

27 March 2013

Dear Councillor

DEVELOPMENT CONTROL COMMITTEE - TUESDAY, 26TH MARCH 2013

I am now able to enclose, for consideration at the above meeting of the Development Control Committee, the following report that provides an update of events that have taken place since the agenda was printed.

Addendum

Report of the Director of Partnerships, Planning and Policy (enclosed).

7. **Addendum** (Pages 1 - 22)

Report of the Director of Partnerships, Planning and Policy (enclosed).

Yours sincerely



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Chief Executive

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આ માહિતીનો અનુવાદ આપની પોતાની ભાષામાં કરી શકાય છે. આ સેવા સરળતાથી મેળવવા માટે કૃપા કરી, આ નંબર પર ફોન કરો: 01257 515822

ان معلومات کا ترجمہ آپکی اپنی زبان میں بھی کیا جاسکتا ہے۔ یہ خدمت استعمال کرنے کیلئے براہ مہربانی اس نمبر پر ٹیلیفون
کیجئے: 01257 515823

C O M M I T T E E R E P O R T		
REPORT OF	MEETING	DATE
Director of Partnerships, Planning and Policy	Development Control Committee	26 March 2013

ADDENDUM

ITEM 4a-12/00895/FULMAJ – Land 80M South West Of Appenzell Babylon Lane Heath Charnock Lancashire

The application report refers to an objection by Cllr Case, it should read County Councillor Case.

ITEM 4b-12/01081/FULMAJ – Land West Of Cypress Close Clayton-Le-Woods Lancashire

The recommendation remains as per the original report.

One further letter of objection has been received setting out the following issues:

I have discovered that the Council is recommending planning permission for a further 38 dwellings for Rowland Homes on the area of safeguarded land at Clayton-le-Woods, with access off the Flowers Estate. Even that could not wait for the Local Plan Examination. It gives the impression that the Council are determined to sew up the land to avoid the possibility that the Inspector might have come down against Policy HS1.31 in some way. It is anticipated that the Fox application will go to the next Development Control Committee in order to pre-empt the Examination. The new Local Plan is discredited as far as I am concerned.

No letters of support have been received.

The following consultee responses have been received:

With regards to the cost of managing the pond in the south western corner of the site, the **Streetscene & Parks Manager** has advised that this would be £1450 per annum. This requirement will therefore be set out in the S106, and worded as such that if the applicant decides against managing the casual open space, this sum will be required to be paid to the Council to cover the 10 year maintenance of the pond on the casual open space.

Clayton Le Woods Parish Council object to the application on traffic grounds, over development of that site, the fact that this is a cul-de-sac where many children play and particularly the loss of green fields.

LCC (Highways) advise that the amended plans have addressed the previous layout issues raised and therefore have no objections to the proposals.

In terms of the applicants proposal for 7 of the 11 affordable housing units on the site to be for affordable rents, the Council's **Housing and Support Services Manager** has made the following comments in support of the S106 agreement requiring these affordable units being social rent: -

The Council's expectations in terms of Registered Providers' schemes, including section 106 sites, and tenancy types are outlined in the Tenancy Strategy document which was approved by Executive Cabinet in December 2012. The relevant section is 1.3 Summary of Chorley Council's Expectations.

- Generally, Social rent as a tenure is a far more secure tenure and are subject to a national rent regime, which means that the rent levels are far less likely to fluctuate significantly.
- Social Rents are lower than Affordable Rents - often significantly lower .In the case of Cypress Gardens, Adactus have estimated that for this scheme the Social Rent for a 2bed house will be £84.50 per week and the Affordable Rent for the same house will be £95.42 (a difference of £16.03 per week) . This additional weekly amount of £16.03 may present a barrier to a customer moving into employment and therefore create a 'benefit trap'. The lower level of Social rents means that it is easier for tenants to move into employment. Lower rents also help to reduce the Housing Benefit bill (where tenants are claiming Housing Benefit) .The location of this site is of particular pertinence as it is an area where there is a higher reliance on welfare benefits and there is a drive to encourage customers into employment.
- The Affordable Rent regime is not as secure as the Social Rent regime as it allows for Registered Providers to offer *time limited* as opposed to *lifetime* tenancies. All Social Rented properties have *lifetime* tenancies. Although most Registered Providers have existing Tenancy Strategies which include a commitment to offer lifetime tenancies and where they offer a time limited tenancy for it to be a minimum 5 year tenancy, their policies could change in the future and could affect all affordable rent units in the borough which are subject to a re-let.
- The Localism Act 2011 requires each local authority to have a Tenancy Strategy which outlines its expectations of Registered Providers in terms of the type of tenancy offered in particular situations, including new sites such Cypress Close.
- Recently the Government announced that Registered Providers will have the ability of converting Affordable Rented tenancies to market rents thereby potentially increasing the rent by a further 20%. This could further marginalise customers who are not in employment and for whom, the rent levels would be too high to make moving into employment financially worthwhile.
- Affordable rents are calculated at 80% of the market rent including any service charge. Social rents are calculated by Registered Providers according to a formula and target rents issued by the Homes and Communities Agency.
- Demand for 2bedroomed houses is very high – interrogation of the Select Move choice based lettings system indicates that in the last year there has

only been one 2bed property advertised in the Clayton le Woods area and there were 105 bids on this property. In the same 12 month period there have been three two bed houses advertised in Whittle Woods and there were 19, 113 and 124 bids on them respectively. For the Chorley area as a whole 34% (513 households) of the Select Move waiting list is looking for a 2bed house.

- The Affordable Housing SPD notes that Affordable housing will be made available for Affordable rent *in exceptional circumstances*. No exceptional circumstances have been demonstrated for the Cypress Close site. Cypress Close is a scheme of 38 family houses in an established residential area of Clayton le Woods with 30% or 11 affordable homes – 7 for Social /Affordable rent and 4 for Intermediate sale. There is nothing specific or unusual about this site / proposal which would mean that higher rents should be considered. The developer has said that the affordable homes will have *enhanced standards* which appear to be the space standards prescribed by the HCA for affordable homes which are grant funded. These standards are not exceptional at 67sqm to 75 sqm for a 2bed 4 person house. These space standards have been in existence for some years prior to the introduction of the Affordable Rent regime in 2011/12.

The applicant has made the following comments in support of affordable rented properties being provided on the site: -

The properties will be managed by Adactus, as confirmed by their letter dated 6th March 2013. Following consultation with the Registered Provider, the applicant has amended their submitted plans to provide larger properties to meet DQS (Design & Quality) standards for 2 bedroom 4 person dwellings compared with the 2 bedroom 3 person dwellings originally proposed. As a consequence the size of the properties was increased to circa 71m² from circa 60m². Furthermore this size property falls mid-way between the area requirements for 2 bedroom 4 person dwellings as set by the HCA's Housing Quality Indicators (HQI) (67-75m²) whereas the originally submitted properties fell towards the bottom of the 2 bed 3 person category (57-67m²). Rowland are therefore not only providing an improved standard of property in terms of overall size, and flexibility of occupation (the dwellings can accommodate 2-4 people), but also of a higher standard with its size category.

The type of housing now offered is a significant improvement over that initially submitted to meet local needs and as such represents an “exceptional circumstance”.

Furthermore, as outlined in previous correspondence in respect of the affordable housing the following material considerations also need to be taken into account:

- the scheme is providing 30% affordable housing on-site in the form of 2 and 3 bedroom houses;
- the mix and tenure proposed is deliverable;
- the RP Partner has confirmed as one of Chorley's preferred operators, Adactus;
- the tenancy agreement Adactus offer for social rent and affordable rent are exactly the same, and therefore tenants' rights, and security of tenure are no different;
- as referred to by Adactus in their letter dated 6th March 2013 their affordable rent will be benchmarked against Local Housing Allowance to ensure affordability for their residents;

- the rent that will be applied to the properties (£108.92) is below the Local Housing Allowance (£110.77) for 2 bedroom properties, and therefore will be affordable for prospective tenants, whether they are a 2 person, or 4 person household;
- the properties are large 2 bedroom properties, meeting DQS and HQI standards for 4 people.

Officer Response

The Council's requirement is for the provision of social rented properties in accordance with the Central Lancashire Supplementary Planning Document on Affordable Housing as well as the Council's Tenancy Strategy document, which is also a material consideration to the determination of this application. Whilst the applicant has put forward exceptional circumstances in support of providing affordable rented properties on the site, these are not considered sufficient to justify acceptance of affordable rented properties instead of social rented properties.

However, the developer has agreed to further discussions with the Council on the rental model that will be included within the S106 agreement so it is recommended that planning permission be granted for the development on the basis that negotiations on the affordable housing element of the scheme and in particular the rental model, are delegated to the Head of Planning.

The following conditions have been amended and/or added: -

United Utilities and the **Environment Agency** had both suggested a similar condition in relation to the requirement for a surface water drainage scheme. In light of this, United Utilities have suggested an additional condition in lieu of their originally suggested condition. The condition recommended by the Environment Agency is therefore attached which is as follows: -

No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall also include details of how it shall be maintained and managed after completion and it shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site

The additional condition suggested by United Utilities is as follows: -

For the avoidance of doubt, no surface water shall discharge into the public sewerage system, directly or indirectly, in accordance with the submitted Flood Risk Assessment. The development shall be completed, maintained and managed in accordance with the approved details.

Reason: To secure proper drainage and to reduce the risk of flooding

The following additional condition is required to ensure there is a pedestrian footpath link between the application site and the development proposed to the east by the current planning application (Ref No. 13/00138/REMAJ) submitted by David Wilson Homes and Taylor Wimpey for the erection of 293 dwellings: -

Prior to the commencement of the development hereby permitted, a scheme detailing a pedestrian footpath link between the development hereby permitted and the development proposed to the west (Ref No. 13/00138/REMMAJ) along with a timescale for implementation, shall have been submitted to and approved in writing by the Local Planning Authority. Specifically, the scheme shall detail how the application site will be linked to the site to the west with a pedestrian footpath link through the area of casual open space in the north west corner of the site as detailed on the approved layout plan (Ref No. R065/1 Rev G). The scheme shall thereafter be provided in full accordance with the approved plans and the approved timescale for implementation.

Reason: To ensure there is pedestrian permeability between the application site and the residential development site to the west.

Condition 10 is amended to reflect the fact that the development will commence after 1st January 2013: -

All dwellings are required to be constructed to meet Code Level 4 of the Code for Sustainable Homes and all dwellings commenced after 1st January 2016 will be required to meet Code Level 6 of the Code for Sustainable Homes. Within 6 months of occupation of each dwelling a Final Certificate, certifying that the relevant Code for Sustainable Homes Level for that dwelling has been achieved, shall be submitted to the Local Planning Authority.

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

Condition 13 is amended to reflect the fact that the drainage system may be adopted by United Utilities so does not require details of maintenance and management if this will be the case.

No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall also include details of how it shall be maintained and managed after completion and it shall subsequently be implemented in accordance with the approved details before the development is completed, if the surface water drainage system for the site is not to be adopted by United Utilities.

Reasons: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

Condition 2 is amended to remove the reference to plot 19: -

All windows in the first floor side elevation of the Bonham house on plots 22 and 30, which serve bedroom 1 shall be fitted with non-opening obscurely glazed windows. Specifically, these windows are as follows: -

- The first floor window in the west facing elevation of plot 22
- The first floor window in the south east facing elevation of plot 30

Reason: To protect the residential amenity of the occupiers of the adjacent properties.

The following condition is required to protect the amenities of the occupiers of some of the properties: -

All windows in the first floor rear elevations of the Bonnington House Type on plots 1, 25 and 34 shall be fitted with obscure glazing.

Reason: To protect the amenities of the occupiers of the adjacent properties.

The following condition is required to define the approved plans: -

The hereby permitted shall be carried out in accordance with the following approved plans:

Title	Plot	Drawing Reference	Received date
Location Plan	-----	R065/100 Rev B	11 March 2013
Planning Layout	-----	R065/1 Rev G	14 March 2013
Topographical Plan	-----	RH003/T00	8 November 2012
1.8m High Close Boarded Timber Fence	-----	SD.1 Rev A	8 November 2012
Single Detached Garage	-----	S.D.20 Rev B	8 November 2012
Double Garage	-----	S.D.05 Rev C	8 November 2012
1.8m High Screen Wall	-----	S.D.46 Rev A	8 November 2012
Hatton House Type (Cheshire Elevations)	-----	R065/P/10	21 March 2013
Hatton House Type (Render)	-----	R065/P/11	21 March 2013
Renishaw House Type (Cheshire Elevations)	-----	R065/P/12	21 March 2013
Renishaw House Type (Render)	-----	R065/P/13	21 March 2013
Renishaw House Type (Cheshire Elevations)	-----	R065/P/9	14 March 2013
Hatton House Type (Cheshire Elevations)	-----	R065/P/8	14 March 2013
Landscape Proposals	-----	1827_03	11 March 2013
A2 House Type Plots 8 – 11 Floor Plans	-----	R065/P/2	21 February 2013
A2 House Type Plots 8 – 11 Elevations	-----	R065/P/3	21 February 2013
A2 House Type Plots 16 – 18 Elevations	-----	R065/P/5	21 February 2013
A3 House Type Plots 12 -15 Elevations	-----	R065/P/7	21 February 2013
A2 House Type Plots 16 – 18 Floor Plans	-----	R065/P/4	21 February 2013
A3 House Type Plots 12 – 15	-----	R065/P/6	21 February 2013
Belgrave House Type (Floor Plans)	Plot 35	R065/P/1	15 February 2013
Belgrave House Type (Elevations)	Plot 35	R065/P/2	15 February 2013
Belgrave (Handed) Elevations & Floor Plans (Cheshire Elevations)	-----	HT146/P/111(H)	15 February 2013

Bonham House Type Floorplans & Elevations (Handed) Cheshire Elevations	-----	HT153/P/111(H)	15 February 2013
Bonham House Type Floorplans & Elevations (Country Elevations)	-----	HT153/P/113	8 November 2012
Belgrave House Type Floorplans & Elevations (Cheshire Elevations)	-----	HT146/P/111	8 November 2012
Bonnington House Type Floor Plans	-----	HT147/P/110-11	8 November 2012
Bonnington House Type Floor Plans (Handed)	-----	HT147/P/110-11(H)	8 November 2012
Bonnington House Type Elevations (Handed) (Render)	-----	HT147/P/112-11(H)	8 November 2012
Bonnington House Type Elevations (Country)	-----	HT147/P/113-11	8 November 2012

Reason: For the avoidance of doubt and in the interests of proper planning

The following informative is recommended drawing the applicant's attention to the comments made by the Architectural Liaison Officer: -

Please Note: In order to prevent the opportunity for criminal activity on the proposed development, the following recommendations should be taken into account: -

- The development should take into consideration the principles of Secured By Design in particular Part 2 Physical Security e.g. PAS 24 doorsets and laminated glazing in ground floor windows.
- Fencing arrangements are supported 1.8m high screen fence. Supporting horizontal posts should be on the private side of the fence so as not to create a climbing aid to potential offenders.
- The 1.8m high screen fencing arrangement highlighted on the plans should be fitted to the rear of plots 8 to 11 and 12 to 18. In order to maximise the opportunity for natural surveillance across the rear car parking arrangements at plots 8 to 11, it is recommend that the 1.8m fence is 1.2m close boarded with a 600mm trellis topping. This would allow residents to view their vehicles from windows within the properties as well as their rear gardens.
- The rear parking area at plots 8 to 11 should be well lit with an even spread of lighting to British Standard 5489 so as to reduce the fear of crime and deter potential offenders.
- Access to plots 8 and 11 are via the side of the dwellings should be gated flush with the building line with a lockable gating arrangement so as to restrict unauthorised access to the vulnerable rear of the dwellings. In terms of access to the rear of plots 9 and 10, which is via a pathway, there should be a lockable gate fitted to the end of this pathway to restrict unauthorised access into the rear of the dwellings.

- The pathway leading to the rear of plots 15 and 16 should be gated flush with the front of the building line to restrict unauthorised access to the rear of the dwellings.
- Other dwelling types e.g. detached units indicate rear access at the side of the properties so these should be gated flush with the front of the building line.

Further Security advice can be obtained from the above office. Secured By Design checklists can be obtained from the above office or at www.securedbydesign.com.

ITEM 4c-12/01247/FULMAJ – Site Of Former Social And Athletic Club Duke Street Chorley

The recommendation remains as per the original report

The following consultee responses have been received:

Sport England objects to the proposal because is not considered to accord with any of the exceptions in Sport England's playing fields policy or paragraph of the National Planning Policy Framework (NPPF) and have made the following comments:

- It is understood that the site forms part of, or constitutes a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No. 2184), in that it is on land that has been used as a playing field within the last five years, and the field encompasses at least one playing pitch of 0.2 ha or more, or that it is on land that allocated for the use as a playing field in a development plan or in proposals for such a plan or its alteration or replacement.
- Sport England has therefore considered the application in the light of its playing fields policy. The aim of this policy is to ensure that there is an adequate supply of quality pitches to satisfy the current and estimated future demand for pitch sports within the area. The policy seeks to protect all parts of the playing field from development and not just those which, for the time being, are laid out as pitches. The Policy states that:
 "Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of, all or any part of a playing field, or land last used as a playing field or allocated for use as a playing field in an adopted or draft deposit local plan, unless, in the judgement of Sport England, one of the Specific circumstances applies."
Reason: Development which would lead to the loss of all or part of a playing field, or which would prejudice its use, should not normally be permitted because it would permanently reduce the opportunities for participation in sporting activities. Government planning policy and the policies of Sport England have recognised the importance of such activities to the social and economic well-being of the country.
- A previous application ref: 08/001170 has planning approval subject to a s106 requiring £525,000 to improve sports facilities at West Way. Sport England objected initially but the objection was withdrawn subject to a signed s106. Sport England responded then and now on a statutory basis as the site is allocated as playing field in the Adopted Chorley Borough Local Plan. The Local plan and the relevant policy LT14 have not yet been superseded.
- The sites last use was as a playing field with a football pitch, bowling green and changing facilities. Submitted information suggests the site was last used

as playing field in 1996 when the club closed. However, consultation with Lancashire FA suggests that although the pitch is unmarked and largely overgrown, there is casual use as a kick about area. The changing rooms have burnt down and the applicant suggests local consultation with the community could find no interest in the bowling green. The pitch is said to have had drainage problems leading to lack of use.

- I understand the site has been identified as a housing site in the emerging Local Plan although Sport England have not been made aware of the previous consultation documents and as such have not had an opportunity to comment. We had been made aware of the publication Local Plan at late notice and found the Local Plan to be sound and legally compliant in general but were unable to look at specific sites. The publication version of the Local Plan designates this site as brownfield which is contrary to the NPPF definition of previously developed land.
- As this site is allocated as a recreation ground by virtue of local plan policy LT14 and its last use was as a playing field this site should be excluded from the previously developed land definition and treated as a greenfield site.
- NPPF paragraph 6 sets out the Governments view of what constitutes sustainable development:
 “The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.”
- Sustainable development aims to ensure the local population has sufficient housing, jobs and access to health, sport and recreation facilities whilst maintaining and protecting conservation and amenity areas. I note the applicant has failed to refer to paragraphs 73 and 74 of the NPPF in the submitted information which are the government’s policies that directly relate to sport and recreation. Therefore, the loss of playing field in the context of paragraph 74 has not been established:
 “74. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
 - an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
 - the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
 - the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.”
- The adopted Playing Pitch Strategy (June 2012) shows a deficit of pitches in the area and the site has not been specifically identified in the PPS as surplus to requirement.
- The Central Lancashire Playing Pitch Strategy (adopted June 2012) includes Chorley. This site and other disused sites and undeveloped sites were not identified in the PPS, only those playing fields that are currently in use. The surpluses and deficits identified in the PPS only relate to peak period usage and do not take into account other activity throughout the week. Training and informal use has been picked up on some existing sites where known, but the Playing Pitch Model does not allow for this type of usage to be included within the calculations. The FA has identified casual use on this site, which it is accepted is difficult to pick up in a PPS. However, the PPS methodology does require the assessor to translate any known casual use into match and team equivalents so it can be included in the demand and supply analysis. This casual use was not picked up in the adopted PPS and the site was therefore

not included in the supply side. Sport England require lapsed sites to be included in the PPS to establish whether the site is required to be brought back into use to satisfy identified unmet demand. This has not been undertaken for any lapsed sites in the Central Lancashire area.

- The level of contribution put forward by the applicant is based on the standard set out in the PPS. The PPS states there is a deficiency in pitches that can be met by improving capacity at existing sites. The PPS then goes on to state: “Given the proposed standards take into account latent demand and deficiencies from the PPM, they should be used to calculate the amount of provision to be sought for new housing development.
- Where contributions are to be sought to make improvements to existing provision, further calculations will be required to cost up the required works.
- As the developer contribution is required to mitigate a loss of playing field as well as accommodate additional demand arising from the housing development, the applicant along with the Council will need to establish a schedule of works required at a specific site or sites with a cost analysis undertaken by a suitably qualified sports turf specialist / agronomist. The site(s) and schedule of works would need to directly relate to the action plan and findings of the PPS. The only level of contribution put forward is that generated by the additional demand arising from the housing development based on the findings of the Playing Pitch Model (PPM). As the role of lapsed sites has not been factored into the local standards adopted in the PPS the applicant is required to carry out a further calculation that mitigates the physical loss of playing field. This calculation should also reflect the needs identified in the PPS Action Plan.
- Sport England wishes to object until a s106 is agreed and signed that:
 1. Identifies a site or sites with a schedule of works and cost analysis directly related to the PPS that mitigates the physical loss of the playing field and takes into account the additional demand arising from the new housing development.
 2. Sets a level of contribution that reflects the loss of the playing field and the additional demand arising from the new housing development.
- The contribution, identification of site(s,) and schedule of works are required to meet the second criteria in paragraph 74 of the NPPF and Sport England Policy exception E4:

‘The playing field or fields to be lost as a result of the proposed development would be replaced, prior to the commencement of development, by a new playing field site or sites:

 - of equivalent or better quality and
 - of equivalent or greater quantity;
 - in a suitable location and
 - subject to equivalent or better management arrangements.’
- Sport England accepts the quantity element of E4 need not be provided as the PPS identifies quality issues as the reason for the level of pitch deficiency. In practice this means quality improvements will be required to mitigate the loss rather than a full quantity replacement of playing field.

Planning Policy have confirmed that in response to their comments on the Playing Pitch Strategy, the study was led by a steering group made up of officers from the three Central Lancashire authorities and Sport England representation.

PLEASE NOTE: The reference to brownfield on the emerging Local Plan was included in error and a minor modification has been proposed to the emerging Local Plan classifying this site as greenfield/ brownfield.

Agents Response

The agent for the application has reviewed these comments and confirmed *The committee report already addresses most of the case put forward by Sport England in paragraphs 26 to 29 and 31 and especially paragraphs 40, 51 and 52. The bottom line is that the scheme will not deliver any further contribution towards playing field provision unless money is diverted from other targets. The playing field contribution has been calculated as being able to improve facilities in replacement for a facility that in reality does not exist and hasn't for many years.*

The only point made by Sport England that is not covered in the committee report is the belief from the FA that the pitch is used for casual kick about. This is entirely incorrect as the land is secured and the fences and gates are regularly maintained to prevent unwanted access to the private land. As owners Northern Trust can guarantee that no one has entered the site for casual games since it was closed. Even a cursory look at the site would show that the overgrown and rough state of the whole site renders such use impossible. Finally, why would anyone want to use this land in its current state when there are two much better quality and maintained sports grounds opposite?

The Town And Country Planning (Consultation) (England) Direction 2009 relates to development where –

- (a) the land (or any part of the land) which is the subject of the application –
- (i) is land of a local authority; or
 - (ii) is currently used by an educational institution as a playing field; or
 - (iii) has at any time in the five years before the application is received been used by an educational institution as a playing field; and
- (b) the English Sports Council (“Sport England”) has been consulted pursuant to Article 10(1) of the Order, and has made representations objecting to the whole or part of the development on one or more of the following grounds –
- (i) that there is a deficiency in the provision of playing fields in the area of the local authority concerned;
 - (ii) that the proposed development would result in such a deficiency; or
 - (iii) that where the proposed development involves a loss of a playing field and an alternative or replacement playing field is proposed to be provided, that alternative or replacement does not match (whether in quantity, quality or accessibility) that which would be lost.

Although Sport England have objected to the proposals the land in question does not fall within any of the criteria set out within part (a) and as such it is not considered that this application needs to be referred to the Secretary of State.

Officers Response

In respect of the comments made it is noted that there is a deficit of playing pitch provision within the Borough and the strategy is to improve the existing provision rather than creating new provision. Sport England were consulted on the emerging Local Plan as detailed within the comments and found the plan to be ‘sound and justified’ and the ‘Local Plan as a whole is legally compliant’.

Sport England comment that they *require lapsed sites to be included in the PPS [Playing Pitch Strategy] to establish whether the site is required to be brought back into use to satisfy identified unmet demand. This has not been undertaken for any lapsed sites in the Central Lancashire area.* However Sport England were part of the steering group that led the study and have previously endorsed the Playing Pitch

Strategy (2011) as robust. As such it is unclear why Sport England are now objecting to proposed allocations within the Local Plan.

The Local Plan allocates this site for residential use completely losing the existing open space allocation and given the comments above regarding the plan as a whole this relates to all of the policies within the local plan. It is noted that only limited weight can be afforded to the emerging local plan allocation and the current local plan allocates this site as open space. However on 27th March 2013 the 12 month time period set out with annex 1 of the framework ends and following this date due weight will be given to relevant policies in existing plans according to their degree of consistency with the Framework.

Paragraph 74 of the Framework states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

Taking into account the deficit of playing pitches within the Borough it is considered that Policy LT14 is in accordance with the second bullet point above.

As such the determination of this application must be made in accordance with the development plan unless material considerations indicate otherwise. In this case it is considered that the development of this site would meet the sustainable principles embodied in the Core Strategy, in particular Policy 1 which identifies Chorley Town as an area for growth. It is considered that the development of this site will secure benefits whilst contributing to the aims of both the framework, as a whole, and the Core Strategy.

Lancashire County Council (Highways) have no objection to the proposals subject to the following comments:

- The submitted location plan shows that the applicant does not have control over the section of Richmond Court where the access is proposed. Richmond Court is currently un-adopted and any such proposal would require the land owners' consent.
- From plan, it appears the entire length of footway on the easterly side of Bedford Street will be altered to allow for parking bays to be created in front of the terraced houses. I have no issues with these bays being created; however, given that the vehicles would be parked in-line, a bay length of 6m will be required for each car.
- It is noted from plan that some of the parking spaces are of differing sizes and the proposed garages are of sizes that I would be reluctant to accept. The internal dimensions of the garages as proposed are 5.850m x 2.148m. This would not allow vehicles to safely enter and leave the garage.
- The applicant stated in the Design and Access Statement that cycle storage will be provided on site to encourage green travelling solutions, however, this has not been shown on plan.
- In accordance with the Planning Obligations in Lancashire Policy Paper therefore, I calculated the Developer Contribution to total: £92,380

- Due to the anticipated increased use of the bus stops as a result of the proposed development, works will be required to upgrade the stops (on Pall Mall) to quality standards.

Agents Response

These comments were forwarded to the agent for the application who has confirmed:

- Northern Trust have an established access into the site from Richmond Court via an existing gate
- Northern Trust own the land to the back of kerb on both Bedford Street and Richmond Court
- The site location plan has been amended slightly to reflect this
- The ownership of Richmond Court is being investigated
- 12 metre long driveways are usually only necessary where there is garage accommodation. The driveways are 10 metres long and a plan has been submitted to show that 2 cars can comfortably use these driveways
- The width of the smallest garage is 2.677m and there are 10 garages with larger dimensions
- Cycle parking will be provided
- The suggested obligations would further render this scheme unviable
- In respect of the bus stop being DDA compliant we feel that £25,000 is very high but Northern Trust are happy to provide £10,000 to upgrade the bus stop

Officers Response

- The land ownership issues is being investigated by the Council's legal team
- Neighbours have not been consulted on the amended site location plan however this does not alter the scheme as proposed and has only been amended slightly to reflect the land ownership of Northern Trust.
- In this case 10 metre long driveways are considered to be acceptable as they will be sufficient to accommodate 2 cars.
- The smaller garages are provided on plots where sufficient alternative parking provision is provided. The standard garages are provided on plots where the garage is required to 'count' as a parking space and this has been conditioned accordingly.
- Cycle parking can be conditioned
- In order for planning obligations to be attached to a recommendation they are required to meet the tests set out within the Framework (necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.) The Highway Engineer does not state that without the obligations the scheme would be unacceptable and as such it is not considered that these requirements met the tests. Additionally the Highway Engineers states that the contribution would be used to carry out the works via a S278 Agreement which is a separate legal agreement with the Highway Authority when contributions can be secured if considered necessary. In this case it is not considered that the requests met the tests however it is noted that the applicants are willing to contribute to upgrading the bus stop and this can be secured via the S106 Agreement if Members consider this appropriate.

The following conditions have been amended:

Condition 2

The hereby permitted shall be carried out in accordance with the following approved plans:

Title	Plot	Drawing Reference	Received date
Topographical Survey		S05/016	2 January 2013
Location and Site Plan		11/060/L01 Rev A	22 March 2013
Proposed Site Plan		11/060/P01 Rev C	22 March 2013
2H667 House Type	15/ 16/ 17/ 24/ 25/ 26/ 27/ 28/ 31/ 32/ 33/ 34/ 35/ 36/ 60/ 61/ 63/ 64/ 65	11/060/P02	2 January 2013
3H775 House Type	19/ 20/ 21/ 22/ 30/ 37/ 38/ 39/ 40/ 41/ 44/ 46/ 47/ 48/ 49/ 50/ 51/ 52/ 55/ 56/ 57/ 58/ 59/ 62/ 66/ 67/ 69	11/060/P03	2 January 2013
3H827 House Type	18/ 23/ 29/ 42/ 43/ 45/ 53/ 54/ 68/ 70	11/060/P04	2 January 2013
Affordable Apartments	1-6 (inclusive)	11/060/P05 Rev A	19 February 2013
Plots 57-60 Plans and Elevations	57-60 (inclusive)	11/060/P06	2 January 2013
3H775/ 33H827 Plans and Elevations		11/060/P07	2 January 2013
2H667 Plans and Elevations		11/060/P08	2 January 2013
Existing and Proposed Levels		11/060/P09 Rev C	22 March 2013
Plots 7-10 and 11-14 House Type	7-14 (inclusive)	11/060/P10	19 February 2013
6m x3m Single Garage- Gable to Road	18/ 23/ 29/ 62	11/060/G01	1 March 2013
6m x3m Twin Garage- Eaves to Road	54/ 55	11/060/G02	1 March 2013
6m x3m Twin Garage- Pyramid Roof	43/ 51/ 52/ 53	11/060/G03	1 March 2013
6m x3m Twin Two-Way Garage- Pyramid Roof		11/060/G04	2 January 2013
Standard Twin Garage		11/060/G06	2 January 2013
Standard Single Garage		11/060/G07	2 January 2013
Quadruple Garage	42/ 46/ 47/ 48	11/060/G08	19 February 2013
External Works- 1800mm brickwork Screen Wall		11/060/EW01	2 January 2013
External Works- 1800mm Timber		11/060/EW02	2 January 2013

Screen Fence			
External Works- 1800mm Party Fence		11/060/EW03	2 January 2013

Reason: For the avoidance of doubt and in the interests of proper planning

It is noted that an amended layout plan, levels plan and location plan were submitted on 22nd March which the neighbours have not been formally consulted on. This is due to the fact that the amendments are only minor and reflect the highway engineer's comments. As such a re-consultation was not considered necessary.

The following conditions have been added:

24. Before the development hereby permitted is first occupied, provision for cycle parking, in accordance with details first agreed in writing with the Local Planning Authority, shall have been provided in all respects and made available for use, and shall thereafter be retained.

Reason: To ensure adequate on site provision for cycle parking. In accordance with guidance contained within the National Planning Policy Framework, Policy 3 of the Central Lancashire Core Strategy 2012 and Policy TR4 of the Adopted Chorley Borough Local Plan Review

25. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- the parking of vehicles of site operatives and visitors
- hours of operation (including deliveries) during construction
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- wheel washing facilities
- measures to control the emission of dust and dirt during construction
- a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: In the interests of highway safety and to protect the amenities of the nearby residents.

The original report has been amended as follows:

For information ROI within paragraph 34 of the committee report relates to *Return on Investment*

ITEM 4d-12/01211/OUTMAJ – Finnington Industrial Estate Finnington Lane Feniscowles Withnell

The recommendation remains as per the original report.

The following conditions have been added. This is in response to the changes in policy relating to sustainable resources in new developments since the original application was approved in 2009. Core Strategy Policy 27 is now in force and the conditions will ensure the development accords with this policy.

- All dwellings commenced after 1st January 2013 will be required to meet Code Level 4 of the Code for Sustainable Homes and all live-work units commenced after 1st January 2016 will be required to meet Code Level 6 of the Code for Sustainable Homes. Within 6 months of occupation of each dwelling a Final Certificate, certifying that the relevant Code for Sustainable Homes Level for that dwelling has been achieved, shall be submitted to the Local Planning Authority.
Reason: In the interests of minimising the environmental impact of the development and in accordance with Policy 27 of the adopted Core Strategy.
- Prior to the commencement of the development a 'Design Stage' assessment and related certification shall be submitted to and approved in writing by the Local Planning Authority. The assessment and certification shall demonstrate that the live-work units will meet the relevant Code Level.
Reason: In the interests of minimising the environmental impact of the development and in accordance with Policy 27 of the adopted Core Strategy.
- No live-work unit shall be occupied until a letter of assurance; detailing how that plot has met the necessary Code Level has been issued by a Code for Sustainable Homes Assessor and approved in writing by the Local Planning Authority.
Reason: In the interests of minimising the environmental impact of the development and in accordance with Policy 27 of the adopted Core Strategy.
- Prior to the commencement of the development a Carbon Reduction Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall demonstrate that either appropriate decentralised, renewable or low carbon energy sources will be installed and implemented to reduce the carbon dioxide emissions of the development by at least 15% or additional building fabric insulation measures are installed beyond what is required to achieve the relevant Code Level rating.
Reason: In the interests of minimising the environmental impact of the development and in accordance with Policy 27 of the adopted Core Strategy.

ITEM 4e-13/00034/FUL – Logwood Stables Brinscall Mill Road Wheelton Chorley PR6 8TD

The agents acting on behalf of the neighbours have sent the attached letter in respect of the recommended conditions.

Overview of letter

- The agents consider that conditions 8, 9 and 11 do not satisfy the six tests of Circular 11/95 (set out within paragraph 22 of the report). The letter cites specific paragraphs of the circular in respect of attaching 'personal' conditions in this case.
- The letter considers that if the applicants appealed these conditions in the future they could be removed as they don't meet the tests and this could result in a commercial livery/ training yard at the site with no future controls
- The agent considers that the only way to protect against inappropriate development in the Green Belt and ensure it does not become unrestricted is

to revisit the resolution on 5th March and refuse planning permission for this application.

- The agent acting on behalf of the neighbours considers that the only way to ensure the proposed lighting is adequately assessed in terms of effect on residential amenity, and the character of the area is to see the full details of the proposed lighting and all external lighting should be excluded. This is addressed by virtue of condition 6.

Officers Response

Paragraph 93 of Circular 11/95 states *Unless the permission otherwise provides, planning permission runs with the land and it is seldom desirable to provide otherwise. There are occasions, however, where it is proposed exceptionally to grant permission for the use of a building or land for some purpose which would not normally be allowed at the site, simply because there are strong compassionate or other personal grounds for doing so. In such a case the permission should normally be made subject to a condition that it shall enure only for the benefit of a named person-usually the applicant (model condition 35): a permission personal to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company. This condition will scarcely ever be justified in the case of a permission for the erection of a permanent building.*

Paragraph 94 states *Conditions are sometimes imposed to confine the occupation of commercial or industrial premises to local firms. Such conditions can act - - undesirably - to protect local businesses against fair competition, and may hinder the movement of industry in response to economic demand. If a service, or the employment it generates, is needed in an area, there is no planning reason why it should be provided by one firm rather than another. Commercial and industrial buildings in an area of open countryside will not become more acceptable because their occupancy is restricted, nor will the expansion of a local firm necessarily lead to less pressure for further development (e.g. housing) than the arrival of a firm from outside. The Secretaries of State therefore regard such conditions as undesirable in principle.*

As set out above the Council can apply conditions to planning permissions tying them to a particular person (a personal permission), however Circular 11/95 advises against the imposition of conditions which require that a permission is only exercisable by a specific named individual, particularly where a permanent building is proposed.

In this case conditions 8 and 9 have been drafted based on this particular type of development and the conditions are required based upon the submissions of the applicant and on which Members made their recommendations. Members are asked to consider whether these conditions adequately address their considerations of the proposals.

The Monitoring Officer has responded to the specific concerns raised in the letter as follows:

I stand by the comment. I acknowledge the representation about the personal nature of the condition, but as I understood the position, this permission is very personal to the applicant and relates to her particular needs. If the property were to be sold the removal of the building will be required unless the new owner applies to amend the condition or for a permission of their own.

Comments contained within the Report

As noted within the report before Members (paragraphs 10, 16 and 19) the agent requested time to further consider the conditions as drafted. In this regard he has now confirmed that his clients are happy to accept conditions 6 (conditioning out lighting), 8 (restrictive riding and training) and 15 (Carbon Reduction Statement) as drafted.

In respect of conditions 12-14 the agent has submitted a Sustainability Statement. The agent has confirmed that *We have consulted with a BREEAM accredited professional (BREEAM AP-0424, BREEAM listed assessor and BREEAM licensed assessor company). The report states that 'The findings of this review-statement confirm the development cannot achieve the imposed BREEAM rating due to the proposed use of the building and its material specifications, in addition it cannot meet the 15% carbon reduction target set by Part L2A of the Building Regulations due to a lack of TER./BER calculations.'*

In light of this the agent has requested that conditions 12-14 be removed as in this case the BREEAM Assessment is not achievable.

The submitted statement has been assessed by Planning Policy who have confirmed that given that a BREEAM assessor has confirmed that a BREEAM assessment cannot be undertaken for this type of building the first 3 conditions should be removed.

As such it is proposed to remove these three recommended conditions.

ITEM 4f-13/00035/FUL – Logwood Stables Brinscall Mill Road Wheelton Chorley

The agents acting on behalf of the neighbours have sent the attached letter in respect of the recommended conditions.

Officers Response

Please see above as the agent questioned the acceptability of condition 6 in respect of using a personal condition.

The Monitoring Officer has responded to the specific concerns raised in the letter as follows:

I stand by the comment. I acknowledge the representation about the personal nature of the condition, but as I understood the position, this permission is very personal to the applicant and relates to her particular needs. If the property were to be sold the removal of the building will be required unless the new owner applies to amend the condition or for a permission of their own.



p wilson & company
chartered surveyors

Paul Whittingham
Chorley Council
Civic Offices
Union Street
Chorley PR7 1AL

Our Ref: C2974-1.SM.kh
22 March 2013

BY POST AND EMAIL

Dear Sirs,

**PLANNING APPLICATIONS 13/00034/FUL AND 13/00035/FUL
OUR CLIENTS: MR & MRS J SHACKLADY, LOGWOOD MILL FARM, HEAPEY, CHORLEY PR6
8TD**

Thank you for your letter of 20th March 2013 sent by email informing us of the Committee meeting on 26th March 2013.

We respond to the Committee Reports on behalf of our above named clients below.

13/00034/FUL

- We sympathise with Planning Officers as they have been given the unenviable task of patching up the cracks in this flawed resolution by the use of conditions.
- However, the use of conditions should not be abused in this manner. Draft conditions 8, 9 and 11 do not satisfy the six tests outlined in Government *Circular 11/95: Use of conditions in planning permission*. They are tantamount to personal and commercial occupancy conditions, which are dealt with in paragraphs 93 and 94 of the Circular.
- Paragraph 93 of Circular 11/95 states that a personal permission:
"will scarcely ever be justified in the case of a permission for the erection of a permanent building."
- Paragraph 94 deals with the general undesirability of commercial and industrial occupancy conditions and the Secretaries of State guidance. It states:
"commercial and industrial buildings in an area of open countryside will not become more acceptable because their occupancy is restricted, nor will the expansion of a local firm necessarily lead to less pressure for further development (eg, housing) than the arrival of a firm from outside. The Secretaries of State therefore regard such conditions as undesirable in principle."
- Accordingly, if we were acting for the Applicant, we would advise them not to query these conditions, wait till they are approved, and then apply to remove them on the grounds they do not comply with the six tests and guidance in Circular 11/95.
- Paragraph 42 of Circular 11/95 states:
"An unreasonable condition does not become reasonable because an applicant suggests it or consents to its terms. The condition will normally run with the land and may therefore still be

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operative long after the applicant has moved on; it must always be justified on its planning merits."

- The Council is therefore at grave risk of approving a development that at a later date will not be restricted to the applicants use only. Consequently, a large commercial livery/training yard could operate in the future without the Council being able to control it. It is not the Council's intention to approve such a commercial livery/training development, nor has this been considered by Planning Officers, or the Committee. A development use on such a scale would have even greater adverse impacts on openness of the Green Belt, residential amenity, and highways safety.
- Unfortunately, the monitoring officer's end comments are misleading. Even though the recommended conditions may secure the proposals put forward by the applicant and approved at the last Committee meeting, they do not satisfy the six tests and are at risk of being removed in the future. We therefore ask the monitoring officer to amend their comments accordingly.
- In reality, conditions cannot safely ensure this proposal is only used by the applicant, and occupied for the proposed purpose without them failing to meet the six tests. The only way to protect against this inappropriate development in the Green Belt and ensure it does not become unrestricted is to revisit the resolution on 5th March and refuse planning permission for this application.
- The applicants have come nowhere close to proving very special circumstances that outweigh the harm this development will cause to the Green Belt. At any appeal a Planning Inspector would not consider there are special circumstances. There are ample appeal precedents to prove this. Consequently, the resolution made by Committee on 5th March was not in accordance with relevant planning policies and there are no appropriate material considerations to indicate why they should be ignored (even within their grounds for approval). Again, our clients ask you to reconsider your decision.
- Notwithstanding, and without prejudice to our above comments the only way to ensure the proposed lighting is adequately assessed in terms of affect on residential amenity, and the character of the area is to see the full details of the proposed lighting. This should include materials, positioning, level of light emitted from site, and impacts on local residents. Currently, the Council are not in a position to be able to condition any such lighting as we do not know what is proposed. All external lighting should be excluded.

13/00035/FUL

- Again, condition 6 is a personal condition and does not satisfy the six tests. We ask the monitoring officer to change their end misleading comments.
- The condition once again attempts to patch up a flawed decision. The retrospective engineering works create an urban form which encroaches into the countryside and does not accord with the purposes of including land with the Green Belt. This appears to have been ignored by the Committee.
- We again ask the Committee to reconsider their resolution on 5th March and refuse the planning application according to their own officer's recommendations.

Yours sincerely,



S MARSHALL
for P Wilson & Company

email: sophie.marshall@pwcsurveyors.co.uk

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