in terms of neighbour amenity.

#### Open Space

40. There is justification for a commuted sum payment on this site and this will need to be secured through a Section 106 legal agreement. Although the proposal is for 11 dwellings and on sites of over 10 dwellings the policy requires that amenity green space should be provided on-site, in this instance it is not considered that it would be appropriate to provide it on site due to the restricted size of the site and that it is considered important for the layout of the development to reflect that of its immediate area.

#### Trees and Landscape

41. There are no trees or landscaping on the site as exists that will be affected by the proposal.

#### Flood Risk

42. The site is not in Flood Zone 2 or 3 as identified by the Environment Agency and it is not over 1 hectare in size, therefore a Flood Risk Assessment is not required.

#### Traffic and Transport

43. The proposal does not propose any off street parking for the properties and as a result it would not comply with Policy ST4 of the emerging Local Plan (which now carries significant weight) that requires two or three bed properties to have two off-road parking spaces.
44. Four on road spaces would be available for on-road parking outside the proposed properties facing Alker Street and five spaces outside those facing Westminster Road.
45. Although the scheme does not comply with the Council's current parking standards, the fall-back position of the extant permission for 16 apartments must be considered. No parking was provided for the scheme that could be built under the extant permission. The current parking standards set out in Policy ST4 of the emerging Local Plan would require the extant development to have 24 spaces, whereas the current scheme would require 22 spaces under the same standards. Therefore the current scheme requires fewer spaces than the previously approved scheme that also proposed no parking. The current proposal is therefore likely to be an improvement in terms of demand for parking than the previous scheme. In addition the site is considered to be in a highly sustainable location close to the town centre and public transport.
46. The footway on Alker Street that will be immediately outside the properties is in good condition, although there is a gap at the entrance to the site. The comments of LCC Highways requesting a condition be applied to require the resurfacing of the end of Alker Street close to where it joins Regent Road are noted, however this is not within the red or blue edges of the application and cannot therefore be controlled by a condition, nor is it within the ownership of the applicant to be secured through a legal agreement. Although a Grampian condition could be applied (a condition that would prevent development taking place until the road was resurfaced on land not controlled by the applicant), such conditions should not be used where there are no prospects of the resurfacing being performed within the time-limit imposed by the permission. In this case it is clear from the previous applications at the site that there is uncertainty over land ownership (and no part of it is owned by the applicant), therefore it is not considered that such a condition could be applied. Although the section of road between nos. 20 and 26 Regent Road is in a poor state of repair it is still passable by vehicles. LCC Highways have advised that where repairs are necessary to prevent danger to traffic using an unadopted road, the County Council has powers under Section 230 of the Highways Act 1980, to serve notice upon

frontages to all or part of an unadopted road requiring them to undertake specified repairs within a specified time period. The highway authority can undertake the repairs in default and recover the costs.

47. The original application on the site for 16 apartments (ref: 07/01140/FULMAJ) secured a commuted sum to improve nearby West Street car park to encourage people to use this car park, including resurfacing and further CCTV coverage. This was secured via a legal agreement and totalled £25,000, however as part of the renewal permission (ref: 11/00085/FULMAJ) a supplemental legal agreement reduced this to £5000 for resurfacing as the applicant confirmed the high cost was stalling the development and it was confirmed that the CCTV coverage at West Street car park was fit for purpose and no upgrade was required. It was hoped that this would encourage the delivery of the site at that time. It is considered that this still needs to be secured to as part of the current application through a legal agreement.
48. Subject to the £5000 being secured through a legal agreement the parking and access arrangements at the site are considered acceptable due to the fall back extant permission on the site.

#### Contamination and Coal Mines

49. The site is in a High Risk Area as identified by The Coal Authority which requires a Coal Mining Risk Assessment to be submitted that The Coal Authority will comment on. The applicant has been made aware of this and an update will be posted on the Addendum.

#### Drainage and Sewers

50. It is considered an acceptable foul and surface water drainage scheme can be secured via a planning condition.

#### Section 106 Agreement

51. A Section 106 agreement will need to secure £5,000 towards highway improvements and £20,768 towards public open space and playing pitches.

#### Other Issues

52. The site is below the threshold of 15 dwellings or 0.5hectares over which Policy 7 of the Joint Core Strategy requires affordable housing to be provided.
53. Policy 27 of the Joint Core Strategy requires new dwellings to be built to Level 4 of the Code for Sustainable Homes (or Level 6 if commenced after 1 January 2016) and have either additional building fabric insulation measures added or appropriate decentralised, renewable or low carbon energy sources installed to reduce the carbon emissions of predicted energy use by at least 15%. A Pre-assessment has been submitted showing that this can be achieved at the site and it will be controlled by conditions.
54. It is noted that LCC Education have requested a financial contribution towards primary school places, however it is considered this is now covered by the Community Infrastructure Levy (CIL).

#### **Overall Conclusion**

55. The application is recommended for approval subject to conditions and a legal agreement.

#### **Planning Policies**

##### National Planning Policies:

The National Planning Policy Framework

##### Joint Core Strategy

Policies 7, 17 and 27

##### Emerging Local Plan

Policy ST4

## Planning History

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

**11/00085/FULMAJ** Application for new planning permission to replace extant planning permission for 16 apartments and dwelling (ref: 07/01140/FULMAJ). Approved 20 April 2011.

## **Recommendation: Permit subject to legal agreement Conditions**

1. An application for approval of the reserved matters (namely the appearance and landscaping of the site) must be made to the Council before the expiration of three years from the date of this permission and the development hereby permitted must be begun two years from the date of approval of the last of the reserved matters to be approved. *Reason: This condition is required to be imposed by the provisions of Article 3 (1) of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.*
2. The application for approval of reserved matters shall be accompanied by full details of existing and proposed ground levels and proposed building finished floor levels (all relative to ground levels adjoining the site), notwithstanding any such detail shown on previously submitted plan(s). The development shall only be carried out in conformity with the approved details. *Reason: To protect the appearance of the locality and in the interests of the amenities of local residents.*
3. The dwellings hereby permitted commenced after 1<sup>st</sup> January 213 shall meet Code Level 4 of the Code for Sustainable Homes and all dwellings commenced after 1 January 2016 will be required to meet Code Level 6 of the Code for Sustainable Homes. Within 6 months of occupation of each dwelling a Final Certificate, certifying that the relevant Code for Sustainable Homes Level for that dwelling has been achieved, shall be submitted to the Local Planning Authority. *Reason: In the interests of minimising the environmental impact of the development.*
4. No development shall take place until a scheme for the provision and implementation of a surface water regulation system has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until the scheme has been implemented in accordance with the approved plans. *Reason: To secure proper drainage and to prevent flooding.*
5. Either, prior to the commencement of development samples of all external facing and roofing materials (notwithstanding any details shown on previously submitted plan(s) and specification) shall be submitted to and approved in writing by the Local Planning Authority, *or* they shall be submitted with the reserved matters application. All works shall be undertaken strictly in accordance with the details as approved. *Reason: To ensure that the materials used are visually appropriate to the locality.*
6. Either, before the development hereby permitted is first commenced, full details of the alignment, height and appearance of all fences and walls and gates to be erected (notwithstanding any such detail shown on previously submitted plan(s)) shall have been submitted to and approved in writing by the Local Planning Authority, *or* these details shall be provided with the reserved matters application. No dwelling shall be occupied until all fences and walls shown in the approved details to bound its plot have been erected in conformity with the approved details. Other fences and walls shown in the approved details shall have been erected in conformity with the approved details prior to substantial completion of the development. *Reason: To ensure a visually satisfactory form of development and to provide reasonable standards of privacy to existing and proposed residents.*
7. Due to the proposed sensitive end-use (residential housing & gardens), and the existing & former use of the site as a depot/garage, the development hereby permitted shall not commence until the applicant has submitted to and had approved in writing by the Local Planning Authority a

report to identify any potential sources of contamination on the site and where appropriate, necessary remediation measures.

The report should include an initial desk study, site walkover and risk assessment. If the initial study identifies the potential for contamination to exist on site, the scope of a further study must then be agreed in writing with Local Planning Authority and thereafter undertaken and shall include details of the necessary remediation measures.

The development shall thereafter only be carried out following the remediation of the site in full accordance with the measures stipulated in the approved report. *Reason: To ensure the site is suitable for the proposed end-use.*

8. Any reserved matters application shall be made in accordance with the access, layout and scale parameters as shown by the plans hereby approved. *Reason: To ensure any reserved matters application is made in accordance with the outline permission.*

9. The development hereby permitted shall be carried out in accordance with the following approved plans:

<b>Title</b>	<b>Drawing Reference</b>	<b>Received date</b>
Location Plan	N/A	21 <sup>st</sup> October 2013
Site plans, streetscapes as proposed (showing access, layout and scale only)	1776/3 Rev B	21 <sup>st</sup> October 2013
Plans elevations as proposed (showing access, layout and scale only)	1776/2 Rev B	21 <sup>st</sup> October 2013

*Reason: For the avoidance of doubt and in the interests of proper planning.*