

Item 4a **13/00600/FUL**

Case Officer **Caron Taylor**

Ward **Chisnall**

Proposal **Demolition of 42 Chorley Lane and former nursery buildings and the erection of 8 dwellings, access road and associated development**

Location **Land 60M North To The Rear Of 34-42 And Including 42 Chorley Lane Charnock Richard**

Applicant **Thomas Mawdsley Building Contractor**

Consultation expiry: **23 August 2013**

Application expiry: **26 August 2013**

Proposal

1. Demolition of 42 Chorley Lane and former nursery buildings and the erection of 8 dwellings, access road and associated development

Recommendation

2. It is recommended that this application is approved subject to a legal agreement.

Main Issues

3. The main issues for consideration in respect of this planning application are:
 - Principle of the development
 - Background information
 - Density
 - Levels and impact on the neighbours
 - Design
 - Trees and Landscape
 - Ecology
 - Flood Risk
 - Traffic and Transport
 - Public Right of Way
 - Contamination and Coal Mines

Representations

4. Fourteen letters of objection have been received on the following grounds:
 - Loss of light to the back windows of 32a Chorley Lane will be quite considerable. They are trying to grow a new lawn and this will not help;
 - The noise is going to be an increase because at present this is a peaceful estate;
 - Wildlife will be affected such as frogs and crested newts, bats and other wildlife;
 - Chorley is very busy at the moment and if an entrance is built at the end this would cause an accident as there are lots of young people who ride bikes along this road;
 - The application does not meet the criteria set out in Chorley Borough Council's Local Plan Review GN4. The proposed site is not an 'infill site', it does not fulfil 'the rehabilitation and reuse of buildings' or 're-use previously developed land.' It is also on a 'greenfield' site when priority should be given to 'brownfield' sites. The claim that it meets local needs does not carry weight. Part of the development is rightly aimed at elderly residents but building 4 new bungalows whilst demolishing one, only provides 3 new properties;
 - Amenities in Charnock Richard for all ages, especially the elderly are zero. The weekday bus service is limited and non-existent on Sundays. The site is not, as claimed to be,

'readily accessible to Chorley and to the local services available in the area.' The services which are generally required are well over the measured 2.5km to 'the edge of Chorley Town Centre';

- Loss of privacy to immediate neighbours due to overlooking from house type D, and if a substantial 2m fence is not erected at the field boundary, loss of privacy to others;
- Noise from traffic will affect residents adjacent to proposed road. Reduced internal road width may cause some drivers to park on Chorley Lane reducing site lines at a hazardous junction towards bend near elderly bungalows;
- Property for long term sale in village, recent builds, Cherry Tree, Leeson Avenue and others are proposed at Brennans Nursery, Charter Lane and Camelot;
- Since Cherry Tree development adjacent field suffered severe and prolonged flooding giving cause for concern about their property. Adequate provision for water drainage? Can overloaded sewerage system cope;
- Chorley Lane is a very dangerous road between the Dog and Partridge and the bend near sheltered housing. They have difficulty seeing oncoming speeding vehicles when trying to get out of their drive and suffer abuse from other drivers. Another road junction would cause even more difficulty;
- They feel there is no need for further housing developments of this nature as we have no amenities and the school could not accommodate any more pupils. Any extra development would put a strain on the sewers and drainage;
- No. 42 Chorley Lane would suffer a reduction in privacy in their garden due to the closeness and overlooking windows of plot 1. The building work would also cause a lot of distress and disruption to neighbouring properties and road users;
- Drivers are using this road as an entrance to the motorway via the Service Station on the M6 and as a route between Chorley, Eccleston and Southport most ignoring the speed limit;
- Traffic exiting the proposed site at night would shine their headlights directly into their house windows. If the access off the Meadowlands estate is not suitable then surely access off Chorley Lane is more unacceptable;
- Knocking property down to build on land behind is tantamount to "garden grabbing" the council is supposed to be against development of this kind;
- The access point is unsuitable due to restricted views to the east along Chorley Lane and that by creating another potential busy road junction on a road already blighted by several accidents and problems speeding over the years is entirely unacceptable;
- Access proposed close to their driveway will cause problems when they try to leave their property. The plan does not show a telegraph pole on the pavement at the front of the boundary with no. 42 which already restricts the view;
- The proposed property on plot 2 will cause a loss of privacy as it will only be approximately 5m away. Creating an access road to the rear of their garden will increase noise and disturbance to them and will affect the security of their property;
- Hard surfacing of the site will reduce natural drainage on the site and cause flooding;
- Concerned that the land is a green land site which was identified in the application;
- Concerned over the mixture of housing given the claim of affordable housing given that 57% is 4 bedroom homes? Although they do agree that this is similar to existing in local area and the nature of the build is similar;
- Sewerage impact statement is needed given growth overall in the area, we have had problems in Lichen close before;
- The proposed junction is between high hawthorn hedges and cherry trees which will restrict the line of sight for vehicles exiting the site, the vehicles will be in the roadway before the driver can see the oncoming traffic, also the close proximity of the driveways at no's 40 and 44 would mean that there could be 4 vehicles manoeuvring at the same time plus drives immediately opposite. This is a very, very dangerous road, indeed over the years they have had 2 lorries, 2 cars and a van through their front hedge which is only 15m to 20m from the proposed site entrance. The Highways Department must be consulted;
- The previous application was deemed unsuitable because of the entrance via a demolished house in Nursery Close was not wide enough and would cause distress and spoil the enjoyment of those living close by, is this not the case for those living close by

on Chorley Lane. Access from an established development is surely more suitable than from a busy dangerous main road;

- They own the land to the west of the development and the row of trees consisting of oak, ash, sycamore, and cherry some of which they personally planted form the natural boundary and should not be removed. As you know trees don't necessarily grow where they are planted they grow to the left to the right, forward or backward any way but straight up some of them have pushed the wooden fence over (not posts and wire as stated). Tree number 10 is not even on the proposed site but is on their land;
- The hedges between no's 40 and 44 are shared hedges and must not be cut back, pruned or removed without permission from the householders. Plot 1 is conflicted on the drawings one has the garage immediately up to their land and another drawing shows the garage on the opposite side which means a side lounge window and a side bedroom window overlooks their garden, (which is the correct drawing)?
- The site falls 1 metre from east to west. Rainwater will discharge onto their land. Indeed last summer with the continuous rain their land flooded to a depth of approximately 0.5m it almost breached the back door of the bungalow to the west of my land. There is a ditch running all the way along the northern edge of the proposed site and their land, which is contrary to the report. Wainhomes (Meadowlands) destroyed the ditch system and pond which took away the rainwater;
- Any rainwater must be accommodated through the surface water system and not allowed to flood their land. This should be investigated by United Utilities. There is also an 8 inch foul water drain running along the rear gardens of no's 36, 38, 40 and 42 and marked by a depression in the ground and turns left under the drive of no 44 down to the main sewer in Chorley Lane. There is no mention of this on any drawings it is not far beneath the ground level, what is going to happen with this?;
- The statement that village amenities are within walking distance is a nonsense the nearest shop is Spar at Coppull and Lillian Harrisons at Heskin both 2miles away. There are only 2 public houses, Dog and Partridge and the Bowling Green. The Hinds Head has now closed. The local school is oversubscribed and they are holding classes in the scout hut. Bus services are one per hour each way. With all the new houses Charnock Richard is suffering from over development and cannot be sustained;
- They keep chickens which have free range over their land and they regularly get one egg per bird per day, any building operations should protect my flock from wandering onto the site, and keep them as stress free as possible so as to maintain their egg production. If the development proceeds then a stout wooden fence with concrete posts must be erected similar to that which is there now at the southern end, along with the established trees plus extra plants;
- The land could be utilised for a variety of uses, gardens, allotments, equine, etc. but if the development goes ahead the plans need a rethink, for the access is most unsuitable, it would be far safer from Meadowlands or even Cherry Tree Close. The demolition of No 42 would completely destroy the established street scene of Chorley Lane. The reports though extensive have a lot of anomalies and contradictions within them and should be further scrutinised. Privacy of existing householders must be paramount;
- Chorley Lane has had several road traffic accidents over the years (last major accident dated April 2013, photographs provided) and the on-going problem of speeding along this route is already a cause for concern, therefore it is highly dangerous to propose another opening with restricted views to pull out onto this road;
- It is with great concern that the developer wishes to destroy trees to the rear/side of their property; a large amount of birds/wildlife are current habitats and this would have a detrimental effect on the wildlife in their area;
- A further concern is that the planners have decided that the boundary hedge is to remain however this hedge is also on their land and is their property therefore it is not the rightful decision of the planner as we would need to be consulted in the event of subsequent intentions being made on their property;
- Demolishing 42 Chorley Lane will greatly affect their privacy during the demolition of the current property, throughout the building of the site and by the after effects of a newly adopted road adjacent to our property and private garden area. Previously, this development has been refused on the grounds of causing, 'Harm to living conditions of occupiers of 4 Nursery Close and 74 Lichen Close' as stated in the Planning Statement

paragraph 3.2 page 8 in the previous planning application 07/00713/OUTMAJ. Also stated in a previous planning application (12/00369/FUL) is that, 'the access to the site, by virtue of its position between No 4 Nursery Close and No 74 Lichen Close would result in detrimental harm to the living conditions the occupiers of these properties reasonably expect to enjoy. In particular, the noise and disturbance generated by the vehicles use the access by the occupiers of the proposed properties would be unacceptable. The proposal is therefore considered to be contrary to Policy No's HS4, HS6 and TR4';

- Overall there is no requirement for extra homes in Charnock Richard; Arley Homes recently built 27 homes and have currently requested planning permission to build a further 30 homes close to the Thomas Mawdsley site;
- Furthermore, there is no need for a development of this kind. Charnock Richard has already enough houses to accommodate residents in the village; the only identified need is for affordable housing for new elderly residents, however as an alternative to this proposal, we would support the re-development of the area on Chorley Lane where 4 terraced houses have recently been demolished, if it was ensured that these were affordable homes for local people. The present greenfield site could potentially be used for live-stock or gardening enthusiasts;
- The building of more homes is changing the character of the village;
- The removal of mature trees will impact on the privacy of existing residents;
- Piling to build the properties at Cherry Close have damaged nearby properties;
- There have been drainage problems since the development at Cherry Tree Close;
- The outlook from 4 Nursery Close will be adversely affected by a two storey house with a blank cable to the rear of their house, which is aggravated by their small triangular back garden and because the house is located to the south of our plot it will overshadow the garden and the back of their house;
- The Local Plan and the National Planning Policy Framework clearly state that affordable housing need to be a substantial majority. This proposal does not meet this requirement;
- Charnock Richard is not a sustainable location;
- The proposal is garden grabbing;
- The proposal will alter the street scene and isolate neighbours;
- Policy 1 of the Core strategy accepts that some Greenfield developments will be required on the fringes of the main urban areas. This Greenfield site is not on the fringe of a main urban area. There is no mention of Charnock Richard as being an appropriate area for growth and investment.

One letter has been received that is not objecting but raises the following issues:

- They would object if piling was used on the proposed properties as previous use of this method on Cherry Tree Close has resulted in structural damage to adjacent properties;
- The former nursery building proposed for demolition on the site contains asbestos and therefore a risk assessment and safety regulations should be imposed.

5. Ward Councillor Leadbetter requested that the application be put before the Development Control Committee for their deliberation. He also states that this plot of land, the site of a former nursery, has a history of planning applications going back over many years, most recently for the development of 10 properties with a proposed access to be achieved through demolition of 2 Nursery Close. The site is entirely surrounded by residential properties and has no ready access, as recognised by earlier planning application recommendations and decisions, with access onto Chorley Lane, which were refused (one being appealed and dismissed) due to inadequate access and backland development.
6. He requests that this most recent application also be refused on the following grounds:
 - Unacceptable impact on the amenities of occupiers of neighbouring properties.
 - Introduction of an unsafe junction with Chorley Lane.
 - No local need and no significant contribution to the identified need for rural affordable housing.
 - The development requires demolition of a perfectly habitable bungalow in order to develop the Greenfield land behind.
 - Poor access to local services.

7. Councillor Leadbetter also offers the following in relation to the above suggested reasons for refusal:
8. Impact on the Amenities of Occupiers of Neighbouring Properties.
The Planning Statement, submitted on behalf of the applicant, suggests that earlier reasons for refusal have been addressed, in that access to the site would result in detrimental harm, this is true in so much that the access has been moved. The harm to residents of Nursery Close has been addressed by moving the access and therefore the harm to Chorley Lane.
9. Introduction of an Unsafe Junction with Chorley Lane.
LCC highways have proposed a condition relating to ensuring there is adequate visibility at the junction with Chorley Lane, which is welcomed. The Manual for Streets requires that there is a line of sight, from a point, 2.4 metres from the road edge, to a point, 43 metres in either direction along the major road. The reason for this is to ensure a safe stopping distance for vehicles travelling at 30mph. Notwithstanding the fact that the average speed along Chorley Lane, in both directions, exceeds the 30mph on which the calculations are based, the line of sight proposed does not meet the 2.4 metre and 43 metre requirements stated in the Manual for Streets, or as required by the LCC Highways condition, as the line of sight is obscured by existing boundary treatments (primarily hedgerows) of neighbouring properties, the control of which is within the gift of those neighbours.
10. Local Need and No Significant Contribution to the Need for Rural Affordable Housing.
The Planning Statement relates that the recent development of Cherry Tree Close, justifies local need. However, the associated approved development on Pole Green Nurseries (29 houses) has not commenced, combined with the availability of other plots of land, with permission, for sale and not sold within Charnock Richard, suggests the local need may not be as prevalent as the application suggests. Policy 7 of the Core Strategy requires 35% of affordable housing on sites of 5 dwellings or more, in rural areas. This proposal, which now involves only 1 affordable house, does not meet this target as it is only 12.5% of the proposed development and is not a significant majority. The application states that the Rural Housing Needs survey summary identifies a need for bungalows, yet this proposal involves demolition of a bungalow. The proposal does include four, 2 bedroom bungalows but the figures in the Planning Statement are misleading as this is not 57% of the net development (4 out of 7(net)) but, using similar logic, 3(net) out of 8 which is 37%.
11. Access to Services.
Policy 7 of the Core Strategy requires that the development will have a suitable range of services. Access to services must be essential considering the ageing population who are likely to occupy the two bedroom semi-detached bungalows proposed, there are no services within Charnock Richard and neither, are there any within easy walking distance.
12. Backland Development.
Whilst the land in question is not a Private Residential Garden, Policy HS3 of the Chorley Local Plan (Publication version) which relates to Private Residential Garden Development is relevant, as the intent of this policy is to prevent demolition of existing properties in order to develop behind. This proposal is for development on land which is behind residential dwellings and which cannot be accessed without demolition of an already existing private residence; it therefore has all the characteristics of a Private Residential Garden. Policy HS1 states that development on private residential gardens is not required to meet housing requirements.
13. Policy HS3 states that development on sites not allocated in the Housing Allocation Policy will only be permitted for "a) Appropriately designed and located replacement dwellings where there is no more than one for one replacement; b) The conversion and extension of domestic buildings and c) Infill development on gardens" This proposed development does not meet any of these criteria. Policy HS3 also states that the Council will have regard to the sustainability of a site including, such as, access to public transport, local services and facilities all of which are severely lacking in Charnock Richard.

14. The National Planning Policy Framework sets out the Governments planning policies for England and how these are expected to be applied. The heart of the National Planning Policy Framework is “presumption in favour of sustainable development”. However, this proposed development is not a sustainable development for the following reasons:
- Core Planning Principle (Paragraph 17) - Access to the site would result in detrimental harm to the living conditions of the occupiers of 40 and 44 Chorley Lane, either side of the proposed access, as a result of noise and disturbance generated by vehicles and use of the access by occupiers of the proposed properties. Additionally the occupiers of properties directly opposite, especially 47 Chorley Lane, would suffer from an unacceptable reduced standard of amenity;
 - Delivering a Sustainable Development (Paragraph 28) - The development does not deliver sufficient community facilities or promote development of local services. Access to convenience shopping, of which there is none in Charnock Richard, would have to be by car which does not contribute to a low carbon future;
 - Promoting Sustainable Transport (Paragraph 32) - The access onto Chorley Lane and inadequate line of sight from the proposed development would not provide safe and suitable access to and from the site for all people;
 - Requiring Good Design (Paragraph 58) - The development will not function well, especially at the junction with Chorley Lane and will not add to the overall quality of the area, as it will affect the amenity of those living on Chorley Lane, Nursery Close, Lichen Close and Cherry Tree Close. The resultant streetscape will not create an attractive and comfortable place to live, especially with the juxtaposition of large detached properties and small semi-detached bungalows.
15. In summary, this proposed development would have a significant impact on the amenities of occupiers of neighbouring properties; it presents an unsafe junction with Chorley Lane; it does not provide a significant contribution to the identified need for rural affordable housing; it requires demolition of a perfectly habitable bungalow (for which the applicant reasons there is identified local need) in order to develop the greenfield land behind. In these instances the proposed development does not accord with Policy 7 of the Core Strategy, Policies HS1 and HS3 of the Chorley Local Plan and Paragraphs 17, 28, 32 and 58 of the National Planning Policy Framework.
16. It is therefore requested that this application be refused.
17. **Charnock Richard Parish Council**
Object to the application on the grounds that the proposals would compromise highway safety for those exiting the site onto Chorley Lane and, the safety of pedestrians and other road users on Chorley Lane, as the site-lines do not comply with the Department of Transport Manual for Streets. It is stated, access issues forming part of earlier applications have been addressed whereas, issues have not been addressed but merely moved to a different location, i.e. Chorley Lane rather than Lichen Close/Nursery Close. The development constitutes back land development on what is accepted by the applicant as primarily a greenfield site. Planning policies, supported by the Parish Council, give preference to developments on brownfield sites. The Council are unaware of any evidence to support the statement that there is a local need for these house types. The Council understand the need for two bedroom bungalows has been identified in the rural areas of Chorley Borough but a local need has not been identified specifically in Charnock Richard.

Consultations

18. **Chorley Council Planning Policy**
This proposal is for the erection of 8 dwellings on the site of a former commercial nursery and is located in the settlement of Charnock Richard where Local Plan policy GN4 applies.
19. This policy limits development to:
- a. infill sites;
 - b. the rehabilitation and reuse of buildings;
 - c. that which provides affordable housing to meet a recognised local need in accordance with Policy HS8;
 - d. that which meets a particular local community or employment need; or

- e. the re-use of previously developed land, bearing in mind the scale of any proposed development in relation to its surroundings and the sustainability of the location.
20. The proposal is not an infill site under criterion (a), and criteria (b) and (d) do not apply. The site is a former nursery and it is not considered that it meets the definition of previously developed land set out in the NPPF therefore criterion (e) does not apply either.
21. For housing to be acceptable on the site it would therefore have to meet criterion (c) that which provides affordable housing to meet a recognised local need in accordance with Policy HS8.
22. Local Plan Policy HS8 states that residential development of open land in a rural settlement will be restricted to schemes that would significantly contribute to the solution of a recognised local housing problem by meeting criteria (a) to (f) as shown below.
 - a. a substantial majority of the dwellings will be made available at significantly below current market costs;
 - b. the occupancy of the dwellings will be limited on first and subsequent occupancy to people with close local connections who are unable to afford market housing;
 - c. the development is shown to be economically viable and be capable of proper management for example through a village trust or similar local organisation;
 - d. any remaining dwellings connected financially with the development will be limited to specialist types of accommodation for which there is a proven local need;
 - e. the scale and nature of the development will be in character with the settlement;
 - f. the development will be within a settlement with suitable adequate local facilities such as schools, shops and public transport services.
23. Additionally, Core Strategy Policy 1: Locating Growth states that in smaller villages, development will typically be small scale and limited to infilling, conversion of buildings, and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes. It is not considered that the proposal is small scale, infill or conversion and therefore to be considered acceptable it must aim to meet a local housing need. The Chorley Rural Housing Needs Study demonstrates that there is a need for a large number of additional dwellings to serve Charnock Richard to meet affordable and market housing requirements and identifies a demand for 2 and 3 bedroom semi-detached bungalows. The proposal takes these needs into account by providing four 2-bed bungalows.
24. Core Strategy Policy 7 contains an affordable housing percentage requirement at or near 35% on sites of 5 or more dwellings in rural areas including Charnock Richard. The proposal will deliver only 25% affordable housing and, therefore, does not comply with Policy 7 of the Core Strategy or criterion (a) of Local Plan Policy HS8.
25. However, paragraph 54 of the NPPF states that 'local planning authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs.' It has been established on other sites within the Borough that the financial viability of a site is a material consideration and a reduced percentage of affordable units has been accepted where supported from a financial viability perspective. The Central Lancashire Affordable Housing SPD states that it is the responsibility of the developer to demonstrate where there are significant constraints to prevent them from meeting the Council's affordable housing policy targets.
26. The affordable housing viability assessment submitted with this application shows that the maximum level of affordable housing which this application can support is 2 units [see later in report for updated viability and affordable housing number]. Although this is below the affordable housing requirements of Policy 7 of the Core Strategy and criterion (a) of Local Plan Policy HS8 it is considered that the development will contribute to meeting an identified local need to meet affordable and market housing requirements and is acceptable in principle.

Planning Policy on Public Open Space

27. Amenity greenspace

Local Plan Policy HS21 sets a standard of 0.45 hectares per 1,000 population. There is currently a deficit of provision in Charnock Richard in relation to this standard, a contribution towards new provision in the settlement is therefore required from this development. The amount required is £85 per dwelling.

28. Provision for children/young people (equipped play area)

Local Plan Policy HS21 sets a standard of 0.25 hectares per 1,000 population. There is currently a deficit of provision in Charnock Richard in relation to this standard, a contribution towards new provision in the settlement is therefore required from this development. The amount required is £426 per dwelling.

29. 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 £868 per dwelling.

30. The total financial contribution required from this development (7 net dwellings) is as follows:

Amenity greenspace	=	£595
Equipped play area	=	£2,982
Playing pitches	=	£6,076
TOTAL	=	£9,653

31. **The Environment Agency**

Have no comments to make.

32. **Chorley's Strategic Housing**

The provision of 4 x 2bed bungalows is acceptable. In terms of tenure the preference would be for them all to be for Social Rent. On completion the affordable properties should be transferred to an Affordable Housing Provider which has a presence in Chorley and is a member of the Select Move choice based lettings system.

33. **United Utilities**

This site must be drained on a separate system, with foul drainage connected into the combined sewer. Surface water should discharge to the soakaway/SUDS, or directly to public combined sewer which may require the consent of the Local Authority. If surface water is allowed to be discharged to the public combined sewerage system they will require the flow to be attenuated to a maximum discharge rate of 5 l/s

34. United Utilities therefore have no objection to the proposal provided that a condition is imposed requiring a scheme for the disposal of foul and surface waters to be submitted to and approved in writing by the Local Planning Authority. That surface water drains separate from foul and no surface water will be permitted to discharge directly or indirectly into existing foul sewerage systems. Any surface water draining to the public sewer must be restricted to a maximum pass forward flow of 5 l/s. To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding

35. **Lancashire County Council (Highways)**

The proposed development layout and the visibility splays are acceptable. The comments of Councillor Leadbetter are noted, however even if the footway outside no. 42 Chorley Lane is less than 2m, a highways objection to the proposal cannot be sustained in that although the applicant has been asked to provide a splay of 2.4m x 43m, this is only a maximum requirement. This requirement can be reduced to minimum dimensions of 2.0m x 43m and it would still be acceptable to LCC Highways as the access would still operate safely. They asked for the 2.4m x 43m simply to ensure an improved visibility at the site access. The minimum dimension of 2.0m taken back from the edge of carriageway is recommended by the Manual for Streets.

36. The proposal would result in slight increase in the number of vehicles heading to Chorley town centre from Chorley Lane, but this should have minimal impact on the junction of B5252 Yarrow Valley Way and C202 Butterworth Brow, given its current capacity.
37. It is noted in Section 6 (6.3) of the Design and Access Statement that parking will be provided to accord with the Chorley Local Plan 2012-2026, however, while the size of the proposed single garage seems in line with Chapter 8 of the Manual for Streets, the size of the proposed double garage appears less than the recommended 6m x 6m.
38. There are no highway objections to the proposed development, conditions are suggested.
39. **Chorley's Waste & Contaminated Land Officer**
Request a condition requiring report identifying any potential sources of ground contamination and where necessary remediation measures.

Assessment

Background

40. The application site was previously Buttermere Nurseries which ceased trading in the early 1990's and has been unused since. The site is overgrown and part of the site is covered in a concrete base. There are also two old block work buildings on the site against the east boundary. An outline application for ten dwellings was recommended for refusal in 2007 ref: 07/00713/OUTMAJ) (although it was withdrawn prior to a decision being made) for a number of reasons including, lack of ecology surveys, the size of the turning head and over intensive development, harm to the living conditions of 4 Nursery Close and 74 Lichen Close, failure to accord with the Council's spacing standards, harm to the character and appearance of the street scene segregating 4 Nursery Close and that the scheme failed to provide a substantial number of affordable dwellings.
41. In July 2012 an application (ref: 12/00369/FUL) was withdrawn before it was determined. This was for demolition of no. 2 Nursery Close and erection of 10 dwellings (8 no. two-storey houses and 2 no. bungalows), access road and associated development. It was recommended for refusal on the following three grounds: it would not provide a substantial number of affordable dwellings and other specialist types for which there is a proven local need; the proposed vehicular and pedestrian access on the site of no. 2 Nursery Close serving the site would result in detrimental harm to the character and appearance of the street scene by segregating no. 4 Nursery Close and interrupting the rhythm and prevailing character of the estate; and the access to the site, by virtue of its position between no. 4 Nursery Close and no. 74 Lichen Close would result in detrimental harm to the living conditions the occupiers of these properties could reasonably expect to enjoy. In particular, the noise and disturbance generated by the vehicles use of the access by the occupiers of the proposed properties would be unacceptable.

Principle of the development

42. Since the previous application (ref: 12/00369/FUL) was assessed (although withdrawn before a decision was made) the Central Lancashire Core Strategy has been adopted. This is more up-to-date than the existing adopted Local Plan (policies GN4 and HS8 were particularly relevant in the assessment of the previous application) and it is considered it can be given full weight.
43. Core Strategy Policy 1: Locating Growth states that in smaller villages, development will typically be small scale and limited to infilling, conversion of buildings, and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes. It is not considered that the proposal is small scale, infill or conversion and therefore to be considered acceptable it must aim to meet a local housing need.
44. It is important to note there is a difference between the wording of Local Plan Policy GN4 and adopted Core Strategy Policy 1. Policy GN4 criterion (c) limits development in Charnock Richard to *'that which provides affordable housing to meet a recognised local need in accordance with Policy HS8'*. However, Core Strategy Policy 1 which covers smaller villages

in Central Lancashire limits development to '*proposals to meet local need*'. It does not restrict it only to affordable housing as Policy GN4 did.

45. As confirmed by the Council's Planning Policy team, the Chorley Rural Housing Needs Study demonstrates that there is a need for a large number of additional dwellings to serve Charnock Richard to meet affordable and market housing requirements and identifies a demand for 2 and 3 bedroom semi-detached bungalows. The proposal proposes four 2-bed bungalows which are needed within Charnock Richard, one of which would meet the definition of affordable housing.
46. Policy 7 of the Core Strategy covers Affordable and Special Needs Housing and contains an affordable housing percentage requirement of 35% on sites of 5 or more dwellings in rural areas including Charnock Richard. This differs to policies GN4 and HS8 of the existing Local Plan that require a substantial majority of dwellings to be made available at significantly below market costs where a scheme is justified on being affordable housing. Policy 7 is given more weight than policies GN4 and HS8 as it is more up-to-date.
47. A Viability Assessment accompanies the application which has been assessed by the Council's Property Services Provider and they agreed that the scheme as was originally proposed was only viable with two affordable bungalows (25% affordable housing).
48. There is an associated Affordable Housing Supplementary Planning Guidance which provides further detail on policies and proposals within the development plan. This has a section on viability which states that there will be site-specific circumstances where achievement of the affordable housing proportions set out Policy 7 may not be possible and it will be the responsibility of the developer to make a case that applying the Council's affordable housing requirement for their scheme makes the scheme not viable.
49. The National Planning Policy Framework (The Framework) covers 'Ensuring viability and deliverability' and states that pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable [this authors emphasis].
50. There is also another matter in terms of viability that needs to be taken into account. The application is one of the first that will be liable for the Central Lancashire Community Infrastructure Levy (CIL) that comes into force on 1st September 2013 and will be applicable to all developments which are considered to be chargeable development, which this scheme will be. The CIL is a new way that development will fund infrastructure - such as transport, education and health in the Central Lancashire area. The levy will partly replace and partly be in addition to developer contributions providing infrastructure made under Section 106 of the Town and Country Planning Act 1990. The Council will continue to require planning obligations for affordable housing and public open space to be secured via a S106 Agreement (where necessary) as these are not dealt with via CIL.
51. Normally, the cost of CIL should not make a scheme unviable as the land price should be negotiated based on the pre-knowledge of CIL charges, however in this case the land has been in the ownership of the applicant since 1990.
52. The rate of CIL has been notified to the applicant (affordable housing units on a site are not liable for CIL) and they argue that this now makes the scheme even more unviable in terms of the amount affordable housing that can be provided on the site. An updated Viability Assessment has been submitted taking into account this CIL rate and this has also been assessed by the Council's property services provider and they agree that CIL results in only

one affordable bungalow being able to be provided (12.5% affordable housing) along with payment of CIL and the public open space contribution.

53. Although the proposal will not provide the full 35% affordable housing in line with Policy 7 of the Core Strategy, which has been justified by the submission of a viability assessment, it will provide one affordable bungalow and in addition three market bungalows. Therefore half of the scheme will be made up of bungalows for which there is a demonstrable local need in terms of the Chorley Rural Housing Needs Study. Although there will also be four detached houses on the site these will facilitate the provision of the affordable bungalow on the site.
54. The adopted Core Strategy Policy 1 is given more weight than policies GN4 and HS8 of the existing Local Plan as it is more up-to-date, and that the site will contribute to the type of housing for which there is a need in the village (affordable and bungalows) is given significant weight in the planning balance.
55. It is therefore considered that the development will contribute to meeting an identified local need to meet affordable and market housing requirements and the proposal is therefore acceptable in principle in accordance with Policy 1 of the Core Strategy.

Density

56. There are a wide range of properties in the vicinity of the site. The proposed development would be at a density of approximately 20.5 dwellings per hectare which is similar to other residential developments recently permitted in the surrounding area. It is not considered the number of dwellings has been artificially lowered to avoid the need for more affordable housing as it is considered that a satisfactory layout in relation to the surrounding properties could not be achieved if more properties were proposed on the site.

Levels and Impact on the Neighbours

57. The levels on the site are slightly higher than those on Lichen Close and Nursery Close.
58. Number 4 Nursery Close will face towards the gable of the property proposed on plot 1, which also has a detached double garage, however the proposed property will be at an angle rather than directly facing it. There will be 12m between the nearest point of no. 4 and plot 1 measured perpendicular to the property. Although there will only be 9m between the nearest points, there is an existing flat roof block work former nursery building in this corner which measures approximately 3m in height and is situated close to the boundary with no. 4 approximately 3.5m from the nearest point of this property. It is therefore considered that the 9m relationship is acceptable considering the building on the site at present and the angle the proposed property on plot 1 will be viewed at. The proposed detached garage on plot 1 will be situated close to the boundary but will be lower in height than the former nursery building and will be set further back on the site. This is therefore considered an acceptable relationship.
59. Number 2 Nursery Close will look towards the turning head of the proposed development and the bungalows on plots 3 and 4, the properties on Lichen Close will also look towards the side of the bungalow on plot 4. This is considered an acceptable relationship.
60. Numbers 34 and 36 Chorley Lane will back onto the site, however they will face towards the proposed property on plot 8 which is a bungalow so the relationship is considered acceptable. The proposed property on plot 2 is a two-storey house and will face mainly towards number 40 Chorley Lane but also towards number 38. The nearest window of the property on plot 2 (on the front gable at first floor) will serve a bathroom. There will be 13m between the nearest habitable room first floor windows and the boundary with numbers 38 and 40 Chorley Lane which exceeds the interface distance of 10m.
61. The proposed property on plot 1 will face down the access from Chorley Lane. Although the plans show a first floor window in the side elevation of this property facing the land to the west, this is a small secondary window to a bedroom and therefore to prevent sterilisation of the land to the west a condition could be imposed requiring this to be obscure glazed. The

relationship with number 44 Chorley Lane is considered acceptable as its garden is at an angle to the property.

62. To the east of the site are the new properties on Cherry Tree Close. These back on to the application site but are separated by a public footpath along with a row of protected trees. These are deciduous trees so will not provide much screening during the winter months. The proposed properties meet the interface guidelines in terms of distance to boundaries and between facing windows and distances to boundaries.
63. The proposal complies with the 10m interface with the land to the west of the site which is in the ownership of a property on Chorley Lane. Although the proposed site layout shows a wire mesh fence on the rear boundary this would not be sufficient to protect the amenities of either the proposed properties or the adjoining land, however a condition could be imposed requiring boundary treatment details to be approved, to ensure this is acceptable.
64. The impact on neighbouring properties is considered acceptable in terms of policy HS4.
65. Although the access point will be sited between numbers 40 and 44 Chorley Lane once number 42 has been demolished it is considered that this is an acceptable relationship. The previous application where the site was to be accessed from Nursery Close was considered unacceptable as there was a 'pinch point' at the end of the gardens of numbers 4 Nursery Close and 74 Lichen Close and the layout of these properties meant that they were orientated towards the access road rather than sitting parallel with it. The access now proposed off Chorley Lane would be parallel with the properties either side and the width of the plot of number 42 would allow an area of landscaping to be provided between the road and the boundaries to either side. The proposed road into the site would sit close to the rear boundaries of numbers 38 and 40 Chorley Lane once it turned within the site, however it is not considered that this would be a reason for refusal as sufficient boundary treatments with these properties could be secured by condition.

Design

66. The proposed properties will be of three different house types, four detached house and two pairs of semi-detached bungalows. There are a wide range of properties in the area, including detached two-storey houses on Nursery Close and Chorley Lane and to the east, the new properties on Cherry Tree Close. There are also bungalows on Chorley Lane as well as semi-detached properties. The proposed properties are therefore considered acceptable in design terms.

Open Space

67. There is justification for public open space payment of £9,653 in relation to the site and this can be secured via a Section 106 legal agreement. The Viability Assessment submitted with the application shows this to be viable.

Trees and Landscape

68. A tree survey accompanies the application done in accordance with British Standard 5837:2005 *Trees in relation to construction*. There are a number of trees on or adjacent to the site, however they are along the boundaries. There is a group of protected trees (TPO 4 1991) categorised 'A' (high quality and value) including a mature Oak along the east boundary but outside the site and the proposed properties will be outside the root protection area for these trees. Although the detached single garage for plot 6 will be within the root protection area of the Oak tree, suitable conditions can be imposed ensuring appropriate construction methods within this area. There is a tree in the rear garden of no. 4 Nursery Close, however the existing building (former nursery building) prevents root incursion into the site from this tree so it is considered the proposed garage on plot 1 will not have a detrimental impact on it.
69. There are a number of trees along the west boundary of the site. The largest of these is an Oak tree that is outside the site and whose root protection area is only marginally inside the rear garden of plot 4. This relationship is considered acceptable. The other trees along this boundary are either categorised as 'B' (moderate quality and value) or 'C' (low quality and

value). It is proposed to remove seven trees along this boundary, all of which are categorised as low quality and value to allow adjacent trees more room to develop which is considered acceptable.

70. To the southern boundary is a row of Leyland Cypress, and adjacent to the proposed parking spaces and plot 6 are two sections of hawthorn hedge. All these are categories as low quality and value but are to be retained in the scheme. The existing hedges along the existing side boundaries of number 42 Chorley Lane are to be retained.
71. The proposal is considered acceptable in relation to trees subject to a condition requiring tree protection measures during construction and a landscaping scheme to ensure appropriate new planning at the site.

Flood Risk

72. The site is less than 1 hectare in size and is not within Flood Zone 2 or 3 as identified by the Environment Agency. The proposal is therefore considered acceptable in relation to flood risk.

Traffic and Transport

73. The site would be accessed from Chorley Lane. Lancashire Council as Highways Authority does not object to the application, as detailed above.
74. In terms of parking the Council's parking standards require two or three bed properties to have two off-road parking spaces and properties with four or more bedrooms to have three off-road parking spaces.
75. The bungalows are all two bed and each has two off road parking spaces in line with the guidance.
76. House types D and H have four bedrooms and all have three off road spaces. The single garages are of a sufficient size to be counted as a space and the properties with double garages have three spaces without including the garage (but the double garage size would also count as a fourth single space).

Public Right of Way

77. Public Footpath number 18 runs along the east boundary of the site. It is not considered that the proposal will have a detrimental impact on this footpath subject to appropriate boundary treatments as it will not affect its route and is likely to lead to greater overlooking of the public footpath than at present providing increased natural surveillance of it.

Contamination and Coal Mines

78. The site is not within a Coal Mining Referral Area. The Coal Authority only request an informative note is imposed on any permission.
79. A condition can be imposed in relation to any possible ground contamination as requested by the Council's Contaminated Land Officer.

Ecology

80. LCC Ecology asked for further information. This has been raised with the agent and will be reported on the Committee Addendum.

Sustainability

81. As the application is for more than five dwellings it is required to meet Policy 27 of the Core Strategy which covers Sustainable Resources and New Developments. This can be controlled by planning condition.

Other Issues

82. To respond to other issues raised by objectors, although the addition of an access road to the side and rear of existing properties will increase noise to these properties above that which previously existed, it is not considered that this will be at a level that would justify refusal of

the application. It is considered that appropriate boundary treatments can be secured through conditions.

83. It is not the planners that have decided that the boundary hedge should be retained and the grant of planning permission would not override other legal right to remove a hedge not in the ownership of the applicant.

Overall Conclusion

84. The application is considered acceptable in principle as significant weight is given to Policy 1 of the Core Strategy. Technical matters are considered acceptable or can be controlled through appropriate planning conditions. The application is recommended for approval subject to a Section 106 legal agreement securing one affordable bungalow and a public open space payment. The development will also be liable for CIL.

Planning Policies

National Planning Policies:

The National Planning Policy Framework.

Adopted Chorley Borough Local Plan Review

Policies: GN4, HS4, HS6, HS8, TR4

Central Lancashire Joint Core Strategy

Policies 5, 7, 27

Planning History

94/00944/OUT - Outline application for residential development (Refused)

95/00321/OUT - Outline application for the erection of 1 no. detached dwelling using existing vehicular access between numbers 34 and 36 (Refused and dismissed at appeal)

07/00713/OUTMAJ – Outline application for the demolition of property and erection of 10 dwellings with associated garages, access roads and services (withdrawn)

12/00369/FUL - Demolition of no. 2 Nursery Close and erection of 10 dwellings (8 no. two-storey houses and 2 no. bungalows), access road and associated development (withdrawn)

Recommendation: Permit (Subject to Legal Agreement) Conditions

- 1. Prior to the commencement of development samples of all external facing and roofing materials (notwithstanding any details shown on previously submitted plan(s) and specification) shall be submitted to and approved in writing by the Local Planning Authority. All works shall be undertaken strictly in accordance with the details as approved.**

Reason: To ensure that the materials used are visually appropriate to the locality.

- 2. The dwellings hereby permitted commenced after 1st January 2013 shall meet Code Level 4 of the Code for Sustainable Homes and all dwellings commenced after 1st January 2016 will be required to meet Code Level 6 of the Code for Sustainable Homes. Prior to the commencement of the development a 'Design Stage' assessment and related certification shall be submitted to the Local Planning Authority showing it will meet the relevant Code Level. No dwelling shall be occupied until a letter of assurance; detailing how that plot has met the relevant Code Level has been issued by a Code for Sustainable Homes Assessor. Within 6 months of occupation of each dwelling a Final Certificate, certifying that the relevant Code for Sustainable Homes Level for that dwelling has been achieved, shall be submitted to the Local Planning Authority.**

Reason: In the interests of minimising the environmental impact of the development.

3. Prior to the commencement of the development a Carbon Reduction Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall demonstrate that either appropriate decentralised, renewable or low carbon energy sources will be installed and implemented to reduce the carbon dioxide emissions of the development by at least 15% or additional building fabric insulation measures are installed beyond what is required to achieve the relevant Code Level rating.
Reason: In the interests of minimising the environmental impact of the development.
4. No site clearance, site preparation or development work shall take place until details of parking for contractors and visitors to the site throughout the demolition and construction of the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The development shall then only be carried out in accordance with the approved details.
Reason: To ensure there is sufficient parking provided within the site and to discourage parking on Wood Lane to the inconvenience of surrounding residents and in the interests of highway safety.
5. 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.
6. During the construction period, all trees to be retained shall be protected by 1.2 metre high fencing as specified in paragraph 8.2.2 of British Standard BS5837:2005 at a distance from the tree trunk equivalent to the outermost limit of the branch spread, or at a distance from the tree trunk equal to half the height of the tree (whichever is further from the tree trunk), or as may be first agreed in writing with the Local Planning Authority. No construction materials, spoil, rubbish, vehicles or equipment shall be stored or tipped within the area(s) so fenced. All excavations within the area so fenced shall be carried out by hand.
Reason: To safeguard the trees to be retained on and adjoining the site.
7. Notwithstanding any indication on the approved plans, no development approved by this permission shall commence until a scheme for the disposal of foul and surface waters has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, surface water must drain separate from foul and no surface water will be permitted to discharge directly or indirectly into existing foul sewerage systems. Any surface water draining to the public sewer must be restricted to a maximum pass forward flow of 5 l/s. The development shall be completed, maintained and managed in accordance with the approved details.
Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding.
8. The single garage(s) hereby approved on plots 1 and 6 shall be kept freely available for the parking of cars and no works, whether or not permitted by the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order amending or revoking and re-enacting that order, shall be undertaken to alter convert the space into living or other accommodation.
Reason: To ensure three garaging/off street parking spaces are provided and maintained for these properties and thereby avoid hazards and nuisance caused by on-street parking.
9. All windows in the first floor of the west-southwest elevation of the dwelling hereby permitted on plot 1 (house type D) shall be fitted with obscure glass and obscure glazing shall be retained at all times thereafter. The obscure glazing shall be to at least

Level 3 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing by the local planning authority.

Reason: To prevent sterilisation of the land to the east.

10. The window in the south-southwest elevation serving the en-suite at first floor level of plot 2 hereby permitted shall be fitted with obscure glass and obscure glazing shall be retained at all times thereafter. The obscure glazing shall be to at least Level 3 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing by the local planning authority.

Reason: In the interests of the privacy of occupiers of neighbouring property.

11. The new estate road/access between the site and Chorley 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.

12. 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.

13. The parking and associated manoeuvring facilities shown on the plans hereby approved shall be surfaced or paved, drained and marked out and made available in accordance with the approved plan prior to the occupation of any of the buildings; such parking facilities shall thereafter be permanently retained for that purpose (notwithstanding the Town and Country Planning (General Permitted Development) Order 1995).

Reason: To ensure provision of adequate off-street parking facilities within the site.

14. Due to the sensitive end-use (residential housing and gardens) the development hereby permitted shall not commence until the applicant has submitted to and had approved in writing by the Local Planning Authority a report to identify any potential sources of contamination on the site and where appropriate, necessary remediation measures.

The report should include an initial desk study, site walkover and risk assessment and if the initial study identifies the potential for contamination to exist on site, the scope of a further site investigation must then be agreed in writing with Local Planning Authority and thereafter undertaken and shall include details of the necessary remediation measures.

The development shall thereafter only be carried out following the remediation of the site in full accordance with the measures stipulated in the approved report.

Reason: It is the applicant's responsibility to properly address any land contamination issues, to ensure the site is suitable for the proposed end-use.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 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 2m measured along the centre line of the proposed road from the continuation of the nearer edge of the carriageway of Chorley Lane to points measured 43.0m in each direction along the nearer edge of the carriageway of Chorley 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.

16. **Before the development hereby permitted is first commenced, full details of the alignment, height and appearance of all fences and walls and gates to be erected (notwithstanding any such detail shown on previously submitted plan(s)) 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 and to provide reasonable standards of privacy to residents.