

APPLICATION REPORT – 18/00855/FULMAJ

Validation Date: 24 October 2018

Ward: Chorley South East

Type of Application: Major Full Planning

Proposal: Erection of 8no. dwellings including alterations to access and demolition of existing public house.

Location: The Hop Pocket Carr Lane Chorley PR7 3JQ

Case Officer: Amy Aspinall

Applicant: C&M Contractors

Agent: Eden Building Design

Consultation expiry: 20 May 2019

Decision due by: 26 May 2019

RECOMMENDATION

1. It is recommended that the application is approved, subject to conditions and a s106 legal agreement.

SITE DESCRIPTION

2. The application site is comprised of a vacant public house and associated car park. Access is gained via Carr Lane. Surrounding land uses are mixed, with residential dwellings to the northern boundary and commercial to the west. Opposite the site is Telent Technology Services. The site is situated wholly within the settlement of Chorley, as defined by Chorley Local Plan Policies Map.

DESCRIPTION OF PROPOSED DEVELOPMENT

3. The application seeks full planning permission for the demolition of the existing building, the erection of 8no. dwellings and access. These would be comprised of 3no. pairs of semi-detached three bedroomed dwellings and 2no. detached four bedroomed dwellings, with associated parking.

REPRESENTATIONS

4. 1no. representation of support has been received and 3no. objections. It should, however, be noted that these comments were received in relation to the original scheme for 10no. dwellings and that no further comments have been received in relation to the revised scheme, following on re-notification.

5. The original objections are available to view on the Council's website and the key points are summarised below:

- Scale of development – three storeys, width and depth
- Mock-ups have been submitted by the occupier of 69 Melrose Way to show the impact of plots 6 and 7 on this property – domination of landscape and skyline

- Obscure views from neighbouring properties / intrusion into the skyline accruing from plots 1 to 5
- Rooflines higher than Hop Pocket / unreasonably high / incongruous visual impact
- Intrusion and loss of privacy of 69 Melrose Way
- Impact on enjoyment and quality of life of occupiers of 69 Melrose Way
- Loss of property values
- Impact on plant and produce growth of 69 Melrose Way
- Impact of proposed development on existing traffic and highways risks / volumes of traffic / problems with parked vehicles / articulated delivery vehicles / school and nursery drop off and collection

CONSULTATIONS

6. **The Coal Authority:** Currently awaiting a further consultation response.
7. **Lancashire County Council Highway Services:** Have no objections subject to conditions.
8. **Greater Manchester Ecology Unit:** Have raised no objection and have advised that an appropriate level of survey has been carried out. A roost of bats has been identified in the building, but suitable mitigation measures would ensure their favourable conservation status is maintained. Conditions recommended in relation to a Natural England licence, nesting birds and biodiversity enhancements.
9. **Regulatory Services - Environmental Health:** Have no objection.
10. **Waste & Contaminated Land:** Land contamination assessment advised.
11. **Council's Tree Officer:** Has no objection; tree protection measures advised.
12. **CIL Officers:** Comment that this development is subject to the CIL Charge for 'Dwelling Houses' as listed in Chorley Councils CIL Charging Schedule
13. **United Utilities:** Drainage conditions advised and presence of a sewer highlighted.
14. **Lead Local Flood Authority:** Previous objection withdrawn. Conditions recommended.
15. **Lancashire County Council Education:** Have requested financial contributions in respect of 2no. primary school places and 1no. secondary school place.

PLANNING CONSIDERATIONS

Principle of development

16. The National Planning Policy Framework (the Framework) at paragraph 59 provides, among other things, that the Government's objective is to significantly boost the supply of homes; and that it is important that a sufficient amount and variety of land can come forward where it is needed.
17. At paragraph 68 the Framework states that to promote the development of a good mix of sites Local Planning Authorities should support the development of windfall site through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes.
18. Policy 1 of the Core Strategy seeks, among other things, to focus growth and investment on well located brownfield sites including the Key Service Centre of Chorley.
19. The principle of residential development is therefore acceptable, subject to other policy considerations.

Loss of public house

20. Policy HW6 Chorley Local Plan 2012 – 2026 (Community Facilities) sets out that development proposals involving the change of use or loss of any premises or land currently or last used as a community facility (including public houses) will be permitted where it can be demonstrated that:

- a) The facility no longer serves the local needs of the community in which it is located;
- b) Adequate alternative provision has been made, or is already available, in the settlement or local area; and
- c) The use is no longer financially viable; and
- d) The facility is in an isolated location remote from public transport routes; or
- e) There is an amenity or environmental reason why the facility is no longer acceptable.

21. The Framework at paragraph 92 also seeks to guard against the loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

22. The application provides that the pub has been vacant since May 2018, and that the tenant moved to a different pub as the Hop Pocket was not financially viable. It also states that the pub has been marketed by Fleurets, with offers only being for an alternative use.

23. The pub has not served the community for the last year as it has been closed and sold off by the brewery. There are a number of pubs within Chorley, with approximately 21 pubs within a 1 mile radius and two pubs being within 800 metres of the site (The Yarrow Bridge is less than 300 metres away and The Mitre is less than 800 metres away). As such, it is considered that alternative provision is available in the area, having regards to criterion (b). The application states that the pub was not financially viable. Whilst the pub is not in an isolated area, the redevelopment of the site would result in a significant enhancement of the site in the street scene.

24. The loss of the Hop Pocket public house would not reduce the community's ability to meet its day-to-day needs as similar facilities exist elsewhere in the locality. It is also noted that the pub is not registered as an asset of community value and none of the objections received are in relation to the loss of the pub. The proposal is considered to meet the criteria of policy HW6 and the loss of the public house is, therefore, acceptable in policy terms.

Highway safety

25. Revised plans have been submitted since the application was originally submitted with an amended layout and a reduction in the number of dwellings proposed. The layout is now arranged around a single access point with turning head and parking to serve each plot, in accordance with the Council's parking standards. A vehicle tracking drawing has also been submitted to demonstrate that a large vehicle can enter and exit the site in a forward gear.

26. Lancashire County Council Highways raise no objection to the scheme and advise that the proposal would not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site. In addition, they also advise that the highway layout would be acceptable for adoption under s38 of the Highways Act. Due to the location of the site close to a primary school, LCC Highways have requested a Traffic Management Plan to ensure that deliveries take place outside school drop off and collection times, and that deliveries and contractor vehicles park off the highway. This could be secured by way of condition and should also alleviate some neighbouring concerns in relation to traffic at peak times/school drop off.

27. A s278 agreement would be required for the works to the highway, and LCC Highways require the reinstatement of footways. A detailed scheme would be required and could be conditioned accordingly.

28. Having regard to the above and subject to appropriate conditions, the proposed development would be acceptable in highways safety terms and accords with the provisions of policy BNE1 (d) of the Chorley Local Plan 2012 -2026 in respect of highways matters.

Design

29. The number of dwellings and their height has been reduced and the layout amended to form a courtyard around the turning head. A single access would be provided to Carr Lane, with a dual-fronted dwelling sited either side. Landscaping is identified to the front of the site, which would provide an attractive frontage to Carr Lane, and full details could be conditioned accordingly.

30. The scale of the built form in this area is relatively mixed, with bungalows to the north, the adjacent single storey parade, two storey employment site opposite and two / three storey residential development off Carr Lane. The 2.5 storey scale of the dwellings is, therefore, considered to be compatible with the area and would not appear out of scale or incongruous in the street scene. The proposed dwellings have a modern appearance which is considered to be acceptable given the mix of property types and styles in the area. In addition, the proposed development would result in an enhancement of the appearance the site in the street scene, compared to the current situation.

31. In design terms the proposed development is considered to be acceptable having regard to policy BNE1 (a) of the Chorley Local Plan 2012 – 2026.

Impact on amenity

32. The application proposes 8no. dwellings in a courtyard arrangement with access via Carr Lane.

33. The revised plans now show three pairs of semi-detached dwellings would be sited to the rear of the site, with the gardens of plots 2, 3 and 4 adjoining the northern boundary with 69 Melrose Way. The rear garden depths would be in excess of 10 metres and this would ensure a reasonable level of privacy and outlook for occupiers of the neighbouring property, and would ensure an acceptable standard of amenity, having regard to the Council's separation standards and policy BNE1 (b) of the Chorley Local Plan 2012 2026. There are level changes across the site and site levels would be secured by way of condition.

34. The principal front elevation of plots 2 and 3 would face the side elevation of plot 1, which contains a number of windows at first floor which serve bedrooms. The same relationship exists between plots 6 and 7 which would face the side elevation of plot 8 which contains a number of bedroom windows at first floor. The separation distances between these falls below the Council's separation standards, which does create a tight relationship between these plots. However, the relationship is somewhat unusual in that the bedrooms have a dual aspect and, on balance, it is considered that the benefits of this revised proposal in overcoming other matters detailed elsewhere in this report, outweigh the potential harm caused to future occupiers of the development due to applying the separation standards in a more flexible manner.

35. Each dwelling would benefit from sufficient private garden area for future occupiers to carry out day to day domestic activities.

36. To the west of the site, adjacent to plots 1 and 2 are commercial premises, i.e. a shop and a takeaway. However, in the absence of any concerns being raised by Environmental Health due to the presence of the extraction equipment associated with the takeaway and the proximity to the proposed dwellings and private garden areas, it is not considered that future residents would be adversely affect by odour. If, however, this became an issue in the future, this could be controlled under the relevant Environmental Health legislation. The area is comprised of a mix of uses and it is considered that the proposed residential use is a compatible form of development.

37. The proposed development would not adversely affect the residential amenity afforded to neighbouring properties, or that of future occupiers of the proposed development. The application accords with policy BNE1 (b) of the Chorley Local Plan 2012 - 2020 in respect of amenity.

Ecology

38. The application is accompanied by an ecological survey which has been assessed by the Council's appointed ecologists at Greater Manchester Ecology Unit (GMEU).

39. This found evidence that the building to be demolished is being used as a day roost by singular / small number of bats, i.e. Pipistrelle. Day roosts of pipistrelle bats (i.e. small numbers of common species, not a maternity site) are of 'low' conservation significance. The report provides that no sign of a roost of higher conservation significance (such as a maternity roost or hibernation roost) has been detected; and advises that the building is not considered to be suitable for use by hibernating bats due to its construction type.

40. In terms of foraging and commuting bats, the habitats within the site were assessed as having negligible suitability; whereas the surrounding area provides habitats of high suitability. Trees were also assessed; however, none were identified as supporting features suitable for use by roosting bats.

41. Bats and their roosts are protected under The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended); and details of mitigation measures have been provided. GMEU confirm that the mitigation measures are satisfactory and that such measures would ensure that the favourable conservation status of bats would be maintained at the site.

42. The works would require a licence from Natural England, with the report suggesting that the proposal meets the criteria for a Natural England Bat Mitigation Class Licence: Low Impact (BMCL). This is, however, a matter for Natural England and the applicant would need to ensure that appropriate licences are secured.

43. In considering the three tests of the Habitat Regs 2017, the proposal would deliver social and economic benefits through the delivery of housing in a sustainable location, on a brownfield site. The proposal would also deliver environmental enhancements through the landscaping of the site and additional features, such as bat boxes, which could be conditioned accordingly. In terms of test 2, to do nothing would mean that the public benefits cannot be delivered and the enhancements, in particular for roosting bats, would not be delivered. The identified day roost is of low conservation concern, but nonetheless, favourable conservation status of the population of the species would be maintained.

44. A suitable condition to ensure proposed The Mitigation Strategy is recommended.

45. The trees and scrub on site were considered suitable for use by nesting birds; in addition the building may also hold features suitable for nesting birds. Accordingly a condition to prevent clearance or demolition during bird nesting season (1st March and 31st August inclusive), unless a competent ecologist has undertaken a detailed check is recommended.

46. A landscaping scheme for the site could also be secured by condition and would provide for biodiversity enhancement.

47. Having regard to the above, the proposed development accords with policy BNE9, Biodiversity and Nature Conservation, of the Chorley Local Plan 2012 – 2020.

Impact on trees

48. The application is accompanied by a Tree Survey which assesses the trees on site. This identifies that trees are primarily grade B and C, with 5no. U grade trees. Several trees are identified for removal and crowning works are also proposed. The loss of existing trees is not considered to pose a significant constraint to the proposed development given that they are not protected by way of a Tree Preservation Order and the Tree Officer has not recommended the retention of any tree identified for removal. Tree protection measures for retained trees would be conditioned accordingly.

Public open space

49. Policy HS4 of the Chorley Local 2012 - 2026 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.

50. However, the National Planning Practice Guidance (NPPG) post-dates the adoption of the Local Plan and states that planning obligations should not be sought from developments of 10 or less dwellings and which have a maximum combined floorspace of no more than 1000 square metres.

51. In the determination of planning applications, the effect of the national policy, which was issued in 2016 following a Court of Appeal judgement, 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.

52. 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 10, or fewer, dwellings.

53. The Council has agreed to only seek contributions towards provision for children/young people on developments of 10 dwellings or less.

54. There is currently a surplus of provision in Chorley South East Ward in relation to this standard and the site is within the accessibility catchment (800m) of an area of provision for children/young people. A contribution towards new provision in the ward is, therefore, not required from this development. However, there are areas of provision for children/young people within the accessibility catchment that are identified as being low quality and/or low value in the Open Space Study (Site: Ref. 1974 Spurrier Square (0.2862ha) low/low); Site: Ref. 1529 Opposite 21 Amber Drive (0.0263ha) low/high). A contribution towards improvements to one of these sites is, therefore, required from this development. The amount required is £134 per dwelling, equating to a total financial contribution of £1,072.

55. The contribution identified above would be secured by way of a s106 legal agreement.

Coal mining

56. The application site falls within the defined Development High Risk Area and, therefore, the impact of coal mining legacy on the proposed development needs to be assessed.

57. Additional further information has been provided since the application was originally submitted, including intrusive site investigations. The Coal Mining Risk Assessment provides that there is no significant risk from coal workings to the proposed development.

58. A mine entry is, however, identified and previous investigations some time ago, have been carried out. The Coal Authority consider that the historic investigations are dated and were not in the context of the specific proposed development as contained in the current application. The Coal Authority advise that an attempt should be made to locate this feature and establish its condition. They also advise that the investigations should be used to calculate the zone of influence for this feature to inform an appropriate no-build zone and subsequently inform the site layout, demonstrating adequate separation between the mine entry and any proposed building.

59. The Coal Authority comment that the mine entry could be located under the existing building and that it might not be possible to undertake further investigations prior to determination. They suggest that where it is not possible to locate the mine entry prior to determination of the application, the best known location for the mine entry should be plotted with adequate separation between the mine entry and any building proposed, based on worst case scenario.

60. Further information has been submitted and sent to the Coal Authority for comment. A consultation response is currently awaited at the time of report preparation and will be reported to committee by way of the addendum. Notwithstanding the above, a practical solution could be that further investigative works are secure by condition, should it be necessary to investigate underneath the existing building. Any necessary remediation or mitigation works required.

Drainage

61. Further information has been provided since the application was originally submitted in order to overcome an objection from the Lead Local Flood Authority. The submitted Flood Risk Assessment addresses the drainage hierarchy, and concludes that there are no viable alternatives than discharging into the combined sewer. The Lead Local Flood Authority is satisfied with the Flood Risk Assessment and have withdrawn their objection. They do, however, recommended a number of conditions, including full drainage details and these would be conditioned accordingly.

Education

62. Lancashire County Council have requested financial contributions for primary school provision in order to mitigate the impact of the development on education provision.

63. When considering this request, it should be noted that the Council operate a CIL Charging schedule which was implemented on 1st September 2013. The Regulation 123 list allows the charging authority to set out a list of projects or types of infrastructure that the levy is intended to fund. The purpose of the list is to ensure clarity on what CIL might be spent on and to prevent duplication ('double dipping') between CIL and S106 agreements in funding the same infrastructure projects.

64. Education is listed in the Council's Regulation 123 list and therefore education infrastructure falls under the remit of CIL; and all housing schemes coming forward will be subject to the levy. Accordingly, such applications should not normally be subject to separate planning obligations to secure education contributions, regardless of whether or not they are windfall sites. Whilst not completely excluding site specific education contributions in exceptional cases, National Planning Practice Guidance is clear that this should not normally be sought and, where it is, it must be justified by specific evidence publicly available at the examination into the CIL list.

65. Planning obligations cannot be used where CIL accounts for the specific infrastructure requirements as set out in the list, as this would breach Regulation 123 and would lead to duplication. Accordingly, it is not considered that an education contribution should be required in this instance.

CONCLUSION

66. The site is situated within a sustainable location within the settlement of Chorley, which is identified for growth under policy 1 of the Central Lancashire Core Strategy. Although the proposal would result in the loss of a public house, the criteria of policy HW6 of the Chorley Local Plan 2012 - 2026 is considered to be met, and the benefits of the proposed development in the delivery of housing weigh heavily in favour of the development. The proposed development would not be harmful to the residential amenity of neighbouring dwellings or that of future occupiers; and it would enhance the appearance of the site in the street scene. Subject to conditions, the proposed development would be acceptable in highways safety terms and would not be detrimental to nature conservation and protected species interests. Drainage could be conditioned accordingly, and an update will be provided in relation to coal mining legacy issues associated with the site.

67. The application is recommended for approval, subject to conditions and a s106 legal agreement to secure a financial contribution towards provision for children / young people.

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.

RELEVANT HISTORY OF THE SITE

Ref: 74/00364/FUL **Decision:** PERFPP **Decision Date:** 8 July 1974
Description: Shopping development and public house

Ref: 74/00689/OUT **Decision:** REFOPP **Decision Date:** 6 November 1974
Description: Outline application for public house, squash club and car park

Ref: 77/00054/ADV **Decision:** PERADV **Decision Date:** 1 March 1977
Description: Illuminated signs

Ref: 88/00062/FUL **Decision:** PERFPP **Decision Date:** 23 February 1988
Description: Display of illuminated signs

Ref: 06/00837/FUL **Decision:** WDN **Decision Date:** 5 December 2006
Description: Retrospective application to erect 6ft trellis fencing behind the wall on the southern boundary

Ref: 07/00265/FUL **Decision:** WDN **Decision Date:** 23 May 2007
Description: Erection of an aluminium and glass canopy to the front of the building,

Ref: 07/00614/FUL **Decision:** PERFPP **Decision Date:** 30 July 2007
Description: Proposed covered area to include heating and lighting to form an additional garden area

Suggested conditions

To follow.