

APPLICATION REPORT – 17/00638/CB4

Validation Date: 5 July 2017

Ward: Chorley South East

Type of Application: Chorley Regulation 4

Proposal: Proposed dormer bungalow, attached garage and new highway access on land to the rear of 5 Worcester Place

Location: 5 Worcester Place Chorley PR7 4AP

Case Officer: Mike Halsall

Applicant: Mr Steven Hoyle

Agent: Bolton Planning Practice Limited

Consultation expiry: 6 September 2017

Decision due by: 13 October 2017

RECOMMENDATION

1.1 Refuse full planning permission.

SITE DESCRIPTION

1.2 This application is required to be reported to committee as the land is owned by the council.

1.3 The application site is located in the rear garden of No. 5 Worcester Place, a large dormer bungalow, approximately 2km south of Chorley town centre, to the west of Bolton Road. The garden slopes upwards to the east towards Bolton Road and is bound by trees and shrubs to the eastern and northern boundaries. Worcester Place road is located to the north, the dwelling of 5 Worcester Place is located to the west and the neighbouring residential dwelling of No. 7 Worcester Place.

DESCRIPTION OF PROPOSED DEVELOPMENT

1.4 The proposal is to erect a dormer bungalow with attached garage within the rear garden of No. 5 Worcester Place and create a new access to serve the property from Worcester Road to the north. As can be seen from the planning history section below, there has been previous refusals of planning applications on this site for a new dwelling for the reasons of highways impact and the scale of the proposed dwelling. The applicant has sought to reconcile these issues in this application by proposing a new site access to the north, rather than to the front of No. 5 Worcester Place and by proposing a dormer bungalow, rather than a two storey house.

RELEVANT HISTORY OF THE SITE

Ref: 13/01208/FUL **Decision:** REFFPP **Decision Date:** 17 March 2014

Description: Demolition of existing attached garage, proposed construction of one dwelling on land adjacent to 5 Worcester Place and proposed construction of new garage attached to 5 Worcester Place

Ref: 14/00904/FUL **Decision:** REFFPP **Decision Date:** 1 April 2015
Description: Demolition of part of existing attached garage and proposed construction of one dwelling on land adjacent to 5 Worcester Place and proposed construction of new garage to 5 Worcester Place

REPRESENTATIONS

- 1.5 There has been 6 objections made objecting to the proposed development which can be summarised as follows:
- The proposal would destroy the nature of the Duxbury Estate and would give a cramped feel;
 - Not appropriate on Green Belt land;
 - Traffic problems due to vehicles turning into the estate and increase risk of accidents;
 - Would cause additional on-street parking within the estate;
 - The new driveway would have an adverse effect from cutting down trees and shrubs;
 - Subsidence issues;
 - Would be out of character with the area and not respect the local context and street pattern;
 - Trees along the A6 would be damaged;
 - Would set a precedence for the area;
 - Contravenes the policies of the Local Plan;
 - Noise and air pollution;
 - Loss of public open space.
- 1.6 Noise and air pollution created by the proposed development would be limited and temporary during construction work and negligible afterwards. It is therefore considered that these issues do not require any further consideration within this report. All other issues identified above, where considered to be material planning considerations, are addressed within the Planning Considerations section below.

CONSULTATIONS

- 1.7 United Utilities – Suggests that; should this application be approved and the applicant wishes to progress a Section 104 agreement, no construction commences until the detailed drainage design, submitted as part of the Section 104 agreement, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.
- 1.8 Lancashire Highway Services – responded to suggest conditions be attached in relation to providing a vehicle turning area, the details of construction materials for the proposed new access point and a restriction on the access being solely from the newly proposed position and not that from 5 Worcester Place. Also suggest that an informative be added to any grant of planning permission of the applicant's duties under the Highways Act 1980.
- 1.9 CIL Officers – Responded to stat that this development will be CIL Liable on approval as it involves the creation of a new dwelling.
- 1.10 Canal & River Trust – responded to state it has no comments to make.
- 1.11 Tree Officer – responded to recommend that a mature oak and a mature sycamore tree in the rear garden be retained. [it is not proposed for either of these trees to be removed as part of the proposed development, a planning condition could be added to any grant of planning permission requiring the protection of these trees during construction work].

1.12 Greater Manchester Ecology Unit – responded to suggest a planning condition be attached to any grant of planning permission to protect nesting birds.

1.13 Property Team – no response received.

PLANNING CONSIDERATIONS

The principle of the proposed development

1.14 The application site is located within the Green Belt, The National Planning Policy Framework (the Framework) states that the construction of new buildings should be regarded as inappropriate in the Green Belt, except in a limited number of specific circumstances.

1.15 National guidance on Green Belt is contained in Chapter 9 of the Framework which states:

“79. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

80. Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas;*
- to prevent neighbouring towns merging into one another;*
- to assist in safeguarding the countryside from encroachment;*
- to preserve the setting and special character of historic towns; and*
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

89. A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

“limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan;

limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.”

1.16 Within Annex 2, the glossary, of the Framework previously developed land is defined as:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.”

- 1.17 In relation to the exception for limited infilling in villages, the proposed site is not located within a village, and is not considered to represent an infill development. Policy HS7 of the Local Plan sets out Chorley Council's approach to residential infilling in villages, which is defined as the filling of a small gap in an otherwise built-up frontage, e.g. typically a gap which could be filled by one or possibly two houses of a type in keeping with the street frontage. This section of Worcester Place/ Bolton Road could not reasonably be considered to represent a built-up street frontage as the built-up section of Worcester Place is within the estate and of Bolton Road is on the opposite side of the road. The proposal is situated within neither.
- 1.18 The proposed dwelling would be located within the curtilage of No.5 Worcester Place and so could be considered to represent previously developed land, however the exception in paragraph 89 is for the limited infilling or the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development. However, the proposal would cause substantial harm to the openness of the Green Belt in this location and would not therefore fall within this exception. The proposal is therefore considered to be inappropriate development in the Green Belt for which very special circumstances must be demonstrated to outweigh the harm caused to the Green Belt.
- 1.19 No very special circumstances have been presented by the applicant which outweigh the harm caused to the Green Belt by inappropriateness and so the proposal is unacceptable in principle in this location.
- 1.20 Policy BNE5 of the Adopted Chorley Local Plan 2012-2026 relates to previously developed land within the Green Belt and reflects guidance contained within the Framework as follows: The reuse, infilling or redevelopment of previously developed sites in the Green Belt, will be permitted providing the certain criteria are met. The proposal does not relate to the re-use of an existing building or the infill of a partially developed site. The proposal relates to the complete redevelopment of the site and the criteria for redevelopment is as follows:
- In the case of redevelopment:
- d) The appearance of the site as a whole is maintained or enhanced and that all proposals, including those for partial redevelopment, are put forward in the context of a comprehensive plan for the site as a whole.
- 1.21 It could not reasonably be concluded that the proposed development would maintain or enhance the appearance of the site as it would introduce a new dwelling to a site currently used as a well maintained residential garden. The proposal therefore conflicts with Policy BNE5 of the Local Plan.

Design and amenity

- 1.22 Policy BNE1 of the Chorley Local Plan 2012 – 2026 states that planning permission will be granted for new development, including extensions, conversions and free standing structures, provided that:
- a) The proposal does not have a significantly detrimental impact on the surrounding area by virtue of its density, siting, layout, building to plot ratio, height, scale and massing, design, orientation and use of materials.
- b) The development would not cause harm to any neighbouring property by virtue of overlooking, overshadowing or overbearing.
- 1.23 The proposal relates to the erection of a dormer bungalow with an attached garage. The proposed dwelling would occupy a similar footprint to that of No.5 Worcester Place and, whilst would be slightly taller (circa. 1m) in overall height to ridge than No.5 and some other properties in the area, it is not considered that the proposal would have a significant detrimental impact upon the surrounding area in terms of the criteria listed within part a) of Local Plan policy BNE1.

1.24 The proposed dwelling contains habitable room windows within its rear elevation; however, the property is orientated so these do not directly overlook the rear garden of No.5 Worcester Place. There are no habitable room windows proposed within the side elevation, facing No.5 and the gable elevation does not face any windows of No.5. No.5 contains a dormer window of a habitable room at first floor level which would overlooks the rear garden of the proposed dwelling, however, the window is located some 9m from the common boundary. The separation distances of the proposed dwellings with neighbouring properties is in keeping with those specified within Chorley Council's Householder Design Guidance Supplementary Planning Document (SPD) 2017. The proposal is therefore considered to comply with policy BNE1 of the Local Plan.

Provision of parking spaces and highway safety

1.25 Policy ST4 'Parking Standards' of the Chorley Local Plan 2012-2026 requires that proposals for development will need to make parking provision in accordance with the standards set out in Appendix A of the Local Plan. Appendix A identifies the Council's minimum parking standards for new development. On-site parking for four cars would be required and there is likely to be sufficient space on-site for this. Lancashire Highway Services has requested a condition be attached to ensure adequate vehicle turning space is provided. The proposal meets the Council's standards for four bedroom properties as set out in Policy ST4.

Public Open Space

1.26 The Development Plan requires affordable housing / public open space contributions for new dwellings to be provided in order to overcome the harm of developments being implemented without facilities being provided.

1.27 A written Ministerial statement from the 28 November 2014 sought to set a National Policy and remove the ability of Councils to secure S106 contributions on small sites (i.e. 11 or less) and resulted in the National Planning Practice Guidance (NPPG) being changed. This was challenged by a consortium of Councils in the High Court who were successful and the change to the NPPG was removed. Chorley resisted the change to the NPPG and applications were processed through Committee rather than delegated decision (officers gave up their delegated powers).

1.28 The Government challenged the decision of the High Court in the Court of Appeal on four grounds and the outcome was that on the 13 May the decision gave legal effect to the written Ministerial Statement of 28 November 2014. The NPPG has been changed again but highlights that the Ministerial statement should be taken into account. The Ministerial Statement (28 November 2014) carries weight in the decision making process, as does the National Planning Policy Guidance.

1.29 The Court of Appeal judgement does however state that "the aim or goal of a policy's author is that his policy should be followed" this remains subject to "the proper operation of s 38(6)" and that the policy guidance does not have to explicitly express that an alternative view can be reached as "the changes were introduced as policy, not binding law". The judgement goes on to highlight "In the determination of planning applications the effect of the new national policy is that although it would normally be inappropriate to require any affordable housing or social infrastructure contributions on sites below the thresholds stated, local circumstances may justify lower (or no) thresholds as an exception to the national policy. It would then be a matter for the decision-maker to decide how much weight to give to lower thresholds justified by local circumstances as compared with the new national policy" (evidence submitted on behalf of the SofS). The Council must determine what lower thresholds are appropriate based on local circumstances as an exception to National Policies and how much weight to give to the benefit of requiring a payment for 1 or 2 dwellings.

1.30 It is considered that the benefit of securing a public open space contribution on the basis of one/two dwellings (which would now be £134/£268) would not be sufficient or carry significant weight to outweigh the national policy position. The benefit to the Council is the delivery of improvements to play space however the cost of managing the end to end

process of delivering those improvements is high and not commensurate to the benefit. The likely success of delivering improvements is also in doubt due to the difficulty of identifying schemes to pool small amounts of money secured through Section 106 agreements.

1.31 Therefore a POS commuted sum is not requested for this scheme.

CIL

1.32 The Chorley CIL Infrastructure Charging Schedule provides a specific amount for development. The CIL Charging Schedule was adopted on 16 July 2013 and charging commenced on 1 September 2013. The proposed development will be a chargeable development and the charge is subject to indexation in accordance with the Council's Charging Schedule.

CONCLUSION

1.33 It is considered that the proposed development is inappropriate within the Green Belt as it would cause substantial harm to the openness of the Green Belt in this location. No very special circumstances have been presented by the applicant to outweigh this harm and so the application is recommended for refusal.

1.34 Furthermore, the proposal would not maintain or enhance the appearance of the site, which is a requirement for the redevelopment of previously developed land, and so conflicts with policy BNE5 of the Adopted Chorley Local Plan 2012-2026.

RELEVANT POLICIES: In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/guidance considerations are contained within the body of the report.

Reason for refusal

1. In accordance with Paragraph 87 of the National Planning Policy Framework (NPPF), the proposed dwelling constitutes inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In accordance with the paragraph 88 of the NPPF, substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. No very special circumstances have been presented to outweigh the harm to the Green Belt. The proposed development is therefore contrary to the National Planning Policy Framework and the Chorley Local Plan 2012 – 2026.
2. The proposal would not maintain or enhance the appearance of the previously developed land and so conflicts with policy BNE5 of the Adopted Chorley Local Plan 2012-2026.