

## **APPLICATION REPORT – 17/01042/FUL**

**Validation Date: 6 November 2017**

**Ward: Chorley North East**

**Type of Application: Full Planning**

**Proposal: Erection of detached dormer bungalow and detached garage following demolition of existing garages.**

**Location: Land And Garages Adjacent 10 Westwell Road Chorley**

**Case Officer: Chris Smith**

**Authorising Officer:**

**Applicant: Mr T Kevill**

**Agent: Mr Tony Lawson**

**Consultation expiry: 1 December 2017**

**Decision due by: 1 January 2018**

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### **RECOMMENDATION**

1. It is recommended that this application is refused.

### **SITE DESCRIPTION**

2. The application site is located at the eastern end of a row of traditionally designed terraced properties on Westwell Road, Chorley. The site is within the core settlement area of Chorley and contains eight single car garages that are leased to local residents on an annual basis.
3. The properties on Westwell Road are predominantly terraced; however, the character of buildings in the immediate locality to the south, east and north of the site is mixed. The locality is wholly residential and contains examples of detached dwellings at Ingle Close to the east and there is a large bungalow property to the north east at no 12 Westwell Road.
4. The site contains an area of hard standing, which enables vehicular access to an alleyway located to the rear (south) of Westwell Road.
5. The northern portion of the site contains several trees; however, these are not protected by Tree Preservation Orders.
6. Land levels slope up gently across the site in a west to east direction where the highest part of the site is located in the eastern most portion of the site.

### **DESCRIPTION OF PROPOSED DEVELOPMENT**

7. The application seeks planning permission for the erection of a detached dormer bungalow dwelling and a detached garage. The application site has a width and depth of approximately 25m and 17m respectively.

8. The proposed dwelling would be located within the eastern portion of the site approximately 13m to the east of the neighbouring property no. 10 Westwell Road. The property would contain two front dormers and a rear dormer.
9. Internally the proposed dwelling would contain a living area, kitchen, dining room, utility room and w/c at ground floor level and the loft space would contain two bedrooms and a bathroom.

## REPRESENTATIONS

10. A total of 33 representations of objection have been received. The following reasons were cited as reasons as to why the development proposal should be considered unacceptable:
  - Loss of light and privacy
  - Overlooking
  - Proposed development would be out of character with the area
  - Traffic and congestion
  - Over development
  - Demolition of privately owned garages
  - No alternative parking provision following loss of garages
  - Loss of a link road between Westwell Road and the back alley behind Brock Road meaning vehicles will not be able to turn around at the end of Westwell Road
  - Emergency services would not be able to access the rear of Brock Road
  - Risk of anti-social behaviour in alley way to rear of Westwell Road
  - Impact on protected trees
  - Lack of on-road parking on Stump Lane and Mayfield Road as residents of Brock Road and Westwell Road will have to find alternative parking following demolition of garages
  - Flood risk
  - Visual impact – loss of views
11. In addition to the above, 5 petitions of objection with a total of 60 signatures have been received from the residents of Geoffrey Street, Jubilee Place, Brock Road, Russell Square and Doris Street. These petitions make the claim that the proposed development would exacerbate existing on road parking problems for residents of Brock Road and Westwell Road.

## CONSULTATIONS

12. **Lancashire Highway Services** - does not object to the proposed development in principle, however, until the status of the land is established, approval of the planning application is not recommended at this stage.
13. **Chorley Council's Planning Policy Team** - have confirmed that they have no objections to the proposed development
14. **United Utilities** – have confirmed that they have no objections to the proposed development.
15. **Greater Manchester Ecology Unit** – have no objections subject to the inclusion of one condition.

## PLANNING CONSIDERATIONS

16. It is considered that the main issues for consideration in this application are as follows;
  1. Principle of the development
  2. Design and impact on the street scene
  3. Impact on the amenity of neighbouring occupiers
  4. Financial Considerations

5. Parking Provision and Highway Safety
6. Trees
7. Ecology
8. Sustainable Resources
9. Community Infrastructure Levy
10. Other matters

#### Principle of the development

17. The National Planning Policy Framework (The Framework), states that housing applications should be considered in the context of the presumption in favour of sustainable development, and, therefore, development proposals that accord with the development plan should be approved without delay.
18. Policy 1 of the Central Lancashire Core Strategy 2012 states that growth and investment in the Central Lancashire area should be focused on well located brownfield sites and Key Service Centres such as Chorley.
19. Policy V2 of the Chorley Local Plan 2012 – 2026 states that within the settlement areas excluded from the Green Belt, and identified on the Policies Map, there is a presumption in favour of appropriate sustainable development, subject to material planning considerations.
20. The application site is located in the settlement area of Chorley which the Chorley Local Plan 2012-2026 identifies as the key service centre in the borough. The location of the application site here means that the proposal would be in accordance with Policy 1 of the Central Lancashire Core Strategy 2012, which states that growth and investment would be acceptable in the key service centre of Chorley.
21. The principle of development is therefore considered to be acceptable subject to the material planning considerations detailed below.

#### Design and impact on the street scene

22. Policy BNE1 of the Chorley Local Plan 2012 – 2026 states that planning permission will be granted for new development, provided that, where relevant to the development 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.
23. It is considered that the proposed development would be in keeping with the residential character of the immediate locality. There is an existing bungalow dwelling located to the north east of the site – no. 12 Westwell Road and there are two storey terraced properties to the west and south and therefore the architectural context of the surrounding locality is somewhat mixed.
24. There is a more uniform street frontage to the west of the site where Westwell Road is formed by two rows of facing terraced properties, however, they contrast with the design and form of the terraced dwellings located to the south on Brock Road. This uniformity does not, however, prevail towards the eastern end of Westwell Road where the built up street frontage is broken up by the open space provided by the application site.
25. The site currently contains eight detached garages, which do not reflect the more uniform appearance of the streetscene to the west of the site, and they therefore add to the mixed architectural context of the locality. The proposed bungalow would occupy a similar proportion of the application site to that occupied by the garages and would be located towards the eastern most part of the site with an appropriate degree of separation from the terraced properties of Westwell Road.
26. The proposed detached garage would be located within the western portion of the site; however, it would be set back from the public highway by approximately 5m and would not

be a visually prominent feature within the street scene. It is considered that the siting and layout of the proposed development would represent an improvement over the existing layout given that the number of individual structures within the site would be reduced.

27. The cumulative floorspace of the proposed dwelling and garage would not be significantly greater than that of the existing garages and the consolidation of the built form would make a positive contribution to the visual amenity of the immediate locality.

#### Impact on the amenity of neighbouring occupiers

28. Policy BNE1 of the Local Plan states that new development must not cause harm to any neighbouring property by virtue of overlooking, overshadowing, or by creating an overbearing impact. The Council's interface standards state that windows to habitable rooms at ground floor level should not allow an unrestricted view into neighbouring garden areas or into the ground floor window of any other house.
29. The proposed dormer bungalow would have a maximum height of approximately 6.27m. It would be approximately 12m from the rear elevation of the nearest neighbouring dwelling to the south no. 51 Brock Road and approximately 9m from no. 22 Russell Square to the south east. The bungalow would contain a rear dormer which would face 51 and 53 Brock Road; however, the window within the dormer would serve a non-habitable room in the form of a bathroom and would be obscure glazed, which would preserve privacy levels. It is therefore recommended that a condition is attached to any grant of planning permission specifying obscure glazing and removing permitted development rights for dormer extensions. There would also be an approximately 1.8m high fence along the rear site boundary.
30. The positioning of the proposed dwelling directly to the north of the properties on Brock Road and its scale and degree of separation are such that it is not considered that there would be any unacceptable levels of light loss. Although the proposed dwelling would be visible from the properties to the south of the site, it is considered that the degree of separation would be such that the any impact on outlook would be considered to be acceptable. It is not considered that there would be any unacceptable adverse impacts on the amenity of the occupiers of no. 22 Russell Square given that there would be no first floor windows within the east facing side elevation of the application dwelling and that this property would not face directly towards the proposed dwelling.
31. The originally submitted plans did not illustrate any levels changes. Amended plans show that the finished floor level would be identical to the land levels located directly to the rear (south) of the application site.
32. Neighbouring occupiers to the south on Brock Road have objected to the proposed development on the grounds that there would be a loss of an open view due to the undeveloped nature of the application site relative to the more built up form of Westwell Road to the west. The loss of a view, however, does not form a material consideration.
33. The separation distance of approximately 12m to the nearest property on Brock Road would be greater than the already established distances between the existing properties along Westwell Road and Brock Road. This degree of separation also meets with the Council's guidelines for distances between habitable room windows and facing elevations, and therefore meets the Council's standards in relation to outlook.
34. There would be no facing properties directly to the north of the proposed dwelling and it is considered that the proposed bungalow would have no discernible impact on the dwellings at nos. 10 and 13 Westwell Road beyond the levels of amenity currently enjoyed by the occupiers of these dwellings due the siting and degree of separation.
35. The proposed dwelling would be approximately 9m from the rear elevation of the neighbouring dwelling to the south east no. 22 Russell Square. Given the northern orientation of the proposed dwelling in relation to this dwelling and its neighbour no. 21 Russell Square, it is not considered that there be any unacceptably adverse impact on the

amenity of the occupiers of these properties through light loss. Given that the positioning of the proposed dwelling would be offset in relation to the dwellings at Russell Square any potential for overbearing would be mitigated and there would be no overlooking given that the eastern side elevation of the proposed dwelling would only contain a ground floor window.

#### Financial considerations

36. The Development Plan requires public open space contributions for new dwellings to be provided in order to overcome the harm of developments being implemented without facilities being provided.
37. 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. 10 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).
38. 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 2016 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.
39. 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)
40. 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.
41. It is considered that the benefit of securing a public open space contribution on the basis of one or two dwellings 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.
42. Therefore a POS commuted sum is not requested for this scheme.

#### Parking provision and highway safety

43. Policy BNE1 of the Chorley Local Plan 2012 – 2026 states that planning permission will be granted for new development, provided that, where relevant to the development the residual cumulative highways impact of the development is not severe and it would not prejudice highway safety, the free flow of traffic, and would not reduce the number of on-site parking

spaces to below the standards stated in Site Allocations Policy – Parking Standards, unless there are other material considerations which justify the reduction.

44. The proposed dwelling would have two bedrooms. The driveway and detached garage would be able to provide off road parking for at least two cars, in accordance with policy ST4 of the Local Plan. The proposal would, therefore, provide a suitable level of off road car parking.
45. Representations of objection to the proposed development on the grounds that there would be an unacceptable highways impact have been received and in particular that vehicular access to the alleyway located between Westwell Road and Brock Road would be prevented.
46. Objections also cite the loss turning space at the end of Westwell Road as a possible reason for refusal. The submitted location plan shows that the northern portion of the application site and a portion of land shown edged in blue to denote that it is under the ownership of the applicant, does incorporate an area of land at the end of Westwell Road that residents have used for manoeuvring of vehicles for a number of years. The proposed development in its current form would potentially lead to the loss of this turning space and prevent residents using the turning area.
47. Lancashire Highways Services have confirmed that they do not object to the principle of the proposed development, however, they have not been able to establish the status of the land currently used for vehicle manoeuvring. They confirmed that if it can be proven that the land forms a part of an un-adopted highway, the developer would be required to implement stopping up procedures in order to remove the highway rights from the land. As part of this process, Lancashire Highways Services stated that they would recommend that a turning head be provided at the end of Westwell Road.
48. Given the uncertainty over the adoption status of the land within the northern part of the application site, and the potential loss of vehicle turning space for residents and the detrimental impact this would have on highway safety, vehicle access and the free-flow of traffic, it is considered that the impact of the proposed development on the local highway network would be contrary to policy BNE1 of the Local Plan.

#### Trees

49. There are some trees within the north western portion of the site, which it is considered collectively do make a positive contribution to the character of the area in terms of visual amenity. However, the proposed development would only involve the loss of one tree, which would be required to be felled to enable vehicular access to the proposed detached garage.
50. It is not considered that the loss of this tree would have an unacceptable adverse impact on the character of the immediate locality in terms of visual amenity, as its loss would be effectively mitigated by the trees that would be retained.

#### Ecology

51. Some objections from the occupiers of neighbouring properties stated that the site provides habitats for bats. Greater Manchester Ecology Unit (GMCEU) confirmed, however, that the buildings within the site are highly unlikely to support bats and the trees on site are too young to support features that would be used by bats.

#### Sustainable resources

52. The Ministerial Statement on the 25th March 2015 announced that the Code for Sustainable Homes had been withdrawn, however, it also sets out transitional arrangements which includes local planning authorities being able to continue to set and apply policies in their Local Plans which require compliance with energy performance standards that exceed the energy requirements of Building Regulations (but not above a Code Level 4 equivalent) until

commencement of amendments to the Planning and Energy Act 2008. From then onwards energy performance requirements will be set in Building Regulations.

53. Compliance with the Code as set out in Core Strategy Policy 27 can therefore no longer be required, however, in accordance with the transitional arrangements the Council will still require an energy efficiency standard equivalent to Code Level 4 which is a 19% improvement over 2013 Building Regulations. This would normally be secured via conditions.

#### Community infrastructure levy

54. The Chorley CIL Infrastructure Charging Schedule provides a specific amount for housing - £65 per square metre. The CIL Charging Schedule was adopted on 16 July 2013 and charging commenced on 1 September 2013. This development is CIL liable which is index linked, unless an exemption is applied for.

#### Other Matters

55. Objections have been received regarding the loss of the garages, which are used by residents of Westwell Road and surrounding streets including Brock Road. The applicant has signed and provided certificate of ownership A to indicate that the land is under his ownership and therefore the garages are located on land which is under the private ownership of the applicant. This has been corroborated by a land registry search, which shows this to be the case.
56. The loss of these garages and the termination of any lease would be a private legal matter that would have to be resolved by the applicant prior to commencement of works. A letter has been provided by the applicant's agent stating that the garages operate on an annual ground lease, which expired at the end of 2017. The letter claims that the occupiers of the garages have no security of tenure. The loss of the garages would not, therefore, warrant refusal of the proposed development.
57. Several representations make reference to the presence of a culverted watercourse which it is claimed lies beneath the application site. United Utilities have been informed of the proposed development however and have raised no objections.

#### **CONCLUSION**

58. The proposed development would lead to the loss of vehicle turning space at the end of Westwell Road which would have an unacceptable adverse impact on vehicular access, the free flow of traffic and therefore highway safety. The proposal is therefore contrary to policy BNE1 of the Chorley Local Plan 2012-2026.

#### **RELEVANT HISTORY OF THE SITE**

**Ref:** 17/00718/FULHH      **Decision:** PERFPP      **Decision Date:** 20 September 2017

**Description:** Erection of two storey side/rear extension following demolition of garage.

**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.

#### Reasons for refusal

By reason of the uncertainty over the highway adoption status of the land within the northern part of the application site, and the loss of vehicle turning space for residents and the impact this would have on vehicle access and the free-flow of traffic, it is considered that the proposed development would have an unacceptable adverse impact on highway safety. The proposal is therefore contrary to policy BNE1 of the Chorley Local Plan 2012-2026.