

APPLICATION REPORT – 21/00356/FUL

Validation Date: 24 March 2021

Ward: Eccleston, Heskin And Charnock Richard

Type of Application: Full Planning

Proposal: Section 73 application to vary condition no.3 (approved plans) attached to planning permission 16/00737/FUL (Re-positioning of dwelling and 3 bay stable block approved under application 14/00982/FUL, and Lawful Barn under application 15/00340/CLEUD) to change the position of the approved dwelling and to create a new access onto Town Lane

Location: Town Lane Farm Town Lane Heskin Chorley PR7 5QA

Case Officer: Mike Halsall

Applicant: Mr Ben Rose

Agent: Mr Howard Rose

Consultation expiry: 7 May 2021

Decision due by: 4 March 2022 (Extension of time agreed)

RECOMMENDATION

1. It is recommended that planning permission is granted subject to conditions.

SITE DESCRIPTION

2. The application relates to a large site which currently consists of a yard that is occupied by two storage containers, a mobile home/caravan, a mobile stable block and a large area of hardstanding. There is currently an access track that provides vehicular access to Town Lane which runs across land not owned by the applicant. The site has a complex planning history, but in summary, planning permission exists for the erection of two dwellings and a barn. The northernmost dwelling, closest to Town Lane and the subject of this application is labelled as 'Silver Lea' on the submitted site plan and 'The Cottage' on previously approved plans. The southernmost dwelling, approved under planning permission ref. 17/00599/FUL, is labelled as 'Orchard Cottage' on the submitted site plan or 'dormer bungalow' on previously approved plans. The location of the approved barn was moved further south as part of planning permission ref. 17/00599/FUL, located in the south western corner of the site boundary. The amended barn location is the same as that approved for the stables as part of permission ref. 16/00737/FUL and so this variation application seeks to regularise the approved site plan to show the barn in the correct location. This is purely an administrative change and so requires no further assessment in this report.

DESCRIPTION OF PROPOSED DEVELOPMENT

3. The application seeks planning permission to vary condition no.3 attached to planning permission ref. 16/00737/FUL to substitute the approved drawings to enable a change in the position of the northernmost approved dwelling and to create a new access to Town Lane to serve the dwelling.

4. It is considered that planning permission ref. 16/00737/FUL has been lawfully implemented as the septic tank shown within the approved Drainage Strategy Report ref. C-0715 (condition discharge ref. 16/00935/DIS) was installed in 2018, within the three year period during which the development must be commenced. This has been evidenced in application ref. 20/00869/CLPUD which established the lawfulness of the second dwelling at the site under planning permission ref. 17/00599/FUL. Both planning permissions include a connection to the approved septic tank and so its installation has implemented both planning permissions.
5. The proposed minor material change involves rotating the orientation of the dwelling by approximately 45 degrees in an anti-clockwise direction to make its frontage parallel with Town Lane. The new site access to Town Lane would be positioned to the west of the approved access point, giving the dwelling its own dedicated access, rather than sharing with the other approved dwelling and the barn.

REPRESENTATIONS

6. One representation has been received citing the following grounds of objection:
 - Questions whether the further change to the site is to make the proposal confusing and whether before and after drawings can be provided
 - The Orchard Cottage appears very small on the site plan
 - The proposed access encroaches onto someone else's property
 - Already have an access approved – it is a very narrow lane
 - The barn is too tall – blot on the landscape

CONSULTATIONS

7. Lancashire County Council Highway Services (LCC Highway Services): Initially responded to request additional hardstanding within the site for vehicles to manoeuvre. The site layout plan was subsequently amended by the applicant to the satisfaction of LCC Highway Services who have responded with no objection to the proposal.
8. Heskin Parish Council: No comments have been received.

PLANNING CONSIDERATIONS

The principle of development

9. Section 73 (S73) of the Town and Country Planning Act (1990) allows minor material amendments to planning permissions, where there is a relevant condition that can be varied.
10. The effect of approval of an application under S73 is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. It also repeats the relevant conditions from the original planning permission, unless they have already been discharged.
11. S73 is clear that the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted.
12. The application site is located within the Green Belt and falls within the definition of previously developed land provided within the National Planning Policy Framework (the Framework). Section 13 of the Framework confirms that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
13. Development will only be permitted within the Green Belt, in accordance with the Framework, if it is considered appropriate development or where very special circumstances can be demonstrated. The Framework confirms that 'very special

circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

14. The proposed rotation of the approved dwelling would have no impact upon the openness of the Green Belt.
15. The proposed new access is an engineering operation. Paragraph 50 of the Framework lists exceptions to what may be considered inappropriate development and one such exception is engineering operations, providing that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within Green Belt.
16. As such there are two considerations in respect of the proposal and the appropriateness of the access in the Green Belt as follows:
 - 1) Will the development preserve the openness of the Green Belt? Whilst the test for sites such as this relates to preserving openness it is important to note that the Framework contains no specific definition of 'openness'. It is noted that the access track itself would be a low-lying surface structure, and in this respect would not have a physical impact on openness due to its two dimensional nature. There would be a gate to the entrance, however, this would be of a low height and would have a high degree of inter-visibility and would not impact on openness.
 - 2) Will the development conflict with the purposes of including land in the Green Belt? Paragraph 138 of the Framework sets out the five Green Belt purposes, which the scheme is assessed against as below:
17. Purpose 1 (to check the unrestricted sprawl of large built-up areas).
The proposal does not relate to a large built up area.
18. Purpose 2 (to prevent neighbouring towns merging into one another)
Development of the site would not lead to the coalescence of neighbouring towns. In respect of the neighbouring villages, the development would not lead to a coalescence of neighbouring villages.
19. Purpose 3 (to assist in safeguarding the countryside from encroachment;).
The proposal includes the change in orientation of the approved dwelling and the installation of a new access from Town Lane which would include a short section of gravel driveway, fencing and a gate. This would all be constructed within the curtilage of the approved dwelling. In consideration of the simple changes proposed, it would not result in any harmful encroachment into the Green Belt.
20. Purpose 4 (to preserve the setting and special character of historic towns;).
This does not apply as the site is not located near a historical town.
21. Purpose 5 (to assist in urban regeneration, by encouraging the recycling of derelict and other urban land).
It is not considered that the proposal conflicts with this purpose.
22. The proposed change to the orientation of the dwelling and the new access track would effectively preserve the openness of the Green Belt, given the simple low level surfacing and minimal other structures being restricted to a short section of fence and a gate. The proposal would be located entirely within the existing approved residential curtilage. There would be no conflict with any of the purposes of including land within the Green Belt.
23. Further to the above, the construction of the proposed access would fall within the applicant's Permitted Development rights once the dwelling is constructed.

Impact the character and appearance of the locality and on residential amenity

24. Policy BNE1 of the Chorley Local Plan 2012 – 2026 states that new development should not have a detrimental impact on the surrounding area by virtue of its density, siting, building to plot ratio, height, scale and massing, design, orientation and use of materials. .

The policy also states that new development must not cause harm to any neighbouring property by virtue of overlooking, overshadowing, or by creating an overbearing impact.

25. The proposed change would not result in the dwelling being physically closer to Town Lane or neighbouring dwellings to cause any unacceptable impacts in terms of the character of the area, or residential amenity although it may appear slightly more prominent due to the change in its orientation. The proposal complies with policy BNE1 of the Local Plan.

Other issues

26. Accuracy of drawings of the bungalow and requesting before and after drawings – the submitted drawings are considered to be accurate with regards to the size of the bungalow and before and after drawings are not considered to be necessary to assess the acceptability of the proposal.
27. The site includes land owned by someone else - The applicant's agent has completed Certificate A on the planning application form which identifies that the applicant owns the entire application site.
28. The barn is too tall - No changes to the height of the approved barn are proposed as part of this application.
29. Details of the proposed dwelling emission rate, site drainage, externally facing materials, site levels and landscaping were approved as part of discharge of condition application ref. 16/00935/DIS. Where required, these details have been updated by the applicant and submitted in support of this planning application. The changes are minor and do not result in any significantly different impacts than those previously agreed as acceptable.
30. Any conditions and approved plans relating to the stables and barn have been omitted from the proposed conditions as these have been superseded by subsequent planning permissions.
31. There were S106 agreements attached to previous planning permissions at this site to ensure that the applicant does not build-out different elements from different planning approvals / lawful developments that would result in an unacceptable level of development in the Green Belt. It is not however considered that a S106 is required in this instance as the applicant would only be able to build-out either this development or 16/00737/FUL and not elements of both. Further, the legal agreement attached to planning permission ref. 17/00599/FUL remains in force and provides assurances against an inappropriate level of development at the site.

CONCLUSION

32. It is considered that the proposed amendments would preserve the openness of the Green Belt and would not conflict with the purposes of including land within the Green Belt. The proposed changes are minor in nature and would not result in any additional harm to residential amenity, the character of the area or any other issue assessed and considered acceptable by virtue of the approval of the original application. As such, the proposal is considered to be acceptable and the application is recommended for approval.

RELEVANT HISTORY OF THE SITE

Ref: 08/00824/AGR **Decision:** WDLPA **Decision Date:** 31 July 2008
Description: Erection of agricultural building for storage of hay and machinery

Ref: 08/01208/FUL **Decision:** WDN **Decision Date:** 26 January 2009
Description: Erection of a 3 bay agricultural building

Ref: 09/00065/FUL **Decision:** PERFP **Decision Date:** 30 March 2009

Description: Erection of an agricultural storage building (amended re-submission of application no. 08/01208/FUL)

Ref: 11/00069/FUL **Decision:** WDN **Decision Date:** 1 April 2011

Description: Proposed demolition of existing stables to be replaced by new stables

Ref: 11/00713/FUL **Decision:** PERFP **Decision Date:** 5 October 2011

Description: Erection of replacement stable building following demolition of existing stable building (Re-submission of application no. 11/00069/FUL)

Ref: 11/01101/CLEUD **Decision:** PEREUD **Decision Date:** 29 May 2012

Description: Application for a Certificate of Lawfulness for use of existing building as livery stables

Ref: 12/00274/DIS **Decision:** PEDISZ **Decision Date:** 3 April 2012

Description: Discharge of condition no. 2 (colour, form, texture of external materials including painting) of planning permission no.09/00065/FUL

Ref: 12/01105/FUL **Decision:** PERFP **Decision Date:** 16 January 2013

Description: Application to remove condition no. 6 (which prohibited the business, trade and livery use of the building) of planning permission no. 11/00713/FUL (which permitted the erection of a replacement stable building following demolition of existing stable building) to enable the building to be used as a livery stables

Ref: 14/00982/FUL **Decision:** PERFP **Decision Date:** 8 September 2015

Description: Demolition of existing stables and erection of detached dwelling, formation of new access and erection of stable block

Ref: 15/00340/CLEUD **Decision:** PEREUD **Decision Date:** 11 June 2015

Description: That a meaningful start has been made to planning permission reference number 09/00065/FUL for the erection of an agricultural storage building (amended re-submission of application number 08/01208/FUL) by the setting out and excavation of foundations and the laying of steel stanchion bases

Ref: 15/01133/FUL **Decision:** REFFP **Decision Date:** 20 January 2016

Description: Demolition of existing stables and storage buildings and erection of two dwellings (resubmission of application 14/00982/FUL)

Ref: 16/00084/DIS **Decision:** PEDISZ **Decision Date:** 3 March 2016

Description: Application to discharge conditions 3 (drainage details), 9 (House Sparrow mitigation), 11 (Barn Owl survey), 13 and 16 (external facing materials), 17 (hard landscaping details), 18 (levels), 19 (landscaping details), 20 (Dwelling Emission Rate details) and 22 (scheme for the containment and storage of manure) attached to planning approval 14/00982/FUL

Ref: 16/00152/FUL **Decision:** WDN **Decision Date:** 3 October 2016

Description: Re-positioning of dwelling approved under application 14/00982/FUL and lawful barn under lawful development certificate 15/00340/Cleud and 3 bay stable block

Ref: 16/00737/FUL **Decision:** PERFP **Decision Date:** 29 September 2016

Description: Re-positioning of dwelling and 3 bay stable block approved under application 14/00982/FUL, and Lawful Barn under application 15/00340/CLEUD

Ref: 16/00935/DIS **Decision:** PEDISZ **Decision Date:** 22 November 2016

Description: Application to discharge conditions 10 and 11 (dwelling emission rate), 14 (drainage), 16 (external facing materials), 17 (levels), 18 (landscaping) and 19 (manure containment and storage) of planning approval 16/00737/FUL

Ref: 17/00015/FUL **Decision:** WDN **Decision Date:** 17 May 2017
Description: Proposed replacement design of dwelling to that previously approved under application reference 16/00737/FUL

Ref: 17/00093/FUL **Decision:** REFFPP **Decision Date:** 30 March 2017
Description: Erection of dwelling following demolition of existing stables and storage buildings

Ref: 17/00599/FUL **Decision:** REFFPP **Decision Date:** 17 August 2017
Description: Erection of one detached dormer bungalow

Ref: 18/00823/DIS **Decision:** REDISZ **Decision Date:** 10 December 2018
Description: Application to discharge conditions numbered 3 (external materials) and 4 (hard & soft landscaping) attached to planning permission 17/00599/FUL (Erection of one detached dormer bungalow and relocation of approved agricultural barn/storage building)

Ref: 18/01180/DIS **Decision:** PEDISZ **Decision Date:** 22 January 2019
Description: Application to discharge conditions numbered 3 (external materials) and 4 (hard & soft landscaping) attached to planning permission 17/00599/FUL (Erection of one detached dormer bungalow and relocation of approved agricultural barn/storage building)

Ref: 19/00631/FUL **Decision:** WDN **Decision Date:** 24 September 2021
Description: Erection of two dwellings (involving the swapping and repositioning of dwellings previously approved under permission references 16/00737/FUL and 17/00599/FUL)

Ref: 20/00869/CLPUD **Decision:** PERPUD **Decision Date:** 23 October 2020
Description: Application for a certificate of lawfulness for the erection of one detached dormer bungalow and relocation of approved agricultural barn/storage building in accordance with the terms of the application, Ref 17/00599/FUL

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:

Title	Plan Ref	Received On
Site Location Plan	21.02.2022	22 February 2022
Proposed Landscaping Plan to Satisfy Condition 17 (1600737FUL)	21.02.2022	22 February 2022
Cottage Heskin Proposed Floor Plans	1405 P 20	12 August 2016
Cottage Heskin Proposed Elevations	1405 P21	10 August 2016

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

2. Before the access is used for vehicular purposes, any gateposts erected at the access shall be positioned 5m behind the nearside edge of the carriageway and visibility splay fences or walls shall be erected from the gateposts to the existing highway boundary, such splays shall be 45° to the centre line of the access. The gates shall open away from the highway. Should the access remain ungated 45° splays shall be provided between the highway boundary and points on either side of the drive measured 5m back from the nearside edge of the carriageway.

Reason: To permit vehicles to pull clear of the carriageway when entering the site and to assist visibility.

3. The precautionary measures to ensure that impacts on bats are avoided as detailed in section 9.2.1.1 of the Bat, Barn Owl and Nesting Bird Survey at Town Lane Farm, Heskin (Envirotech NW Ltd, August 2014) shall be implemented in full during the course of the development and in accordance with the timescales specified.

Reasons: To ensure the development minimises the potential impact on bats.

4. All trees and hedgerows being retained in or adjacent to the application area shall be adequately protected during construction, in accordance with BS5837: 2012 Trees in relation to design, demolition and construction-Recommendations.

Reason: To safeguard trees and hedgerows during the course of development.

5. No dwelling hereby approved shall be occupied until a SAP assessment (Standard Assessment Procedure), or other alternative proof of compliance (which has been previously agreed in writing by the Local Planning Authority) such as an Energy Performance Certificate, has been submitted to and approved in writing by the Local Planning Authority demonstrating that the dwelling has achieved the required Dwelling Emission Rate.

Reason: Policy 27 of the Adopted Central Lancashire Core Strategy requires new dwellings to be built to Code for Sustainable Homes Level 4 however following the Deregulation Bill 2015 receiving Royal Ascent it is no longer possible to set conditions with requirements above a Code Level 4 equivalent. However as Policy 27 is an adopted Policy it is still possible to secure energy efficiency reductions as part of new residential schemes in the interests of minimising the environmental impact of the development.

6. No vegetation clearance works, site preparation works, demolition work or other works that may affect nesting birds shall take place between 1st March and 31st August inclusive, unless surveys have first been carried out by a competent ecologist which shows that nesting birds would not be affected.

Reason: In the interests of safeguarding nesting birds.

7. The development shall be implemented in accordance with the replacement nesting opportunities for House Sparrow to be installed in accordance with the letter from Envirotech dated 11th September 2015, received 27th May 2016. The approved details shall thereafter retained and maintained in accordance with the approved details and timescales contained therein.

Reasons: In the interests of safeguarding nesting opportunities for House Sparrows on the site.

8. The development shall be carried out in accordance with the details relating to dwelling emission rates, drainage, external facing materials and site levels approved by discharge of condition ref. 16/00935/DIS.

Reason: In the interests of the amenity of local residents, the character of the area and minimising the environmental impact of the development.

9. All hard and soft landscape works shown on the approved drawing entitled 'Proposed Landscaping Plan to Satisfy Condition 17 (1600737FUL)' received on 22.02.2022 shall be carried out in accordance with the approved details within the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All planting should comprise only native plant communities appropriate to the natural area.

Reason: To ensure that a satisfactory landscaping scheme for the development is carried out to mitigate the impact of the development and secure a high quality design.