

APPLICATION REPORT – 17/01032/FUL

Validation Date: 16 November 2017

Ward: Chorley East

Type of Application: Full Planning

Proposal: Construction of new driveway on vacant land to the west of 26 Pennine Road and the erection of 1.8m high perimeter fence (part-retrospective)

Location: Land West Of 26 Pennine Road Pennine Road Chorley

Case Officer: Amy Smith

Authorising Officer:

Applicant: Mr & Mrs Mick Cragg

Agent: Mr Peter Entwistle

Consultation expiry: 26 December 2017

Decision due by: 13 March 2018

RECOMMENDATION

1. Permit full planning permission.

SITE DESCRIPTION

2. This application relates to a rectangular plot of land adjacent to the boundary of 26 Pennine Road. The land forms part of an un-adopted highway between Pennine Road and Froom Street and is known informally as Cross Street. The wider area is residential in nature with a mixture of house types.

DESCRIPTION OF PROPOSED DEVELOPMENT

3. Planning permission is sought for the construction of a driveway. The driveway would project 2.1m beyond the side boundary of the property and would extend for a length of 21m. The surface would be laid with tarmac and the area will be enclosed by 1.8m high fencing.
4. Some of the land on the adopted highway has already been excavated but the driveway has not been surfaced, nor has the fencing been erected. All work has ceased following intervention from the Council's Enforcement Officers. The land has been left in a partially excavated state with the spoil piled up on the site.

REPRESENTATIONS

5. Seven objections have been received citing the following grounds of objection:
 - Reduction in parking availability leading to more vehicles parking on the street.
 - Reduction in manoeuvrability space.
 - Reduction in open view down the road would create additional anti-social behaviour issues and litter.
 - Insufficient access to the rear of the properties on Pennine Road, some of which have garages.

- Restricts access for emergency vehicles.
 - Insufficient space for bins.
 - The proposed fencing is out of proportion.
 - The applicants did not consult with neighbours.
 - The land has been left in a poor state with a 5ft high pile of rubble.
6. It has also been advised that there is a covenant that this land shall not be built upon. This is a civil matter for which legal advice should be sought independently and is not a planning consideration.
7. In addition to the individual objections, a petition with 23 signatures on has been received, reiterating the points above.
8. One representation has been made in support of the development, commenting that without the development in place:
- The land is often in a state of disrepair with pot holes and poor lighting;
 - There have been instances of anti-social behaviour including fires; and
 - Since the work on this development started there has not been any increase in parking on the road and it has reduced the number of vehicles using it as a cut through.

CONSULTATIONS

9. Lancashire Highway Services – Commented to advise that there are no objections in planning terms but would object to the stopping up order. It should be noted that in response to this, the stopping up order is a separate matter to the planning application.

PLANNING CONSIDERATIONS

Impact on the highway network

10. Paragraph 32 of the National Planning Policy Framework (the Framework) states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
11. The access road where the development is situated forms a short link road between Pennine Road and Froom Street, also affording access to the rear of the terraced properties on these streets. The driveway area would be set back from the adopted part of Pennine Road and a gap of 3.6m would be maintained between the proposed fencing and the gable elevation of 24/24a Pennine Road.
12. The land registry have identified that the remaining section of the link road situated between the proposed fencing and the gable of 24/24a Pennine Road is subject to a formal lease granted for 24 and 24a Pennine Road for use as garden ground and a parking space for each property. As a result, whilst the land subject to this lease is currently open and free from built development, anybody accessing or passing over this land would be trespassing without the consent from the leaseholder. Also as a result of this lease, the proposal to enclose the adjacent land would, in theory, close up the Pennine Road end of the link road. However, a vehicle(s) could park on the land subject to this application without the need for planning permission which would also effectively close up the access point onto Pennine Road. It is only the laying of a hard surface and erection of fencing that requires planning permission in this instance.
13. The proposed development would reduce the space available for the parking of vehicles on the link road but the space can only accommodate up to three vehicles. The displacement of three vehicles onto Pennine Road is not considered to cause a detrimental impact on highway safety or amenity.
14. Access can still be gained to the rear of the properties on Pennine Road and Froom Street by the Froom Street junction and as this access point is approximately half way down the link road, vehicles would not be travelling any further by utilising this access point. It is

recognised that the link road currently allows traffic to travel between Pennine Road and Froom Street and by reducing the amount of available open space at the Pennine Road junction, the traffic movements at the Froom Street junction are likely to increase. Whilst the collision data recorded in the area (for 50m from a point opposite Stump Lane) shows 9 collisions, the majority were involving pedestrians and minors on scooters on Eaves Road, including 2 on the pelican crossing.

15. The land has been excavated to such a degree that it is considered necessary to attach a condition requiring the applicant to submit details, for the approval of the Local Planning Authority (LPA), to confirm what materials would be used to backfill the excavated area and the method of doing so in order for the LPA to be satisfied that the stability of the land has not been compromised by the excavation already carried out. Subject to this, it is not considered that the laying of a tarmac hard surface and the erection of 1.8m high fencing would have a detrimental impact on the safety of highway users or capacity of the highway network, in accordance with the guidance contained in paragraph 32 of the Framework.

Design and Visual Amenity

16. *Policy BNE1 of the Chorley Local Plan 2012 – 2026 stipulates that planning permission will be granted for new development, including extensions, conversions and free standing structures provided that the proposals does not have a significantly detrimental impact on the surrounding area through its density, siting, layout, building to plot ratio, height, scale and massing, design orientation and use of materials.*

17. The proposed fencing consists of a concrete base with posts and timber infill panels, measuring 1.8m in height in total. The first panel of fencing would be set back from Pennine Road and in line with the front elevation of 26 Pennine Road.

18. This style of boundary treatment is considered appropriate in this residential setting and is not considered to pose any harm to the amenity currently enjoyed by neighbours as a result of its siting within a private access road and limited height.

Other Matters

19. Lancashire County Council as the Local Highway Authority has advised that the link road between Pennine Road and Froom Street is a privately maintained (un-adopted) highway where the general public have a right of access. The private highway was in existence prior to 26 Pennine Road being built (early 1990s). The area of the development would need to be subject to a Stopping Up order under section 247 of the Town and Country Planning Act; this is a separate process to the planning considerations

20. However, it is not considered appropriate to approve a development which would result in the commission of criminal offences – absence of a stopping up order (the obstruction of an un-adopted public right of way during the construction phase and thereafter with the enclosure). It is, therefore, considered necessary and reasonable to impose a Grampian condition requiring the stopping up order to be obtained before any further development is carried out.

21. In *Ashby v Secretary of State for the Environment* [1980] it was held that a stopping up order may not be retrospective. The order could not be made where all of the approved development on the highway was already complete. Although a diversion order could not validly be made once the development had been completed, if there was some outstanding work at the time of the making of the order which would encroach upon the footpath, the Secretary of State could make such an order. As such, a stopping up order may still be made as long as there is at least some outstanding work to be done. In this instance, the land has been excavated in preparation for the backfilling of the land, erection of fencing and the finished tarmac surface. There is still work outstanding to complete the development and so the Grampian condition requiring the stopping up order to be obtained can be applied in this instance.

22.CONCLUSION

23.

24.It is recommended that the application is approved subject to conditions.

RELEVANT HISTORY OF THE SITE

Ref: 5/1/02232 **Decision:** PERFPP **Decision Date:** 20 April 1964

Description: Erection of single storey building for storage of agricultural products

Ref: 17/00833/FULHH **Decision:** PERFPP **Decision Date:** 16 October 2017

Description: Single storey rear and side extension

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.

Suggested Conditions

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

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

Title	Plan Ref	Received On
Proposed drive alterations and new fence	PCE-CRAGG- OCTOBER- 17/LOCATION PL	5 February 2018

2. Prior to the reinstatement of the excavated land and the laying of the tarmac finish, a scheme detailing the materials to be used to backfill the excavated area and the method of reinstatement shall be submitted to and approved in writing by the Local Planning Authority. The land shall be reinstated entirely in accordance with the approved scheme.

Reason: To ensure that the risk and effects of land stability have been considered and any necessary mitigations implemented in order to comply with the National Planning Policy Framework.

3. No further development comprising the backfilling of the land, erection of fencing, application of tarmac (or any other development hereby approved but not yet implemented) shall commence unless and until a Stopping Up Order under Section 247 of the Town and Country Planning Act 1990 (as amended) has been obtained and approved.

Reason: To ensure that the planning permission can be lawfully implemented.