

Item 11/00312/FUL

Case Officer Mr Matthew Banks

Ward Clayton-le-Woods And Whittle-le-Woods

Proposal Application to vary/part remove Condition 14 (sustainable resources) of planning approval 10/00823/FULMAJ.

Location 202 Chorley Old Road Whittle-Le-Woods Lancashire PR6 7NA

Applicant Wainhomes (North West) Ltd

Consultation expiry: 10 May 2011

Application expiry: 2 June 2011

Proposal

1. Application to vary/part remove Condition 14 (sustainable resources) of planning approval 10/00823/FULMAJ.

Recommendation

2. It is recommended that this application is approved subject to conditions.

Chairs Brief

3. This application is being brought to Chair's Brief as two letters of objection have been received.

Consultation expiry date: 10 May 2011

Decision date: 2 June 2011

Main Issues

4. The main issue for consideration in respect of this planning application is whether the proposed alterations to condition 14 maintains the overall policy objective of Policy SR1 of the Sustainable Resources Development Plan Document (DPD).

Representations

5. To date (27th May 2011) a total of 2 letters of objection have been received concerning this application. The concerns raised in the letters of objection can be summarised as follows:

- There should be no more house building in Whittle-le-Woods;
- The site should be kept as a green field site;
- There is no demand for housing in the area;
- Adverse impact on neighbouring properties with regards to noise, disturbance and loss of privacy;
- Adverse impact to highway safety;
- Adverse impact to the character and appearance of the area.

Consultations

6. Coal authority – Standing advice
7. Parish Council – no comments to make

Assessment

8. This application seeks to part remove/vary Condition 14 of planning approval 10/00823/FULMAJ. Condition 14 reads:
9. The development shall not commence until a Design Stage/Interim Code Certificate is submitted to the Local Planning Authority demonstrating that the proposed development will achieve the relevant Code for Sustainable Homes level. All dwellings commenced after 1st January 2010 will be required to meet Code Level 3, all dwellings commenced after 1st January

2013 will be required to meet Code Level 4 and all dwellings commenced after 1st January 2016 will be required to meet Code Level 6. In accordance with Policy SR1 of the Sustainable Resources DPD, renewable or low carbon energy sources must be installed to reduce the predicted carbon emissions of the development by at least 10%. To demonstrate that this has been achieved, the Design Stage/Interim Code Certificate must show that the proposed development will achieve 1 credit within Issue Ene7: Low or Zero Carbon Technologies. The approved details shall be fully implemented and retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the proper planning of the area. In accordance with Government advice contained in Planning Policy Statement: Planning and Climate Change - Supplement to Planning Policy Statement 1 and in accordance with Policies EM16 and EM17 of the North West Regional Spatial Strategy and Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.

10. For the purposes of this application, it is considered appropriate to deal with the condition in two parts, the first part relating to the requirements of the Code for Sustainable Homes, which for the purposes of this report will be referred to as part A and the second part in relation to renewable or low carbon energy sources, which for the purposes of this report will be referred to as Part B. Therefore, condition 14 will essentially be assessed as:

Part A:

11. The development shall not commence until a Design Stage/Interim Code Certificate is submitted to the Local Planning Authority demonstrating that the proposed development will achieve the relevant Code for Sustainable Homes level. All dwellings commenced after 1st January 2010 will be required to meet Code Level 3, all dwellings commenced after 1st January 2013 will be required to meet Code Level 4 and all dwellings commenced after 1st January 2016 will be required to meet Code Level 6.

Reason: To ensure the proper planning of the area. In accordance with Government advice contained in Planning Policy Statement: Planning and Climate Change - Supplement to Planning Policy Statement 1 and in accordance with Policies EM16 and EM17 of the North West Regional Spatial Strategy and Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.

Part B:

12. In accordance with Policy SR1 of the Sustainable Resources DPD, renewable or low carbon energy sources must be installed to reduce the predicted carbon emissions of the development by at least 10%. To demonstrate that this has been achieved, the Design Stage/Interim Code Certificate must show that the proposed development will achieve 1 credit within Issue Ene7: Low or Zero Carbon Technologies. The approved details shall be fully implemented and retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the proper planning of the area. In accordance with Government advice contained in Planning Policy Statement: Planning and Climate Change - Supplement to Planning Policy Statement 1 and in accordance with Policies EM16 and EM17 of the North West Regional Spatial Strategy and Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.

13. Firstly, it must be noted that at this particular site there is a recent appeal decision (ref: 10/00417/FULMAJ) which covers the issues which are subject of this application and therefore, the appeal decision is a material planning consideration when determining the current application.
14. With regard to the appeal decision notice, when commenting on condition 14, in essence, the Inspector took the view that part A of the condition was unnecessary as the requirements of this part would be covered via building regulations. In relation to part B, the inspector took the view that it would be reasonable and necessary to require the use of renewable or low energy carbon sources in the development. As such, the Inspector imposed a model condition which stipulated 10% of the energy supply of the development to be from decentralised and

renewable or low energy sources. Therefore, if the council were to strictly take the view of the inspector, part A of condition 14 should be omitted from the scheme and part B should be met through decentralised and renewable or low energy sources (essentially as per the guidance in the Sustainable Resources Development Plan Document).

15. The appellant has referred to the Inspector's assessment of condition 14 but has also proposed to vary Part B. This has essentially resulted in the applicant applying to omit part A of condition 14 but varying the second part so that the policy objectives of Part B are still met, however, by means other than from decentralised, renewable or low carbon energy sources.
16. Therefore, having set the parameters of this application, it is now appropriate to outline the council's position concerning both Parts A and B of condition 14, addressing each issue separately.

Condition 14 Part A

17. The council disagrees with the removal of part A of condition 14. This is because the implementation of the Code for Sustainable Homes (as a whole) is not done entirely through the Building regulations. The confusion on this issue stems from Building Regulations Part L, which addresses the conservation of fuel and power in dwellings and is used to calculate carbon efficiency. The Regulations will be updated in 2010, 2013 and 2016 and it is expected that the energy performance requirements will be made equivalent to the existing Code Levels 3, 4 and 6 respectively. Some have taken this as meaning that the Code Levels themselves will be mandatory but this is not the case. It is just the CO₂ emission requirements of each Code Level that will effectively be made mandatory through Building Regulations.
18. The Communities and Local Government website provides information on the Code for Sustainable Homes. It states:
19. *"The Code is not a set of regulations. The Code goes further than the current building regulations, but is entirely voluntary, and is intended to help promote even higher standards of sustainable design. The Code measures the sustainability of a new home against nine categories of sustainable design, rating the 'whole home' as a complete package. It covers Energy/CO₂, Water, Materials, Surface Water Runoff (flooding and flood prevention), Waste, Pollution, Health and Well-being, Management and Ecology"*
20. The Code for Sustainable Homes Technical Guide November 2010 also states:
21. *"Performance targets are more demanding than the minimum standard need to satisfy Building Regulations or other legislation"*
22. Both of these sources highlight that the Code for Sustainable Homes goes beyond Building Regulations. Through PPS: Planning and Climate Change Supplement to PPS1 (CLG, 2007) local authorities are allowed to request higher levels of Code than are required through Building Regulations. The crucial bit here is that this must be required through a policy in the local authority's Development Plan Documents (DPDs). Policy SR1 is within an adopted Development Plan Document, not a Supplementary Planning Document (SPD) which clearly sets out that all new dwellings will be required to meet Level 3 of the Code for Sustainable Homes. The Council's approach in the DPD was found sound at Examination by an Inspector.
23. Whilst some bodies insist on housing schemes achieving level 3 of the Code, it is not currently mandatory for all developers to achieve all of the necessary credits to secure level 3 (or higher) of the Code. Therefore, part A of the original condition is necessary. Without part A of condition 14 there is no requirement for a developer to meet level 3 of the Code for Sustainable Homes. It has been noted that the applicants do not actually state that they will develop to level 3 of the Code for Sustainable Homes, they merely state that they will accord with the Building Regulations.
24. However, notwithstanding the above, the specific situation at this site means that the Inspector's appeal decision is a material planning consideration which has not been outweighed by other material planning considerations in this instance. Therefore, in this case, the council reluctantly agrees that part A of condition 14 can be omitted from this particular scheme.

Condition 14 Part B

25. With regards to part B of condition 14, the Inspector took the view that it would be reasonable and necessary to require the use of renewable or low energy carbon sources in the development. As such, the inspector imposed a model condition, which requires 10% of the energy supply of the development to be from decentralised, renewable or low energy sources.
26. However, the council suggests a more pragmatic approach to overcome this part of the condition which could only be explored through further information. This information would have to clearly outweigh the weight attached to the Inspector's appeal decision if a favourable outcome were to be received. For example, in this case, 10% renewables are required through decentralised and renewable or low energy sources, so if the applicant were able to demonstrate that more than 10% renewables could be achieved by other means (i.e. through the fabric of the building(s)), then this could be considered as a material consideration that could be weighed favourable in varying Part B to exclude being specific to decentralised and renewable or low energy sources, provided the alternative approach is in keeping with the overall policy objective.
27. The applicant has supplied a table which shows each of the proposed house types and plot numbers at the site which demonstrates that a reduction of approximately 11% in carbon emissions over the whole development is achievable, by means other than decentralised and renewable or low energy sources. This includes improving the U value of the building fabric by increasing insulation thickness of the external walls, roof, ground floors and by increasing the thermal properties of all windows. As such, Part B of condition 14 can be appropriately varied and the development will be conditioned in accordance with the information provided in support of the application.

Overall Conclusion

28. With regard to the above, the specific merits of this case mean that Part A of condition 14 should be reluctantly omitted from the scheme and Part B can be appropriately varied to reflect that which has been demonstrated in the supporting table.
29. As such, the application is consequently recommended for approval subject to conditions.

Planning Policies

National Planning Policy

Planning Policy Statement 1: Delivering Sustainable Development (PPS1)

Adopted Chorley Borough Local Plan Review

Policy SR1 of the Adopted Sustainable Resources Development Plan Document

Planning History

There is no relevant history in relation to the application site.

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- Application to vary/part remove Condition 14 (sustainable resources) of planning approval 10/00823/FULMAJ.
- Approve subject to conditions
- 2 June 2011

Recommendation: Permit Full Planning Permission Conditions

1. The development hereby permitted shall only be carried out in accordance with the table (stamp-dated 27th May 2011) demonstrating that the Dwelling Emission Rates (DER) of the proposed dwellings will achieve more than a 10% improvement against the Target Emission Rate (TER), thereby reducing the carbon emissions' of the development. The approved details shall be fully implemented and retained in perpetuity unless otherwise agreed in writing with the Local Planning Authority. *Reason: To ensure the development is in accordance with Government advice contained*

in Planning Policy Statement: Planning and Climate Change - Supplement to Planning Policy Statement 1 and is in line with the policy objectives of Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.

2. The approved plans are:

Stamp-dated on:	DWG No:	Title:
13 September 2010	1000	
13 September 2010	1100	
13 September 2010	1101	
13 September 2010	1010	
13 September 2010	SF/01	
13 September 2010	SF/03	
13 September 2010	GA-02	
13 September 2010	4.203/P/B/L	
13 September 2010	4.309/P/B/L	
13 September 2010	4.208/P/B/L	
13 September 2010	4.212/P/B/L	
13 September 2010	5.133/P/B/L	
13 September 2010	4.134/P/B/L	
13 September 2010	3.311/P/B/L	
13 September 2010	S09/116	
13 September 2010		Richmond Sheet 1 Of 2
13 September 2010		Double Garage (Gable Roof) Plan and Elevations

Reason: To define the permission and in the interests of the proper development of the site.

3. Before the development hereby permitted is first commenced, a scheme (including plans) shall be submitted to make good the gable end of No. 200 Chorley Old Road following the demolition of No. 202 Chorley Old Road (notwithstanding any such detail shown on previously submitted plan(s)). No development shall commence until such a scheme is approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved scheme. *Reason: To ensure a visually satisfactory form of development and to protect the amenities of the occupiers of nearby properties and in accordance with Policy No. GN5 of the Adopted Chorley Borough Local Plan Review.*

4. The integral/attached garage shall be kept freely available for the parking of cars and shall not be converted to living accommodation, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995. *Reason: To ensure adequate off street parking provision is maintained and thereby avoid hazards caused by on-street parking and to ensure a high quality visual environment is maintained and in accordance with North West Plan Partial Review (NWPPR) to Policy RT2 of the Regional Spatial Strategy and Policy No. HS4 of the Adopted Chorley Borough Local Plan Review.*

5. No development shall take place until:

- a) a methodology for investigation and assessment of ground contamination has been submitted to and agreed in writing with the Local Planning Authority. The investigation and assessment shall be carried in accordance with current best practice including British Standard 10175:2001 'Investigation of potentially contaminated site - Code of Practice'. The objectives of the investigation shall be, but not limited to, identifying the type(s), nature and extent of contamination present to the site, risks to receptors and potential for migration within and beyond the site boundary;
- b) all testing specified in the approved scheme (submitted under a) and the results of the investigation and risk assessment, together with remediation proposals to render the site capable of development have been submitted to the Local Planning Authority;
- c) the Local Planning Authority has given written approval to the remediation proposals (submitted under b), which shall include an implementation timetable and monitoring

proposals. Upon completion of the remediation works a validation report containing any validation sampling results shall be submitted to the Local Authority.

Thereafter, the development shall only be carried out in full accordance with the approved remediation proposals.

Should, during the course of the development, any contaminated material other than that referred to in the investigation and risk assessment report and identified for treatment in the remediation proposals be discovered, then the development should cease until such time as further remediation proposals have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the environment and prevent harm to human health by ensuring that the land is remediated to an appropriate standard for the proposed end use, in accordance with PPS23 given the size and sensitive end-use of the proposed development, and the potential for ground contamination to exist as a result of past processes and activities adjacent to the above site.

6. No development shall take place until a scheme for the provision and implementation of a surface water regulation system has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until the approved surface water drainage arrangements have been fully implemented. *Reason: To secure proper drainage and to prevent flooding and in accordance with PPS25 and Policy No. EP18 of the Adopted Chorley Borough Local Plan Review.*

7. Before the development hereby permitted is first commenced, full details of the position, height and appearance of all fences and walls to be erected (notwithstanding any such detail shown on previously submitted plan(s)) shall have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until all fences and walls shown in the approved details to bound its plot have been erected in conformity with the approved details. Other fences and walls shown in the approved details shall have been erected in conformity with the approved details prior to substantial completion of the development. *Reason: To ensure a visually satisfactory form of development, to provide reasonable standards of privacy to residents and in accordance with Policy No. HS4 of the Adopted Chorley Borough Local Plan Review.*

8. Before the dwellings hereby permitted are first occupied, the driveways as shown on the approved plans shall be provided for the use of the properties. *Reason: To ensure adequate on site provision of car parking and manoeuvring areas and in accordance with North West Plan Partial Review (NWPPR) to Policy RT2 of the Regional Spatial Strategy and Policy No. HS4 of the Adopted Chorley Borough Local Plan Review.*

9. No development shall take place until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority, notwithstanding any such detail which may have previously been submitted. The scheme shall indicate all existing trees and hedgerows on the land; detail any to be retained, together with measures for their protection in the course of development; indicate the types and numbers of trees and shrubs to be planted, their distribution on site, those areas to be seeded, paved or hard landscaped; and detail any changes of ground level or landform. *Reason: In the interests of the amenity of the area and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.*

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. *Reason: In the interest of the appearance of the locality and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.*

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), (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 on plots 1, 2, 5, 11 and 12, or any garage, shed or other

outbuilding erected (other than those expressly authorised by this permission). *Reason: To protect the amenities of the surrounding properties on Chorley Old Road and St Helens Road and in accordance with Policy No. HS4 of the Adopted Chorley Borough Local Plan Review.*

12. The development hereby permitted shall only be carried out in conformity with the proposed finished floor levels shown on the approved plan(s). *Reason: To protect the appearance of the locality and in the interests of the amenities of local residents and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.*

13. During the construction period, all trees to be retained shall be protected by 1.2 metre high fencing as specified in paragraph 8.2.2 of British Standard BS5837:2005 at a distance from the tree trunk equivalent to the outermost limit of the branch spread, or at a distance from the tree trunk equal to half the height of the tree (whichever is further from the tree trunk), or as may be first agreed in writing with the Local Planning Authority. No construction materials, spoil, rubbish, vehicles or equipment shall be stored or tipped within the area(s) so fenced. All excavations within the area so fenced shall be carried out by hand. *Reason: To safeguard the trees to be retained and in accordance with Policy Nos. EP9 of the Adopted Chorley Borough Local Plan Review.*

14. Notwithstanding the details shown on the submitted plans, the proposed driveway/hardsurfacing to the front of the property shall be constructed using permeable materials on a permeable base, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the boundaries of the property (rather than to the highway), unless otherwise agreed to in writing by the Local Planning Authority. *Reason: In the interests of highway safety and to prevent flooding, in accordance with Policy Nos. GN5 and HS9 of the Adopted Chorley Borough Local Plan Review.*

15. All windows in the first floor of the north elevation of the Stephenson house type hereby permitted on Plot 5 shall be fitted with obscure glass and obscure glazing shall be retained at all times thereafter. The obscure glazing shall be to at least Level 3 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing by the local planning authority. *Reason: In the interests of the privacy of occupiers of neighbouring property and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.*

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order, with or without modification), no windows other than those expressly authorised by this permission, shall be inserted or constructed at any time at first floor level or above in the north elevation of the of the Stephenson house on Plot 5 type hereby permitted. *Reason: To protect the amenities and privacy of the adjoining property and in accordance with policy HS4 of the Adopted Chorley Borough Local Plan Review.*

17. All windows in the first floor of the south elevation of the Montgomery house type hereby permitted on Plot 11 shall be fitted with obscure glass and obscure glazing shall be retained at all times thereafter. The obscure glazing shall be to at least Level 3 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing by the local planning authority. *Reason: In the interests of the privacy of occupiers of neighbouring property and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.*

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order, with or without modification), no windows other than those expressly authorised by this permission, shall be inserted or constructed at any time at first floor level or above in the south elevation of the of the Montgomery house on Plot 11 type hereby permitted. *Reason: To protect the amenities and privacy of the adjoining property and in accordance with policy HS4 of the Adopted Chorley Borough Local Plan Review.*

19. Before the dwellings hereby permitted are first occupied, the properties hereby permitted on plots 5,6,7,8 and 9 shall incorporate the following specifications of 'Secured by Design':

- All windows at ground floor level shall conform to the 'improved security' window standard BS7950 and shall be fitted with double glazed panels with laminated glass to the exterior set in BS7950 Secured by Design certified frames;
- The ground floor entrance doors shall comprise 'Secured by Design' enhanced security doors BSI PAS 24-1999;
- Security lights shall be fitted to the front entrance door and on the rear of these properties.

Reason: To reduce crime and make the properties a safer place to live in.

20. Before the dwellings hereby permitted are first occupied, all properties shall be fitted with an intruder alarm with PIR covering the ground floor to comply with BS4737 of 'Secured by Design' guidelines. *Reasons: To reduce crime and make the properties a safer place to live in.*

21. The proposed development must be begun not later than three years from the date of this permission. *Reason: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004.*

22. 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 or unless otherwise first agreed to in writing by the Local Planning Authority. *Reason: To define the permission and in the interests of the proper development of the site*

23. The development hereby permitted shall not commence until samples of all external facing materials to the proposed building(s) (notwithstanding any details shown on previously submitted plan(s) and specification) have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out using the approved external facing materials. *Reason: To ensure that the materials used are visually appropriate to the locality and in accordance with Policy Nos. GN5 & HS4 of the Adopted Chorley Borough Local Plan Review.*

24. The development hereby permitted shall not commence until full details of the colour, form and texture of all hard ground- surfacing materials (notwithstanding any such detail shown on previously submitted plans and specification) have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in conformity with the approved details. *Reason: To ensure a satisfactory form of development in the interest of the visual amenity of the area and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.*
