

Dear Councillor

13 November 2013

DEVELOPMENT CONTROL COMMITTEE - TUESDAY, 19TH NOVEMBER 2013

I am now able to enclose, for consideration at the above meeting of the Development Control Committee, the following reports that were unavailable when the agenda was printed.

Agenda No Item

- d) 13/00804/OUTMAJ - Land bounded by Town Lane (to the north) and Lucas Lane (to the east) Town Lane, Whittle le Woods (Pages 112 - 125)

Proposal

Section 73 application to vary condition 11 (Code for Sustainable Homes) attached to outline planning approval 11/00992/OUTMAJ

Recommendation

Recommendation to Follow

- j) 13/00848/FUL - South Miry Fold Farm, Briars Brow, Wheelton, Chorley, PR6 8JN (Pages 126 - 139)

Proposal

Section 73 Application to vary condition 6 (junction improvements with Briars Brow) of planning approval 08/00934/FUL to alter the previously approved sightlines.

Recommendation

Permit Full Planning Permission

- l) 13/00721/FULMAJ - Land north of Duke Street including QS Fashions and bounded by Pall Mall and Bolton Street, Chorley (Pages 140 - 171)

Proposal

Application for the variation of conditions 5 (Bus Stop Improvement), 6 (In store Real Time Information), 8 (Stopping Up Orders), 11 (Design Stage Assessment), 12 (Post Construction Certificate), 18 (Access to Western Boundary), 19 (Landscaping), 23 (Provision of Development Opportunity Sites), 32 (Approved Plans) and 36 (Finished Floor Levels) of Planning Permission 09/00933/FULMAJ under Section 73 of the Town & Country Planning Act.

Recommendation

Permit Full Planning Permission

Yours sincerely



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Distribution

1. Agenda and reports to all Members of the Development Control Committee for attendance.

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Item 4d	13/00804/OUTMAJ
Case Officer	Caron Taylor
Ward	Pennine
Proposal	Section 73 application to vary condition 11 (Code for Sustainable Homes) attached to outline planning approval 11/00992/OUTMAJ
Location	Land Bounded By Town Lane (To The North) And Lucas Lane (To The East) Town Lane Whittle-Le-Woods
Applicant	Redrow Homes Ltd (Lancashire Division)

Consultation expiry: 3 October 2013

Application expiry: 26 November 2013

Proposal

1. Section 73 application to vary condition 11 (Code for Sustainable Homes) attached to outline planning approval 11/00992/OUTMAJ.

Recommendation

2. It is recommended that this application is approved.

Main Issues

3. The main issues for consideration in respect of this planning application are:
 - Background information
 - Proposed Modification
 - Section 106 Agreement

Representations

4. Twelve letters of objection have been received on the following grounds:
 - The number of houses planned will create even greater hold ups on the A6 at peak periods. Traffic is already bad in morning and afternoon rush hours because of traffic accessing from the Buckshaw development. As Buckshaw grows the congestion gets worse. The planned Redrow development whilst having a negative effect on the character of Whittle, will have a single access and exit. they feel that that, if the development goes ahead (it obviously will as local views have been completely disregarded) it should at the very least be on the condition that access should be via more than one route which in the event of an emergency would create chaos and possibly tragedy;
 - The local transport infrastructure is not adequate to cope with the additional demand on it. It reduces the value of our housing as the area will be overpopulated and oversaturated. There are not adequate facilities i.e. doctors surgeries to cope with demand;
 - It will go against the local community agenda;
 - It is being built on a green belt area ridding the area of vital wildlife and greenspace. Redrow should have more community knowledge - they are saturating demand;
 - This proposal is fundamentally unnecessary. Whittle and surrounding areas have a surplus of stock. This is before plans already approved begin construction. Please consider actual need and not the requirements of a plan that does not reflect on-the-ground needs. In addition, the destruction of green space so vital to the well-being of the community and of wildlife will cause irreparable damage to the precious environment. The area does not need this and we should not be driven by national targets that are driven by other motives. Reject the application and preserve what remains of the character and heart of Whittle;
 - This appears to be more about achieving housing targets as the need for this type of housing in this area. Simple research will highlight the fact that there are many similar

properties to those proposed to be built being unsold for many months / years in the area. Why build more?;

- If Redrow want to change what the inspector ruled on, then they should submit their whole application again. They consider that the houses should be built to code 4, and later ones should meet the new code if it is in place;
- Redrow's Project Management should have taken into consideration current and future conditions, which in this instance must have been known, when they made their initial planning application;
- Clearly it cannot be correct for a development to continue that is in breach of Condition 11, that must have formed part of basis for the development to have been approved in the first instance;
- Condition 11 clearly states that a dwelling 'must meet the relevant Code Level operative at the time of its construction'. Redrow's argument that this would cause the development to be 'brought to a premature halt', they feel is not a valid one;
- The decision to allow Redrow to build on this land was based on undertakings given which they are now attempting to alter. If the application is altered then surely the decision to allow them to build needs to be reviewed and reassessed.
- The Residents Action Group state that Redrow should accept the conditions placed on them by the Inspector. It is feasible to build a home to Code Level 6 using traditional methods. The implication that the end user would have no mains power supply or an inadequate water system is totally wrong. Redrow should have considered this when they planned the site and how they would phase it over the various dates to conform to the necessary codes. Part of their argument in favour of varying the condition states that the development could be put at risk if the properties built after 2016 had to be built to Code 6 but again Redrow knew this and should have allowed for this. The affordable homes will be started before the 2016 date and therefore not affected and any other risk to development is Redrow's problem as Chorley has enough properties coming forward to need its housing needs. In terms of commencement, just because a drain is put in the ground does not mean a property is started. Redrow seem to be trying to have their cake and eat it. They should either start all the properties before 2016 or built them to the relevant Code.

5. **Whittle-le-Woods Parish Council** state the development should still comply with all the conditions that the application 11/00992/OUTMAJ was passed with.

Assessment

Background Information

6. Redrow were granted outline planning permission for up to no. 135 dwellings with all matters reserved, save for access on the site at appeal on 19th September 2012 (appeal ref: APP/D2320/A/12/2172693). Reserved Matters was granted for 121 dwellings on the site on 6th March 2013.
7. Condition 11 was imposed by the appeal Inspector on the outline approval and relates to Core Strategy Policy 27. It states:

All dwellings commenced after 1 January 2010 shall achieve Level 3 of the Code for Sustainable Homes. Those commenced after 1 January 2013 shall achieve Level 4 and all dwellings commenced after 1 January 2016 shall achieve Level 6 of the Code. No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that the relevant Code Level has been achieved.

Relevant Planning Policy

8. Condition 11 was attached to the planning approval to ensure that the proposals accord with Policy 27 of the Adopted Core Strategy. Policy 27 states:

Incorporate sustainable resources into new development through the following measures:

All new dwellings will be required to meet Level 3 (or where economically viable, Level 4) of the Code for Sustainable Homes. This minimum requirement will increase to Level 4 from January 2013 and Level 6 from January 2016. Minimum energy

efficiency standards for all other new buildings will be 'Very Good' (or where possible, in urban areas, 'Excellent') according to the Building Research Establishment's Environmental Assessment Method (BREEAM).

Subject to other planning policies, planning permission for new built development will only be granted on proposals for 5 or more dwellings or non-residential units of 500 sq metres or more floorspace where all of the following criteria are satisfied:

- (a) Evidence is set out to demonstrate that the design, orientation and layout of the building minimises energy use, maximises energy efficiency and is flexible enough to withstand climate change;
- (b) Prior to the implementation of zero carbon building through the Code for Sustainable Homes for dwellings or BREEAM for other buildings, either additional building fabric insulation measures,
or
appropriate decentralised, renewable or low carbon energy sources are installed and implemented to reduce the carbon dioxide emissions of predicted energy use by at least 15%;
- (c) Appropriate storage space is to be provided for recyclable waste materials and composting;
- (d) If the proposed development lies within a nationally designated area, such as a Conservation Area or affects a Listed Building, it will be expected to satisfy the requirements of the policy through sensitive design unless it can be demonstrated that complying with the criteria in the policy, and the specific requirements applying to the Code for Sustainable Homes and BREEAM, would have an unacceptable adverse effect on the character or appearance of the historic or natural environment.

The integration of the principles above into other types of development will also be encouraged.

9. This Policy is contained within the Central Lancashire Core Strategy which was found sound by the Planning Inspector in June 2012. In respect of Policy 27 the Inspector commented that the *evidence base is sufficiently convincing to justify the Policy in terms of requirements rather than expectations.*
10. Members may recall that the Council had a similar Policy (Policy SR1) prior to the adoption of the Core Strategy which was contained within the Sustainable Resources DPD. This was an adopted Policy and was applicable to all new housing schemes since its adoption in September 2008. This Policy was superseded when the Core Strategy was adopted however similar requirements have been required on new housing schemes for over 5 years now.
11. In order for large new housing schemes to accord with the Core Strategy Policy all of the dwellings are required to meet the specified code level dependent on when they are constructed and secure a reduction in carbon emissions over and above the relevant code level. This notwithstanding the preamble to the Policy does enable a relaxation on this requirement where the applicant can demonstrate that an individual site's circumstances are such that development would not be economically viable if the policy were to be implemented. Therefore although an applicant may not submit viability information at the application stage to justify code 4 throughout the lifetime of the development or choose to appeal the condition, which is the case in respect of this site, an applicant/ developer could still seek to vary the condition at a later date based upon the sites viability.
12. Members will be aware that other house builders/ applicants within the Borough have recently varied similar conditions in this way when viability information has been submitted.

Proposed Modification

13. Redrow Homes consider that this condition fails the tests of reasonableness, that the *commencement* should reflect the commencement of the development as a whole and not the individual plots and that the recent Housing Standards Review (August 2013) indicates that carbon and energy targets should be addressed via Building Regulations. This is explored

further below. As such Redrow Homes are seeking the following amendments to the wording of the condition:

The dwellings hereby approved shall achieve Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for that dwellings certifying that Code Level 4 has been achieved for that dwelling.

14. Redrow have also applied to vary a similar condition placed on permission ref: 12/00941/OUTMAJ relating to land north of Lancaster Lane and bounded by Wigan Road and Shady Lane, Clayton-Le-Woods. This application is also report on this committee agenda.
15. Redrow Homes have also cited an appeal decision at Preston where Code Level 6 is not cited. This is explored further below.
16. Justification for varying the wording of the condition has been split, by the applicant, into four separate arguments which are explored below.

Test of Reasonableness

17. Redrow Homes consider that an onerous interpretation of condition11 would nullify the benefit of the planning approval for any dwellings not commenced before the 1st January 2016 and is unduly restrictive in terms of the test of reasonableness in Circular 11/95. Paragraph 35 of Circular 11/95 states:

A condition may be unreasonable because it is unduly restrictive. Although a condition may in principle impose a continuing restriction on the use of land (provided that there are good planning reasons for that restriction), such a condition should not be imposed if the restriction effectively nullifies the benefit of the permission. For example, it would normally be reasonable to restrict the hours during which an industrial use may be carried on if the use of the premises outside these hours would affect the amenities of the neighbourhood, but it would be unreasonable to do so to such an extent as to make it impossible for the occupier to run the business properly. If it appears that a permission could be given only subject to conditions that would be likely to be held unreasonable by the courts then it will be necessary to refuse permission altogether.

18. The wording of the condition effectively ensures that the commencement of the construction of any dwelling after 1st January 2016 will be required to be constructed to Code for Sustainable Homes Level 6.
19. The Council's interpretation of Policy 27 is that the Code Level to be secured is not fixed at the commencement of the development as a whole but at the commencement of each individual plot. This interpretation has also been applied by the Secretary of State and the Planning Inspector at the Wigan Road appeal (APP/D2320/A/10/2140873) where the following condition was attached:

Each dwelling hereby permitted shall be constructed to achieve the relevant Code for Sustainable Homes Level required by Policy SR1 of the Sustainable Resources DPD, or in accordance with the national standard postdating the DPD in place at the time of construction. The current requirements to be complied with are as follows; Level 3 for all dwellings commenced from 1st January 2010, Level 4 for all dwellings commenced from 1st January 2013 and Level 6 for all dwellings commenced from 1st January 2016, and achieve 2 credits within Issue Ene7: Low or Zero Carbon Technologies.

20. Redrow Homes, the applicant, original applied to the Council to construct up to 135 dwellings on this site. This application was subsequently refused although allowed on appeal (APP/D2320/A/12/2172693) where the requirements of Policy 27 were considered. At the Public Inquiry Redrow Homes raised a similar argument as those put forward in respect of this application, in that the relevant Code Level should be Level 4 for all the dwellings permitted now on this development, however the Inspector disagreed with the assertion and made the following comments:

For similar reasons, conditions would be required to secure the compliance of all dwellings on the site to the relevant level of the Code for Sustainable Homes. Whilst the Appellants argued that the relevant Code Level should be Level 4 for all the dwellings permitted now on this development, Policy SR1 (which is part of the Development Plan) simply says that 'All new homes will be required to meet....' the stated levels by certain dates. The whole purpose of the Policy and the Code is to drive dwellings towards the higher levels and the fact that those dwelling started later would be to a higher standard would be a planning benefit which the developer should be perfectly able to accommodate. The condition would therefore require compliance as set out in the Council's suggested condition. With this it would be necessary to ensure there was an assessment on completion in order to show that the houses did comply with the Code. It would be for the developer to do his own pre-construction assessment to achieve this.

21. It is not considered that condition 11 nullifies the benefit of the planning permission as the requirement to construct any dwellings commenced after the 1st January 2016 to meet Code Level 6 does not restrict the developer from constructing dwelling houses as per the outline permission. The requirements of the condition just ensures that dwellings started later within the build period meet a higher standard of construction.

Definition of Commencement

22. The applicant considers that the commencement of the development, that being the carrying out of a material operation, in respect of the interpretation of the condition in this case would fix the code level for the site to level 4 (as development will commence in 2013/ 2014). This is based upon the consideration that the provision of infrastructure (roads, sewers etc.) common to all the dwellings will be provided at the outset.
23. Redrow argue that there is no legal basis for determining that undertaking a material operation common to all the dwellings does not constitute the commencement of all the dwellings.
24. Notwithstanding the definition of commencement of development the wording of the Policy is very specific in that the relevant Code level relates to when the dwelling commences construction. The Council interpret this to be the actual commencement of each individual plot an interpretation which was supported by two different Planning Inspectors and the Secretary of State. The alternative interpretation, forwarded by the applicant, would not drive dwellings towards the higher levels of construction which is the purpose of the Policy.

Policy 27: Sustainable Resources and New Development

25. The applicant considers that there is no explicit intention within Policy 27 that its requirements will be applied to each individual dwelling on a development site at the date of its actual construction. Redrow Homes consider that a more logical and practical interpretation is that the appropriate level should be fixed at the time permission is granted or first commenced. The applicant considers this is the only sensible interpretation.
26. However it is considered that the alternative interpretation, which the Council has applied on other schemes within the Borough, ensures that new large housing schemes, which will extend into 2016, contributes to the government's climate change strategy of reducing carbon emissions by greater energy efficiency in the construction and use of buildings. The Core Strategy confirms that this can be achieved by requiring new developments to be constructed to higher levels than those required by the Building Regulations. Fixing the Code for Sustainable Homes Level at the date of planning permission or when the development is first commenced would not secure the Government's or Council's objectives in respect of tackling climate change over the lifetime of the development.

Housing Standards Review (August 2013)

27. The applicants have cited the recently published Housing Standards Review (DCLG) which Redrow assert demonstrates that the Government does not see a need for the levels or separate carbon and energy targets provided by the Code for Sustainable Homes. Redrow considers that the review will result in carbon and energy targets being set in Building Regulations as the move is made towards zero carbon homes.

28. The recently published review was a review of the building regulations framework and voluntary housing standards. Its aims relates to rationalising the number of codes, standards, rules, regulations and guidance. The report was commissioned by the Secretary of State although it does note that the findings and recommendations do not necessarily represent the views or proposed policies of the Department for Communities and Local Government.
29. The findings of the review group are out to consultation until 22nd October and following the consultation, the Government will analyse responses and consider the way forward. Subject to the consultation, the current intention is to issue a National Described Standards document as soon as possible, alongside a final impact assessment, analysis of consultation responses, and the Planning Policy Statement setting out how housing standards should henceforth be treated in the planning system. Additionally the Government will also be considering whether further changes may be needed to the Building Regulations, possibly to integrate elements of housing standards however this would be subject to cost benefit analysis and further consultation.
30. Notwithstanding the findings of the review any legislative changes following the consultation process are yet an unknown entity and as such it is not possible to determine the Governments direction of travel at this time. Prior to any reforms/ legislative changes this cannot be known and at this time the only way of securing the Government climate change targets is an interpretation of the Policy as set out within the originally worded condition and this report.

Central Lancashire Authorities

31. The applicants have cited a recent appeal decision at Preston council (APP/N2345/A/13/2193377) for up to 330 houses at Lightfoot Lane. In this case the Planning Inspector imposed the following condition:
The dwellings hereby approved shall achieve Level 4 of the Code for Sustainable Homes. No dwelling in any phase shall be occupied until a final Code Certificate has been issued for that dwelling certifying that Code Level 4 has been achieved for that dwelling.
32. The condition reflects the applicant's suggested proposed amendments. Whilst the Inspectors decision (at paragraph 37) does confirm that this condition is required in the interests of reducing reliance on non-renewable energy resources there is no reference back to Policy 27 or reasoning why the level does not increase in 2016, as per the Policy wording.
33. The Case Officer for this site has confirmed that the condition attached by the Inspector was agreed by all parties. Preston Council attach conditions to approvals which sets out the Code Level at the time of the planning approval and not at the time of the commencement of the individual plots. This effectively results in all of the dwellings approved from the beginning of this year until December 2015, which are not actually constructed on sites until after January 2016, being constructed to Code Level 4 with no uplift. It also appears, from recent decisions on large housing schemes, that South Ribble also takes the same approach as Preston as their conditions only refer to Code Level 4.
34. The decisions of both Preston and South Ribble Council's appear to show inconsistency within the Central Lancashire Authorities between the interpretation of the requirements of Policy 27. However it must be acknowledged that the Inspector at the recent appeal within Preston was silent in respect of the requirements of Policy 27 whereas the Inspector at Lucas Lane referred back to Policy SR1 (as set out above this Policy formed part of the adopted DPD which were superseded by the Core Strategy and had the same requirements in respect of the Code Level) confirming that the requirements are the stated level for new dwellings at specified dates.
35. As such the interpretation that the code level relates to the commencement of the construction of each individual plot is considered to be correct.

Financial Viability

36. Members will recall that this application was considered at Development Control Committee on 29th October with a recommendation to refuse the application however the applicant, Redrow Homes, requested that determination be deferred to enable submission of financial viability information to further justify varying the wording of the condition. Members agreed to defer the

application and the viability information has since been provided by Redrow Homes. This has been assessed by Liberata on behalf of the Council.

37. Liberata have summarised that two viabilities have been submitted, one showing the scheme at Code 4 which the developer is willing to develop to and keep the land value at £385,057.47 per acre with 14% profit. The second viability shows if the scheme is developed to Code 6, whilst keeping the profit of 14%, reduces the land value to £80,401.65 per acre whereas the scheme becomes unviable. The submitted information includes the following headline figures:

Element	Code Level	Included figure	Profit	Liberata's comments
Land Value (per acre)		£385,057.47		This land value is within the comparable evidence range.
Costs of Construction	4	£114,234.73 per unit		This is equivalent to an average of £87.71 per sq ft. These are relatively average to higher net build costs.
	6	£115,314.73 per unit		The developer shows slightly higher build costs for development to Code 6 but shows a big increase on the abnormal- see below
Abnormals	4	£15,681 per unit		This equates to a cost of £1,897,409 for the whole site.
	6	£58,881 per unit		This is extremely cost heavy which is assumed is required for the Code 6 works.
Revenue from House Sales	4	£254,398.61 per unit		Taking into account likely selling prices and numbers of units, this is a fair reflection of the current market without being overly cautious.
	6	£254,398.61 per unit		
Land price which could be paid	4	£385,057.47 per acre	14%	
	6	£80,401.65 per acre.	14%	This appraisal shows that the required 14% return but the very large costs impact on the land value by reducing it substantially to £80,401.65 per acre.

38. It should be noted that Redrow have included the cost of building to Code Level 6 rather than Level 4 as an abnormal within their viability appraisal, however it is considered it should be within the costs of construction. This doesn't however alter the viability outcome.
39. The two submitted appraisals demonstrate that constructing a development to meet Code Level 4 enables an acceptable land price to be paid whilst securing a reasonable level of 14% profit. If Code 6 is required then this significantly reduces the land price which could be paid which would mean that the land owner would not secure a reasonable level of return and would be unlikely to sell.
40. Liberata have based their assessment on a number of assumptions and have raised the following points for clarification:
- When Code 6 is applied the abnormal cost per unit increases from £15,681 to £58,881. This overall tips the appraisal to unviable and a resulting land value that is too low. Further details would be required on the abnormal cost and whether this is directly related to Code 6;
 - Why the build cost is so high on this site;
 - As Code 6 is only required from 1st January 2016, it is unlikely that all the properties will be required to be Code 6 and whether this has been taken into account.

41. Whilst clarification is being sought from Redrow Homes on these points, in particular the significant difference in the abnormals cost from Code Level 4 to Code Level 6, it is clear from the submitted information that the values and costing related to securing Code 6 impact on the build cost so much the total costs are not much lower than the sales value and the scheme is therefore unviable. The preamble to Policy 27 confirms that *The requirement to meet the higher than national minimum Code Level and all other provisions of Policy 27 will apply unless the applicant can demonstrate, including through the use of open book accounting, that an individual site's circumstances are such that development would not be economically viable if the policy were to be implemented.*
42. It is considered that in this case the applicant has demonstrated that the inclusion of Code Level 6 significantly impacts on the price which could be paid for the land. The 'RICS Professional Guidance: Financial viability in planning' confirms that: *An objective financial viability test of the ability of a development project to meet its costs including the cost of planning obligations, while ensuring an appropriate Site Value for the landowner and a market risk adjusted return to the developer in delivering that project.* The land price which could be paid with the inclusion of Code Level 6 is not considered to be reasonable and is likely to result in the land owner being unwilling to sell the land.
43. This guidance reflects National Government's guidance with The Framework which confirms that: *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.*

Section 106 Agreement

44. If this application were to be approved a legal agreement would be required to tie this new permission into the original obligations.

Overall Conclusion

45. The 2008 Planning and Energy Act enabled local authorities to set local plan policies for development in their area to set energy efficiency standards that exceed Building Regulations. In practice the Code is the only such standard nationally recognised. Any policies should be based on national policy and should be reasonable.
46. The Adopted Core Strategy Policy 27, which was subject to public consultation and scrutiny by an Inspector prior to adoption, sets a Code for Sustainable Home Level which is higher than Building Regulations in accordance with the above Act. It is considered that the correct interpretation of the Policy requires the relevant code level to be applied to new dwellings should be at the time of construction of each individual dwelling in order to secure the national and local climate change objectives. This view has recently been supported by a Planning Inspector and reflected within Inspectors decisions for large housing schemes within the Borough.
47. Although it is acknowledged that the Government are seeking a review of the relationship between Building Regulations, the Code, the Planning and Energy Act 2008 and local standards any proposed changes are yet to be secured by legislative changes. At this stage the Government's position is that possible changes are only subject to consultation. As such at this time the interpretation of the Policy, as per the original condition wording, ensures a benefit is secured with a higher standard of dwelling.
48. If the condition was amended as proposed all of the dwellings would be constructed to Code Level 4 which may not be sufficient to secure the Government's intentions. The consultation on the Housing Standards Review states that *it is acknowledged that the government has set a clear end point for strengthening Building Regulations, with the zero carbon standard the equivalent of Code level 5, with a further strengthening anticipated in 2016 of both carbon and energy targets.* These objectives are being considered separately within the 'Next steps to zero carbon homes - Allowable Solutions' consultation document which is out for consultation until

15th October. Whilst in light of this there may not be a need for levels or separate carbon and energy targets this is also still subject to consultation and consideration without any agreed legislative changes.

49. It is considered that the Policy wording is specific in respect of securing Code Level 6 for all dwellings commenced after 1st January 2016. In the case of this site the condition was attached by the Planning Inspector after Redrow Homes unsuccessfully argued the code level uplift requirement at the Public Inquiry. The Planning Inspector supported the Council's view and it is considered that the interpretation of the condition, requiring the relevant code level at the time of the commencement of the individual dwellings is correct. As such it is not considered that the condition should be varied based on the arguments Redrow have put forward.
50. Redrow have however submitted a viability appraisal which is considered a material planning consideration in the determining of the application. A balancing exercise needs therefore to be undertaken in coming to a recommendation on the application.
51. It is acknowledged that to build properties to Code Level 6 the site needs to be planned as such from the start. As a volume house builder Redrow will have been aware of the sustainable policy requirements and that Code Level 6 comes into force from 1st January 2016 when they designed the site. If Members were minded to refuse the application this could form the basis of such a decision.
52. However, the Council are relying on the site to deliver the Council's five year housing land supply and it is a current commitment in the emerging Local Plan. In addition it will deliver 30% affordable housing. If the Council refuse the application there is the possibility that other aspects of the development are compromised to cover the cost of Code Level 6, possibly affordable housing or contributions towards public open space.
53. Considering the current economic climate, the Government's wavering on the Code for Sustainable Homes and that the site is relied upon in terms of the five year land supply, the varying of the condition is, on balance recommended for approval. This is subject to the areas of clarification requested from Redrow being acceptable to the satisfaction of officers. This will be updated on the addendum.

Planning Policies

National Planning Policies:

National Planning Policy Framework

Central Lancashire Core Strategy 2012

Policy 1, Policy 2, Policy 3, Policy 4, Policy 5, Policy 7, Policy 9, Policy 17, Policy 27

Adopted Chorley Borough Local Plan Review

The following policies are of relevance to this proposal:

- DC3- Areas of Safeguarded Land
- GN1- Settlement Policy – Main Settlements
- GN5- Building Design and Retaining Existing Landscape Features and Natural Habitats
- HS4- Design and Layout of Residential Developments
- HS6- Housing Windfall Sites
- HS21- Playing Space Requirements.
- TR4- Highway Development Control Criteria.

Emerging Local Plan 2012-2026

- ST4- Parking Standards
- HS1- Housing Site Allocation
- HS4A- Open Space Requirements in New Housing Developments
- HS4B- Playing Pitch Requirements in New Housing Developments
- BNE1- Development Criteria for New Development

Planning History

11/00795/SCE EIA not required. 21 September 2011

EIA Screening Opinion for Land west of Lucas Lane, Whittle-le-Woods

11/00992/OUTMAJ Refused 14 February 2012 – Appeal allowed

Outline planning application for the development of land to the north and west of Lucas Lane for the erection of up to no. 135 dwellings with all matters reserved, save for access.

12/00362/OUTMAJ Refused 13 June 2012

Outline planning application for the development of land to the north and west of Lucas Lane for the erection of up to no. 135 dwellings with all matters reserved, save for access (resubmission of previous application 11/00992/OUTMAJ)

12/01244/REMAJ Permitted 6 March 2013

Reserved Matters application for residential development comprising of 121 dwellings and associated works (pursuant to outline permission ref: 11/00992/OUTMAJ).

13/00124/TPO Permitted 28 March 2013

Application to remove two trees covered by Tree Preservation Order 7 (Whittle-le-Woods) 1996: 1) an oak adjacent to 36 Dunham Drive, 2) an oak adjacent to 31 Dunham Drive, and crown raising of a sycamore tree to a height of 5.5m adjacent to number 47 Dunham Drive, all to facilitate two access points into new development.

13/00143/DIS Conditions discharged 12 June 2013

Application to discharge the conditions of outline planning approval ref: 11/00992/OUTMAJ (which was for up to 135 dwellings)

13/00256/DIS Conditions discharged 27 June 2013

Application to discharge the following conditions of outline planning approval ref: 11/00992/OUTMAJ (which was for up to 135 dwellings)

13/00593/ADV Advertising consent granted 3 October 2013

Application for Advertising Consent for the display of two signs (non-illuminated), one on either side of the roundabout on Preston Road with the junction with Royton Drive, to advertise housing development (for a period of three years).

13/00594/MNMA Minor amendment granted 25 July 2013

Application for minor non-material amendment to plots 1-12, 14-30, 32-72 and 111-123 (originally approved under 12/01244/REMAJ). There are no changes to the properties, but rather the reference numbers on the plans have been changed.

13/00607/DIS Condition discharged 30 August 2013

Application to discharge condition 19 (recording of the pill box and gun mounting) of planning permission ref: 11/00992/OUTMAJ

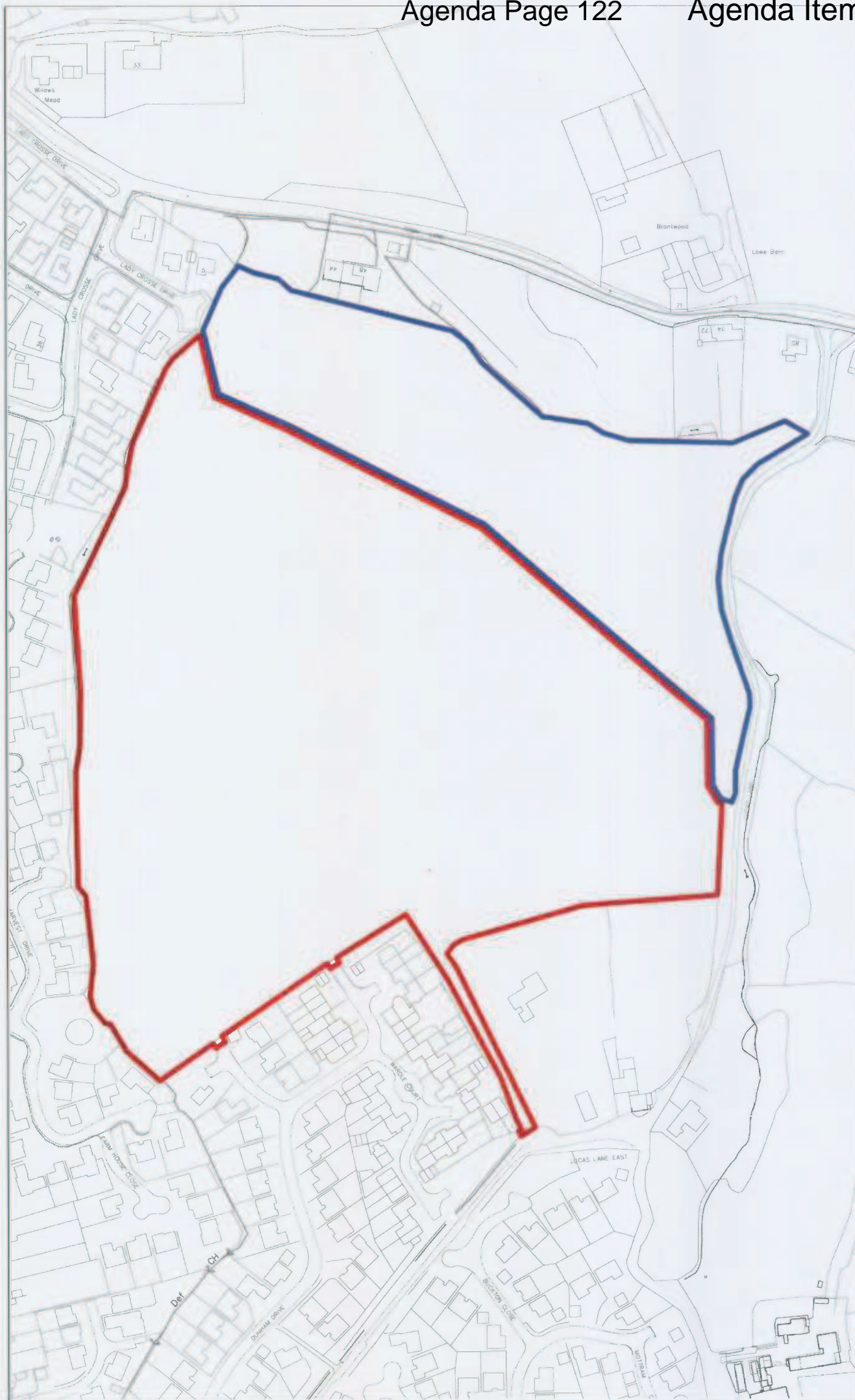
13/00630/DIS Condition discharged 13 September 2013

Discharge of conditions 7 (hard ground surfacing material), 8 (bollard specification), 9 (play area details) and 11 (scheme for the enhancement of the pill box and gun emplacement) of planning approval ref: 12/01244/REMAJ

Recommendation: Permit (Subject to Legal Agreement)

Conditions to be reported on the Addendum

N



Red edge 7hec
 Blue edge 2.3hec

Baldwin Design
 Consultancy LM

Revision:
 Plan A - final edge position amended to include cut-off-line walls 09/11/11

Project Title:
Residential Redevelopment

Address:
Lucas Lane, White-le-Woods.

Drawing:
Location Plan

Drawing No:
 RES/EA/PRJ/A

















Drawn:
 GIB Date: 09/11/11

Scale:
 Paper Size:
 A2

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KEY

-  Outline planning application boundary red edged
-  2 & 3 bed mews housing
-  3 & 4 bed detached family housing
-  Footpath links along line of existing right of way
-  Existing surrounding built environment
-  Green linkage corridors
-  Retained pond and surface water swales / drainage system
-  Biological Heritage Site
-  Trees and vegetation retained
-  ① Existing hedgerow retained along ridge of valley
-  ② Retained pond for amenity and ecological habitat
-  ③ Green links to provide pedestrian routes to Lucas Lane
-  ④ Existing field boundaries, mature hedgerows and ecological habitat retained
-  ⑤ Existing mature trees retained
-  ⑥ Existing trees retained to form buffer to existing properties
-  ⑦ Plots positioned to respect land topography, existing trees and water course

Lucas Lane indicative masterplan

Drawing No. Red/LMP/01

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Item 4j	13/00848/FUL
Case Officer	Mr Matthew Banks
Ward	Wheelton And Withnell
Proposal	Section 73 Application to vary condition 6 (junction improvements with Briars Brow) of planning approval 08/00934/FUL to alter the previously approved sightlines.
Location	South Miry Fold Farm Briars Brow Wheelton ChorleyPR6 8JN
Applicant	Acland Banks

Consultation expiry: 29 October 2013

Application expiry: 21 November 2013

Consultation expiry date: 29th October 2013

Decision date: 21st November 2013

Proposal

1. Section 73 Application to vary condition 6 (junction improvements with Briars Brow) of planning approval 08/00934/FUL to alter the previously approved sightlines.

Recommendation

2. It is recommended that this application is granted full conditional planning approval.

Main Issues

3. The main issues for consideration in respect of this planning application are:
 - Status of emerging Local Plan (2012-2026);
 - Background information;
 - Impact on highway safety.

Representations

4. To date, no letters of representation have been received concerning this application.

Consultations

5. **Parish Council** – no objections.
6. **Lancashire County Council Highways** – Raise no objection to the reduction in visibility. However, they consider that the Local Planning Authority should be satisfied that the visibility can be implemented and retained. LCC Highways have also shown concern for various discrepancies on the submitted plans which need to be clarified or amended before a positive recommendation could be reached.

Assessment

Status of emerging Local Plan (2012-2026)

7. It is relevant to note that on 25th October, the Inspector issued her Partial Report on her findings into the soundness of the Chorley Local Plan which is a material consideration in the consideration of any planning application.
8. 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 & Travellers. The examination of the local plan remains open, and the Inspector will reconvene the examination in April 2014 to consider Gypsy & Traveller Matters, which would enable adoption of the local plan by September 2014, following a supplementary report.

9. 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 of 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 attached 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.”*
10. It is therefore considered significant weight should be afforded to the policies and proposals of the submitted Local Plan, as amended by the main modifications.

Background information

11. The original consent at South Miry Fold Farm (08/00934/FUL) secured planning permission for the conversion of an existing barn and coach house into 2no. dwellings. Condition 6 of that approval required access improvements at the junction of the access track serving the site with Briers Brow. This condition was imposed with the original permission to secure the conversion and long term future of the traditional stone built barn and to overcome the original concerns raised by Lancashire County Council (LCC) Highways. The condition was considered an appropriate resolution at the time in order to achieve the required highway visibility. Condition 6 of planning approval 08/00934/FUL reads:

No development shall take place until a plan has been submitted detailing improvements to the junction of the access track with Briers Brow showing the access track widened to a width of 4.5m for a distance of 10m from the adopted highway, visibility splays of 2.4m by 60m, traffic calming measures and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall be carried out in accordance with the approved scheme before the first occupation of the new dwellings.

Reason: In the interests of highway safety and in accordance with Policy TR4 of the Adopted Chorley Borough Local Plan Review.

12. In response to discharging the requirements of Condition 6, a plan was submitted by the applicant to the Council (on the 15th January 2009) and consequently approved (on the 13th February 2009) showing the required access alterations. The works were then to be undertaken in accordance with the approved plan before first occupation of the new dwellings.
13. Since submission and approval of the highway plan, the Council has become aware of historic landownership disputes at the site which have made securing the access alterations and in particular visibility splays difficult. This issue was identified in early 2012 by the Council when dealing with the application 12/00037/FUL which sought permission to vary the approved plans from the original application.
14. The Council sought to try and resolve the highway/land ownership issues by informally engaging with the applicant and LCC Highways. Despite such discussions, an agreement could not be reached between the applicant and LCC Highways and so the applicant instructed the Council to determine the application 12/00037/FUL on the basis of not formally considering the information submitted in respect of Condition 6.
15. As such, Condition 6 was not formally varied and the condition was re-imposed in the interests of openness and transparency, whilst taking account of the fact that work had commenced on site and that the highway details had already been discharged. The highway condition attached to planning approval 12/00037/FUL reads as follows:
- No new dwelling hereby permitted shall be occupied until the approved highway alterations (received 15th January 2009, Drawing no. AD 01; Title: access detail) have been completed in entirety.*
- Reason: In the interests of highway safety and in accordance with Policy TR4 of the Adopted Chorley Borough Local Plan Review.*
16. The current application seeks to formally vary condition 6 as a result of the land ownership issues now being resolved. Additionally, in the period between determination of the application

12/00037/FUL and submission of the current application, discussions have been undertaken between the applicant, LCC Highways and officers to explore possible solutions to the achieving an agreeable visibility standard. Such discussions were supported by a traffic survey carried out in January 2013 by LCC Highways which indicated that speeds on Briars Brow were lower than initially thought. LCC Highways advised that they would be in a position to reduce the speeds to 36mph and 31mph respectively.

17. Therefore, with reference to the Manual for Streets recommended Sight Stopping Distances a visibility of 56m in an eastbound direction and 45m in a westbound direction would be adequate for this site.
18. LCC Highways advised that the visibility splays could be reduced to 2.4m by 56m in an eastbound direction and 2.4m by 45m in a westbound direction. This is a reduction from 2.4m by 60m in both directions shown on the approved plan for the application 08/00934/FUL,
19. As such, the information submitted by the applicant with the current application reflects the guidance given by LCC Highways at pre-application stage.

Impact on highway safety

20. In respect of highway safety, The Framework states that development should only be prevented or refused on transport grounds where the residual cumulative impact of development is severe.
21. This site and the associated access alterations have been the subject of extensive discussions with both Chorley Council and Lancashire County Council (LCC) Highways, following approval of the original application (08/00934/FUL) in 2008.
22. Following approval of the application 08/00934/FUL, officers are advised that the historic land ownership issues at this site have now been resolved and the parties involved have reached a civil agreement. This civil agreement has resulted in a barn, which previously belonged to Miry Fold Farm, being transferred into the ownership of South Miry Fold Farm, meaning that Miry Fold Farm now has 2no. dwellings and South Miry Fold Farm has 4no. dwellings.
23. LCC Highways have noted that the addition of a further dwelling to South Miry Fold Farm (since approval of the applications 08/00934/FUL and 12/00037/FUL) will result in a slight increase in the number of vehicles using the access, however, in highway terms this is not considered to lead to any major highway concerns.
24. Under the original application 08/00934/FUL, LCC Highways agreed to a visibility splay of 2.4m by 60m in both directions at the site access which was to be implemented in accordance with the approved plan, prior to occupation of the converted barn and coach house.
25. However, following a traffic survey carried out in January 2013, the prevailing speed on this section of Briars Brow was established as being between 33mph and 38mph, which was lower than originally thought. LCC Highways therefore advised that the required visibility could be reduced to 2.4m by 45m (to the left) and 2.4m by 56m (to the right) when exiting the site, after a wet weather reduction was applied.
26. The site plan submitted with this application shows the required visibility splay cannot be achieved within the limits of the applicant's boundary and so the requisite notice has been served on all other land owners with an interest in the land. The submitted site plan shows sections of hedgerow in front of the adjacent fields to be removed and re-planted to achieve the required visibility sightlines.
27. LCC Highways have shown concern in respect of the proposed site plan as this appears not to show adequate inter-visibility between vehicles on the main road and those leaving the site. In addition, the submitted plan does not appear to include the gap between the access track to Miry Fold and the start of the proposed hedgerow. As such, LCC Highways have shown concern that in the event of any planting or structure being erected within this area, the sightline will be affected.

28. LCC Highways also note that the submitted plan appears to show the access to South Miry Fold to be delineated by radius kerbs. If this is the case LCC Highways note that such alterations should not extend onto the access to Miry Fold Farm for safety reasons.
29. The applicant is aware of the above issues and has advised they will provide an amended plan which resolves/addresses the above points. This will be addressed on the addendum.
30. In terms of considering the access alterations as a whole, whilst it has been noted that a Grampian style condition could be imposed at the site securing the relevant highway alterations, it is not considered possible to extend such a condition to include retention of the visibility splays thereafter. This is because the land to which the visibility splays relate are outwith the sole ownership of the applicant.
31. However, the importance of maintaining the visibility at this site has been highlighted with the applicant and they have advised they will acknowledge this on the amended plan. Additionally, should permission be granted for the alterations, an informative would be added to the planning permission highlighting the importance of maintaining the visibility splays in the future.
32. Finally, it should be noted that whilst the visibility splays would be reduced in the case of this application (to which there is no highway objection), visibility splays measuring 2.4m by 60m (in both directions) have been previously approved with the applications 08/00934/FUL and 12/00037/FUL which presents a valid fall-back position in the determination of this application.
33. As such, it is not considered reasonable to refuse the application on highway grounds given the valid fall-back position in this case and the efforts made by the applicant to recognise the importance of maintaining the visibility at this site.

Overall Conclusion

34. On the basis of the above, this application is accordingly recommended for approval subject to conditions.

Planning Policies

National Planning Policy Framework

Central Lancashire Core Strategy

Policy 17

Adopted Chorley Borough Local Plan Review

Policies GN1, GN5, HS4 and TR4

Emerging Local Plan (2012-2026)

Policies: ST4 and BNE1

Central Lancashire Rural Development Supplementary Planning Document

Planning History

The site history of the property is as follows:

Ref:	02/00519/FUL	Decision:	PERFPP	Decision Date:	31 July
	2002				
Description:	First floor rear extension, alterations to outbuilding to create two garages and change of use of agricultural land to domestic curtilage,				
Ref:	02/00520/FUL	Decision:	WDN	Decision Date:	26 July
	2002				
Description:	Conversion of farm buildings (barn, stables and sheep pens) into two dwellings,				

Ref:	03/00581/FUL	Decision: REFFPP	Decision Date: 18 August 2003
Description:	Re-submission of 02/520 for conversion of farm buildings (barn, stables and sheep pen) into 2 dwellings,		
Ref:	05/00301/FUL	Decision: REFFPP	Decision Date: 25 May 2005
Description:	Formation of hardstanding and retention of previously constructed earth bund		
Ref:	05/00576/FUL	Decision: REFFPP	Decision Date: 31 August 2005
Description:	Revised application for provision of hardstanding for unloading and storage of palletised materials and fodder bales for farm use (approx 250m2)		
Ref:	08/00934/FUL	Decision: PERFPP	Decision Date: 21 November 2008
Description:	Conversion of existing barn and coach house to 2 No dwellings including landscaping		
Ref:	11/00742/DIS	Decision: PEDISZ	Decision Date: 12 September 2011
Description:	Discharge of conditions 3 (materials), 4 (roof lights), 5 (windows and doors) & 7 (hard ground surfacing) for planning approval (08/00934/FUL) for the conversion of barn and coach house to 2 dwellings		
Ref:	12/00037/FUL	Decision: PERFPP	Decision Date: 31 October 2012
Description:	Section 73 application to vary the approved plans from the application 08/00934/FUL to include: 2 additional garage doors to the west elevation of previously approved garage; first floor extension above existing ground floor office to form additional bedroom; first floor side facing window in west elevation to serve bedroom 4; first floor side facing window in east elevation to serve bedroom 3 and; additional hardstanding to link existing access to proposed garage doors.		

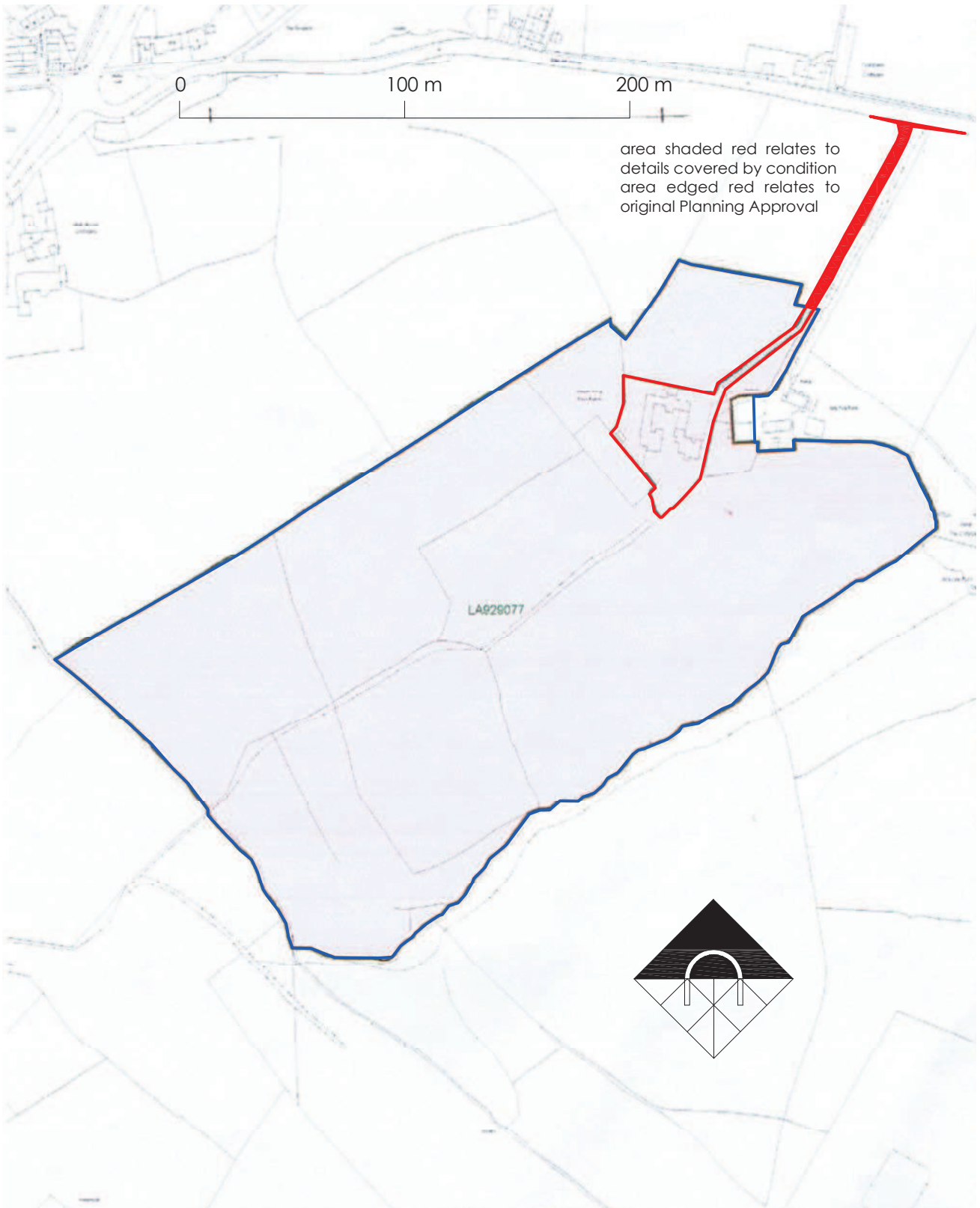
Recommendation: Permit Full Planning Permission Conditions

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (Schedule 2, Part 1, Classes A to E), or any Order amending or revoking and re-enacting that Order, no alterations or extensions shall be undertaken to the dwellings hereby permitted, or any garage, shed or other outbuilding erected (other than those expressly authorised by this permission). *Reason: To protect the appearance of the locality and in accordance with the Central Lancashire Rural Development Supplementary Planning Document (2012).*
2. The development hereby permitted shall only be carried out in accordance with the slate and stone samples as submitted and viewed on site with the discharge application 11/00742/DIS. *Reason: To ensure that the materials used are visually appropriate to the locality and in accordance with Policy No. GN5 of the Adopted Chorley Borough Local Plan Review and Policy BNE1 of the emerging Local Plan (2012-2026).*
3. The development hereby permitted shall only be carried out using 'flush' fitting roof lights as shown on the plan (610.P0103) approved with the discharge application 11/00742/DIS. *Reason: To protect the character and appearance of the building and in accordance with Policy No. GN5 of the Adopted Chorley Borough Local Plan Review and Policy BNE1 of the emerging Local Plan (2012-2026).*

4. The development hereby permitted shall only be carried out in accordance with the window and door details shown on the plans 610.P0100, 610.P.101 and 610.P.102 approved with the discharge application 11/00742/DIS. *Reason: In the interests of the character and appearance of the building and in accordance with Policy No. GN5 of the Adopted Chorley Borough Local Plan Review and Policy BNE1 of the emerging Local Plan (2012-2026).*

5. No new dwelling hereby permitted shall be occupied until the approved highway alterations (indexed: 27/09/2013; drawing no: 1304.P.04; title: Proposed access detail) have been completed in entirety. *Reason: In the interests of highway safety and in accordance with the National Planning Policy Framework, Policy TR4 of the Adopted Chorley Borough Local Plan Review and Policy ST4 of the emerging Local Plan (2012-2026).*

6. The development hereby permitted shall only be carried out in accordance with the hard ground-surfacing materials shown on the plan 610.611.p.s. approved with the discharge application 11/00742/DIS. *Reason: To ensure a satisfactory form of development in the interest of the visual amenity of the area and in accordance with Policy No. GN5 of the Adopted Chorley Borough Local Plan Review and Policy BNE1 of the emerging Local Plan (2012-2026).*



Location plan 1:2500 @ A4

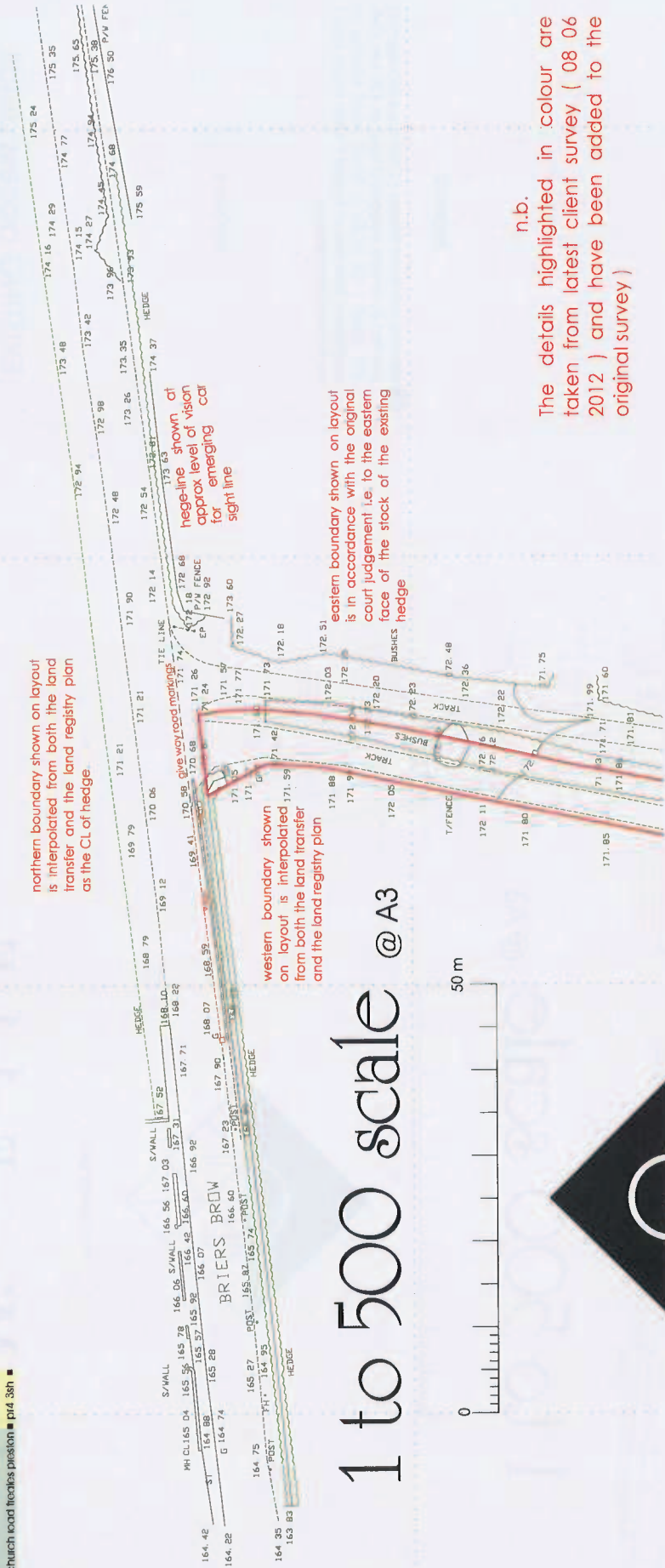
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 Tel ■ 01777 66 66 66
 Fax ■ 07006 90 90 60
 Mob ■ 07071 25 25 70
 ■ the lattis kilwood church road trestles p14.3sh ■

1050.000E

1100.000E

1150.000E



northern boundary shown on layout is interpolated from both the land transfer and the land registry plan as the CL of hedge

western boundary shown on layout is interpolated from both the land transfer and the land registry plan

hedge-line shown at approx level of vision for emerging car sight line

eastern boundary shown on layout is in accordance with the original court judgement i.e. to the eastern face of the stock of the existing hedge

1 to 500 scale @ A3



from survey grid

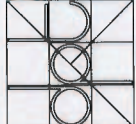
n.b. The details highlighted in colour are taken from latest client survey (08 06 2012) and have been added to the original survey)

revisions

EXISTING access detail

date	09 05 13
scale	1 : 500
drawn	d p t

drawing no	1304 . P . 01
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South Miry Fold Farm

briers brow for Acland Banks

01/17/ 68 69 66
 07/06/ 90 90 60
 07/11/ 95 95 70

the lattices hatched Church road trackas position 174.35m

1050.000E.

1100.000E.

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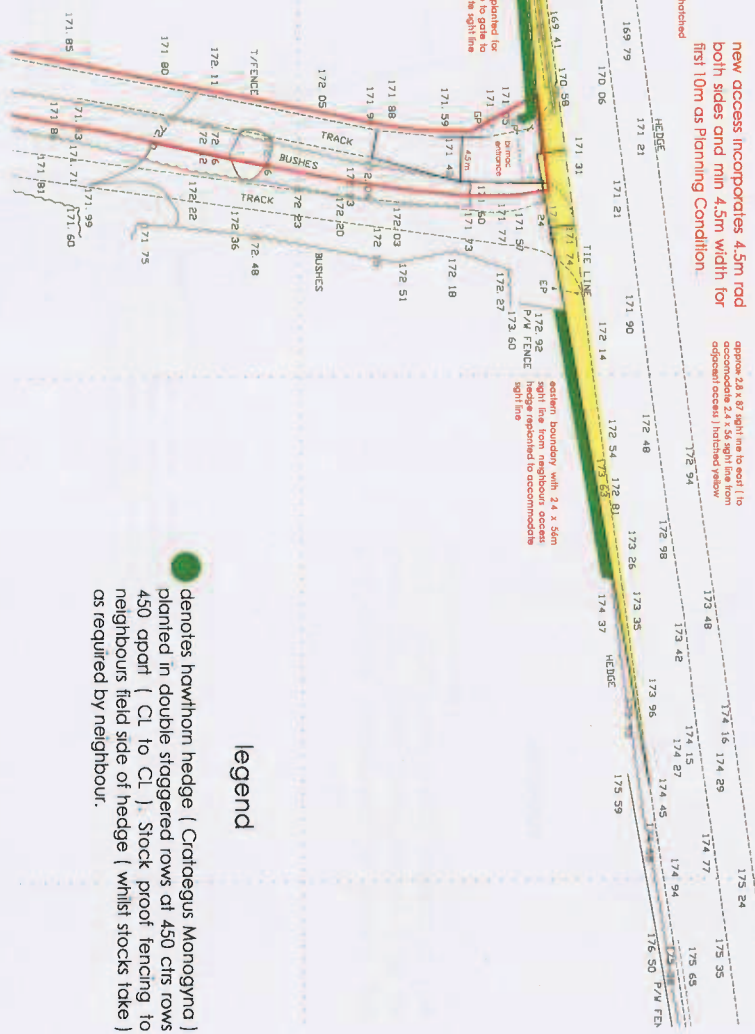
2.4 x 5.6 right line to west hatched yellow
 new access incorporates 4.5m rad both sides and min 4.5m width for first 10m as Planning Condition
 approx 2.8 x 8.7 right line to east (to accommodate 2.4 x 5.6 right line from opposite access) hatched pink

no hedge required for this length up to gate to accommodate right line (2.4 x 5.6m)
 eastern boundary with 2.4 x 5.6m hedge repositioned to accommodate right line

1 to 500 scale @ A3



from survey gnd



legend

● denotes hawthorn hedge (Crataegus Monogyna) planted in double staggered rows at 450 ctrs rows 450 apart (CL to CL). Stock proof fencing to neighbours field side of hedge (whilst stocks take) as required by neighbour.

revisions

EXISTING access detail

date	09 05 13	drawing no	1304 . P . 02	
scale	1 : 500			
drawn	d p t			

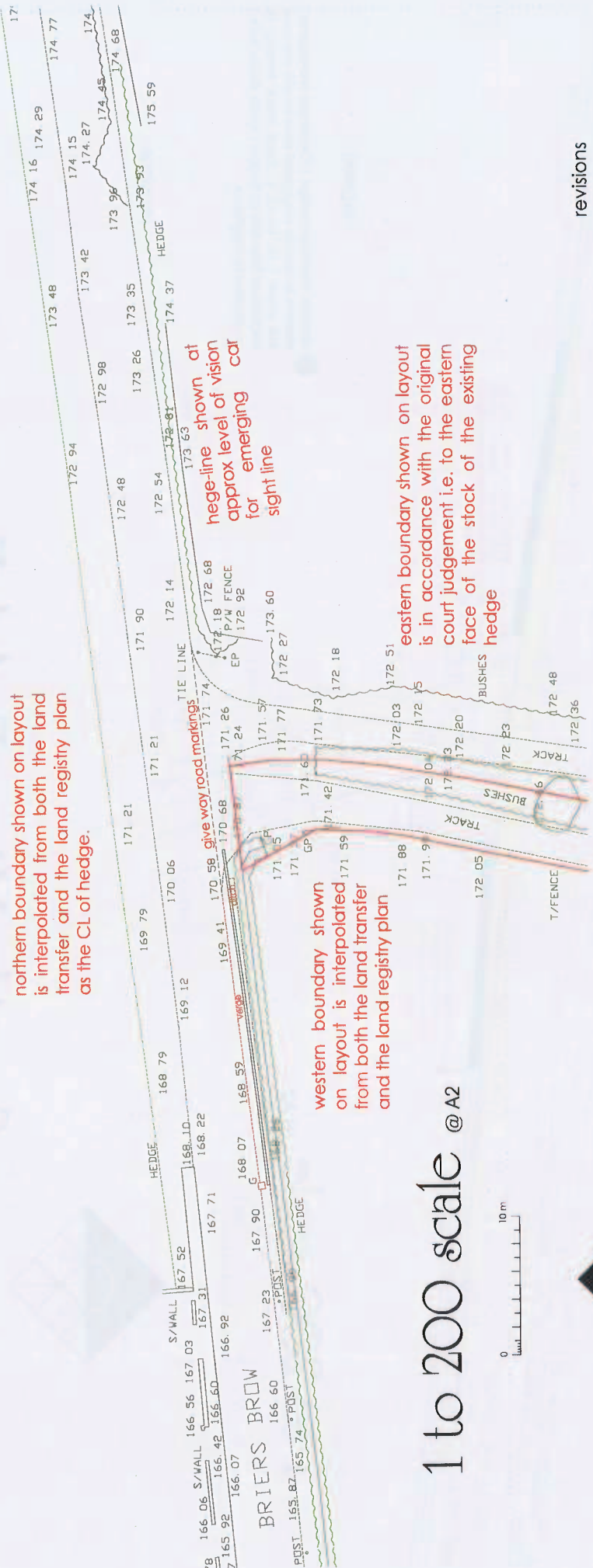
South Mirry Fold Farm

briers brow for Acland Banks

1150.000E

1100.000E

1050.000E



northern boundary shown on layout is interpolated from both the land transfer and the land registry plan as the CL of hedge.

hege-line shown at approx level of vision for emerging car sight line

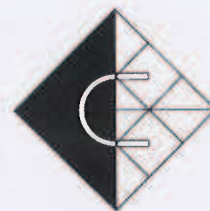
western boundary shown on layout is interpolated from both the land transfer and the land registry plan

eastern boundary shown on layout is in accordance with the original court judgement i.e. to the eastern face of the stock of the existing hedge

1 to 200 scale @ A2



revisions



from survey grid

01772 68 66 66
07006 90 90 60
07977 25 25 70

the rattles titwood church road heales Preston p4 58

South Miry Fold Farm

briers brow for Acland Banks

EXISTING access detail

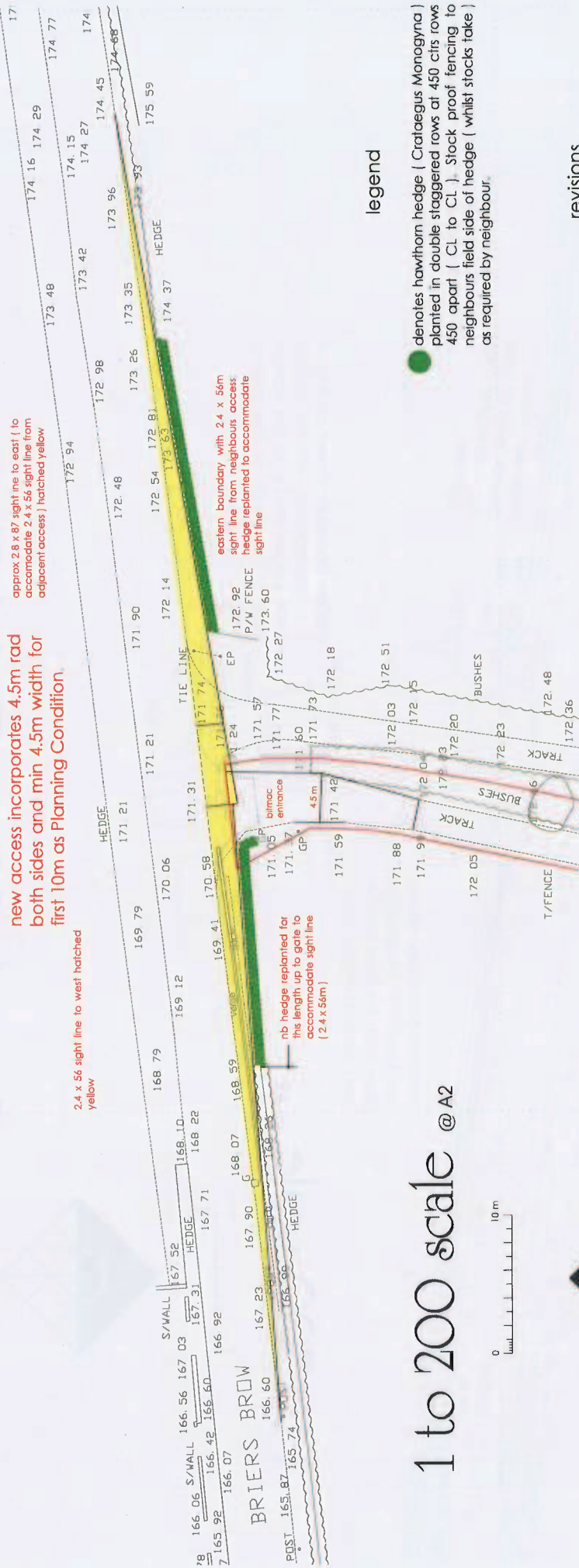
date	09 05 13	drawing no	1304 . P . 03
scale	1 : 200	drawn	d p t



1150.000E

1100.000F

1050.000E



new access incorporates 4.5m rad both sides and min 4.5m width for first 10m as Planning Condition.

approx 2.8 x 87 sight line to east (to accommodate 2.4 x 56 sight line from adjacent access) hatched yellow

2.4 x 56 sight line to west hatched yellow

eastern boundary with 2.4 x 56m sight line from neighbours access hedge replanted to accommodate sight line

nb hedge replanted for this length up to gate to accommodate sight line (2.4 x 56m)

legend

denotes hawthorn hedge (Crataegus Monogyna) planted in double staggered rows at 450 ctrs rows 450 apart (CL to CL). Stock proof fencing to neighbours field side of hedge (whilst stocks take) as required by neighbour.

revisions

1 to 200 scale @ A2



from survey grid

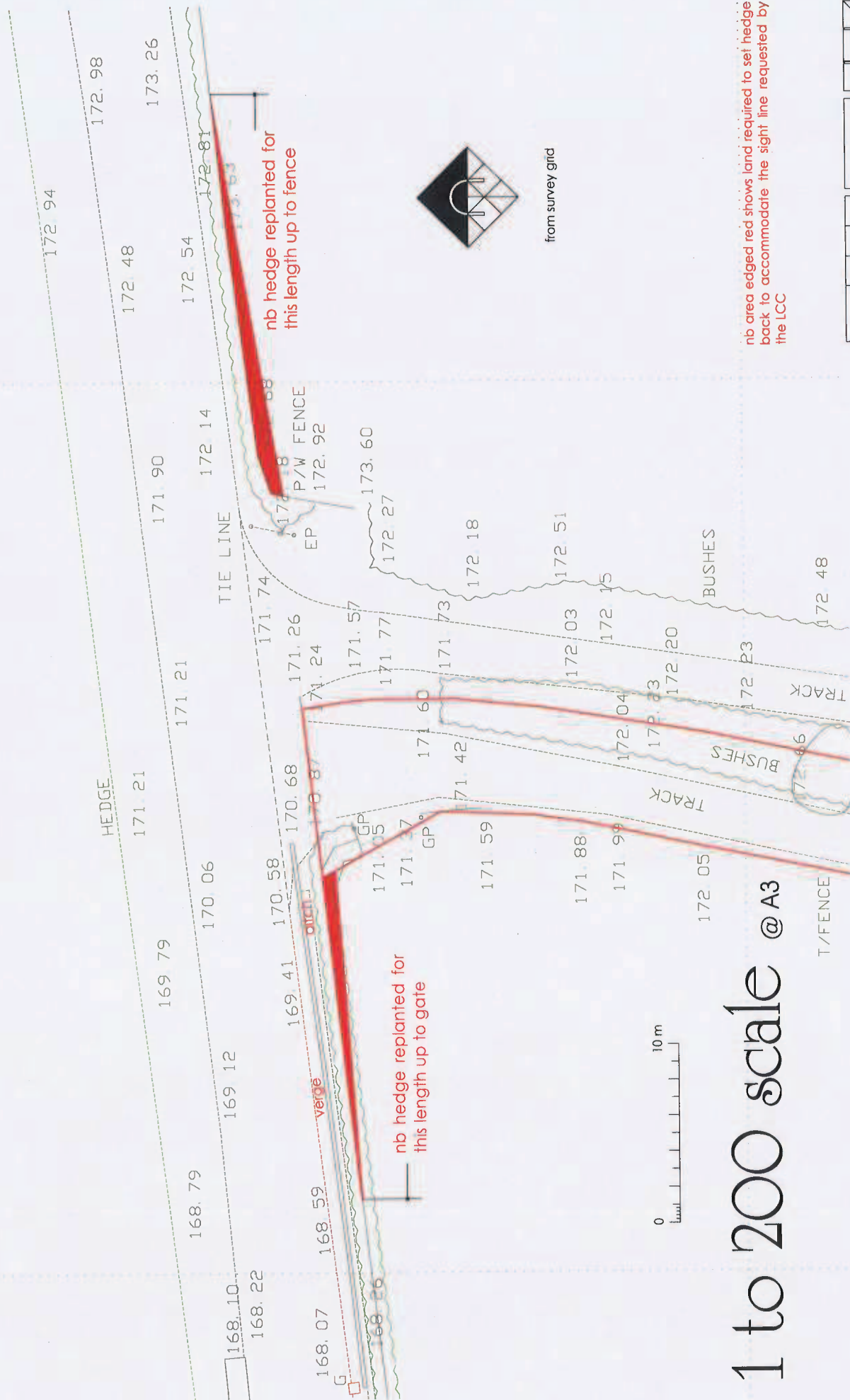
South Miry Fold Farm

briers brow for Acland Banks

PROPOSED access detail

date	09	05	13
scale	1 : 200		
drawn	d	p	t
drawing no	1304 . P . 04		

tel ■ 01772 68 66 66
fax ■ 07006 90 90 60
mob ■ 07971 25 25 70



1 to 200 scale @ A3

Land take for sight line

date	05	09	13	drawing no	
scale	1 : 200			1304 . NL . 01	
drawn	d	p	t		

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Item 4I	13/00721/FULMAJ
Case Officer	Mr Paul Whittingham
Ward	Chorley South East
Proposal	Application for the variation of conditions 5 (Bus Stop Improvement), 6 (In store Real Time Information), 8 (Stopping Up Orders), 11 (Design Stage Assessment), 12 (Post Construction Certificate), 18 (Access to Western Boundary), 19 (Landscaping), 23 (Provision of Development Opportunity Sites), 32 (Approved Plans) and 36 (Finished Floor Levels) of Planning Permission 09/00933/FULMAJ under Section 73 of the Town & Country Planning Act.
Location	Land North Of Duke Street Including QS Fashions And Bounded By Pall Mall And Bolton Street Chorley
Applicant	ASDA Stores Limited
Consultation expiry: 18 November 2013	
Application expiry: 7 November 2013	

Proposal

1. This application is a section 73 application to vary conditions 5 (Bus Stop Improvement), 6 (In store Real Time Information), 8 (Stopping Up Orders), 11 (Design Stage Assessment), 12 (Post Construction Certificate), 18 (Access to Western Boundary), 19 (Landscaping), 23 (Provision of Development Opportunity Sites), 32 (Approved Plans) and 36 (Finished Floor Levels) of Planning Permission 09/00933/FULMAJ
2. Full planning permission was granted on 21 December 2010 to develop Land North Of Duke Street Including QS Fashions and Bounded By Pall Mall and Bolton Street Chorley for the demolition and redevelopment of existing structures to provide a Class A1 foodstore, petrol filling station, associated car parking, servicing, new accesses public realm and landscaping together with off-site highway works of improvement. The planning consent also incorporated Outline consent for development opportunity sites, one at the big lamp junction for classes A1, A2, A3, A4, A5 and the other site being on Bolton St for B1 & D1 use classes.

Recommendation

3. It is recommended that this application is granted conditional full planning approval.

4. Main Issues

The main issues for consideration in respect of this planning application are:

- Principle of the development
- Conditions proposed to be changed
- Other Conditions

5. Representations

4 letters of support have been received which comment as follows:

- Suggest the plans are fully and unconditionally approved and the development is commenced at the earliest opportunity.
- The Council should be positive and support the development of this site and should not adopt threatening tones in newspaper articles.
- It is understood that delays to the development have resulted from discussions over car parking arrangements and the development should be allowed to go ahead without unreasonable demands.
- Wholeheartedly support the development as this end of town is dramatically declining.
- This would be a valuable asset to the community with the benefits being long lasting.

Consultations

6. **Lancashire County Council (Highways)** – Do not object to the amended scheme that secures pedestrian access from Bolton Street and recommend that informatives are attached highlighting the need for consent from the Highway Authority regarding retaining walls adjacent to the footpaths.
7. **Environment & Neighbourhoods** – Raises no objection to the updated noise report and the mitigation measures proposed, however does wish to query the operational hours for the service yard and the home shopping pod. Asda do indicate that they operate wider hours at selected stores.
8. **Economic Development Service** – Have the following comments to make on the application :
 - The added value in public realm works connecting Pall Mall triangle with the centre of town (pedestrianized areas) are key to the scheme being successful in regenerating the shops / sites along southern Market Street / Pall Mall / Bolton Street.
 - The attraction of a large supermarket at the southern end of Market Street is more likely to bring new customers to the town centre that currently shop at other supermarkets on the periphery such as Morrison's, Tesco (Foxhills), Tesco (Buckshaw) and the existing ASDA at Clayton Brook.
 - The additional jobs created will add wealth to the local economy and recommend using the Employment Charter as a condition on the approval
 - The Chorley economy has been fairly resilient to date in these uncertain economic times. Our town centre retail vacancy rate is currently 5.6%* which compares with 13.7%* regionally.
 - There is a need to improve the pedestrian links from the site up Market Street to ensure that this development does not draw convenience shopping out of the Towns independent shops.

9. Applicants Case

This Section 73 application is submitted to seek a number of amendments to planning permission reference 09/00933/FULMAJ in order to make a series of improvements to the scheme. The scheme provides the most up to date store layout and design to enable the new store to provide a range of retail opportunities, home deliveries, click and collect and in store purchases with the most up to date servicing and delivery facilities.

AssessmentPrinciple of the development

10. The principle of redeveloping the site was established by the grant of full planning permission. This application purely proposes amendments to the detail of the approval; specifically the approved plans including the layout and design of the store and approved highway layout; and to modify the conditions relevant to these matters the details of which are addressed below.
11. As this is an amendment to the original permission and Government advice is that the proposal will already have been judged to be acceptable in principle at an earlier date, local planning authorities should, in making their decision, focus their attention on national or local policies or other material considerations which may have changed significantly since the original grant of permission, as well as the changes sought.
12. The Framework now supersedes PPS1 & PPS4 in terms of National Guidance, the purpose of which is to contribute to the achievement of sustainable development and there are three dimensions to sustainable development: economic, social & environmental. The Framework also highlights the presumption in favour of sustainable development. The original consent being sought to be varied did consider a series of tests set out by PPS4 and considered economic, social and environmental impacts and the conclusion of the assessment was that the proposal was in broad conformity with the Local Plan even though the application site was not within the Town Centre Boundary as defined within the Local Plan and also that the benefits of the proposal are considered to outweigh the conflicts with the Local Plan.
13. With regard to status of the emerging Local Plan (2012-2026), it is relevant to note on 25th October, the Inspector issued her Partial Report on her findings into the soundness of the Chorley Local Plan which is a material consideration in the consideration of any planning application.
14. 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 & Travellers. The examination of the local plan remains open, and the Inspector will reconvene the examination in April 2014 to consider Gypsy & Traveller Matters, which would enable adoption of the local plan by September 2014, following a supplementary report.
15. 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 of 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 attached 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."
16. It is therefore considered significant weight should be afforded to the policies and proposals of the submitted Local Plan, as amended by the main modifications.
17. The application site is now identified under Policy EP5.2 as a retail site allocation and the Town Centre Boundary has been amended to reflect the original permission for the foodstore. There have been no representations to the amendment to the Town Centre Boundary or allocation of the site within Policy EP5.2 in objection and therefore significant weight can be attributed to the allocation.

18. It is considered that the development in principle is in accordance with the Local Plan 2012-2026 and would deliver sustainable development that would support the vitality of the Town Centre as required under the Framework which is supported within the reasoned justification for Policy EP5.

Background Information

19. Planning Permission was granted by Chorley Council on 21 December 2010 for the development as described. The 'full' element of the planning consent must be commenced by 21 December 2013 and the requirements of Section 73 applications mean that the life of the planning consent cannot be extended by these means. Reserved matters consent has been granted for the construction of a replacement probation office building to replace the one that exists on site and will be demolished as part of this development. Asda have partially discharged conditions on the original consent and have started the demolition phase of the development by demolishing the former QS Fashions building and the former Kwik Save building that were within the development site boundary. Also material to the consideration of this amended application is that the improvement scheme for Market St has been designed up to contract stage with the Local Highway Authority (LCC).
20. Due to there being a number of conditions that have been proposed to be modified, a condition that is proposed to be deleted and conditions that are required to be added the original conditions and those now proposed are detailed within a table at the end of the report for easy reference and for clarity.

Condition 5 & 6

21. These conditions relate to the provision of 'Real Time Information' within the store and on bus stops to indicate the next available bus and expected arrival time. At the time of the original application, LCC were rolling out Real Time Information in association with the bus operators. However the advice from LCC is now that Real Time Information is not supported by the County Council and the previous requirements could not be supported. This will mean that condition 6 that required real time information in store will be deleted and that condition 5 will be amended to remove the requirement for Real Time Information at bus stops, and the bus stops will still be upgraded to ensure an improvement to the facility to access the store by a range of options and to support the sustainability credentials of the proposed store.

Condition 8

22. Condition 8 requires that sections of the highway which fall within the development site are "Stopped-up" prior to any development commencing on the application site. The applicants have indicated that the stopping up notice was issued on 28 September 2011 to which there were three objections from National Gas, Cable & Wireless (Vodafone) and the Probation Service. One objection has now been removed and the objection from National Gas is a technical objection that is to be removed once the impact of the development on their apparatus have been agreed. The Probation Service have agreed a contract with the Council to relocate on a temporary basis and a new building is proposed to accommodate the Probation Service long term, this objection is one that can be resolved once a final contract between Asda and the Probation Service is signed and the applicant has indicated this is imminent (supported by the signing of a contract with the Council for temporary offices). It is therefore appropriate to modify the condition to ensure that no works are commenced within the confines of the public highway until those sections have been formerly stopped up as opposed to a condition that required no development to commence.

Condition 10

23. This condition has not been sought to be amended however the adoption of the Core Strategy and the inclusion of Policy 27 means that there is no longer a requirement to “achieve 2 credits within Issue Ene 5: Low or Zero Carbon Technologies.” The condition has therefore been amended to conform to Core Strategy policy 27.

Condition 11

Condition 11 reads: “*No phase or sub-phase of the development shall begin until details of a ‘Design Stage’ assessment and related certification have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out entirely in accordance with the approved assessment and certification unless the Local Planning Authority otherwise approve in writing*”.

24. The applicant is seeking some flexibility to submit the information required by the condition and seeks a defined timescale of 3 months from the start of the development to submit the information. Whilst it is acknowledged that securing the paperwork to satisfy this condition is taking significantly longer than was envisaged when the original application was approved, it is considered important to ensure that the information about the design stage assessment is provided before the construction of the store, in order to ensure the condition meets the statutory tests for conditions. As the projected phasing submitted envisages a start on the buildings in February and March, then the amendment to the condition to allow a design stage assessment within 3 months of the commencement of the development condition is considered to be enforceable and reasonable and to accord with the tests for the imposition of conditions and still deliver the aims of Policy 27 of the Core Strategy.

Condition 12

25. This condition relates to the Post Construction Certificate and the submission of this prior to the store opening. In a similar way to condition 11, there are difficulties across the construction sector in securing the post construction certificates within a reasonable timescale and to ensure the delivery and timely opening of the store, it is considered reasonable to provide a wider timescale for the submission of this certificate and a longer period of 12 months is considered to be reasonable and will remain enforceable upon the occupier of the store which in this case is Asda.

Condition 18

26. This condition (access to the western boundary) stated “Access to the strip of land between the service yard and western site boundary (as defined on approved plan Ref.07035.PL14.RevA) will be controlled by secure gate within the service yard of the foodstore.” Given the proposed changes to the design of the site and the movement of the service yard location there is still a requirement for an access gate to a reduced strip of land however this will not be accessed from the service yard. The amended plan and amended condition seeks to ensure that the area of land is controlled by a secure gate in order to ensure that the area of land cannot be accessed by the public and result in anti-social behaviour that would impact on existing residents.

Conditions 19, 32 & 36

27. These conditions dealt with landscaping, the approved plans and finished floor levels. The substantive changes to the scheme require these particular conditions to be modified, not

in terms of the wording, but rather in terms of the plans they refer to. The substantive changes to the scheme are addressed below.

Service Yard

28. The service yard has been moved from the west of the store to the Bolton Street frontage of the store. A number of changes are proposed to the service yard to enable delivery vehicles to manoeuvre more easily and therefore reduce the time periods of vehicles present within the service yard. As a result of the changes the service yard access road which had previously run along the rear elevation of the approved store has been removed. This will provide acoustic benefits to the residents of Shaw Hill Street in that their properties will no longer back onto the ASDA service yard, along with benefits for the residents on Duke Street in the removal of the service yard access road running along the rear of their properties.
29. It is proposed that a single dock-leveller will be in operation within the service yard, rather than two dock-levellers as previously approved. This change is driven by the latest technologies and procedures adopted by ASDA to ensure that deliveries are undertaken as efficiently and safely as possible. The deliveries expected at the Chorley store are able to be adequately accommodated one at a time, with the deliveries often spread throughout the day, within the hours permitted, to keep any impact upon the surrounding neighbourhood and the store itself to a minimum.
30. The service vehicle access to the store, which is via a new priority junction with Bolton Street, is unchanged from the previously approved arrangements. The service / customer access to the existing TUNIT business is also unchanged.
31. A Home Shopping facility has also been introduced at the store and is proposed to be located at the south east corner of the store, close to Bolton Street and to the rear of the relocated ASDA colleague facilities. The Home Shopping vans are positioned under an open sided canopy facing into the service yard area. The relationship of the home shopping facility and the colleague facilities to the store and to Bolton Street is considered to be an acceptable one, as it is set at a lower level than Bolton Street and the proposed Probation building, and car parking will be positioned between the store and Bolton Street, which also assists in blending in the new element to the existing elements of the scheme.
32. Further details of the vehicle movements in relation to Home Shopping are included with the accompanying Transport Statement and Noise Impact Assessment. The Transport Statement concludes that Home Shopping is likely to lead to a reduction in traffic movements to the store and this element has been considered by LCC Highways who agree with the assessment.
33. A Noise Impact Assessment has been prepared by Acoustic Consultancy Partnership Limited and is submitted as part of this Section 73 application. The Noise Assessment identifies that there would be a negligible impact upon the amenity of residents as a result of the proposed changes within the service yard, including the introduction of the Home Shopping pod, during the permitted weekday and Saturday hours. The assessment concludes that no mitigation measures are required as a result of the proposed changes, and this report has been assessed by the Council and on this element the report is considered to be acceptable.

Removal of refrigeration plant enclosure

34. The amended plans also result in the store refrigeration and other plant being moved from a plant well on the rear of the store to roof mounted plant and an assessment has been

made of the impact of these on existing residents. It has been established through further reports being produced that some mitigation is required and an additional condition is now proposed to control this element (Condition 37).

Changes to the Layout & Design of the Store

35. A number of changes are proposed to the approved ASDA store in order (in the applicant's view) to provide a more efficient store for customers. As a result of these changes, the gross floorspace of the store has decreased by 506 sq m (from 7,335 sq m to 6,829 sq m). There is no change to the approved net sales area of the ASDA Store. There is no requirement therefore to amend Condition 33 which sets out the floorspace split of the net floorspace between convenience and comparison.
36. The height of the approved store has also decreased as result of the removal of the first floor level. The roof of the store has been amended from a mono pitched roof which was 8.5m high along the north elevation (main entrance elevation), to 10.8m along the south elevation, to a dual pitch roof with a ridge and a parapet set at 7.45m high. It is proposed that the finished floor level of the store is increased marginally from 87.5 metres AOD to 87.775 metres AOD. This is as a result of the proposed rationalisation of levels across the site to enable the operations within the service yard to function safely - this however does not result in the overall height of the store increasing as the first floor is being removed and both elevations are reduced in height. Condition 36 has been modified to reflect the increased finished floor level.
37. The location of the customer entrance to the ASDA store has moved further east along the front elevation of the store. As a result it is better aligned with the tree-lined pedestrian walkway which runs through the car park from Market Street. The ASDA customer café has been relocated within the store, from the mezzanine floor at the rear of the store to the front of the store at ground floor level. The café in this location has the benefit of creating a more active frontage, with the inclusion of glazing in this location. One change in the front elevation is the inclusion of roof mounted signage that has throughout the life of the previous or original application been resisted by the Council due to its poor relationship to the building and not being an integrated element of the scheme as a whole. Whilst the signage is shown on the plans a separate application will be required for this element, Asda have been informed that the signage is unacceptable and that an application for advertisement consent in this form is likely to be refused and Asda have accepted that position and will consider the options before submitting an advert application following the determination of this application.

Car Park

38. There are a number of amendments proposed to the customer car park layout, to enable better flows of customer traffic around the car park. As part of this, the width of the main vehicular route around the car park has been widened to 7 metres. There has been a slight reduction in the overall car parking spaces provided at the store. It is now proposed that a total of 404 spaces are provided including 22 disabled car parking spaces, which have been moved closer to the customer store entrance. This is within the standard set out by Chorley Council. It is also proposed to provide 4 car parking spaces to accommodate a Click & Collect facility and 2 electric charging points to serve four vehicles. The Click and Collect spaces are located under a canopy in the south eastern corner of the customer car park. The Click and Collect facility enable customers to shop online and pick up their shopping at a convenient time from the store. There are no additional deliveries as a result of the Click and Collect operations, with the produce taken from the ASDA store. An

outdoor covered terrace area for the sale of seasonal goods such as garden furniture is proposed at the front of the ASDA store. This will cover an area of approximately 48 sq m.

39. On the whole, the changes to the front of the store and car park are welcomed and will maintain and contribute to the linkage of the store to the Town Centre with slight increases to the level of the store and to the levels within the car park. The strong tree-lined desire line to the store entrance from the Big Lamp junction will be maintained and the car park has been modified to cater for modern forms of shopping and future proofed with electronic charging points. Condition 32 has been modified to reflect the updated series of plans.

Condition 23

40. This condition on the original consent required the development opportunity site to be available for occupation within 1 year of the store opening. Asda have sought to vary this condition to extend the period to within 3 years of the store opening due to the difficulty of securing tenants within the current commercial market. It is considered that it is more appropriate in discharging this condition that a detailed timetable is agreed for the delivery of the development opportunity sites and taking into account all the available information on town centre improvements and the Town Centre Masterplan process that is currently on-going and that this is produced prior to the occupation of the store and that timetable will identify the opportunities and options for delivering the development opportunity sites but more particularly the proposed unit at the Big Lamp junction. This form of wording will allow the delivery of a building at the earliest possible opportunity to support the vitality and viability of the town centre.

Impact on the neighbours

41. The main changes as a result of the proposed amendments that will change the impact of the development upon neighbours are linked to the servicing arrangements which have moved from the boundary with the residential properties on Shaw Hill Street to the Bolton Street side of the store. This removes the need for 4 metre or 5 metre high noise barriers and reduces the potential for future complaints about its operation.
42. The changes also are an improvement for the TUNIT business that will remain on the site as the building that is currently attached to the TUNIT building will not now be demolished and will not impact on the use or operation of the existing TUNIT business whilst demolition is taking place, which was a concern in the determination of the original consent. It is understood that following the development of the Asda store that the building that is to remain will be transferred to the owner of the TUNIT building and will be accessed through their site and will provide the opportunity for business expansion.
43. The changes to the building plant and machinery that are referred to above will mean that the plant will not be sited within a plant well, and it will now be sited on the roof. This aspect of the development has been the subject of a noise assessment that identifies mitigation measures to limit the harm to the surrounding residential properties. A new condition is proposed to ensure that the plant is installed in accordance with the recommendations of the acoustic report to limit the potential impact on surrounding properties.

Overall Conclusion

44. The development in principle remains acceptable taking into account updated planning policy, including the emerging local plan. The details of the modified conditions and associated plans also provide a development that will meet the purposes identified within the Framework of delivering economic, social and environmental benefits to Chorley.

45. The modified and additional conditions make the development acceptable and overcome the potential for harm and ensure the development is controlled and delivered in accordance with those conditions and the policies of the Local Plan and Core Strategy.

Planning Policies

National Planning Policies:

National Planning Policy Framework (The Framework)

Adopted Chorley Borough Local Plan Review

Policies:EP5.2, BNE1

Supplementary Planning Guidance: Design Guide

Joint Core Strategy

Policy 11 & 27

Planning History

09/00933/FULMAJ - Full application for the demolition and redevelopment of existing structures to provide a Class A1 foodstore, petrol filling station, associated car parking, servicing, new accesses, public realm and landscaping. Outline application for the provision of a retail unit (Use Classes A1, A2, A3, A4, A5) and a business/non-residential institution unit (Use Classes B1 and D1) including details of scale and access. Permitted: 21.12.2010

12/00246/FULMAJ - Reserved Matters Application in relation to planning permission 09/00933/FULMAJ (Appearance, Landscaping & Layout) for the provision of a business/non residential institution unit (use class B1 & D1). Approve Reserved Matters: 15.06.2012

12/01175/DIS - Discharge of Conditions 2 (Access & Highways), cond 7 (Travel Plan), cond 9 (Tunit Boundary), Cond 19 (Landscaping) cond 21 (Development Opportunity Sites), Cond 25 (Car Parking Scheme), Cond 28 (Surface Water Drainage), Cond 29 (Big Lamp), Cond 35 (Materials & Samples) in relation to the Full application for the demolition and redevelopment of existing structures to provide a Class A1 food store, petrol filling station, associated car parking, servicing, new accesses, public realm and landscaping. Outline application for the provision of a retail unit (Use Classes A1, A2, A3, A4, A5) and a business/non-residential institution unit (Use Classes B1 and D1) including details of scale and access. Conditions Discharged: 08.02.2013

13/00721/FULMAJ - Application for the variation of conditions 5 (Bus Stop Improvement), 6 (In store Real Time Information), 8 (Stopping Up Orders), 11 (Design Stage Assessment), 12 (Post Construction Certificate), 18 (Access to Western Boundary). 19 (Landscaping), 23 (Provision of Development Opportunity Sites), 32 (Approved Plans) and 36 (Finished Floor Levels) of Planning Permission 09/00933/FULMAJ under Section 73 of the Town & Country Planning Act. Awaiting Decision.

Recommendation: Permit Full Planning Permission

Conditions

For clarity the table below shows the Original Conditions and the Proposed Conditions under this Application.

Original Condition	Proposed Condition
<p>1. The Development shall only be carried out in accordance with the approved plans, except as may otherwise be specifically required by any other condition of this permission. Reason: To define the permission and in the interests of the proper development of the site.</p>	<p>No change to condition</p>
<p>2. No part of the development hereby approved shall commence until a scheme for the construction of all site access by vehicles, pedestrians and cyclists and the off-site works of highway improvement has been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Highway Authority. The scheme shall include the timing of the delivery of all such works, including the Market Street improvements, together with contingency arrangements. Reason: In the interests of highway safety and to ensure appropriate pedestrian connectivity between Chorley Town Centre and the Class A1 foodstore before it commences trading, and in order to satisfy the Local Planning Authority and the Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site</p>	<p>No change to condition</p>
<p>3. No part of the development hereby approved shall be occupied or opened for trading until the approved scheme referred to in condition 1 has been constructed and completed in accordance with the scheme details. Reason: 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.</p>	<p>No part of the development hereby approved shall be occupied or opened for trading until the approved scheme and programme referred to in condition 2 has either been constructed and completed in accordance with the scheme details or its implementation is secured by a contract.</p> <p>Reason: 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.</p>
<p>4. The proposed scheme improvement works to Market Street shown on approved plan Ref. PL-11/RevB shall be implemented in general conformity with that plan before the store commences trading unless otherwise agreed in writing with the Local Planning Authority. Reason: To ensure appropriate pedestrian connectivity between Chorley Town Centre and the Class A1 foodstore, to</p>	<p>No change to condition</p>

<p>mitigate against the potential impacts of the development and to accord with the requirements of PPS4 and PPG 13</p>	
<p>5. Before occupation of the development hereby permitted, the following improvements will be made to existing bus stops on Bolton Street and Pall Mall:</p> <ul style="list-style-type: none"> - Introduction of Real Time Information Displays to bus stops on Bolton Street and Pall Mall identified in the approved highways plan - New bus stops, shelters and low floor infrastructure (Bolton Street only) - Repainting bus stop markings (Pall Mall only) <p>Full details of the works shall be submitted to the Local Planning Authority and written approval to the details obtained from the Local Planning Authority prior to the commencement of development. Such works to be retained thereafter.</p> <p>Reason: In order to ensure that the development is accessible by a choice of means of transport including public transport in accordance with PPS4 and Policy TR1 of the Chorley Borough Local Plan</p>	<p>5. Before occupation of the development hereby permitted, the following improvements will be made to existing bus stops on Bolton Street and Pall Mall:</p> <ul style="list-style-type: none"> - New bus stops, shelters and low floor infrastructure (Bolton Street only) - Repainting bus stop markings (Pall Mall only) <p>Full details of the works shall be submitted to the Local Planning Authority and written approval to the details obtained from the Local Planning Authority prior to the commencement of development. Such works to be retained thereafter.</p> <p>Reason: In order to ensure that the development is accessible by a choice of means of transport including public transport.</p>
<p>6. Before occupation of the development hereby permitted, Real Time Information Displays for bus services shall be installed within the proposed foodstore and retained thereafter. Full details of the works shall be submitted to the Local Planning Authority and written approval to the details obtained from the Local Planning Authority prior to the commencement of development.</p> <p>Reason: In order to ensure that the development is accessible by a choice of means of transport including public transport in accordance with PPS4 and Policy TR1 of the Chorley Borough Local Plan</p>	<p>Delete condition as agreed with LCC</p>
<p>7. The development shall not be occupied or brought into use until details of a Travel Plan (Broadly in accordance with the draft Travel Plan submitted as part of this application) have been submitted to and approved in writing by the Local Planning Authority, such Travel Plan to include:</p> <ul style="list-style-type: none"> a. the form and timing of travel surveys b. interim targets pending the results of travel surveys c. actual targets based on the results of travel surveys d. measures proposed to achieve the targets 	<p>No change to condition</p>

<p>e. the means and funding for the monitoring of the travel plan f. enforcement and sanctions g. timing of submission of the final travel plan</p> <p>Together with a timetable for the implementation of each such element. The development shall not be occupied prior to implementation of those parts of the approved Travel Plan that are capable of being implemented prior to occupation. Those parts of the approved Travel Plan that are identified therein as only being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as the development is occupied. Reason: In order to ensure that the development is accessible by a choice of means of transport including public transport in accordance with PPS4 and Policy TR1 of the Chorley Borough Local Plan</p>	
<p>8. No development shall take place until the sections of the public highway that fall within the development site (unless otherwise agreed to remain as Public Highway) have been stopped up in accordance with an Order made under the provisions of Section 247 of the Town and Country Planning Act 1990. Reason: In order to ensure the proper development of the application site and as the grant of planning approval does not override other legislation</p>	<p>No development shall take place within the confines of the existing public highway until those sections of the public highway (unless otherwise agreed to remain as Public Highway) have been stopped up in accordance with an Order made under the provisions of Section 247 of the Town and Country Planning Act 1990</p> <p>Reason: In order to ensure the proper development of the application site and as the grant of planning approval does not override other legislation</p>
<p>9. The construction of the foodstore shall not be commenced until detailed plans of the works proposed to the boundary with Tunit (building defined on plan LE-07), details of access to that building and a development phasing plan have been submitted to and approved in writing by the Local Planning Authority. The approved works shall be carried out in full in accordance with the approved plans and shall be retained thereafter. Reason: To safeguard the operation and amenity of this nearby business and to ensure that access to the existing business is maintained during and upon completion of the development</p>	<p>No Change to Condition</p>
<p>10. Each building hereby permitted which provides more than 500sqm gross floorspace shall be constructed to achieve a minimum Building Research Establishment (BREEAM) standard of 'very good' and achieve 2 credits within Issue Ene 5: Low or Zero Carbon Technologies.</p>	<p>Each building hereby permitted which provides more than 500sqm gross floorspace shall be constructed to achieve a minimum Building Research Establishment (BREEAM) standard of 'very good'.</p> <p>Reason: In the interests of minimising the environmental impact of the development.</p>

<p>Reason: In the interests of minimising the environmental impact of the development and to accord with the requirements of Policy SR1 of the Sustainable Resources DPD and PPS4</p>	
<p>11. No phase or sub-phase of the development shall begin until details of a 'Design Stage' assessment and related certification have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out entirely in accordance with the approved assessment and certification unless the Local Planning Authority otherwise approve in writing. Reason: In the interests of minimising the environmental impact of the development and to accord with the requirements of Policy SR1 of the Sustainable Resources DPD and PPS4</p>	<p>Details of a 'Design Stage' assessment shall be submitted to and approved in writing by the Local Planning Authority within three months of the commencement of each phase or sub-phase of development. The development shall be carried out entirely in accordance with the approved assessment and certification unless the Local Planning Authority otherwise approve in writing.</p> <p>Reason: In the interests of minimising the environmental impact of the development.</p>
<p>12. No building unit shall be occupied until a 'Post Construction Stage' assessment has been carried out and a Final Certificate has been issued for it certifying that a BREEAM standard of 'very good' and 2 credits under Issue Ene 5 have been achieved and the Certificate has been submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason: In the interests of minimising the environmental impact of the development and to accord with the requirements of Policy SR1 of the Sustainable Resources DPD and PPS</p>	<p>Within 12 months of the occupation of any of the buildings hereby approved a 'Post Construction Stage' assessment has been carried out and a Final Certificate has been issued for it certifying that a BREEAM standard of 'very good' has been achieved and the Certificate has been submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason: In the interests of minimising the environmental impact of the development.</p>
	<p>Additional Condition</p> <p>Prior to the construction of any of the buildings authorised by this consent 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/BREEAM] rating.</p>
<p>13. Deliveries, servicing and collections to and from the Class A1 Foodstore, including waste collections, shall not take place outside the following hours: 07:00 to 22:00 – Monday to Friday 08.00 to 20.00 – Saturday 09:00 to 19:00 – Sundays and Bank Holidays Where exceptional circumstances require deliveries/servicing/collections to take place</p>	<p>No change to condition</p>

<p>outside these stated hours, full written permission will firstly be sought from Chorley Council. Reason: To safeguard the amenities of the occupiers of nearby residential accommodation and to accord with the requirements of the Chorley Borough Local Plan and in particular Policy EP20</p>	
<p>14. The Class A1 Foodstore’s waste compactor shall not operate outside the following hours: 07:00 to 22:00 – Monday to Friday 08.00 to 20.00 – Saturday 09:00 to 19:00 – Sundays and Bank Holidays Reason: To safeguard the amenities of the occupiers of nearby residential accommodation and to accord with the requirements of the Chorley Borough Local Plan and in particular Policy EP20</p>	<p>No change to condition</p>
<p>15. No temporary refrigeration units are to be used in the outdoor areas of the Class A1 Foodstore’s service yard except in exceptional circumstances (such as the failure of the Class A1 Foodstore’s internal refrigeration units). In such exceptional circumstances full written permission will be sought from Chorley Council prior to or within 24 hours of the temporary refrigeration units being used in the outdoor areas of the Class A1 Foodstore’s service yard. Written permission will not be unreasonably withheld. Reason: To safeguard the amenities of the occupiers of nearby residential accommodation and to accord with the requirements of the Chorley Borough Local Plan and in particular Policy EP20</p>	<p>No change to condition</p>
<p>16. Service Yard lighting will be reduced to minimum safe illumination levels (20 Lux) outside the Class A1 Foodstore’s hours of servicing: 07:00 to 22:00 – Monday to Friday 08.00 to 20.00 – Saturday 09:00 to 19:00 – Sundays and Bank Holidays Where exceptional circumstances require that Service Yard lighting is not reduced to minimum safe illumination levels (20 Lux) outside the Class A1 Foodstore’s hours of servicing, full written permission will firstly be sought from Chorley Council. Reason: To safeguard the amenities of the occupiers of nearby residential accommodation and to accord with the requirements of the Chorley Borough Local Plan and in particular Policy EP21A</p>	<p>No change to condition</p>
<p>17. The approved lighting scheme shall be implemented in full prior to first use of the development hereby approved. All lighting should be designed to reduce spillage out</p>	<p>No change to condition</p>

<p>with the site. Reason: To safeguard the amenities of the occupiers of nearby residential accommodation and to accord with the requirements of the Chorley Borough Local Plan and in</p>	
<p>18. Access to the strip of land between the service yard and western site boundary (as defined on approved plan Ref.07035.PL14.RevA) will be controlled by secure gate within the service yard of the foodstore. Reason: In the interests of security, to prohibit anti-social behaviour and to safeguard amenities of the occupiers of nearby residential accommodation</p>	<p>Access to the strip of land between the approved building and western site boundary (as defined on approved plan Ref. PL14F) will be controlled by a secure gate. Reason: In the interests of security, to prohibit anti-social behaviour and to safeguard amenities of the occupiers of nearby residential accommodation</p>
<p>19. Development shall not begin until full details of both hard and soft landscape works (both temporary and permanent) have been submitted to and approved in writing by the Local Planning Authority. These details shall include proposed finished levels, means of enclosure, pedestrian access and circulation areas, hard surfacing materials, minor artefacts and structures (such as furniture and signs and ticket machines) and planting plans. All hard and soft landscape works shall be carried out in accordance with the approved details and shall be carried out prior to the occupation of any part of the development or in accordance with a programme first submitted to and approved in writing by the Local Planning Authority. Reason: To ensure that a satisfactory landscaping scheme for the development is carried out to mitigate the impact of the development and secure a high quality design in accordance with PPS4</p>	<p>No change to condition</p>
<p>20. The development of the Class A1 foodstore hereby permitted shall begin not later than three years from the date of this permission. Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning & Compulsory Purchase Act 2004</p>	<p>The development of the Class A1 foodstore hereby permitted shall begin not later than 21 December 2013. Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning & Compulsory Purchase Act 2004</p>
<p>21. Approval of the details of the scale, access, appearance, landscaping and layout of the free-standing buildings proposed for each of the development opportunity sites, hereafter called the reserved matters, shall be obtained from the Local Planning Authority before any development of the development opportunity sites is commenced. Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning & Compulsory Purchase Act 2004</p>	<p>No change to condition</p>
<p>22. Application for the approval of the</p>	<p>Application for the approval of the Reserved</p>

<p>Reserved Matters relating to the development opportunity sites shall be made to the Local Planning Authority before the expiration of three years from the date of the outline permission. Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning & Compulsory Purchase Act 2004</p>	<p>Matters relating to the development opportunity sites shall be made to the Local Planning Authority before the 21 December 2013.</p> <p>Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning & Compulsory Purchase Act 2004</p>
<p>23. Each of the units proposed to be developed on the development opportunity sites should be available for occupation within 1 year of the date of the opening of the store. Reason: in order to secure the implementation of the Development Opportunity building that has been considered within the assessment of this application to be an essential element of the scheme as a whole and supports the conclusion that the development as a whole is acceptable in accordance with PPS4</p>	<p>The development of the “Development Opportunity” sites shall be commenced, completed and made available for occupation within a detailed timescale that is first agreed with the Local Planning Authority prior to the occupation of the store and thereafter the development opportunity sites shall be delivered in accordance with that timescale.</p> <p>Reason: in order to secure the implementation of the Development Opportunity buildings at the earliest opportunity and to ensure the Development opportunity sites contribute to the connectivity of the store to the Town Centre.</p>
<p>24. Before any demolition, construction or contaminated land remediation works commence in connection with each identified phase, a Construction Environmental Management Plan (CEMP) must be submitted to, and approved in writing by, the Local Planning Authority detailing the provisions to be made for the monitoring and control of:</p> <p>a) Operating hours: No demolition, construction or contaminated land remediation activities, movement of traffic, or deliveries to and from the premises, shall occur other than between the hours agreed with the Local Planning Authority. Any proposed extension to these agreed hours, other than for emergency works, shall be agreed with the Local Planning Authority before work commences;</p> <p>b) Noise and vibration: To demonstrate compliance with the guidance in British Standard BS5228 Noise and vibration control on construction and open sites; including the proposed measurement methodology, the location of monitoring locations and noise-sensitive premises, the maximum permitted facade noise levels. No piling, blasting, dynamic compaction or use of vibrating rollers shall occur without the written approval of the Local Planning Authority;</p> <p>c) Dust/Particulate emissions: To include the prevention of dust/particulates being blown off-site, the sheeting of vehicles and preventing the deposition of dust and mud on</p>	<p>No change to condition</p>

<p>the highway. At such times as the prevention of dust/particulate nuisance by the agreed means is not possible, the movement of vehicles, soils or dusty materials must temporarily cease until such time as weather conditions improve;</p> <p>d) Waste: To include suitable and sufficient provisions for the collection, storage and disposal of waste materials. No unwanted materials shall be disposed of on site by burning without the prior written approval of the Local Planning Authority;</p> <p>e) Lighting: To include a site plan showing the proposed types, locations and heights of the lamps, vertical illuminance levels (Lux) to the facades of agreed light-sensitive premises and operating times. All works shall be fully implemented in accordance with the approved CEMP.</p> <p>The CEMP shall include:</p> <p>f) Arrangements for the frequency and criteria for review of the CEMP and its consequential approval by the local planning authority;</p> <p>g) Arrangements for liaison to be undertaken with affected residents and town centre stakeholders</p> <p>Reason: To safeguard the amenities of the occupiers of nearby residential accommodation and to ensure that the impacts of the construction phases of the development are appropriately mitigated against</p>	
<p>25. No development shall take place until a scheme for car park management, car park charges and charging review mechanism for the class A1 foodstore and retail development opportunity site for use classes A1/A2/A3/A4/A5 has been submitted to and approved in writing by the local planning authority. The charging mechanism will be consistent with the main town centre car parks within Chorley town centre. The charging review mechanism shall include:</p> <p>a) Frequency / criteria for review</p> <p>b) Process of review</p> <p>c) dispute resolution mechanism</p> <p>The car parking spaces shown on the approved plan shall be made available at all times in connection with the use of the class A1 foodstore and the retail development opportunity site (use classes A1/A2/A3/A4/A5).</p> <p>Reason: To ensure that the management of the car park is consistent with other car parks which serve Chorley Town Centre which is necessary to ensure the vitality and viability of the town centre; and in accordance with PPS4 and PPS13</p>	<p>No change to condition</p>

<p>26. The retail store and retail development opportunity site shall not be open for trade until the car park circulatory aisles, and spaces have been provided, surfaced and marked out in accordance with the approved plan ref: 07_035/PL_01 RevV. Reason: To ensure the proper planning of the development, and in accordance with policy TR4 and DCLG “Manual for Streets”.</p>	<p>The retail store and retail development opportunity site shall not be open for trade until the car park circulatory aisles, and spaces have been provided, surfaced and marked out in accordance with the approved plan ref: 07_035/PL_01 RevAC. Reason: To ensure the proper planning of the development.</p>
<p>27. No development approved by this planning permission shall be commenced until: a) a strategy for investigating contamination present on the site has been submitted to and approved in writing by the Local Planning Authority; b) an investigation has been carried out in accordance with the approved strategy; and, c) a written report, detailing the findings of the investigation, assessing the risk posed to receptors by contamination and proposing a remediation scheme, including a programme for implementation, has been submitted to and approved in writing by the Local Planning Authority; Remediation work shall be carried out in accordance with the approved remediation scheme and programme. Remediation work on contamination not identified in the initial investigation but found during construction work shall be carried out in accordance with details approved in writing by the Local Planning Authority subsequent to its discovery. Evidence verifying that all remediation work has been carried out in accordance with the approved scheme shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use. Reason: To ensure that the presence of or the potential for any contaminated land is detected and appropriate remedial action is taken in the interests of public safety and in accordance with PPS25.</p>	<p>No change to condition</p>
<p>28. No development approved by this permission shall be commenced until a surface water drainage strategy and phased delivery programme has been submitted to and approved by the Local Planning Authority. The surface water drainage scheme shall be completed in accordance with the approved strategy and programme. Reason: To reduce the increased risk of flooding and in accordance with PPS25</p>	<p>No change to condition</p>
<p>29. Development shall not be commenced until a scheme for the retention of the ‘Big Lamp’ and its incorporation within the development have been submitted to and approved in writing by the Local Planning</p>	<p>No change to condition.</p>

<p>Authority. The scheme shall include the timing of removal, location and method of storage and the timing of installation together with its protection during any construction phase. Development shall be carried out in accordance with the approved scheme. Reason: In the interests of preserving an existing feature of local interest in the interests of the proper planning of the site and to achieve a high quality development.</p>																									
<p>30. Prior to or within one month of completion of the landscaping scheme defined in Condition 7, details of the location and design of CCTV to cover the development site and Market Street shall be submitted to and approved by the Local Planning Authority. Reason: In the interests of safety and security</p>	<p>No change to condition</p>																								
<p>31. Any building(s) constructed on the proposed development opportunity sites shall fall within the maximum and minimum scale parameters as set out below: Retail Development Opportunity Site: Max Height 7m, Max Width 20m, Max Length 40m Min Height 4m, Min Width 10m, Min Length 15m B1/D1 Development Opportunity Site: Max Height 11m, Max Width 16.5m, Max Length 55m Min Height 5m, Min Width 8m, Min Length 18m Reason: in order to secure the implementation of the Development Opportunity buildings that have been considered within the assessment of this application to be an essential element of the scheme as a whole and supports the conclusion that the development as a whole is acceptable in accordance with PPS4</p>	<p>No change to condition</p>																								
<p>32. The development hereby permitted shall be carried out in accordance with drawing numbers:</p> <table border="0"> <thead> <tr> <th>Description</th> <th>Drawing Number</th> </tr> </thead> <tbody> <tr> <td>Location Plan</td> <td>EX01A</td> </tr> <tr> <td>Existing Site Plan</td> <td>EX02A</td> </tr> <tr> <td>Demolitions</td> <td>DE01A</td> </tr> <tr> <td>Proposed Site Plan</td> <td>PL01V</td> </tr> <tr> <td>Proposed Store Plan</td> <td>PL02A</td> </tr> <tr> <td>Proposed First Floor Plan</td> <td>PL03A</td> </tr> <tr> <td>Proposed Roof Plan</td> <td>PL04A</td> </tr> <tr> <td>Proposed Levels Plan</td> <td>PL05C</td> </tr> <tr> <td>Proposed Elevational Sections and Streetscapes</td> <td>PL06B</td> </tr> <tr> <td>Proposed Site Sections</td> <td>PL07C</td> </tr> <tr> <td>Proposed PFS</td> <td>PL08B</td> </tr> </tbody> </table>	Description	Drawing Number	Location Plan	EX01A	Existing Site Plan	EX02A	Demolitions	DE01A	Proposed Site Plan	PL01V	Proposed Store Plan	PL02A	Proposed First Floor Plan	PL03A	Proposed Roof Plan	PL04A	Proposed Levels Plan	PL05C	Proposed Elevational Sections and Streetscapes	PL06B	Proposed Site Sections	PL07C	Proposed PFS	PL08B	<p>Location Plan - EX01A Existing Site Plan - EX02A Demolitions - DE01A Proposed Site Plan - PL01AC Proposed Store Plan - PL02D Proposed Roof Plan - PL04E Proposed Levels Plan - PL05C Proposed Elevational Sections and Streetscapes - PL06G Proposed Site Sections - PL07H Proposed PFS - PL08D Proposed Landscape Masterplan - PL09E Proposed Trolley Bays - PL10B Proposed Market Street Works Plan - PL11D Proposed Public Realm Plan - PL12A Proposed Fenceline Plan and Elevations -</p>
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<p>Proposed Landscape Masterplan PL09B Proposed Trolley Bays PL10 A Proposed Market Street Works Plan PL11B Proposed Public Realm Plan PL12A Proposed Fenceline Plan and Elevations PL14F Landscape Proposals A1043-02E Proposed Traffic Signal Controlled Junction 0740/69</p> <p>Reason: To ensure that the development is carried out in accordance with the approved plans.</p>	<p>PL14F Landscape Proposals - A1043-02K Proposed Traffic Signal Controlled Junction 0740/69</p> <p>Site Furniture PL_22B Tree Pit & Grille Detail PL_24B Access & Egress Plan PL_25B Hard Landscaping Plan PL_26B Site Boundary Details PL_27D</p> <p>Reason: To ensure that the development is carried out in accordance with the approved plans.</p>
<p>33. The net sales area of the Class A1 foodstore shall not exceed 4,088sqm, comprising 2,289sqm maximum for the display and sale of convenience goods and 1,799sqm maximum for the display and sale of comparison goods. Reason: In order to protect the vitality and viability of Chorley Town Centre and in accordance with PPS4</p>	<p>No change to condition</p>
<p>34. The Class A1 foodstore shall not be subdivided into smaller retail units. Reason: In order to protect the vitality and viability of Chorley Town Centre and in accordance with PPS4</p>	<p>No change to condition</p>
<p>35. No development shall commence until details and samples of the materials to be used in the construction fo the external surfaces of the class A1 foodstore have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved. Reason: To secure a high quality design in accordance with PPS1, PPS4, policy GN5 of the Chorley Local Plan Review</p>	<p>No change to condition</p>
<p>36. The finished floor level of the class A1 foodstore shall be constructed at a height not exceeding 87.5m AOD. Reason: To secure a high quality design in accordance with PPS1, PPS4, policy GN5 of the Chorley Local Plan Review, and to control the impact to surrounding residential properties</p>	<p>The finished floor level of the class A1 foodstore shall be constructed at a height not exceeding 87.775m AOD.</p> <p>Reason: To secure a high quality design and to control the impact to surrounding residential properties.</p>
	<p>Additional Condition</p> <p>37. The plant to be constructed on the roof of the store shall only be implemented in accordance Noise Impact Assessment for Fixed Plant dated 5 September 2013 including the specified individual plant size and specification and the installation shall be in accordance with the recommendations of that document.</p> <p>Reason: to ensure that the plant proposed</p>

	for the store does not have an unacceptable impact on nearby residential properties.

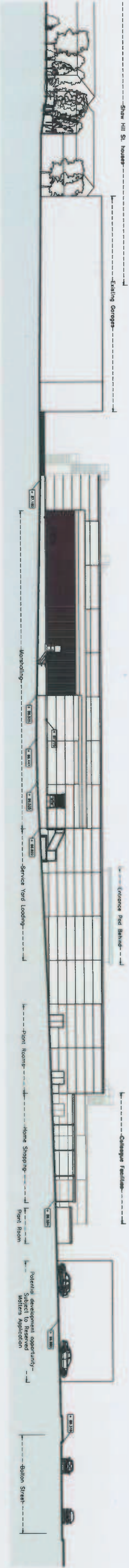
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SECTION AA
Scale 1:200 A6



SECTION BB
Scale 1:200 A6

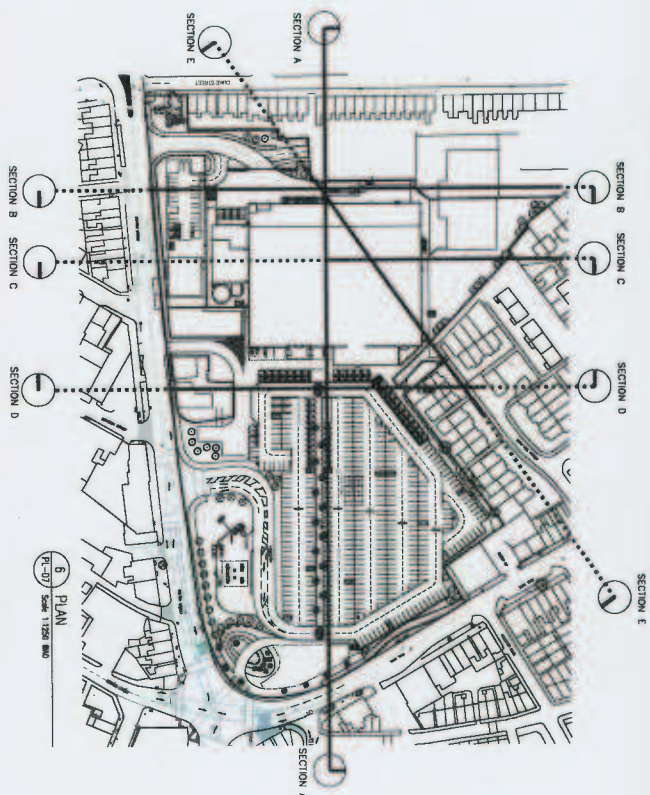


SECTION CC
Scale 1:200 A6

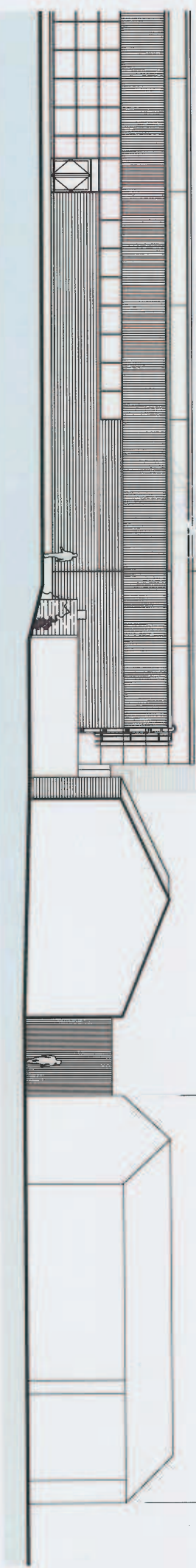
Customer Facilities

Service yard behind

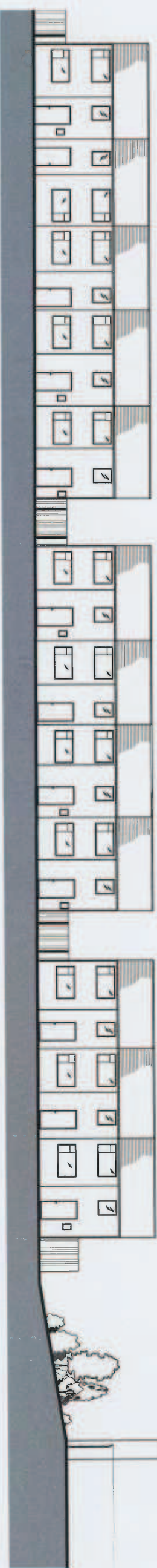
Show Hill St. houses



PLAN
Scale 1:200 A6



SECTION DD
Scale 1:200 A6



SECTION EE
Scale 1:200 A6

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NO.	DESCRIPTION	DATE
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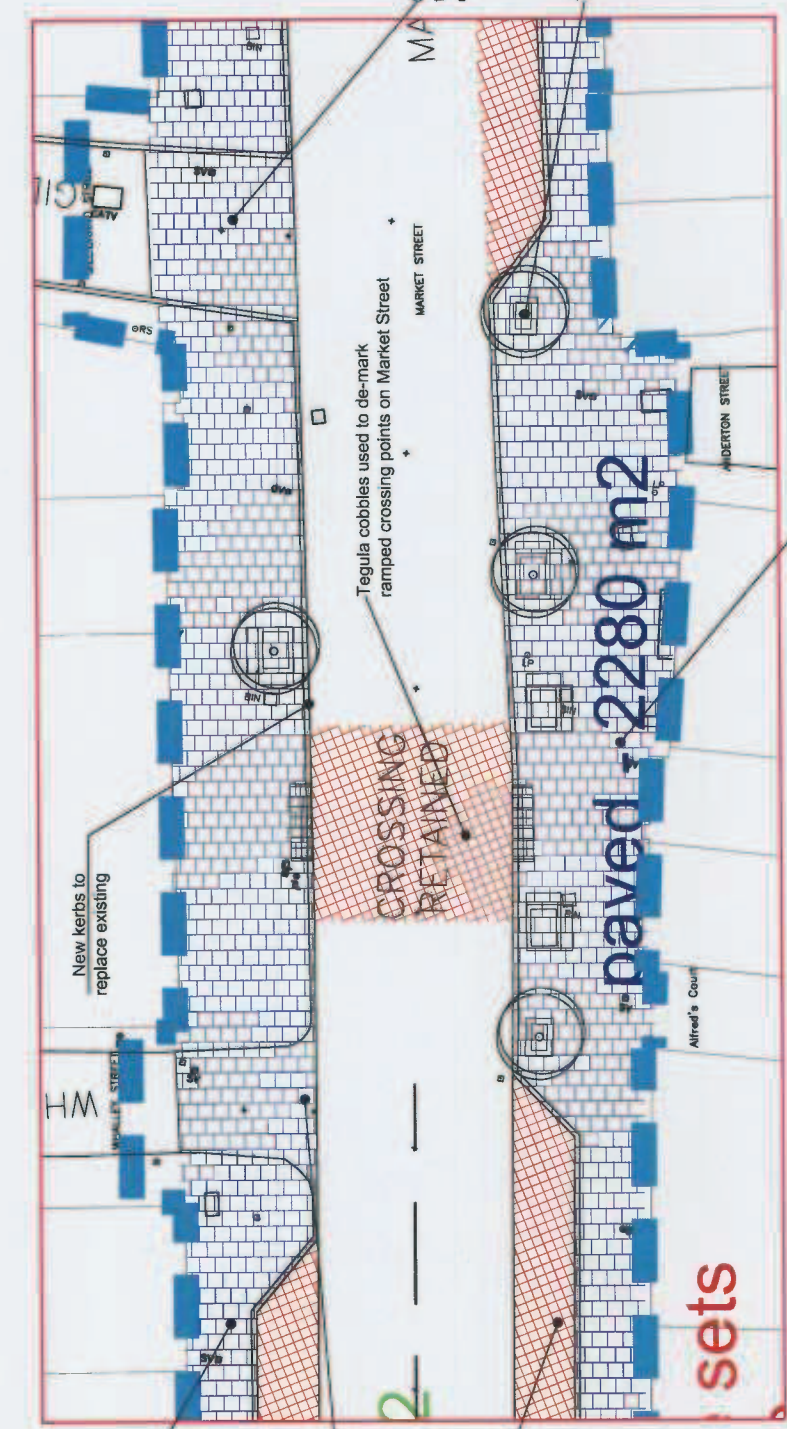
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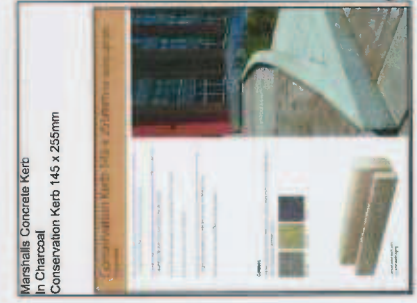


MARKET STREET LOCATION PLAN 1:2000

Gray textured buff paving slab to de-mark pedestrian footpaths

Tegula cobbles used to de-mark ramped areas of raised pedestrian crossing points on roads adjoining Market Street

Tegula cobbles used to de-mark parking areas

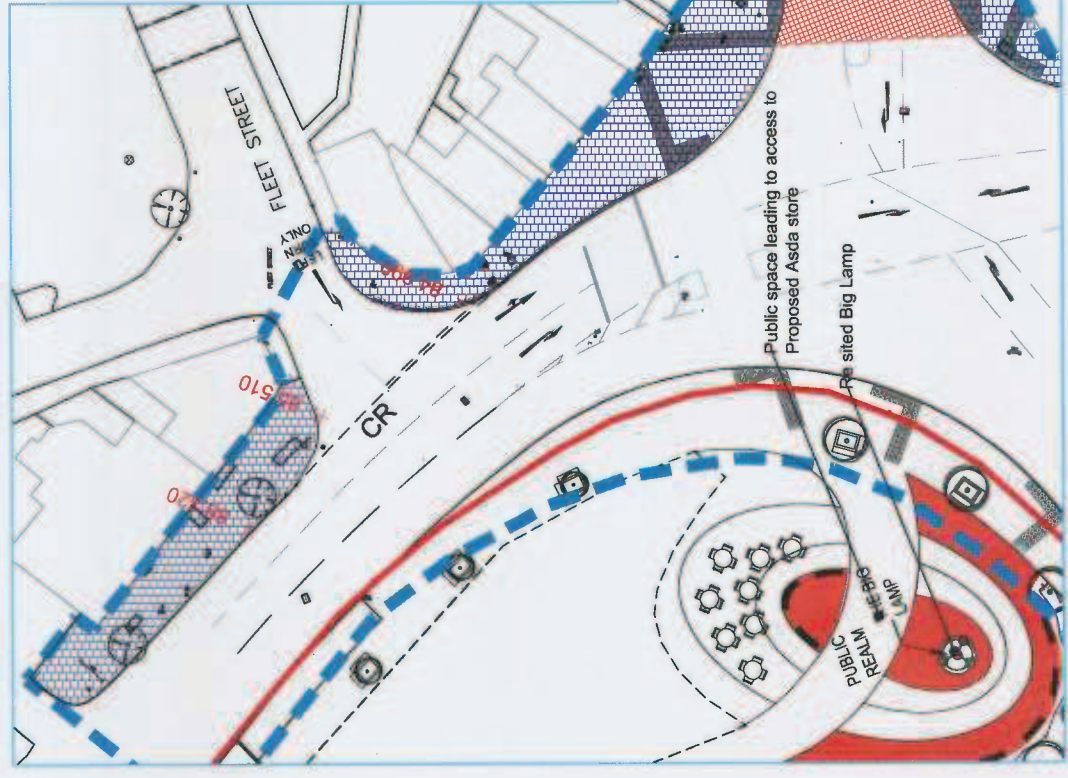


MARKET STREET DETAIL PLAN 1:100



The trees to be planted in the timber planters (shown in a separate detail) are to be planted in a square or rectangular form of the common Hornbeam, excellent when planted as a specimen tree or where space is limited as it will remain in a columnar shape and fit well within the constraints of the Market Street setting.

Timber Planters:
 Street Design Limited,
 Unit 47 Hayhill Industrial Estate,
 Barrow Upon Soar



MARKET STREET DETAIL PLAN 1:100

Road layout improved and enhanced with new surfacing to road

Pedestrian areas improved with new paving surfaces and new street furniture

End of market street works

Pedestrian access enhanced with new crossings

Gray textured buff paving slabs to pedestrian footpaths

Tegula cobbles used to de-mark ramped crossing points on Market Street

Gray textured buff paving slabs used to de-mark ramped crossing points on Market Street

Timber planter with tree



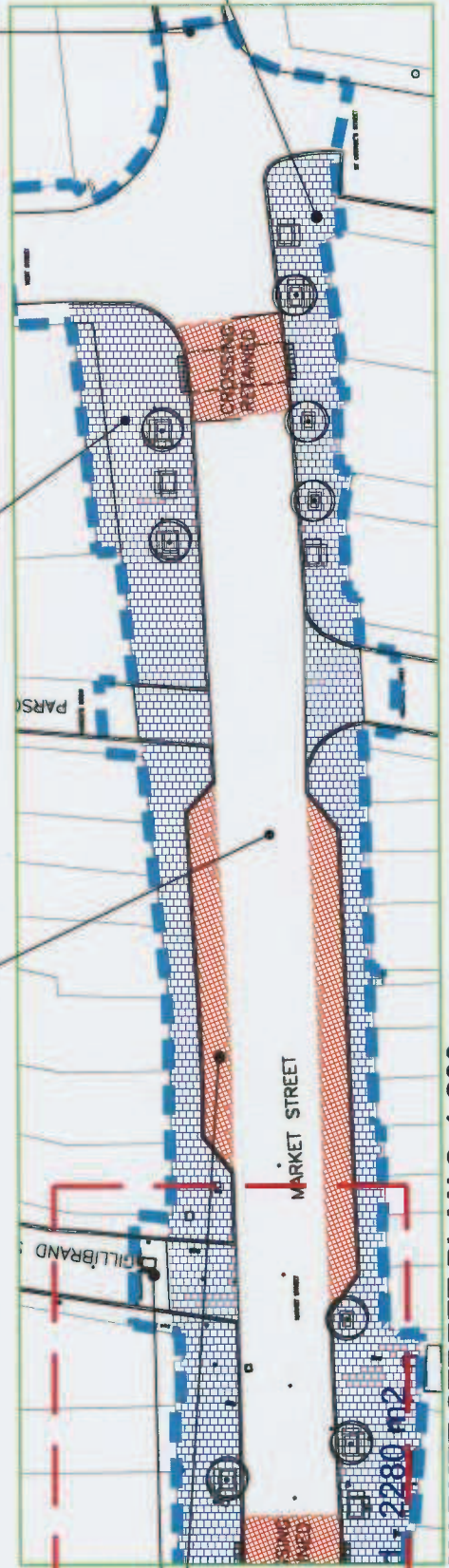
Market street detail plan

Market street detail plan

Market street detail plan



Marshalls Tegula cobbles in "pennant" grey colour (80x80) to be used to de-mark parking and the ramped areas of raised pedestrian crossing points on roads adjoining Market Street.



MARKET STREET PLAN 2: 1:200



Paving "Gray Textured Buff Paving Slabs" - Marshall's range - Paved 600 x 600 slabs to be used on all areas of paving including raised pedestrian crossing points on roads adjoining Market Street.

ASDA
 CHORLEY TOWN CENTRE REGENERATION
 PROPOSED MARKET STREET WORKS

wcec architects
 WCEC ARCHITECTS
 CHORLEY TOWN CENTRE REGENERATION
 PROPOSED MARKET STREET WORKS
 DATE: SEPTEMBER 2009

ISSUED FOR: 07-405
 DRAWING NO: PL_11
 SCALE: 1:100

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