

**Item 3g**                      **16/00162/FUL**

**Case Officer**              **Nicola Hopkins**

**Ward**                         **Eccleston And Mawdesley**

**Proposal**                    **Erection of a detached dwelling**

**Location**                   **Woodview, Preston Nook, Eccleston**

**Applicant**                  **Mr Michael Miller**

**Consultation expiry:**    **5<sup>th</sup> April 2016**

**Decision due by:**        **5<sup>th</sup> May 2016**

**Recommendation**  
**Approve full planning permission**

## Representations

**Eccleston Parish Council** no comments received

**In total 3 representations have been received citing the following grounds of objection:**

- Loss of privacy/ overlooking
- Loss of light
- The proposed dwelling is beyond the natural building line on the south aspect and adjacent to the footpath running adjacent to Syd Brook
- The proposed development is not infill
- Land for the proposed dwelling is not developed; this application would extend the natural boundary.
- The proposal does not adequately consider modification of Woodview to achieve the applicant's base retirement of providing additional living space for elderly relatives
- The highway (Preston Nook) is not practically able to accommodate any additional vehicles and parking associated with an additional dwelling
- There is no benefit to the local community
- The proposed development is within regular flight paths of barn owls that nest in the tree canopy adjacent to Syd Brook and this will unnecessarily disrupt them
- The proposed development extends into habitat for bats, newts and frogs, erosion is unnecessary
- Out-of-character for the area and will be a significant feature from the south
- In considering this need for elderly relatives, proposed development could be altered to a single storey, connected to existing dwelling and not extending more than 9 metres
- The area is a very natural piece of woodland within Eccleston which should be protected
- There will be a definite risk to the children's health and safety when either cycling or scootering to school and during time when they are able to play out
- Further housing will spoil the natural beauty of an area of Eccleston that is still unbuilt

## Consultees

<b>Consultee</b>	<b>Summary of Comments received</b>
United Utilities	No objection
Environment Agency	Originally objected due to the lack of a Flood Risk Assessment however on receipt of the Assessment withdrew their objection
CBC Waste and Contaminated Land Officer	No comments to make
LCC Highways	No objection

## **Assessment**

### Proposed Development and Site

1. The site is located within a predominantly residential area on a cul-de-sac and is occupied by a detached bungalow set within a large curtilage. The proposed development involves the erection of a detached two storey dwellinghouse on land to the south west of the existing dwelling with vehicular access off Preston Nook. The existing attached garage at Woodview will be demolished to provide an access to the new property which will be a shared access with Woodview. The new dwelling is proposed for the parents of the owners of Woodview although it will be a completely separate dwellinghouse and not a granny annexe.

### Principle of the Development

2. The site is located within the settlement area of Ecclestone as identified within the Local Plan. The Local Plan identifies that development within settlement areas may be for an appropriate use such as housing, offices, community facilities or green infrastructure. This should be read in conjunction with other policies and proposals in the plan and with Core Strategy Policy 1: Locating Growth. Within Core Strategy Policy 1 Ecclestone is identified as a Rural Local Service Centre where limited growth and investment will be encouraged to help meet local housing and employment needs and to support the provision of services to the wider area.
3. The proposal involves redeveloping part of the existing residential curtilage and as such Policy HS3 of the Local Plan is applicable. Policy HS3 states:  
Applications for development within private residential gardens on sites not allocated in the Housing Allocations 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.
  - c) Infill development on gardens. Infill is the filling of a small gap in an otherwise built-up street frontage, e.g. typically a gap which could be filled by one or possibly two houses of a type in keeping with the character of the street frontage.When assessing applications for garden sites, the Council will also have regard to:
  - 1) Sustainability, such as access to public transport, schools, businesses and local services and facilities.

Proposals which significantly undermine amenity and harm the distinctive character of an area will be refused.

4. Policy HS1 of the Local Plan expressly states that development on private residential gardens is not required as a matter of principle. The preamble to Policy HS3 confirms that the Council will resist proposals for garden development considered to harm the character and local amenity and biodiversity balance of an area and the policy confirms that proposals which significantly undermine amenity and harm the distinctive character of an area will be refused. As such development will only be considered to be acceptable in exceptional circumstances, subject to other material planning considerations.
5. There is no presumption in favour of developing this greenfield site (the National Planning Policy Framework excludes private residential garden curtilages in built up areas from the definition of previously developed land) as the Council has a deliverable five year housing supply including the additional buffer of 5%.
6. All of the land to the rear of Woodview is garden area associated with the dwellinghouse. However, there are significant levels changes from the rear of the dwelling to Syd Brook (at the rear boundary of the site) with the land dropping away significantly. These level differences affect the amount of land which the property can reasonably use as outside amenity space and it is clear on site that the formal areas of the site which are used as garden associated with Woodview are a hardsurfaced patio area to the immediate rear of the dwelling and a lawned area which is at a slightly lower level than the patio area. After this lawned area, the levels drop significantly and it is here that the dwellinghouse is proposed on an area of unkempt land. The main areas of private amenity space

associated with Woodview will be retained as part of the proposal and will not lead to a reduction of the used parts of this rear garden. As such the proposed development will not adversely impact on the level of private amenity space currently enjoyed at the property.

7. Additionally, the land to the rear of the neighbouring property, Ricmarlo, has planning permission for the construction of three new dwellings (15/00719/FUL). Whilst this land was not considered to be garden, this consent is a material planning consideration and demonstrates that the area is not characterised by low density housing set in generous mature gardens. As such it is not considered that the proposed development will adversely impact on the character of the area.
8. In addition, whilst the development does involve development within garden land, it is important to note that the proposal, given the sustainable location of the site, the character of the area and its position in relation to other dwellings nearby, is consistent with the aims of the Framework and the thrust of policy HS3 and is acceptable in principle.

#### Levels

9. There are significant level changes from the rear of the existing dwelling to the rear of the site. The proposed dwelling will be located on the part of the site where the levels drop away significantly and the proposed finished floor level of the dwelling is approximately 4m lower than Woodview. This level difference results in a ridge height, although 2 storey, which is lower than the existing bungalow and reduces the visibility of the new dwelling when viewed from Preston Nook. This level change will be secured through the use of a retaining wall structure and steps down to the dwelling with parking provision proposed at the higher land level.

#### Design and Appearance

10. The proposal involves the erection of a detached modern dwellinghouse in an area where there is a mix of dwelling types, sizes and ages within the street scene and as such the erection of a modern detached two storey dwelling will not be out of character with the appearance of the area.

#### Impact on the neighbours

11. The immediate neighbours to the site are Woodview, Ricmarlo and Treetops. There are also the approved but yet to be constructed dwellings to the rear of Ricmarlo.
12. Woodview is a detached modern bungalow located to the north east of the application site and the proposed dwelling will share vehicular access with this existing dwelling. The proposed dwelling is located approximately 16m from the rear elevation of the existing dwellinghouse although the submitted plans detail a proposed single storey rear extension at Woodview (which may be being constructed as permitted development) which will mean the new dwelling is approximately 13m from the rear elevation of the extended part of the dwelling. Due to the level changes, the windows in the rear of Woodview will directly face the first floor of the proposed dwelling. There are no habitable room windows on the rear (north elevation) of the proposed dwelling which ensures that the proposed dwelling will not result in loss of privacy in respect of the habitable rooms at Woodview or result in overlooking to the private amenity space at Woodview. The proposed windows in this facing elevation will serve a hall and landing area. These windows can be obscurely glazed to maintain an acceptable relationship with Woodview.
13. The proposed dwelling will be sited to the south west of the existing property. Given the degree of separation and the level differences it is not considered that the proposed dwelling will result in loss of light to the windows or the garden area of Woodview to a degree which warrants refusal.
14. Ricmarlo is a detached two storey dwelling located to the north of the application site which is set a higher land level than the proposed dwelling. Given the positioning of the proposed dwelling and the location of Ricmarlo and its associated amenity space it is not

considered that the proposed dwelling will create loss of privacy to the detriment of the neighbour's amenities.

15. There is dense vegetation along the common boundary with Ricmarlo which effectively screens it from current views from the garden. Although the dwelling will be located to the south of Ricmarlo, it will be set at a much lower land level and the dwelling will be sited approximately 8m from the garden area to Ricmarlo's (due to the intervening garage) and over 24m from the rear elevation of the property itself. Given the degree of separation and the level difference it is not considered that the proposed development will adversely impact on the neighbour's amenities.
16. Treetops is a detached dwellinghouse which appears to be a bungalow at the front and is two storey at the rear. Planning permission was granted for the dwelling in 1988 (87/00764/FUL) and the dwelling that exists on the site reflects the approved scheme although limited alterations to the dwelling have occurred in respect of the part of the dwelling closest to the application site. The property has a rear first floor bedroom window and a rear ground floor lounge window closest to the boundary with the application site. The proposed dwelling however is proposed to be located approximately 22m from the boundary with Treetops and in excess of 27m from the dwelling itself. The proposed dwelling will be located to the west of Treetops and given the degree of separation proposed it is not considered that the proposed dwelling will result in loss of light to Treetops. The proposed development will not create any directly facing habitable room windows in respect of the relationship with Treetops and although the proposed development includes side habitable room windows facing the garden area of Treetops these are well in excess of 10m from the boundary (the Council's standard spacing distance) and as such it is not considered that these windows will adversely impact on the neighbour's amenities.
17. The land to the rear of Ricmarlo has planning permission for three detached dwellings (15/00719/FUL). Approved plot 3 borders this application site and has a similar finished floor level to the proposed dwelling. Approximately 19m is retained between the rear elevation of plot 3 and the side elevation of the proposed dwelling. There are no first floor habitable room windows in the side elevation of the proposed dwelling (the two first floor windows serve a bathroom and utility room which can be obscurely glazed). The ground floor kitchen window does not meet the Council's standard of 21m however the extensive hedging along the boundary screens the application site from the neighbouring land and given that the distance maintained is just below the normal standard it is not considered that the proposed ground floor kitchen window will result in loss of privacy to a degree which warrants refusal.
18. The approved dwelling on plot 3 is a 2.5 storey dwelling with rear dormer windows. These windows will face the part of the dwelling where pedestrian access will be obtained and as such will not face the private amenity space associated with the new dwelling. It is not, therefore, considered that plot 3 will result in overlooking to the detriment of the proposed development.
19. Approved plot 2 is located to the south west of the application site and will be approximately 1m lower in terms of finished floor levels. The orientation of both the proposed dwelling and approved plot 2 ensures that the rear windows will not result in overlooking to the detriment of the neighbour's amenities.
20. The side elevation of approved plot 2 faces the application site however this plot includes the following condition:  
*All windows in the north east elevation 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.*  
This ensures that there will be no windows in the side elevation of plot 2 which will result in overlooking to the detriment of the proposed dwelling.

21. The original scheme incorporated a rear first floor balcony. This balcony is sited over 26m from the boundary with Treetops ensuring that this feature will not create overlooking to the neighbour's private garden. The balcony would, however, enable overlooking to two of the approved dwellings on land to the rear of Ricmarlo which was a particular concern due to the fact that plot 2 is 1m lower than the proposed dwelling. The applicant was advised of this and the first floor rear balcony has been omitted from the scheme. The balcony has been replaced with a Juliette balcony which will not enable direct views into the neighbours' garden areas.

#### Highways and Traffic

22. Concerns have been raised about the impact of additional traffic along Preston Nook. However, the Highway Engineer has reviewed the proposal and has no objection to this single dwelling.
23. The proposed dwelling is a one bedroom property which in accordance with Policy ST4 of the Local Plan requires one off road parking space which is detailed on the proposed plans. There are no details of the number of bedrooms at the existing property although three additional off road parking spaces are included on the submitted plans which is the standard required for 4+ bedroom properties and as such is acceptable for this existing dwelling.
24. The Highway Engineer has commented that he does not consider that the positioning of the proposed parking space is well placed as to allow for vehicles to be safely and conveniently parked and reversed. However, given that there is adequate space within the overall site to accommodate a single car, no objection is raised by the Engineer in this regard.

#### Trees

25. Within the vicinity of the site there is mature vegetation and trees. However, this vegetation will be unaffected by the proposed development.

#### Open Space

26. The Open Space and Playing Pitch SPD was adopted for development control purposes at the Council meeting on 17th September 2013 and open space requirements relating to new housing schemes accord with Local Plan Policies HS4A and HS4B and the approach in the SPD.

#### Sustainable Resources

27. Policy 27 of the Core Strategy currently requires dwellinghouses to be built to meet Code for Sustainable Homes Level 4 which increases to Level 6 on 1st January 2016. However, the 2015 Deregulation Bill received Royal Assent on Thursday 26th March 2015 which effectively removes Code for Sustainable Homes. The Bill does include transitional provisions which include:

*“For the specific issue of energy performance, local planning authorities will continue to be able to set and apply policies in their Local Plans which require compliance with energy performance standards that exceed the energy requirements of Building Regulations until commencement of amendments to the Planning and Energy Act 2008 in the Deregulation Bill 2015. This is expected to happen alongside the introduction of zero carbon homes policy in late 2016. The government has stated that, from then, the energy performance requirements in Building Regulations will be set at a level equivalent to the (outgoing) Code for Sustainable Homes Level 4. Until the amendment is commenced, we would expect local planning authorities to take this statement of the government's intention into account in applying existing policies and not set conditions with requirements above a Code Level 4 equivalent.”*

*“Where there is an existing plan policy which references the Code for Sustainable Homes, authorities may continue to apply a requirement for a water efficiency standard*

*equivalent to the new national technical standard, or in the case of energy a standard consistent with the policy set out in the earlier paragraph in this statement, concerning energy performance.”*

28. As such there will be a requirement for the dwelling to achieve a minimum Dwelling Emission Rate of 19% above 2013 Building Regulations in accordance with the above provisions.

#### Drainage and Flood Risk

29. United Utilities have no objection to the proposal and have not requested any conditions.
30. The application site is partially within Flood Zone 3 (given its proximity to Syd Brook), which is defined as having a high probability of flooding in the National Planning Practice Guidance. As such the Environment Agency originally objected to the application due to the lack of a Flood Risk Assessment. Following receipt of the submitted Assessment the Environment Agency have confirmed that as the proposed dwelling will not be located in Flood Zone 2 or 3 they are satisfied that the proposed development would be safe and that it would not be at an unacceptable risk of flooding or exacerbate flood risk elsewhere.

#### Community Infrastructure Levy

31. The Chorley CIL Infrastructure Charging Schedule provides a specific amount for development. The CIL Charging Schedule was adopted on 16 July 2013 and charging commenced on 1 September 2013. The proposed development will be a chargeable development and the charge is subject to indexation in accordance with the Council's Charging Schedule.

#### **Overall Conclusion**

32. The proposal is considered to be acceptable in terms of planning policy and as such is recommended for approval.

#### **Planning Policies**

In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/ guidance considerations are contained within the body of the report.

## **Suggested Conditions**

<b>No.</b>	<b>Condition</b>
1.	<p>The proposed development must be begun not later than three years from the date of this permission.</p> <p>Reason: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004.</p>
2.	<p>Prior to the commencement of the development, due to the sensitive end-use of the development (residential housing with gardens), a report to identify any potential sources of contamination on the site and where appropriate, necessary remediation measures, shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>The report should include an initial desk study, site walkover and preliminary risk assessment. If the initial study identifies the potential for contamination to exist on site, the scope of a further study must then be agreed in writing with Local Planning Authority and thereafter undertaken and shall include details of the necessary remediation measures.</p> <p>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.</p> <p>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, in accordance with Paragraph 121 of the National Planning Policy Framework (DCLG, 2012).</p>
3.	<p>All trees being retained in or adjacent to the application area will be adequately protected during construction, in accordance with existing guidelines (e.g. BS5837:2012 Trees in relation to design, demolition and construction - Recommendations).</p> <p>Reason: In the interests of ensuring the continued protection of the trees on the site.</p>
4.	<p>Notwithstanding the details shown on the submitted plans, the proposed driveway hereby approved following the demolition of the existing garage 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>Reason: In the interests of highway safety and to prevent flooding.</p>
5.	<p>Prior to the commencement of the construction of the dwelling hereby approved samples of all external facing and roofing materials (notwithstanding any details shown on previously submitted plans 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.</p> <p>Reason: To ensure that the materials used are visually appropriate to the locality.</p>
6.	<p>The new dwelling hereby approved are required to achieve a minimum Dwelling Emission Rate of 19% above 2013 Building Regulations.</p> <p>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.</p>
7.	<p>Prior to the commencement of the construction of the dwellinghouse details shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the dwellings will meet the required Dwelling Emission Rate. The development thereafter shall be completed in accordance with the approved details.</p>



	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.												
8.	The dwelling hereby approved shall not be occupied until a SAP assessment (Standard Assessment Procedure), or other alternative proof of compliance (which has been previously agreed in writing by the Local Planning Authority) such as an Energy Performance Certificate, has been submitted to and approved in writing by the Local Planning Authority demonstrating that the dwelling has achieved the required Dwelling Emission Rate. Reason: Policy 27 of the Adopted Central Lancashire Core Strategy requires new dwellings to be built to Code for Sustainable Homes Level 4 however following the Deregulation Bill 2015 receiving Royal 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.												
9.	Prior to the occupation of the dwellinghouse hereby approved 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.												
10.	Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (Schedule 2, Part 1, Classes A, B, C and E) or any subsequent re-enactment thereof no extension to the dwelling, garage or car port shall be erected nor any hardstanding area extended other than those expressly authorised by this permission. Reason: In the interests of neighbour amenity and due to the proximity of the site to the Flood Risk zone in respect of Syd Brook.												
11.	The development hereby approved shall be carried out in accordance with the following plans: <table border="1" data-bbox="320 1603 1276 1765"> <thead> <tr> <th>Title</th> <th>Drawing Reference</th> <th>Received date</th> </tr> </thead> <tbody> <tr> <td>Location Plan</td> <td></td> <td>10th March 2016</td> </tr> <tr> <td>Site Plan and Section</td> <td>DD/1290/3</td> <td>10th March 2016</td> </tr> <tr> <td>Proposed Plans and Elevations</td> <td>DD/1237/2 Rev A</td> <td>10th March 2016</td> </tr> </tbody> </table> Reason: For the avoidance of doubt and in the interests of proper planning.	Title	Drawing Reference	Received date	Location Plan		10th March 2016	Site Plan and Section	DD/1290/3	10th March 2016	Proposed Plans and Elevations	DD/1237/2 Rev A	10th March 2016
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12.	The development hereby permitted shall only be carried out in conformity with the proposed ground and building slab levels shown on the approved plans. Reason: To protect the appearance of the locality and in the interests of the amenities of local residents.												
13.	All windows in the north east elevation and the first floor windows in the north west												

	<p>elevation 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.</p> <p>Reason: In the interests of the privacy of occupiers of neighbouring property.</p>
14.	<p>No development shall commence until a Scheme for the provision of off-site public open space in accordance with the principles of Policies HS4A and HS4B of the Adopted Chorley Local Plan 2012-2026 has been submitted to and approved in writing by the Local Planning Authority. The dwelling(s) hereby approved shall not be occupied until the approved Scheme has been implemented.</p> <p>Reason:- The provision of off-site public open space is a requirement of the Development Plan and therefore a scheme or mechanism to deliver the requirements of the development plan are essential to make the development acceptable. A suitable scheme has not been submitted as part of the application and is needed prior to the commencement of the development to ensure a suitable scheme can be agreed.</p>