

Item 4d **10/01065/FUL**

Case Officer **Mr Matthew Banks**

Ward **Wheulton And Withnell**

Proposal **Erection of 4 No three bedroom dwellings**

Location **Land 30M North West of 79 Railway Road Brinscall
Lancashire**

Applicant **New Progress Housing Association**

Consultation expiry: **21 February 2011**

Application expiry: **4 February 2011**

Proposal

1. Erection of 4 three bedroom dwellings.

Recommendation

2. It is recommended that this application is approved subject to conditions and a Section 106 Agreement.

Main Issues

3. The application went before the Development Control Planning Committee on the 29 March 2011 with a recommendation for approval subject to conditions and the signing of a Section 106 Agreement which required a Public Open Space (POS) contribution of £5,516.
4. The Officer's recommendation of approval was accepted by Members, however, in the intervening period, it has become apparent that the scheme is financially unviable if the POS obligations within the Section 106 Agreement are secured via the associated S106 Agreement.
5. The application is being brought before the Development Control Planning Committee because within the original committee report it was noted that a Section 106 Agreement was being drawn up in relation to this application in accordance with Policy HS21 of the Adopted Local Plan Review for equipped play space and additionally, the resolution was made by Members to approve the application subject to the Section 106 Agreement.
6. As such, having accepted the principle of the development, the main issue for Members to consider is whether a variation of the Section 106 Agreement, to not include the POS contribution, would warrant a recommendation other than approval.
7. It must also be acknowledged that since publication of the original committee report, the national planning policies referred to, including Planning Policy Statement 1 (Delivering Sustainable Development) and Planning Policy Statement 3 (Housing), have been replaced by the National Planning Policy Framework (NPPF). However, it is considered the planning policies relevant to this application are in compliance with the NPPF and the changes to national planning policy have not materially affected the merits of the application to warrant a recommendation other than approval.

Assessment

Background Information

8. Following approval of the application in March 2011 on-going discussions have taken place between the Council and the applicant and additional information has been submitted in the form of a financial viability appraisal. This appraisal has been independently assessed by

Liberata (the Council's asset management company) on behalf of the Council and they have concluded that it is unlikely that further funds could be achieved from this scheme for the POS contribution of £5,516. This is particularly relevant in this case as all of the properties proposed are affordable dwellings.

9. As such, in this case, it is considered that the information submitted to substantiate this claim demonstrates that with the inclusion of the POS contribution would render the scheme financially unviable. It is therefore considered that the only way to secure development of the site would be to remove the POS obligation from the Section 106 Agreement.
10. With regard to the above, it is therefore considered that based on the information submitted to substantiate the financial assessment of the development and in the interests of securing much needed affordable housing within the rural settlement of Brindle (the application being for 100% affordable housing) the application is recommended for approval subject to conditions with the Section 106 Agreement varied to omit the POS commuted Sum of £5,516.
11. It is important to note however, that the varied Section 106 agreement would still stand to ensure affordable housing is built at the site in accordance with Policy GN4 of the Adopted Chorley Borough Local Plan Review.

Overall Conclusion

12. On the basis of the information submitted to demonstrate the viability of the proposed development, the application is accordingly recommended for approval subject to conditions and a varied Section 106 Agreement omitting the requirement to pay the POS commuted sum of £5,516.

Planning Policies

National Planning Policy Framework

Adopted Chorley Borough Local Plan Review

Policies: GN1, GN4, HS4, HS8, HS21, TR1, TR4, TR18, EP17 & EP18

Supplementary Planning Guidance:

Adopted Householder Design Guidance Supplementary Planning Document (SPD)

Adopted Supplementary Planning Guidance: Design Guidance

Chorley's Local Development Framework

Policy SR1: Incorporating Sustainable Resources into New Development

Sustainable Resources Development Plan Document

Sustainable Resources Supplementary Planning Document

Application Number – 10/01065/FUL

- Erection of 4 three bedroom dwellings.
- Approve subject to conditions and varied Section 106 Agreement.
- 4 February 2011.

Recommendation: Permit (Subject to Legal Agreement)

Conditions

1. **Surface water must drain separate from the foul and no surface water will be permitted to discharge to the foul sewerage system.**
Reason: To secure proper drainage and in accordance with Policy Nos. EP17 of the Adopted Chorley Borough Local Plan Review.
2. **Prior to the commencement of the development full details of the Management Company to deal with the future management and maintenance of the site shall be submitted to and approved in writing by the Local Planning Authority. The site shall thereafter be managed by the approved Management Company.**

Reason: To ensure the satisfactory management of the unadopted highways and in accordance with Policy TR4 of the Adopted Chorley Borough Local Plan Review.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (Schedule 2, Part 2, Class A) (or any Order revoking and re-enacting that Order) no fences, gates or walls shall be erected within the curtilage of any dwelling hereby permitted (other than those expressly authorised by this permission).

Reason: To protect the appearance of the locality and in accordance with Policy No HS4 of the Adopted Chorley Borough Local Plan Review.

4. The development hereby permitted shall not commence until full details of the colour, form and texture of all hard ground- surfacing materials (notwithstanding any such detail shown on previously submitted plans and specification) have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in conformity with the approved details.

Reason: To ensure a satisfactory form of development in the interest of the visual amenity of the area and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.

5. The development hereby permitted shall not commence until samples of all external facing materials to the proposed buildings (notwithstanding any details shown on previously submitted plans and specification) have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out using the approved external facing materials.

Reason: To ensure that the materials used are visually appropriate to the locality and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.

6. No development shall take place until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority, notwithstanding any such detail which may have previously been submitted. The scheme shall indicate all existing trees and hedgerows on the land; detail any to be retained, together with measures for their protection in the course of development; indicate the types and numbers of trees and shrubs to be planted, their distribution on site, those areas to be seeded, paved or hard landscaped; and detail any changes of ground level or landform.

Reason: In the interests of the amenity of the area and in accordance with Policy No.GN5 of the Adopted Chorley Borough Local Plan Review.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in 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.

Reason: In the interest of the appearance of the locality and in accordance with Policy No GN5 of the Adopted Chorley Borough Local Plan Review.

8. Before the development hereby permitted is first commenced, full details of the position, height and appearance of all fences and walls to be erected (notwithstanding any such detail shown on previously submitted plans) shall have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until all fences and walls shown in the approved details to bound its plot have been erected in conformity with the approved details. Other fences and walls shown in the approved details shall have been erected in conformity with the approved details prior to substantial completion of the development.

Reason: To ensure a visually satisfactory form of development, to provide reasonable standards of privacy to residents and in accordance with Policy No. HS4 of the Adopted Chorley Borough Local Plan Review.

9. The Development shall only be carried out in accordance with the approved plans, except as may otherwise be specifically required by any other condition of this permission.
Reason: To define the permission and in the interests of the proper development of the site.
10. The approved plans are:
- | | | |
|------------------|---------|------|
| Stamp-dated on: | DWG No: | Rev: |
| 31 January 2011 | 01 | A |
| 8 December 2010 | 02 | |
| 11 February 2011 | A1a | |
- Reason: To define the permission and in the interests of the proper development of the site.*
11. Before the dwellings hereby permitted are first occupied, the access and parking bays/area shall be completed in entirety as shown on the approved plan(s) for the use of the properties. The parking bays shall be retained for parking only, thereafter.
Reason: To ensure adequate on site provision of car parking and manoeuvring areas and in accordance with North West Plan Partial Review (NWPPR) to Policy RT2 of the Regional Spatial Strategy and Policy No. HS4 of the Adopted Chorley Borough Local Plan Review.
12. The vehicular turning space shall be laid out and shall be available for use before the development is first occupied. This turning space shall be retained and continuously made available for turning facilities thereafter.
Reason: Vehicles reversing to and from the highway are a hazard to other road users and in accordance with Policy No TR4 of the Adopted Chorley Borough Local Plan Review.
13. The development hereby permitted shall only be carried out in conformity with the proposed finished floor levels shown on the approved plan(s).
Reason: To protect the appearance of the locality and in the interests of the amenities of local residents and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.
14. The proposed development must be begun not later than three years from the date of this permission.
Reason: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004.
15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order, with or without modification), no windows other than those expressly authorised by this permission, or as subsequently agreed in writing by the local planning authority, shall be inserted or constructed at any time at first floor level or above in the front elevation of plots 1-4 hereby permitted.
Reason: To protect the amenities and privacy of the adjoining property and in accordance with policy HS9 of the Adopted Chorley Borough Local Plan Review.
16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order, with or without modification), no windows other than those expressly authorised by this permission, or as subsequently agreed in writing by the local planning authority, shall be inserted or constructed at any time in the south-west elevation of plot 1 or the north-east elevation of plot 4 hereby permitted.
Reason: To protect the amenities and privacy of the adjoining properties, in accordance with policy HS9 of the Adopted Chorley Borough Local Plan Review and to protect the future development of the area.

17. No development shall take place until details of the proposed surface water drainage arrangements (including plans to a recognised metric scale) have been submitted to and approved by the Local Planning Authority in writing. No part of the development shall be occupied until the approved surface water drainage arrangements have been fully implemented.
Reason: To secure proper drainage and to prevent flooding and in accordance with Policy Nos. EP18 of the Adopted Chorley Borough Local Plan Review.
18. Before the development hereby permitted is first commenced full details of the means of foul water drainage/disposal (including plans to a recognised metric scale) shall have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the works for foul water drainage/disposal have been completed in accordance with the approved details.
Reason: To ensure proper drainage of the development and in accordance with Policy No. EP17 of the Adopted Chorley Borough Local Plan Review.
19. Each dwelling hereby permitted shall be constructed to achieve the relevant Code for Sustainable Homes Level required by Policy SR1 of the Sustainable Resources DPD (Level 3 for all dwellings commenced from 1st January 2010, Level 4 for all dwellings commenced from 1 January 2013 and Level 6 for all dwellings commenced from 1st January 2016).
Reason: To ensure the development is in accordance with Government advice contained in the NPPF and in accordance with Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.
20. No phase or sub-phase of the development shall begin until details of a 'Design Stage' assessment and related certification have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out entirely in accordance with the approved assessment and certification unless the Local Planning Authority otherwise approve in writing.
Reason: To ensure the development is in accordance with Government advice contained in the NPPF and in accordance with Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.
21. No dwelling shall be occupied until a Code for Sustainable Homes 'Post Construction Stage' assessment has been carried out and a Final Code Certificate has been issued certifying that the required Code Level has been achieved and the Certificate has been submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure the development is in accordance with Government advice contained in the NPPF and in accordance with Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.
22. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (Schedule 2, Part 1, Classes A to E), or any Order amending or revoking and re-enacting that Order, no alterations or extensions shall be undertaken to the dwelling(s) hereby permitted, or any garage, shed or other outbuilding erected (other than those expressly authorised by this permission).
Reason: To protect the appearance of the locality and in accordance with Policy No. HS4 of the Adopted Chorley Borough Local Plan Review.
23. In accordance with Policies GN4 and HS8 of the Adopted Chorley Borough Local Plan Review all of the dwellings hereby permitted shall be made available at significantly below current market costs and shall provide affordable housing to contribute to the solution of a recognised local housing problem. The dwellings hereby approved shall be retained as affordable housing thereafter.
Reason: This site is located within a rural settlement excluded from the Green Belt where residential development will only be considered acceptable if they contribute to

the solution of a recognised local housing problem. In accordance with Policies GN4 and HS8 of the Adopted Chorley Borough Local Plan Review