

Item 3G **15/00448/FUL**

Case Officer **Helen Lowe**

Ward **Wheelton and Withnell**

Proposal **Erection of one two bedroom bungalow**

Location **Land east of 34 Thirlmere Drive, Withnell**

Applicant **Mr Stephen Donohue**

Consultation expiry: **3 July 2015**

Decision due by: **17th July 2015 (extension of time agreed)**

Recommendation **Approve**

Executive Summary **This is a full application for the erection of a single bungalow. The site is located within the Green Belt and is considered to form an infill plot within the provisions of policy HS7. The plot also has an extant outline consent for a bungalow. The proposal would not cause any undue harm to neighbour amenity or highway safety and is recommended for approval.**

Representations

Withnell Parish Council No comments have been received

One representation has been received citing the following grounds of objection:

- Other bungalows are brick and the houses mainly brick, the bungalow should be of a similar construction;
- The lack of a footway is at odds with the rest of the drive;
- The access has been moved which will not solve any problems with regards to parking and congestion at the end of the drive;

Consultees

Consultee	Summary of Comments received
LCC Highways	Initially raised concerns regarding the lack of a footway along the site frontage. The plans have subsequently been amended to include a footway and LCC Highways have confirmed that they have no objections to the proposals, subject to the imposition of conditions.
GMEU	No objections

Assessment

Background

1. A number of previous applications have been submitted for residential development on this land. Application 11/00619/OUT was refused by the Council as the plot was not considered to form an infill plot, and the proposal was therefore inappropriate development within the Green Belt.
2. The applicant appealed against this decision and the appeal dismissed. However the Inspector found that :

Whilst it has been concluded that the erection of a dwelling on the site would not constitute inappropriate development in the Green Belt this does not outweigh the limited harm to openness which has been identified or the concerns regarding the effect of the development on the Eucalyptus which the provisional TPO seeks to protect. For this reason, and having regard to all other matters raised, the appeal is dismissed”.
3. Taking account of the Inspector’s appeal decision, the applicant employed the services of a qualified arboriculturist who carried out an assessment of the protected Eucalyptus tree. An application (12/00999/TPO) was subsequently submitted to the Council to fell the tree which was approved upon advice from the Council’s Tree Officer.
4. A second application (13/00530/OUT) was then submitted to the Council for a one bedroom detached bungalow, which the applicant considered had taken account of the Inspector’s comments (as the appeal decision was now a material planning consideration). However, this application was withdrawn amid comments received from Lancashire County Council (LCC) Highways relating to the proposed footway alterations and vehicular parking space, and comments received from LCC Ecology amid concerns relating to ecology and biodiversity.
5. Application 13/00870/OUT, also for a one bedroom detached bungalow, was subsequently approved in October 2013, as all outstanding matters were addressed.

Principle of the Development

6. The application site is located within the Green Belt. The land has previously been used as an allotment/garden (but not residential curtilage). It located at the end of a cul-de-sac, within a small area of development in Withnell that is washed over by the Green Belt. The land is bounded to the east and the west by other dwellings and to the rear by open fields. To the north the land is separated from other dwellings on Thirlmere Drive by the road.
7. There have been a number of previous applications for residential development on the site. Most recently outline consent for the erection of a one bedroom bungalow was granted in 2013 (ref. 13/00870/OUT). This consent remains extant.
8. Whilst the construction of new buildings within the Green Belt is generally regarded as inappropriate development, paragraph 89 of the Framework recognises limited infilling in villages as an exception.
9. Policy HS7 of the emerging Local Plan provides further guidance on types of rural infilling that will be considered appropriate by the Council. It permits the development of small gaps for one or possibly two dwellings within smaller villages washed over by the Green Belt provided that three criteria are met:
 - a) The existing buildings form a clearly identifiable built up frontage
 - b) The site lies within the frontage, with buildings on either side, and its development does not extend that frontage;
 - c) The proposal would complement the character and setting of the existing buildings
10. In terms of compliance with criteria (a)-(c) of emerging Local Plan Policy HS7, it is relevant to note that under the application 11/00619/OUT, the Council sought to resist the

proposal arguing that (1) in the past similar developments had been refused and dismissed at appeal at this site and (2) the development was more akin to ribbon development than infill.

11. However, the Inspector dismissed this argument and allowed the appeal. The Inspector acknowledged that on the southern side of Thirlmere Drive, built development only extends as far as No. 34. However, they also noted that there are existing dwellings all along the northern side which wrap around the head of the cul-de-sac and culminate in the turning head to the east of the site. The Inspector noted that the only physical gap which is not occupied by dwellings, their gardens or the estate road is the application site.
12. The Inspector noted that the separation distance between No. 34 and 37 is approximately 60m and although this is somewhat greater than the frontages of nearby dwellings, this is a consequence of the layout of the cul-de-sac. The Inspector considered the site to form a relatively small gap in the overall pattern of development and on that basis, concluded that visually, development of the application site would not harm the character of the area or result in a fragmented or ribbon pattern of development.
13. The Inspector also considered there to be no evidence to suggest that the proposed dwelling could not be designed to complement the character and setting of the existing buildings. The inspector concluded that the proposal represented an acceptable form of infill in accordance with the guidance contained with the Framework, and the relevant policies of the adopted Local Plan at the time.
14. However, the Inspector did not specifically address the requirement of policy HS7 that such sites should be located within villages. It was considered as part of the assessment of application 13/00870/OUT that the site is within an area which has the characteristics of a small village. This takes account of the substantial number of dwellings in the area, a nearby primary school at Withnell Fold, a local shop and other services found in nearby Higher Wheelton and good bus links on Chorley Road to the wider area.
15. Therefore, taking into consideration the previous appeal decision, the extant outline consent and the above policy considerations, it is considered that the proposed development is in accordance with the Framework, the emerging Local Plan and is not considered inappropriate development within the Green Belt.
16. The Inspector previously stated that the proposed development would affect the openness of the Green Belt, but in the context of its setting within the built development of the cul-de-sac, only limited harm would be caused. Given the size and scale of the development proposed it is not considered that a refusal could be sustained on these grounds.

Design and appearance

17. Thirlmere Drive presently consists of a variety of house types, including bungalows and semi-detached two storey houses. The bungalows are faced with light coloured brick, however the houses are a mixture of render and brickwork.
18. The application site is located adjacent to two storey houses, however given the variety of house types and designs in the local area it is not considered that a single storey dwelling would appear incongruous. The neighbour's comments on the use of render are noted, however as adjacent dwellings, although two storey dwellings, are part faced with cream render it is considered that it would be unreasonable to refuse the use of off white render to face the proposed bungalow.
19. The design, scale, appearance and materials proposed are considered to be acceptable. The proposal is therefore considered to be in accordance with policy BNE1 of the emerging Local Plan.

Impact on Neighbour Amenity

20. The western gable of the proposed bungalow would be approximately 11m from the side facing elevation of no. 34 Thirlmere Drive to the west. There is a ground floor and first floor window in the side facing elevation of no. 34. A dwarf wall, 450mm high, is proposed on the common boundary with no. 34 and no windows are proposed in the west facing side elevation of the proposed bungalow. It is therefore not considered that the proposed bungalow would cause any undue loss of privacy for the occupants of no. 34. The proposed dwelling would also not experience an unacceptable degree of overlooking from no. 34 due to the distances involved and the fact that it would only be the driveway area that would be overlooked.
21. A lounge window is proposed in the east facing side elevation of the proposed dwelling. This would be approximately 19m from the boundary with no. 37 Thirlmere Drive. There is a large mature hedge screening the side garden area of no. 37 from both the application site and the road, however even if this hedge were not in place it is considered that there would be sufficient distance between the proposed dwelling and no. 37 to prevent an undue loss of privacy.
22. It is considered that the proposed dwelling would not cause undue harm to the amenities of neighbouring residents and is therefore in accordance with policy BNE1 of the emerging Local Plan.

Highway Safety

23. The Framework states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Policy BNE1 of the emerging Local Plan also states that development should not prejudice highway safety, pedestrian safety, the free flow of traffic and must adhere to the parking standards set out in policy ST4.
24. Concerns have been raised by a resident in respect of the proposed access and parking arrangements at the site and how this would relate to the existing access and parking arrangements in the cul-de-sac. During the course of the previous applications a number of concerns were expressed particularly with regard to the impact of the proposal on on-street parking in the local area. As such, Lancashire County Council (LCC) Highways have been consulted regarding the application.
25. The plans now provide for a footpath linking the outside of No. 34 Thirlmere Drive, across the site frontage up to the end of the turning head. These footway works will be carried out through a Section 278 agreement and are considered acceptable.
26. The Highways Engineer has confirmed that they are satisfied with the proposed layout and formation of a new footpath. The proposal would provide two off road parking spaces in accordance with the Council's parking standards.
27. It is acknowledged there is likely to be an impact on the highway in the locality during construction of the development. However, the development would be modest in scale (i.e. should not take long to complete being a one bedroom bungalow) and any disturbance would not be prolonged. It is not considered a refusal of the application could be sustained on these grounds and equally, it is not considered necessary to impose restrictive construction conditions given the scale of the development.
28. As such, it is not considered the development would result in significant detrimental harm to highway safety and it should also be recognised that LCC Highways raise no objection to the application, subject to a number of planning conditions and advice notes.

Ecology

29. Concerns were when the previous applications were under consideration that the proposed development may have an adverse impact on biodiversity, in particular in relation to the ditch at the rear of the site. An ecological survey was submitted with the previous application.

30. The Greater Manchester Ecological Unit have not expressed any concerns about the proposal. Subject to the imposition of suitable conditions relating to avoiding tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds it is considered that the proposal is in accordance with policy BNE10 of the emerging Local Plan.

Trees

31. A protected tree lies on the southern boundary of the application site. No works are proposed to this tree as part of the proposals. It is considered to attach a condition requiring a root protection area to be put in place during construction.

CIL

32. The Chorley CIL Charging Schedule provides a specific amount for housing - £65 per sq m. This was adopted in July 2013 and charging commenced on 1 September 2013. As the proposal results in new residential floor space being created a CIL liability notice will be issued for the development.

Overall Conclusion

33. Taking into consideration the Inspector's appeal decision, the existing outline consent and the matters discussed above the application is considered to be acceptable. The proposal is accordingly recommended for approval, subject to the imposition of suitable conditions.

Planning Policies

34. 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 Borough Local Plan Review 2003 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposals has had regard to guidance contained with the National Planning Policy Framework (the Framework), the development plan and the emerging Local Plan 2012-2026. The specific policies/ guidance considerations are contained within the body of the report.
35. In October 2013, the Local Plan Inspector issued her partial report on the findings into the soundness of the Chorley Local Plan 2012-2026 which is a material consideration in the consideration of any planning application. In summary, the plan is considered to be legally compliant. In relation to soundness, the plan is considered sound, with the exception of matters relating to Gypsies and Travellers.
36. Paragraph 18 of the Partial Report states: "For the avoidance of doubt, the Plan may not be adopted until it has been changed in accordance with all the main modifications set out in the Appendix to this partial report and any which may be specified in the Appendix of my forthcoming supplementary report. However because of the very advanced stage in the examination process that the main modifications set out in the Appendix have reached, significant weight should be attached to all policies and proposals of the Plan that are amended accordingly, where necessary, except for matters relating to Gypsies and Travellers."
37. The Council accepted the Local Plan Inspector's modifications for Development Management purposes at its Executive Committee on 21st November 2013. It is therefore considered that significant weight can be given to her report, and to the policies and proposals of the emerging Local Plan, as amended by the main modifications.
38. Further consideration has been given to matters relating to Gypsies and Travellers, and the Local Plan Inspector's Supplementary Report on Gypsy and Traveller and Travelling Showpeople was issued (08 May 2015) and it concludes that the part of the Chorley Local Plan dealing with Gypsy and Traveller and Travelling Showpeople policy and site allocation is also sound, providing a number of main modifications are made.

Planning History

Reference	Description	Decision	Date
13/00870/OUT	Outline application for the erection of a one bedroom detached bungalow (all matters reserved apart from access). Resubmission of previously withdrawn application 13/00530/OUT.	Approved	30 October 2013
13/00530/OUT	Outline application for the erection of a one bedroom detached bungalow (all matters reserved apart from access).	Withdrawn	18 July 2013
13/00086/DIS	Discharge of Condition 2 of 12/00999/TPO detail of replacement tree planting.	Approved	7 February 2013
12/000999/TPO	Works to trees covered by TPO 8 (Withnell) 2011	Approved	10 January 2013
11/00619/OUT	Outline application for the erection of one detached bungalow (all matters reserved apart from access).	Refused, appeal dismissed	12 June 2012
79/01299/FUL	Use of derelict land as garden and car park area	Approved	17 March 1980
79/01290OUT	Outline application for bungalow	Refused	17 March 1980

Suggested Conditions

No.	Condition															
1.	<p>The proposed development must be begun not later than three years from the date of this permission.</p> <p><i>Reason: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004</i></p>															
2.	<p>The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <table border="1" data-bbox="320 539 1303 887"> <thead> <tr> <th data-bbox="320 539 687 600">Title</th> <th data-bbox="687 539 991 600">Drawing Reference</th> <th data-bbox="991 539 1303 600">Received date</th> </tr> </thead> <tbody> <tr> <td data-bbox="320 600 687 660">Proposed site plan</td> <td data-bbox="687 600 991 660">AR/100/001 P7</td> <td data-bbox="991 600 1303 660">12 June 2015</td> </tr> <tr> <td data-bbox="320 660 687 721">Location plan</td> <td data-bbox="687 660 991 721"></td> <td data-bbox="991 660 1303 721">12 May 2015</td> </tr> <tr> <td data-bbox="320 721 687 824">Proposed plans and elevations</td> <td data-bbox="687 721 991 824">AR/100/002 P5</td> <td data-bbox="991 721 1303 824">12 May 2015</td> </tr> <tr> <td data-bbox="320 824 687 887">Existing site survey</td> <td data-bbox="687 824 991 887">AR/100/E01 P1</td> <td data-bbox="991 824 1303 887">12 May 2015</td> </tr> </tbody> </table> <p><i>Reason: For the avoidance of doubt and in the interests of proper planning</i></p>	Title	Drawing Reference	Received date	Proposed site plan	AR/100/001 P7	12 June 2015	Location plan		12 May 2015	Proposed plans and elevations	AR/100/002 P5	12 May 2015	Existing site survey	AR/100/E01 P1	12 May 2015
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3.	<p>Notwithstanding the details shown on the submitted plans, the proposed driveway/hardsurfacing to the front of the property shall be constructed using permeable materials on a permeable base, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the boundaries of the property (rather than to the highway), unless otherwise agreed to in writing by the Local Planning Authority.</p> <p><i>Reason: In the interests of highway safety and to prevent flooding.</i></p>															
4.	<p>During the construction period, the Field Maple (protected by Tree Preservation Order) as shown on the approved plan shall be protected by 1.2 metre high fencing as specified in paragraph 8.2.2 of British Standard BS5837:2012 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.</p> <p><i>Reason: To safeguard the trees to be retained.</i></p>															
5.	<p>Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (Schedule 2, Part 1, Classes A, B, C, D, E) or any subsequent re-enactment thereof, no extension to the dwelling, porch, garden shed, greenhouse, garage or car port shall be erected nor any hardstanding area extended other than those expressly authorised by this permission.</p> <p><i>Reason: In the interests of neighbour amenity.</i></p>															
6.	<p>Tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds will be avoided between March and August inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections. If nesting birds are present, works within at least 5m of the nest must be delayed until such time as nesting is complete (the young have fledged and left the nest and the nest has been abandoned, dependent young are no longer in the area).</p>															

	<p><i>Reason: the site supports potential nesting bird habitat. Nesting birds, their nests and eggs are protected under the Wildlife and Countryside Act 1981 (as amended).</i></p>
7.	<p>All new dwellings are required to achieve a minimum Dwelling Emission Rate of 19% above 2013 Building Regulations.</p> <p><i>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 Assent 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 reduction as part of new residential schemes in the interests of minimising the environmental impact of the development.</i></p>
8.	<p>Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority demonstrating that each dwelling will meet the required Dwelling Emission Rate. The development thereafter shall be completed in accordance with the approved details.</p> <p><i>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 Assent 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. This needs to be provided prior to the commencement so it can be assured that the design meets the required dwelling emission rate.</i></p>
9.	<p>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.</p> <p><i>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 Assent 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.</i></p>
10.	<p>No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway improvement (footway) has been submitted to and approved by the Local Planning Authority in consultation with the Highway Authority. No part of the development hereby approved shall be occupied or opened for trading until the approved scheme hereby approved has been constructed and completed in accordance with the scheme details.</p> <p><i>Reason: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site and In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway scheme/works.</i></p>