

## **DEVELOPMENT CONTROL COMMITTEE**

TUESDAY, 27TH OCTOBER 2015, 6.30 PM  
COUNCIL CHAMBER, TOWN HALL, CHORLEY

### **SUPPLEMENTARY AGENDA**

The Chair has agreed to take the following two items of business to this meeting, as it was felt that the items were urgent, and could not wait to be considered at the next meeting.

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| <p>5      <b>ENFORCEMENT</b></p> <p>      <b>5B    NON-COMPLIANCE WITH PLANNING CONDITIONS<br/>         ATTACHED TO PLANNING PERMISSION 13/00600/FUL,<br/>         LAND 60M NORTH TO THE REAR OF 34-42 AND INCLUDING<br/>         42 CHORLEY LANE, CHARNOCK RICHARD</b></p> <p>7      <b>ANY URGENT BUSINESS PREVIOUSLY AGREED WITH THE CHAIR</b></p> <p>      <b>7A    S106 POOLING RESTRICTIONS FOR PUBLIC OPEN SPACE</b></p> <p>         Report of the Director of Public Protection, Streetscene and<br/>         Community (enclosed).</p> | <p>(Pages 3 - 6)</p> <p>(Pages 7 - 14)</p> |
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GARY HALL  
CHIEF EXECUTIVE

Electronic agendas sent to Members of the Development Control Committee Councillor June Molyneaux (Chair), Councillor Christopher France (Vice-Chair) and Councillors Aaron Beaver, Martin Boardman, Charlie Bromilow, Henry Caunce, Paul Clark, John Dalton, Danny Gee, Keith Iddon, Alistair Morwood, Mick Muncaster, Richard Toon, Paul Walmsley and Alan Whittaker.

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Report of	Meeting	Date
Director of Public Protection Streetscene and Community	Development Control Committee	27 October 2015

**ENFORCEMENT ITEM**  
**NON-COMPLIANCE WITH PLANNING CONDITIONS ATTACHED**  
**TO PLANNING PERMISSION 13/00600/FUL. LAND 60M NORTH**  
**TO THE REAR OF 34-42 AND INCLUDING 42 CHORLEY LANE**  
**CHARNOCK RICHARD**

**PURPOSE OF REPORT**

- To seek authority to take enforcement action in respect of the non-compliance with condition 12 attached to planning permission 13/00600/FUL

**RECOMMENDATION(S)**

- That Members authorise officers to take enforcement action including service of enforcement notices, Breach of Condition Notices and Temporary Stop Notices.

**EXECUTIVE SUMMARY OF REPORT**

- Planning permission has been granted subject to planning conditions to ensure a satisfactory development. Development has commenced without compliance with a condition relating to essential highway works which would result in an unsatisfactory access and may create a highway safety issue while the development is under construction and conflict with other road users. Should the Council's request for work to cease not be met then it would appropriate to take enforcement action.

<b>Confidential report</b> Please bold as appropriate	Yes	No
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**CORPORATE PRIORITIES**

- This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities	X	An ambitious council that does more to meet the needs of residents and the local area	

**BACKGROUND**

- 5. Planning permission was granted in 2013 for the demolition of 42 Chorley Lane, Charnock Richard and former nursery buildings and the erection of 8 dwellings, access road and associated development. Work has recently commenced on the development but complaints have been received that conditions imposed on the planning permission have not been complied with despite the development having been commenced and therefore it is in breach of conditions. In particular concerns have been raised that highway works essential to ensure a safe means of access to Chorley Lane have not been implemented.

**ASSESSMENT**

- 6. Planning condition number 12 attached to the permission required that works for the construction of the new estate/access road were to be constructed in accordance with Lancashire County Council highways specification as part of a Section 278 highways agreement before the development commenced. The reason for the condition was to ensure that satisfactory access is provided to the site before construction commences and to ensure future residents have a satisfactory means of access to their properties. It is considered that the failure to provide approved highway specification will result in an unsatisfactory access and may create a highway safety issue while the development is under construction and conflict with other road users.
- 7. The developer has today been requested to confirm that work ceases on the development until the approved scheme of highways works have been approved and implemented. An update of any response received will be verbally reported to Committee.
- 8. In the event that the developer is unwilling to comply with the Council’s request to cease work then officers consider it expedient to seek Members’ authority to take enforcement action should that prove necessary in the interests of highway safety.

**IMPLICATIONS OF REPORT**

- 9. This report has implications in the following areas and the relevant Directors’ comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal		Integrated Impact Assessment required?	
No significant implications in this area	X	Policy and Communications	

**COMMENTS OF THE STATUTORY FINANCE OFFICER**

- 10. There are is no impact on the Council’s budget as a result of the contents of this report.

**COMMENTS OF THE MONITORING OFFICER**

- 11. The Council should have regard to its planning enforcement policy.
- 12. A breach of condition notice must allow a minimum period of 28 days for compliance. Failure to comply with a breach of condition notice is a criminal offence punishable in the magistrates’ court by a fine of up to £2,500.

- 13. Failure to comply with a stop notice is also a criminal offence. The fine for breach of a stop notice in the Crown Court is unlimited. A stop notice must be served at the same time or after the enforcement notice to which it relates

Jamie Carson

Director of Public Protection Streetscene and Community

<b>Background Papers</b>			
<b>Document</b>	<b>Date</b>	<b>File</b>	<b>Place of Inspection</b>
Planning Application	01/07/13	13/00600/FUL	Civic Offices Union Street

<b>Report Author</b>	<b>Ext</b>	<b>Date</b>	<b>Doc ID</b>
Peter Willacy	5226	27/10/15	***

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Report of	Meeting	Date
Director of Public Protection, Streetscene and Community	Development Control Committee	27 October 2015

## **IMPACT OF POOLING ARRANGEMENTS FOR 106 AGREEMENTS FOR THE PROVISION OF POS**

### **PURPOSE OF REPORT**

1. To advise members of the Committee of the review of S106 agreements associated with the provision of Public Open Space (POS) and to seek approval to the amended treatment of some section 106 agreements, by the imposition of a condition as opposed to requiring the signing of a legal agreement.

### **RECOMMENDATION(S)**

2. That Members note the report.
3. That any future applications, that would normally require a S106 agreement to provide POS contributions, but would not include the requirement for affordable housing, are dealt with by the imposition of a condition. That those applications that have had a resolution to approve subject to a 106 agreement covering only POS and where the decision has not been issued, are now authorised to be issued with a condition to secure a scheme of off-site public open space in place of a legal agreement.

### **EXECUTIVE SUMMARY OF REPORT**

4. Chorley Council adopted the Community Infrastructure Levy in September 2013.
5. The CIL regulations restrict the use of pooled contributions towards items that may be funded via the levy and that Local Planning Authorities should not enter into more than 5 obligations for one type of infrastructure. The Councils position that no more than 5 payments can be pooled for any one project is not the correct interpretation of the regulations now that Legal officers have formally advised on the regulations.
6. The NPPG advises that the use of negatively worded conditions can be used to secure the provision of POS in accordance with the Councils Policies HS4A and HS4B of the Adopted Chorley Local Plan 2012-2026.
7. The imposition of a condition on applications that do not include an affordable housing obligation would allow for the consideration of how obligations or payments are pooled in accordance with the regulations with greater certainty about the development commencing.

<b>Confidential report</b> Please bold as appropriate	Yes	No
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**CORPORATE PRIORITIES**

8. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	

**BACKGROUND**

9. The Community Infrastructure Regulations were introduced in 2010 and set out an approach that would restrict the type of infrastructure that could be included within S106 agreements and encouraged Local Planning Authorities to adopt a CIL charging regime.
10. Chorley along with the other Central Lancashire authorities adopted a CIL charging schedule in September 2013.
11. The transitional period for CIL and 106 to operate alongside each other ended in April 2015. From that date authorities that did not have a CIL charging schedule in place are not allowed to pool more than 5 obligation’s for one type of infrastructure.
12. The practice adopted within Chorley for pooling of S106 obligations has been to identify types of infrastructure and costs and then allocate funds that have been paid as a result of developments commencing but limit the number of contributions to 5 per project.
13. Legal officers have questioned this approach and have provided advice on the interpretation of the regulations. This advice is that the Council should only be pooling 5 obligations as opposed to 5 payments for each type of infrastructure.
14. Chorley consider that the reference to type of infrastructure can be interpreted to include projects to deliver an individual playing pitch or play area improvement or phase of a larger project.

**IMPLICATIONS OF REPORT**

15. This report has implications in the following areas and the relevant Directors’ comments are included:

Finance	X	Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

**COMMENTS OF THE STATUTORY FINANCE OFFICER**

16. .

**COMMENTS OF THE MONITORING OFFICER**

17. The condition proposed, fullfills the requirements of a planning condition in that it is phrased in the negative and does not require a payment of money. The proposal, that development will not commence until an agreement has been reached on a scheme that meets the policy requirements for Public Open Space, is acceptable.



Paul Whittingham  
Development Control Manager

There are no background papers to this report.

<b>Report Author</b>	<b>Ext</b>	<b>Date</b>	<b>Doc ID</b>
Paul Whittingham	5349	27 October 2015	

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Application number	Address	Proposal	Case Officer	Resolution to approve at committee? Y/N	Date of resolution	Comments
15/00462/FUL	5 The Orchard, Croston	Erection of a single storey detached dwelling (resubmission of application 14/01158/FUL)	HL	Y	08.09.2015	
14/00309/FUL	Land Adj to The Bungalow	Resubmission of planning application 11/00120/FUL for erection of a two storey detached dwelling	IC	Y	10.02.2015	
14/01051/FUL	Hudora Kennels	Resubmission of planning application 11/00120/FUL for erection of a two storey detached dwelling	IC	Y	21.01.2015	
14/00969/OUT	Preston Road Methodist Church	Outline application for the erection of two detached dwellings	IC	N		Delegation agreed by Chair and Director
15/00359/FUL	Rambler Cottage	Outline application (with all matters reserved) for the erection of 2 No. semi-detached dwellinghouses	IC	Y	16.06.2015	
15/00488/FUL	Lowes Tenement Farm	Conversion of barn to dwellinghouse, erection of detached garage and associated external works	IC	N		Delegated at Chairs Brief
15/00833/FUL	Leigh Farm	Conversion of series of barns to 4 dwellings and erection of 3 single garages	IC	Y	29.09.2015	
15/00719/FUL	Land To The South West Of Ricmarlo Preston Nook Eccleston	Erection of three 2.5 storey detached dwellings with garages along with construction of new accessway	NCH	Y	29.09.2015	S106 Agreement drafted and signed for POS were just awaiting legal fees
14/00110/OUT	69 Charter Lane Charnock Richard	Outline application for the erection of 2 detached dwellinghouses (all matters	AH	Y	10.02.2015	S106 Agreement drafted to include POS

Application number	Address	Proposal	Case Officer	Resolution to approve at committee? Y/N	Date of resolution	Comments
		reserved)				
13/00644/FUL	7 Albert Street Chorley	Erection of a single storey flat together with associated car parking	DS	Y	10.02.2015	S106 Agreement drafted to include POS
13/00757/FUL	Novita 37 Cowling Brow Chorley	Conversion of ground floor from hairdressing salon to self contained flat	DS	Y	10.02.2015	S106 Agreement drafted to include POS
13/01145/FUL	27 Charter Lane Charnock Richard Chorley	Demolish existing detached bungalow and replace with two stone detached dwellings	DS	N		Delegated decision
14/00603/FUL	Prospect House Whins Lane Wheelton	1) Proposed change of use and extension of existing garage block to form garage and new live/work unit and 2 ) Demolition of existing outbuilding	IH	Y	10.02.2015	POS contribution
14/01303/FUL	Morris Farm Hollin Lane Heapey Chorley	Conversion of barn to residential use.	IH	Y	10.03.2015	S106A for POS
15/00540/FULMAJ	Croston Hall Estate Grape Lane Croston	Erection of a large single private dwelling including the conversion of the existing stable block, conversion of barn to form swimming pool with link to the main house, creation of sunken garden on the former site of Croston Hall, repair and restoration of the Church of the Holy Cross, the completion of the kennels conversion and the repair of the	IH	Y	29.09.2015	S106A for POS

Application number	Address	Proposal	Case Officer	Resolution to approve at committee? Y/N	Date of resolution	Comments
		fishponds, gardens, main gates and Hall Bridge,				

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