

## **DEVELOPMENT CONTROL COMMITTEE**

TUESDAY, 26TH APRIL 2016, 6.30 PM

COUNCIL CHAMBER, TOWN HALL, CHORLEY

I am now able to enclose, for consideration at the above meeting of the Development Control Committee, the following reports that provide an update of events that have taken place since the agenda was printed.

<b>Agenda No</b>	<b>Item</b>	
4	<b>APPEALS AND OTHER DECISIONS</b>	(Pages 91 - 92)
	Report of Director of Public Protection, Streetscene and Community.	
6	<b>ADDENDUM</b>	(Pages 93 - 108)

GARY HALL  
CHIEF EXECUTIVE

Electronic copies sent to Members of the Development Control Committee

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Report of	Meeting	Date
Director of Public Protection, Streetscene and Community	Development Control Committee	26 April 2016

## **PLANNING APPEALS AND DECISIONS RECEIVED BETWEEN 8<sup>TH</sup> FEBRUARY AND 26 APRIL 2016**

### **PLANNING APPEALS LODGED**

1. Appeal by Mr Howard Rose against the delegated decision to Refuse Full Planning Permission for Demolition of existing stables and storage buildings and erection of two dwellings (resubmission of application 14/00982/FUL) at Town Lane Farm, Town Lane, Heskin, Chorley, PR7 5QA, (Planning Application: 15/01133/FUL, Inspectorate Reference: APP/D2320/W/16/3144183). Inspectorate letter received 09 February 2016..
2. Appeal by Mr & Mrs D Sexton against the delegated decision to Refuse Full Planning Permission for Erection of single storey rear orangery at West Hatch, Long Lane, Heath Charnock, Chorley, PR6 9EQ, (Planning Application: 15/00980/FUL, Inspectorate Reference: APP/D2320/D/16/3145783). Inspectorate letter received 07 March 2016.

### **PLANNING APPEALS DISMISSED**

3. Appeal by Mr Aslam Mohammed against the delegated decision to Refused Extension GPD for Proposed single storey rear extension measuring 7.9m in depth, 15.4m in width, 2.5m high to the eaves and 4m maximum height to the ridge at Khamillah, Dawbers Lane, Euxton, Chorley, PR7 6EQ, (Planning Application: 15/00252/PDE, Inspectorate Reference: APP/D2320/W/15/3129821). Inspectorate letter received 13 July 2015.
4. Appeal by Mrs Angela Dalton against the Development Control Committee decision to Refuse Full Planning Permission for Construction of six detached two bedroom bungalows and formation of access road at Land 60M West Of No. 3, Castle Walks, Croston, (Planning Application: 14/00791/FUL, Inspectorate Reference: APP/D2320/W/15/3135608). Inspectorate letter received 29 September 2015.
5. Appeal by Mrs Janet Martindale against the delegated decision to Refuse for Tree Works for 20% Crown thinning to oak tree at 96 Bredon Avenue, Euxton, Chorley, PR7 6NS, (Planning Application: 15/00721/TPO, Inspectorate Reference: APP/TPO/D2320/4926). Inspectorate letter received 26 October 2015.

### **ENFORCEMENT APPEALS LODGED**

6. Appeal by Alasdair Macdonald Morgan and Joanne Morgan against Without planning permission the change of use from residential curtilage, stables and cattery to a mixed use of residential curtilage, stables, cattery and use as a haulage yard at Close Gate Farm Cattery, Close Gate Farm, Buckholes Lane, Wheelton, Chorley, PR6 8JL, (Enforcement Case: 15/00217/OTHER, Inspectorate Reference: APP/D2320/C/16/3143704). Inspectorate letter received 01 March 2016.

All papers and notifications are viewable at Civic Offices, Union Street, Chorley or online at [www.chorley.gov.uk/planning](http://www.chorley.gov.uk/planning).

JAMIE CARSON  
DIRECTOR PUBLIC PROTECTION, STREETSCENE AND COMMUNITY

<b>Report Author</b>	<b>Ext</b>	<b>Date</b>	<b>Doc ID</b>
Paul Whittingham	5349	8/02/2016	***

C O M M I T T E E R E P O R T		
REPORT OF	MEETING	DATE
Director Public Protection, Streetscene and Community	Development Control Committee	26 <sup>th</sup> April 2016

ADDENDUM
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### ITEM 3a -15/01246/FUL - Land Adjacent To 75 Towngate, Ecclestone

**The recommendation remains as per the original report**

#### Ecclestone Parish Council

Since the meeting was deferred for a site visit at the last Development Control Committee meeting the Parish Council resolved to grant an easement over the strip of land on the north side of the entrance to The Hawthorns to facilitate the development of the land.

#### Highway report submitted by Cllr Whittaker

A report by a highways engineer from White Young Green (WYG) consultancy has been submitted to the Council, commissioned by Cllr Whittaker.

This states that in accordance with Manual for Street the proposed junction separation from Towngate is acceptable. It also states that the visibility splays when pulling out of the proposed junction on to Tincklers Lane are achieved with the removal of the hedge [as proposed] and the use of the grass verge. They do state that there are obstruction in the form of a telecom, electricity and street lighting poles which may have to be removed at cost to the developer along with a mature tree.

They raise concern over the proposed 1.2m wide footway along the south side of Tincklers Lane between the access and Towngate:

- The street lighting and telegraph pole are an obstruction in the footway and the width past them is 600mm. Removing/relocating them will be an expense to the developer;
- 1.2m is not width enough;
- The footway narrows the access junction with Towngate and will cause vehicles which are turning into Tincklers Lane to sweep wider than at present. When a car is emerging from the junction vehicles turning may stop mid turn or mount the pavement;
- The applicant should be asked for vehicle swept assessment for a refuse vehicle turning into Tincklers Lane as it may not be able to without crossing the centre line. Their plan suggests it would;
- The footway is inadequate for the mobility impaired due to the narrow and potentially obstructed footway.

Occupiers of the development will have to walk a significant distance to get o the facilities to the south of the site. It seems odd that the developer is not proposed a pedestrian route onto The Hawthorns to reduce the walking distance.

The impact on highway safety is severe in terms of paragraph 32 of the National Planning Policy Framework.

Westchurch Homes

Chorley Council passed the resolution to grant an easement on to Westchurch Homes.

They have also responded to this and also to the highway report commissioned by Cllr Whittaker and employed their own highway engineer to respond. Their full response is attached to the end of this addendum, but can be summarised as:

The access from The Hawthorns does not present a viable alternative and they wish to retain the access as applied for. This is on the grounds that:

- This is on the ground that there are no road safety issues associated with the access off Tincklers Lane. The works will improve the safety of the highway for all road traffic and pedestrian users by bringing the hedgerows back from the road and increasing visibility across the existing corner. This would not happen if access was taken from The Hawthorns.
- Their own highway engineer has reviewed the points made by WYG and the layout accords with local and national design standards. The existing utilities do not unduly fetter the use of the footpath and even if they had done they could have been relocated;
- The safety concerns regarding the geometry of the junction of Towngate with Tincklers Lane as a result of the new footway are contrary to Manual for Streets;
- The development will not result in a severe adverse impact on the highway network and will need the requirements for sustainable development under the NPPF

They state that they have pursued the current access arrangement in good faith on the basis that the Parish Council was previously not willing to allow access over their land which they confirmed in writing.

The resolution from the Parish Council proposed since the last committee is only to consider granting access over their land, over which they have not control and have not guaranteed an easement will be granted. This would make road and services adoption impossible and reduce the developable portion of the site due to its shape. Access from The Hawthorns will need a total scheme re-draw and loss of at least one plot impacting on the viability of the scheme. They advise if they are forced to further consider or pursue a solution that involved taking access off The Hawthorns they would face incurring the costs to the Parish Council and incur the legal costs involved in perfecting a same or easement of or over that land.

The marketability of the houses would be prejudiced due to the access provisions being an easement as access provision is important to purchasers and solicitors. Delivering the scheme would also be delayed and may put at risk jobs of their small company.

LCC Highways

Have reviewed their advice following the report by WYG. They have also undertaken an additional site visit. Their response is attached in full at the end of this addendum, but can be summarised as:

- They disagree with the consultant's assertion that the existing telephone poles, lamp columns and the mature tree may have to be relocated to ensure visibility. There is currently a lamp column, a telephone pole and a tree along the site boundary near no. 1 Tincklers Lane, however, infrastructure within the highway is not uncommon and in this case the tree is beyond the visibility requirements. The lamp column and the telephone pole outside no.75

Towngate would also not obscure visibility. Given that none of these falls within the required visibility splays and LCC do not require their relocation;

- Although some sections of the proposed footway may be below the normal minimum requirement for a new build situation, there was a choice to be made between leaving it to remain as a grass verge or constructing a footway (even if substandard) to provide some form of walkable surface for residents/pedestrians. In coming to a view at the time the scale of development was considered as well as existing infrastructure that currently serves the existing dwellings; LCC considered that a narrow footway will serve the development better than none. In the infrequent case of wheelchair/wide pushchair users (having regard to scale of this 7 dwelling development) there is the option for those users to cross the road onto the available northern footway;
- The footway works will be undertaken via the section 278 agreement of the Highways Act 1980 under which there may be a need for some of the street furniture, (e.g. the street name sign currently on the radius of Towngate/Tincklers Lane) to be appropriately repositioned. As part of the S278 highway works they would expect a road signs/lines and a surface treatment scheme (that includes simple slow markings and a rumble strip to act as simple gate way treatment);
- As part of the s278 process, the applicant will be required to provide drawings for the approval of the Highway Authority to take account of the agreed works. Therefore, the design of the new footway to tie in with the existing on Towngate and the associated alterations to the junction radius will be agreed prior to work commencing on site and should address the concerns expressed regarding turning of vehicles at the junction;
- It is also not considered necessary for the applicant to submit an auto-track drawing of the junction at this stage of the application process. It is not unusual for large vehicles such as refuse vehicles to utilise extra width of carriageway when turning into side roads as demonstrated by the auto-track drawing accompanying the WYG report. The Manual for Streets (6.8.7) recommends a minimum street width of 5.0m for such vehicles. A lesser street width is also acceptable where on-street parking does not take place. The average width of Tincklers Lane is more than 5.0m and parking does not take place at the junction. The turning of HGVs at the junction is not a significant highway concern to LCC as it would not represent a severe impact.

**The following additional conditions are proposed:**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any subsequent re-enactment thereof, there shall not at any time in connection with the development hereby permitted be erected or planted or allowed to remain upon the land hereinafter defined any building, wall, fence, hedge, tree, shrub or other device over 1m above road level. The visibility splay to be the subject of this condition shall be that land in front of a line drawn from a point 2.4m measured along the centre line of the proposed road from the continuation of the nearer edge of the carriageway of Tincklers Land to points measured 43m m in each direction along the nearer edge of the carriageway of Tincklers Lane, from the centre line of the access; and shall be constructed and maintained at footway/verge level in accordance with a scheme to be agreed by the Local Planning Authority in conjunction with the Highway Authority.  
*Reason: To ensure adequate visibility at the street junction or site access.*

No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway improvement have

been submitted to and approved by the Local Planning Authority. No part of the development (other than site investigation, enabling and access works) shall be commenced until site the access and off-site highway works have been constructed in accordance with the approved scheme.

*Reason: In order to satisfy the Local Planning Authority that the final details of the highway scheme/works are acceptable before work commences on site and to enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users.*

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#### **ITEM 3b-15/01057/FUL – 145 Town Lane, Whittle le Woods**

##### **The recommendation remains as per the original report**

The agent has prepared a coloured layout plan to clarify the details of the proposals. This is included on the PowerPoint presentation.

They have also included an additional occasional parking area to the front of the dwelling, to be surfaced in flags or setts.

The proposed materials for the driveway and turning areas are a plastic grid cell system with appropriate coloured gravel, to provide a permeable texture.

They have indicated that they are happy to reduce the height of the frontage wall to 1m in order to improve visibility.

##### **The following conditions have been amended (*include reason*):**

The dwelling hereby permitted shall not be occupied until the frontage wall has been reduced in height to 1m.

*Reason: in the interests of Highway Safety.*

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#### **ITEM 3g-16/00162/FUL – Woodview, Preston Nook, Eccleston**

##### **The recommendation remains as per the original report**

The following consultee responses have been received:

**Greater Manchester Ecology Unit** have made the following comments as there is a pond close to the site although it is not affected by the development and neighbour concerns have been raised about the ecological impacts of the development:

*If the pond is not being lost to the scheme then the loss of terrestrial habitat will not be substantive or significant; a comprehensive ecology survey therefore isn't likely to be required. But amphibians may use the part of the land to be lost to the development so further precautions are justified to address this risk.*

*I would advise that a simple Method Statement should be required giving details of the measures to be taken to avoid possible harm to amphibians during the course of any permitted construction works. Once agreed this Method Statement must be implemented in full.*

##### **The following condition has been included:**



Prior to the commencement of the development, including site clearance works, a Method Statement for the avoidance of impacts on protected and priority species shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Method Statement shall be implemented in full.

In the event that great crested newt (or other protected species) is unexpectedly encountered before or during site clearance or development work, then work shall stop until specialist advice has been sought regarding the need for a licence from Natural England and/or the implementation of necessary mitigation measures.

*Reason: In the interests of maintaining a favourable conservation status of protected species on the site and having regard to the proximity of a pond to the application site*

**The original report has been amended as follows:**

To expand on the open space section of the original report the following open space typologies would be generated from this development:

**Amenity Greenspace**

Local Plan Policy HS4A sets a standard of 0.73 hectares per 1,000 population. There is currently a deficit of provision in Ecclestone in relation to this standard, a contribution towards new provision in the settlement would therefore be required from this development however there are no identified schemes for new provision.

**Provision for children/young people**

Local Plan Policy HS4A sets a standard of 0.08 hectares per 1,000 population. There is currently a surplus of provision in Ecclestone in relation to this standard, a contribution towards new provision in the settlement is therefore not required from this development. However the site is within the accessibility catchment (800m) of an area of provision for children/young people that is identified as being low quality and/or low value in the Open Space Study (site 2022 – Langton Close Play Area). A contribution towards improving this site is therefore required from this development. The amount required is £134 per dwelling.

**Parks and Gardens**

There is no requirement to provide a new park or garden on-site within this development. There are no parks/gardens within the accessibility catchment (1,000m) of this site identified as being low quality and/or low value in the Open Space Study therefore a contribution towards improving existing provision is not required.

**Natural and Semi-Natural Greenspace**

There is no requirement to provide new natural/semi natural greenspace on-site within this development. The site is within the accessibility catchment (800m) of an area of natural/semi-natural greenspace that is identified as being low quality and/or low value in the Open Space Study (site 1669 – Rear of Larkfield), a contribution towards improving this site is therefore required. The amount required is £557 per dwelling.

**Allotments**

There is no requirement to provide allotment provision on site within this development.

**Playing Pitches**

A Playing Pitch Strategy was published in June 2012 which identifies a Borough wide deficit of playing pitches but states that the majority of this deficit can be met by improving existing pitches. A financial contribution towards the improvement of existing playing pitches is therefore required from this development. The Playing Pitch Strategy includes an Action Plan which identifies sites that need improvements. The amount required is £1,599 per dwelling.

THE TOTAL FINANCIAL CONTRIBUTION REQUIRED FROM THIS DEVELOPMENT IS AS FOLLOWS:

Amenity greenspace	= £0
Equipped play area	= £134
Parks/Gardens	= £0
Natural/semi-natural	= £557
Allotments	= £0
Playing Pitches	= £1,599
<b>Total</b>	<b>= £2,290</b>

A scheme in respect of open space is secured via condition as set out within the original report.

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Director of Partnerships,  
Planning and Policy  
Chorley Council  
Civic Offices, Union Street  
Chorley  
PR7 1AL

Tel 0781729 8072  
Email [william.tay@lancashire.gov.uk](mailto:william.tay@lancashire.gov.uk)  
Your ref 15/01246/FUL  
Our ref HDC/AW/D9/15/01246/FUL  
Date 23/03/2016

**FAO: Caron Taylor**

Dear Sir/Madam,

**TOWN AND COUNTRY PLANNING ACT 1990**

**Planning Application: 15/01246/FUL**

**Proposed erection of 7 no. residential dwellings and associated works. Land adjacent to 75 Towngate, Ecclestone.**

Further to the Highways response of 19/01/2016 and the follow-up emails, I can confirm that the most recent amended site plan, drawing no. AL-001 Rev. H, dated 05/11/2015 is acceptable, once the minor amendment relating to the boundary of 1 Tinklers Lane and Plot 7 is made.

For the development to be accepted for adoption under the Section 38 agreement of the Highways Act 1980 and to ensure satisfactory access, the layout must be constructed to the Lancashire County Council Specification for Construction of Estate Roads.

If you are minded to grant planning approval, please attach the following conditions and advice notes.

**Conditions:**

1. No development shall be commenced until an Estate Street Phasing and Completion Plan has been submitted to and approved in writing by the Local Planning Authority. The Estate Street Phasing and Completion Plan shall set out the development phases and the standards that estate streets serving each phase of the development will be completed. Reason: To ensure that the estate streets serving the development are completed and thereafter maintained to an acceptable standard in the interest of residential / highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the development; and to safeguard the visual amenities of the locality and users of the highway.
2. No dwelling or dwellings shall be occupied until the estate street(s) affording access to those dwelling(s) has been completed in accordance with the Lancashire County Council Specification for Construction of Estate Roads. Reasons: To ensure that the estate streets serving the development are completed and maintained to the approved standard, and are available for use by the occupants, and other users of the development, in the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving

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**Phil Barrett**

**Director, Community Services, Lancashire County Council**

Cuerden Depot • Cuerden Way • Bamber Bridge • Preston PR5 6BS

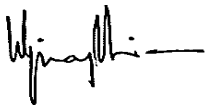
the approved development; and to safeguard the visual amenities of the locality and users of the highway.

3. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established.
4. No development shall be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority. Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway.
5. Before the use of the site hereby permitted is brought into operation and for the full period of construction, facilities shall be provided within the site by which means the wheels of vehicles may be cleaned before leaving the site. Reason: To avoid the possibility of the public highway being affected by the deposit of mud and/or loose materials thus creating a potential hazard to road users.
6. Prior to construction, a construction plan shall be submitted to and approved in writing by the local planning authority. The plan to include method and details of construction including vehicle routing to the site, construction traffic parking and any proposed temporary closing of roads or streets. No construction traffic or deliveries to enter/exit during traffic peak periods or to wait on the public highway. Such construction plan to be implemented and adhered to during the construction of the development. Reason: To maintain the operation of local streets and through routes in the area during construction, particularly during peak periods.
7. No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway improvement (footway construction) has been submitted to and approved by the Local Planning Authority in consultation with the Highway Authority. Reason: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site.
8. The new estate road/access between the site and Tincklers Lane shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any development takes place within the site. Reason: To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative.

**Advice Notes:**

- The applicant is advised to obtain the written approval of the Local Highway Authority for the details required under Condition 1, prior to the submission of such details to the Local Planning Authority in seeking to discharge the said condition. Such details, as may be submitted to the Local Highway Authority, could be subject to technical and safety assessments / audits, which may result in changes to the layouts and alignments as shown on any indicative layout(s) approved by virtue of the planning permission. The applicant is advised that the Local Planning Authority may reject details submitted to them for the discharge of the condition without evidence of technical approval from the Local Highway Authority.
- The applicant is advised that to discharge Condition 3, the Local Planning Authority requires a copy of a completed agreement between the applicant and the Local Highway Authority under Section 38 of the Highways Act 1980 or the constitution and details of a Private Management and Maintenance Company confirming funding, management and maintenance regimes.
- The applicant is advised to obtain a technical approval for all estate street details from the Local Highway Authority prior to the submission of such approved details to the Local Planning Authority to discharge Condition 4 of this consent.
- The grant of planning permission will require the applicant to enter into an appropriate Legal Agreement, with the County Council as Highway Authority. The Highway Authority hereby reserves the right to provide the highway works within the highway associated with this proposal. Provision of the highway works includes design, procurement of the work by contract and supervision of the works. The applicant should be advised to contact the Community Services for further information by emailing the County Council's Highways Development Control Section on [lhscustomerservice@lancashire.gov.uk](mailto:lhscustomerservice@lancashire.gov.uk) or by writing to the Highways Development Control Manager, Winckley House, Cross Street, Preston PR1 3LT, quoting the planning application number in either case.

Yours faithfully,



**WILLIAM TAY  
ENGINEER  
(HIGHWAYS DEVELOPMENT CONTROL)**

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April 21, 2016

Ms C Taylor  
Development Control  
Civic Offices  
Union Street  
Chorley  
Lancashire  
PR7 1AL

Dear Caron,

**Re: Planning Application Ref. 15/01246/FUL – Land adjacent to Towngate, Ecclestone**

Further to the deferral of the aforementioned planning application which is scheduled to be re-heard at Planning Committee on 26<sup>th</sup> April 2016, I write to confirm our position going forward regarding the proposed access arrangements for the site.

As you are aware, the main issue that was discussed at Planning Committee related to highways safety and the deferral was motioned so as to allow members the opportunity to undertake a site visit.

On 11<sup>th</sup> April 2016, Richard Topham and I met with Councilor Alan Whittaker and colleague to discuss their concerns and to consider the possibility to access the site off The Hawthorns through Parish Council owned land. Further to this, at a meeting of the Parish Council on 14<sup>th</sup> April 2016 it was resolved that,

*“In the interests of road safety the Parish Council **will consider granting an easement** over the narrow strip of land on the north side of the entrance to The Hawthorns to facilitate the development of land adjacent to 75 Towngate”.*

In an email to yourself dated 14<sup>th</sup> April 2016 you were urged by Ecclestone Parish Council to convey this resolution to us and to encourage us to reconsider the access arrangements to the site. A similar email was received by our planning consultant on 15<sup>th</sup> April 2016.



However, upon further consideration we have concluded that the access from The Hawthorns does not present a viable alternative. As such our intention is to retain the proposed access that was presented to Planning Committee on 5<sup>th</sup> April 2016.

Addressing the two principal matters identified within the Parish Council resolution, namely road safety, and granting of an easement over the Parish Council owned land, I have summarised our reasoning below.

### **Road Safety**

There is no road safety issue associated with the access off Tincklers Lane. This access is central within the site and maximises visibility in both directions. The works that will be carried out to enable access to the development will improve the safety of the highway for all road traffic and pedestrian users by bringing the hedgerows back from the road and increasing visibility across the existing corner. If the access was to be taken from elsewhere (i.e. The Hawthorns) the highway improvements to Tincklers Lane would not be secured.

The proposal is to relocate the hedge to the back of the back of the visibility splays and for it be kept at a height of 1m or under. This provides adequate visibility for the proposed junction, but also will remove a blind bend from Tincklers Lane. This will result in a significant improvement on the current situation.

The proposed footpath that will be secured through the Section 278 agreement will link the development to Towngate. This will result in an improvement in pedestrian safety for existing and new residents.

The Local Highways Authority (LHA) has found the highway scheme acceptable in road safety terms and compliant with current guidance. Nevertheless, we have enclosed a Technical Highways Note (prepared by SK Transport) that considers the points raised in the late representations received by WYG and provides a technical review of the highways elements of the proposals. The note concludes the following:

- The layout of the proposed site access and internal access road accords with local and national design standards.
- The provision of new footway on the site frontage and externally within the existing highway to connect to Towngate will ensure suitable access to the site is achievable for all users and will provide a benefit to existing users.



- The existing utilities will not unduly fetter the use of the footpath, and even if they had done, they could have been relocated.
- Safety concerns raised in the WYG representations in respect of the modifications to the geometry of the junction of Towngate with Tincklers Lane as a result of the new footway provision are contrary to the advice given in Manual for Streets and should be disregarded.
- The proposed development will not result in a severe adverse impact on the highway network and meets the requirements for sustainable development under the terms of NPPF.
- The findings of the review support the Local Highway Authority position in approving the highway elements of the proposed development. It is considered that there is no sustainable reason for refusal of the planning application on highways grounds.

### **Granting of an easement**

As you are aware, we have pursued the current access arrangements in good faith on the basis that the Parish Council were previously not willing to allow access over their land. I have enclosed a letter from the Parish Council dated 15<sup>th</sup> August 2014. This states unequivocally that:

*“The Parish Council would prefer to retain the land, in its current form, as open space and is not willing to sell, or license the land to provide access”*

Irrespective, the resolution of the Parish Council of the 14<sup>th</sup> of April 2016 is only to **consider** granting access over their land. We have no control over this land and no guarantee that an easement will be granted. Such an approach would make road and services adoption impossible, and actually reduces the developable portion of the site because of the shape of the site. This site is allocated in the Local Plan and is expected to deliver 12 dwellings. The current scheme achieves 7 dwellings. The fact that the site is allocated for housing and deliverable on the basis of the current access arrangements off Tincklers Lane forms part of our previous submissions.

Access off The Hawthorns will necessitate a total scheme re-draw and we are advised by our architect that in doing so we will lose at least one more plot, which will detrimentally impact the viability of the scheme. Similarly, it will impact upon values and further jeopardise the viability of the scheme.

Notwithstanding the planning merits set out above and in related and previous submissions, should we be forced to further consider or pursue a solution that involved taking an access to the allocated land off The Hawthorns, we would face:

- a. Incurring the costs to the Parish Council

- b. Incur the legal costs involved in perfecting a sale or easement of or over that land.

Notwithstanding the views set out above we have consulted and been advised by both our solicitor and property agent in respect of the possibility of taking access from The Hawthorns. We append the response of both advisors for reference.

In summary the marketability of houses for sale will be prejudiced if we have to explain firstly to a purchaser and then to a solicitor acting for a purchaser about the access provisions being an easement. The status of the road is uppermost in their responses. The fact that the road will be constructed over a strip of land upon which only an easement has been granted means that the road and associated services and utilities will be incapable of adoption by the highway authority.

The time involved in perfecting a solution through negotiation and then the legal process would delay the scheme by an indeterminate period putting at risk the jobs of company employees who were programmed to commence on this scheme in May. It may be considered presumptuous but we did not have an notion that there was a current issue with access until the planning committee meeting on the 5<sup>th</sup> of April and considered the application to be uncontentious. As a small company we do not have the resources or alternative sites on which to absorb much valued employees.

Our property agent has advised that there will an adverse value effect should the houses be sold with an access off The Hawthorns and not Tincklers Lane. Again that affects the viability of the scheme.

Indeed, we are perplexed by the current situation whereby an allocation for housing in the Development Plan is seemingly ransomed by an adjacent open space allocation that is not in the landowners or our control. Indeed involving that land in the allocated land been actively discouraged when the landowners had enquired.

We respectfully reiterate that the development is considered to be fully in accordance with the requirements of the Development Plan. It has no outstanding objections from statutory consultees (e.g. LHA) and is recommended for approval by your Officers. We do not believe that there are any grounds on which a refusal of the application could be based. The Council does have experience of refusing applications on highways grounds contrary to their officer recommendation and I understand that such an appeal (ref. 14/00376/OUT) was recently allowed.

Consequently, should the Council refuse this application for planning permission, an appeal will be lodged under Section 78 of the Town and Country Planning Act 1990 (as amended) and we may consider an application for an award of costs against the Council.

Kind regards,

Sophie Turbfield

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