

Item 4i **11/01085/OUTMAJ**

Case Officer **Mr Paul Whittingham**

Ward **Clayton-le-Woods West And Cuerden**

Proposal **Section 73 application to amend condition 20 (Layout of Highway Improvements at Hayrick Junction) of Outline application 10/00414/OUTMAJ relating to the residential development of up to 300 dwellings (comprising 2, 2.5, & 3 storeys) with details of access and highway works and indicative proposals for open space, landscape and associated works.**

Location **Land South Of Cuerden Farm And Woodcocks Farm And Land North Of Caton Drive Wigan Road Clayton-Le-Woods Lancashire**

Applicant **Fox Land & Property (FLP)**

Consultation expiry: 18 January 2012

Application expiry: 12 March 2012

Proposal

1. This application is a section 73 application to vary condition 20 (Layout of Highway Improvements at Hayrick Junction) attached to planning approval 10/00414/OUTMAJ.
2. Outline planning permission was granted on Appeal in July 2011 to develop land east of Wigan Road, Clayton Le Woods for up to 300 houses associated landscape treatment and highway works.

Recommendation

3. It is recommended that this application is granted conditional outline planning approval subject to the associated supplemental Section 106 Agreement.

Main Issues

4. The main issues for consideration in respect of this planning application are:
 - Principle of the development
 - Condition 20
 - Other Conditions

Representations

5. 2 letters of objection have been received that have regard to the following issues:
 - This proposal did not appear on the local search & we are naturally upset to find that our neighbouring field which is full of wildlife and appeared on the local search as "of environmental interest" may be reduced to an annex of Buckshaw village.
 - This will significantly affect the local habitat, traffic congestion and character of the Cuerden valley area.
 - Why does Chorley council wish the area to be an even bigger commuter sprawl of Manchester. Greenfield areas lost for what reason ?.....it's cheaper than brownfield development.

- This development should be dismissed until Buckshaw is established and working as a community first and all other brownfield sites have been considered.
- This junction is already busy enough.

6. Cuerden Parish Council

Wish to comment that the site for 300 houses is part of a bigger scheme with 14 houses on the Burrows site and a further 700 houses on the remaining land. The proposed changes to the Hayrick junction will in no way make everything right. Traffic will increase and the bottle neck will be further along the A49 and the Parish Council hate to think about the end result.

Consultations

7. **Lancashire County Council (Highways)**

Raise No Objection to amending condition 20 with the submitted plan AHA DRg No 1212/16/B. LCC are satisfied that the measures indicated on the drawing achieve the same opportunity to increase capacity for traffic entering the junction from A49 south as did the approved junction layout.

It is accepted that the amended drawing indicates a compromise in terms of the new kerblines for the left turn A49 to Leyland Way however the final detailed design will be completed by the Road Design Team to ensure that changes satisfy movement demand for all modes and any supporting infrastructure can be accommodated.

8. **Highways Agency**

Raise No Objection to the principle of changing the wording of the condition concerned. The conditions proposed are more reflective of how we would normally word Highways Agency conditions. The proposed condition is required to be amended and the amended condition would be as follows:

“20. No more than 151 of the residential units hereby approved shall be first occupied until the improvements detailed in Condition 19 have been completed. Details of the junction improvements shall be submitted to and approved in writing by the Local Planning Authority prior to any work commencing and all work shall be completed in accordance with the approved details. The works listed under i) and ii) of condition 19 shall broadly accord with the details shown in outline on the Ashley Helme and Associates drawing number 1212/16A, dated December 2011.”

Applicants Case

9. The applicant has raised the need to amend Condition 20 of the planning approval granted on appeal and highlight that there have been no material change in policy or circumstance since the appeal decision.

Assessment

Principle of the development

10. The principle of redeveloping the site was established by the grant of outline planning permission. This application purely proposes amendments to the detail of the approval specifically the approved highway layout the details of which are addressed below.
11. As this is an amendment to the original permission and the Government advise is that the proposal will already have been judged to be acceptable in principle at an earlier date. 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.

Background Information

12. Planning Permission was granted on appeal by the Secretary of State in July 2011 following a Public Inquiry in March 2011. The reason for refusal related to the location of the site within an area of Safeguarded Land as defined within the Local Plan. Within the Public Inquiry matters of highway safety and changes to the Hayrick Junction were dealt with by way of Statement's of Common Ground and the Inspector and the Secretary of State accepted the highways evidence that the proposed junction layout and associated changes would provide improvements to capacity and performance.

Condition 20

13. Condition 20 of the approval stated:
"No more than 151 of the residential units hereby approved shall be first occupied until the improvements detailed in Condition 19 to the signal controlled junction of the A49 and B5256 (Hayrick Junction) have been completed. The works listed under i) & ii) of condition 19 are to be carried out as detailed on the Ashley Helme Associates drawing no 1212/16 & dated April 2010. Any further details requested by the Local Planning Authority shall be supplied for approval and the works shall be completed in accordance with the approved details."
14. The condition recommended by the Planning Inspector and accepted and imposed by the Secretary of State referred to a plan number (1212/16) and any change or modification to the highway design detailed on that plan could not be implemented without a further planning application, hence this application.
15. In this situation the design of the Hayrick junction was based on information about the extent of the adopted highway within the vicinity of the junction and in particular to the south west of the junction. A landowner has queried the extent of the adopted highway land and has indicated that elements of the proposed highways works of improvement detailed on plan (1212/16) are actually within their ownership. Lancashire Highways have been approached to identify if the land is adopted highway land or not and are not able to counter the evidence of the landowner that has come forward. It must therefore be assumed that the land is not highway land and can not be incorporated within an amended plan.
16. The proposed plan, the subject of this application has been backed up by a survey of the various ownerships and will extend and modify the south west corner of the junction to still deliver the 4 lanes originally shown. The modification now proposed being that for vehicles heading north and turning left to go towards Leyland on Leyland Way and the M6 south that instead of a dedicated left turning lane and 3 lanes on Leyland Way there would be two lanes on Leyland Way plus a hatched area of carriageway close to the junction expanding to three lanes within approx. 22metres. It is not envisaged from a highway management point of view that queuing will result in vehicles being prevented from turning left and there is therefore no highway associated impact resulting from the amended layout plan.
17. The plan subject to amended conditions is acceptable to the Highways Agency and to Lancashire County Highways.

Remaining Conditions

18. The provisions of the section 73 applications mean that other conditions are capable of being considered, however the provisions also highlight that conditions can only be amended if there are changes to the material circumstances since the previous decision was made.

19. In this instance there is no significant change to the Development Plan, to material considerations or other circumstances since the determination was made by the Secretary of State. Therefore there are no other conditions proposed to be changed as part of this application.

Parish Council Comments

20. The comments of the Parish Council do relate to matters of the principle of developing this site and the wider area for housing. The matters of principle relating to the other developments mentioned and particularly the 700 house scheme will be dealt with in due course and the Parish Council should be encouraged to respond to that application with their concerns.

Impact on the neighbours

21. As indicated earlier within the report the principle of the site being developed has been determined and the change to the proposed plans are limited to minor changes to the highway layout. The concerns expressed by two residents relate to the principle of the development as opposed to any of the details now being changed. The reference to Local Authority searches is not a material consideration in the determination of the application and in any event a search would normally only relate to the specific property requested not to developments in the wider area.

Section 106 Agreement

22. The application determined at appeal was approved with a Section 106 agreement, as this application if approved will constitute a new planning permission then a revised 106 agreement is required.

Overall Conclusion

20. The application is recommended for approval. It is not considered there has been a change to national or local policies or other material planning considerations that would mean the application is unacceptable. As this is a Section 73 application an approval will result in a new permission being granted, however this procedure cannot be used to vary the time limit for implementation of the permission the this timescale will be the same as for the original permission. The conditions of the original permission determined at appeal have been imposed without amendment.

Planning Policies

National Planning Policies:

PPG2 – Green Belts

PPS3 - Housing

North West Regional Strategy

L4, DP1, DP2, DP4, DP5, DP7, DP9, RDF1, RDF2, L5, RT2, RT9, EM1, EM5, EM15, EM16, EM17 & CLCR1.

Adopted Chorley Borough Local Plan Review

Policies:DC1, DC2, DC3, GN1, GN5, GN9, EP2, EP4, EP9, EP10, EP12, EP17, EP18, EP21A, EP22, EP23, HS1, HS4, HS5, HS6, HS19, HS20, HS21, TR1, TR4, TR18, TR19 & TR10.

Supplementary Planning Guidance:

- Statement of Community Involvement
- Design Guide

Chorley's Local Development Framework

- Policy SR1: Incorporating Sustainable Resources into New Development
- Sustainable Resources Development Plan Document
- Sustainable Resources Supplementary Planning Document

Joint Core Strategy

Policy 1, Policy 4, Policy 7, Policy 9, Policy 14

Planning History

10/00414/OUTMAJ - Outline application for residential development of up to 300 dwellings (comprising 2, 2.5, & 3 storeys) with details of access and highway works and indicative proposals for open space, landscape and associated works.. Permitted on Appeal 22.07.2011

Recommendation: Permit subject to legal agreement

Conditions

1. Before the development hereby permitted is first commenced, full details of all reserved matters to be approved (namely the siting, design, landscaping of the site and external appearance of the dwellings) shall be made to the Council before the expiration of three years from the date of this permission and the development hereby permitted shall be begun two years from the date of approval of the last reserved matters to be approved.

Reason:

2. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of PPS3 or any future guidance that replaces it.

The scheme shall include:

- a. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of the residential units;
- b. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- c. the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved);
- d. the arrangements to ensure that such provision is affordable in perpetuity; and the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy shall be enforced.

Reason:

3. Development shall not begin until a phasing programme for the whole of the development and for the highways works referred to in conditions 19 and 20 below has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved phasing programme.

Reason:

4. The development hereby permitted shall not commence until full details of the colour, form and texture of all external facing materials to the proposed buildings have been submitted to and approved in writing by the local planning authority, for each phase of the development. The development shall only be carried out using the approved external facing materials.

Reason:

5. The development hereby permitted shall not commence until full details of the colour, form and texture of all hard ground-surfacing materials have been submitted to and approved in writing by the Local Planning Authority, for each phase of development. The development shall only be carried out in conformity with the approved details.
Reason:
6. The application for approval of reserved matters shall be accompanied by full details of existing and proposed ground levels and proposed building slab levels.
Reason:
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 shall be submitted to and approved in writing by the Local Planning Authority, for each phase of the development. 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.
Reason:
8. No development shall take place until details of the proposed surface water drainage and attenuation 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. Details of the maintenance and management of the scheme after completion shall be included. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
Reason:
9. Before the development hereby permitted is first commenced full details of the means of foul water drainage/disposal shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the works for foul water drainage/disposal have been completed in accordance with the approved details, for each phase of the development.
Reason:
10. If during development, contamination not previously identified is found to be present at the site, no further development shall be carried out (unless otherwise agreed in writing by the Local Planning Authority) until a Method Statement, detailing how this contamination shall be dealt with, has been submitted to and approved in writing by the Local Planning Authority. Remediation shall be carried out in accordance with this Method Statement and, upon completion a report shall be submitted to the Local Planning Authority verifying that the required works have been carried out in accordance with the approved Method Statement. Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met, together with future monitoring proposals.
Reason:
11. No development shall take place until a scheme of landscaping, for each phase of the development, has been submitted to and approved in writing by the Local Planning Authority, notwithstanding any such detail that 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. Thereafter, landscaping shall be carried out in accordance with the approved details.

Reason:

12. Before the development hereby permitted is first commenced, full details of the layout, phasing of provision and equipping of the public open space and play areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the provision and equipping of these areas is to be carried out in strict accordance with the approved details.

Reason:

13. All planting, seeding or turfing comprised in the approved details of landscaping, set out in Condition 11, 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 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:

14. 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 the 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 areas so fenced. All excavations within the areas so fenced shall be carried out by hand.

Reason:

15. The precautionary bat mitigation proposals, as set out in paragraph 5.17 of the Ecological Appraisal Report by .FPCR 2010, shall be implemented in full before the development is completed.

Reason:

16. There shall not be any felling of trees, vegetation clearance works, demolition works or other works that may affect nesting birds between March and July (inclusive), unless the absence of nesting birds has been confirmed by further written surveys or inspections.

Reason:

17. There shall not be any site clearance, site preparation or development work carried out until a construction method statement, including details of measures for the protection during construction of retained habitats and associated species, has been submitted to and approved in writing by the Local Planning Authority. The approved construction method statement shall be implemented in full.

Reason:

18. There shall not be any site clearance, site preparation or development work carried out until an ecological management plan for the creation and enhancement of biodiversity has been submitted to and approved in writing by the Local Planning Authority. This

plan shall be implemented before completion of the development. The plan shall provide and programme for:

- The eradication of Himalayan Balsam (*Impatiens glandulifera*) and Parrot's Feather (*Myriophyllum aquaticum*).
- The retention and protection of all ponds and ditches shown on the development framework plan (Plan no. 4174-P-02 Rev C).
- The retention and protection of all hedgerows and hedgerow trees, together with the identified green infrastructure corridors, as shown on the development framework plan (ref: 4174-P-02 Rev C).
- Long term design objectives, management schedules and maintenance responsibilities for green infrastructure.

Reason:

19. No more than 51 of the residential units hereby approved shall be first occupied until commencement of the improvements to the signal controlled junction of the A49 and B5256 (Hayrick junction) and as it interacts with the offslip sections of junction 28 of the M6, as detailed below:
- a. junction geometry improvement scheme with incorporating lane realignments and additions
 - b. upgrade of signal control systems for the Hayrick junction with bus priority
 - c. upgrade of signal timings and related queue detection as necessary on both of the offslips to junction 28.

Reason:

20. No more than 151 of the residential units hereby approved shall be first occupied until the improvements detailed in Condition 19 to the signal controlled junction of the A49 and B5256 (Hayrick junction) have been completed. The works listed under i) and ii) of condition 19 are to be carried out as detailed on the Ashley Helme Associates drawing no.1212/16 & dated April 2010. Any further details requested by the Local Planning Authority shall be supplied for approval and the works shall be completed in accordance with the approved details.

Reason:

21. Full details of the design, capacity and ability of the sewer network to accommodate the proposed programme of development and subsequent load shall be submitted to and approved in writing by the Local Planning Authority. Prior to first occupation of the development hereby permitted, the works, shall be implemented in accordance with the approved details and programme.

Reason:

22. No development shall take place until a programme of archaeological work and investigation has been submitted to and approved in writing by the Local Planning Authority. The approved programme of works shall thereafter be implemented in accordance with the approved details.

Reason:

23. 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 post dating 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 15th 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.

Reason:

24. The development shall be limited to no more than 300 dwellings and shall be carried out in accordance with the following plans and document:

| Plan Ref. | Title: |
|-----------------|---------------------------------|
| 4174-P-01 Rev C | Location Plan |
| 4174-P-02 Rev C | Development Framework Plan |
| 4174-P-03 Rev D | Illustrative Masterplan |
| 1212/22 | Proposed Roundabout Site Access |

Design and Access Statement as submitted with the application dated 21 May 2010.

Reason:

25. Development shall not begin until both a Master Plan and a Design Code for the whole of the site have been submitted to and approved in writing by the Local Planning Authority. Both shall substantially accord with the Design and Access Statement submitted with the planning application, dated 21 May 2010. Any amendments to either shall also be submitted to and approved in writing by the Local Planning Authority. The Design Code shall address the following:

- Architectural and sustainable construction principles;
- Character areas;
- Street types and street materials;
- Development bloc types and principles;
- Car parking principles;
- Cycling provision;
- Pedestrian and cycle links to adjoining land;
- Public transport routes;
- Boundary treatments;
- Building types;
- Building heights;
- Building materials;
- Sustainable drainage system;
- Public open spaces;
- Implementation; and
- Mechanisms for periodic review and necessary revision.

Applications for approval of reserved matters shall be in accordance with the Master Plan and Design Code as approved.

Reason: