

**Item 4f**                      **12/00219/FULMAJ**

**Case Officer**            **Caron Taylor**

**Ward**                        **Eccleston and Mawdesley**

**Proposal**                 **Section 73 application to vary condition 22 (sustainable resources) of planning approval 11/00636/FULMAJ to demolish the existing restaurant and hotel buildings and erect a care home**

**Location**                 **Mawdsleys Eating House and Hotel, Hall Lane, Mawdesley Ormskirk**

**Applicant**                **Stocks Hall Care Homes Ltd**

**Consultation expiry:** **16 May 2012**

**Application expiry:** **30 May 2012**

**Proposal**

1. Section 73 application to vary condition 22 (sustainable resources) of planning approval 11/00636/FULMAJ to demolish the existing restaurant and hotel buildings and erect a care home

**Recommendation**

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

**Main Issues**

3. The main issues for consideration in respect of this planning application are:
  - Principle of the development
  - Background information
  - Housing Development
  - Density
  - Levels
  - Impact on the neighbours
  - Design
  - Open Space
  - Trees and Landscape
  - Ecology
  - Flood Risk
  - Traffic and Transport
  - Public Right of Way
  - Contamination and Coal Mines
  - Drainage and Sewers

**Representations**

4. No neighbour letters have been received
5. Mawdesley Parish Council  
No objection providing the 15% reduction in the original permission is enforced.

## Consultations

### 6. Chorley Planning Policy

- The applicants intend to incorporate measures into the building to reduce the carbon emissions of predicted energy use by at least 15%. This application is solely to omit the BREEAM requirement of the condition.
7. The BREEAM requirement directly stems from the opening paragraph of Policy SR1: Incorporating Sustainable Resources into New Development, which states that “Minimum energy efficiency standards for all other new buildings to be ‘very good’ (or where possible, in urban areas, ‘excellent’) of the Building Research Establishment’s Environmental Assessment Method (BREEAM)”.
8. The applicants refer to paragraph 42 of the Planning and Climate Change Supplement to PPS1, which states that in their consideration of the environmental performance of proposed development, planning authorities should expect new development to comply with adopted DPD policies on local requirements for decentralised energy supply and for sustainable buildings, unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable. In this case the applicants state that this site has extra costs in relation to ecological mitigation, ground conditions, demolition, water supply and quality of external finishes. They also state that the proposal is for a specific specialised function primarily controlled by other (Health) national standards.
9. The PPS1 Supplement has now been cancelled and replaced by the National Planning Policy Framework (NPPF). This places further emphasis on viability issues. It states that pursuing sustainable development requires careful attention to viability and costs in decision-taking (and plan-making). To ensure viability the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.
10. This is a long standing derelict site that is an eyesore in the locality and which is in need of redevelopment. The applicants have highlighted that its redevelopment is subject to a range of extra costs. They fully intend to meet the reduction in carbon emissions required by Policy SR1 and have addressed the other SR1 policy criteria. It is considered that in these particular circumstances there are sufficient factors to outweigh the requirement for a full BREEAM ‘very good’ assessment on this site.

## Applicants Case

11. The applicants are seeking to omit the BREEAM requirement as it does not add to the energy efficiency proposals already included.
12. The condition arises from the Council’s Development Plan Document, in particular Policy SR1. It is worth recounting the wording of the Policy:
13. *Subject to other planning policies, planning permission for new built development will only be granted on non-residential units of 500 sq metres or more floor space where all of the following criteria are satisfied:*
- Evidence is set out to demonstrate that the design and layout of the building minimises energy use, maximises energy efficiency and is flexible enough to withstand climate change and;*
  - Appropriate decentralised, renewable or low carbon energy sources are installed and implemented to reduce the carbon emissions of predicted energy use by at least 15%.*
  - The use of non-grey water is to be minimised and the quality, quantity and amenity of surface water is to be managed through the implementation of sustainable urban drainage systems where appropriate and;*

*d. Appropriate storage space is to be provided for recyclable waste materials and composting”.*

14. The physical layout of the building has been approved by the Council under this full planning permission so the design and layout must be assumed to meet criterion (a) and is therefore fixed. To support the application a report was commissioned from Ashmount Consulting Engineers which demonstrated how criteria a) to d) would be fully met and in particular it addressed the requirement of Criteria (b) to deliver a 15% reduction in carbon emissions of predicted energy use by the use of air source heat pump, solar hot water and photovoltaic technologies.
15. It is our very clear view that the proposals submitted, the implementation of which is conditioned by the first half of Condition 22, will deliver the requirements a) to d) of the Councils Policy SR1.
16. The reason for the condition refers back to PPS1. The supplement to PPS1 on Planning and Climate Change sets out the Government's policy. In our submission the viability of the project is compromised by the extra requirement of BREEAM. This site has extra costs in relation to ecological mitigation; ground conditions; demolition; water supply and quality of external finishes. Para 42 of the supplement sets out what authorities should expect in terms of environmental performance. The approved proposal meets all the other criteria of para 42, but in relation to full compliance with local DPD policies, the para accepts that a proposal might not comply where it is “demonstrated by the applicant that having regard to the type of development involved and its design, that this is not feasible or viable”. The proposal is for a specific specialised function primarily controlled by other (Health) national standards which restricts the design freedom which might occur e.g. in a speculative office block. The site and design is therefore fixed which means that any benefit to be potentially gained by the wider remit of BREEAM is denied. When this is added to the high cost and therefore threat to viability, it means that in our view the additional requirement is not justified.
17. Policy SR1 also says that “minimum *energy efficiency standard* of the new building is to be ‘very good’ under BREEAM.” The target is therefore the energy efficiency of the building. Therefore, in our opinion the key question is – what does a BREEAM ‘very good’ standard require over and above the proposals already included in the application to specifically address energy efficiency?
18. The Building Research Establishment's Environmental Assessment Method is managed by BRE Global Limited which “is an independent third party approvals body offering certification of fire, security and sustainability products and services to an international market”. It operates the BREEAM environmental assessment method for buildings. Their 2011 Technical Manual on non-domestic buildings is 406 pages long. So this is a very wide ranging assessment process which takes place at several stages from design to usage. The assessment criteria include 49 assessment issues so it is a major task for those procuring a building, and requires them to appoint an accredited assessor early in the design process and carry out a review at five stages including ‘post construction’. There is no option of self assessment here. It is therefore an expensive process which comes on top of building regulations and we estimate a cost of over £15,000 plus client time for this one building.
19. It is accepted that it is a convenient standard for the Council to advocate, but they question what is really achieved for this investment in this case except a piece of paper. There are a whole range of issues which have to be ‘measured’ which add nothing to the building's efficiency. Issues such as “cyclists’ facilities; travel plan; proximity to amenities; public transport accessibility; site selection; ecological value; noise attenuation (and more) are all already assessed by the local planning authority so it is duplicating the Council's role and duties and that cannot be satisfactory or efficient.
20. The applicant is very happy to meet the Council's key energy requirements but objects to being saddled with the additional cost and bureaucracy of a system which will not directly increase the building's energy efficiency. They are also unhappy that compliance with the

planning condition is deferred to another body over which the Council has no influence and thus making applicants beholden to a 'private assessor' without any redress.

21. The safeguard for the Council in achieving its prime objective in this case (the 15% target) is that the applicant is the owner/procurer/operator of the building. This is not always the case. It is not a speculative venture where construction (such as by volume housebuilders in the past) minimised capital investment at the expense of higher future running costs by an occupier. It is in the applicant's own interest to maximise efficiency. For example, he is seeking to sink a borehole on site to control his own potable water supply. That chimes with the grey water recycling already proposed and indicates that where investment directly supports the sustainability of the building it will be made. It is our submission that the BREEAM requirement will only add unnecessary costs in this case which potentially threatens its sustainability rather than enhances it.
22. This application therefore requests that wording of Condition 22 be varied.

### **Assessment**

23. The principle of the development has already been established. This report will therefore only consider the acceptability of varying the condition.
24. The condition applied to the original permission (11/00636/FULMAJ) states:-  
The building hereby permitted shall be built to BREEAM 'very good' and the measures set out in the Ashmount Consulting Engineers report dated July 2011 shall be incorporated into the building to reduce the carbon emission of predicted energy use by at least 15%.  
*Reason: To ensure the development is in accordance with Government advice contained in Planning Policy Statement 1 and in accordance with Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.*
25. The applicant requests that it is amended to remove reference to the BREEAM 'very good', so it does not have to be built to this standard but still has to achieve a 15% reduction in carbon emissions.
26. The National Planning Policy Framework (NPPF) states that authorities should ensure that their assessment of and strategies for housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals.
27. It also states that to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.
28. The site is currently an eyesore and the Council wish to see its redevelopment as a care home take place as soon as possible. The applicant has undertaken work to show that a 15% reduction in carbon emissions by renewable resources can be achieved and the Council can still require this by a varied planning condition.
29. In addition to the 15% reduction by renewable resources the development will still benefit from increased insulation and energy efficiency through the following measures:
  - Increased insulation and improved U-values in walls, floors and roofs above the latest 2010 building regulation Part L2A requirements;
  - High efficiency mains gas condensing boiler installation;
  - High efficiency air source heat pump installation;
  - Heating controls to be fully zoned with enhanced load & weather compensation;
  - All internal lighting to be dedicated low energy;

- All external lighting will be energy efficient and will have daylight sensors to ensure no running except when necessary.
30. This is an approach supported by the Council as measures built into the fabric of the building are considered important before renewable energy technologies are added.
31. In this case the cost to the applicant of implementing full BREEAM 'very good' along the Council's desire to see a long standing derelict site brought back in to use and that a 15% reduction will still be achieved, along with the fact that the owner's will still be putting into place aspects of BREEAM such as a Travel Plan, is considered to outweigh the policy requirement of requiring full BREEAM 'very good' at the site. For this reason the application is recommended for approval, subject to the varied condition:

The measures set out in the Ashmount Consulting Engineers report dated July 2011 shall be incorporated into the building to reduce the carbon emission of predicted energy use by at least 15%.

*Reason: To ensure the development is in accordance with Government advice contained in Planning Policy Statement 1 and in accordance with Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.*

### **Overall Conclusion**

32. The application is recommended for approval subject to a varied condition in relation to sustainable resources.

### **Other Matters**

#### **Planning Policies**

##### National Planning Policies:

NPPF

##### Chorley's Local Development Framework

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

#### **Planning History**

There is an extensive planning history relating to the existing building of the site, but is not considered necessary to list it here as the proposal includes demolition the building. The most recent application is the redevelopment of the site as a whole which was permitted by 11/00636/FUL.

12/00234/FUL: Extensions and alterations to leisure facility building at former Mawdesleys Eating House and Hotel (changes to plans approved as part of redevelopment of the whole site by ref: 11/00636/FULMAJ). Permitted at previous planning committee on 24 April 2012.

### **Recommendation: Permit Full Planning Permission Conditions**

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

Plan Ref.	Received On:	Title:
1039-PL-03 Rev C	1 September 2011	Proposed Site Plan
1039-PL-07	13 July 2011	Proposed Generic Elevations Leisure Centre
1039-PL-06	13 July 2011	Proposed Floor Plans Generic
1039-PL-05	13 July 2011	Proposed Site Sections Generic Elevations
1039-PL-04	13 July 2011	Proposed Nursing Home Elevations

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

2. The boundary treatments as shown on drawing number 1039-PL-03 Rev C shall have been erected in conformity with the approved details prior to occupation of the building hereby approved.  
*Reason: To ensure a visually satisfactory form of development, to provide reasonable standards of privacy to adjacent properties and in accordance with Policy No.GN5 of the Adopted Chorley Borough Local Plan Review.*
3. 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 of the Adopted Chorley Borough Local Plan Review.*
4. Before the development hereby permitted is first occupied, the car park and vehicle manoeuvring areas shall be surfaced or paved, drained and marked out all in accordance with the approved plan and the cycle stand provided. The car park, bicycle stands and vehicle manoeuvring areas shall not thereafter be used for any purpose other than the parking of and manoeuvring of vehicles or bicycles.  
*Reason: To ensure adequate on site provision of car parking and manoeuvring areas and in accordance with Policy No. TR4 of the Adopted Chorley Borough Local Plan Review.*
5. The development hereby permitted shall only be carried out in conformity with the proposed ground and building slab levels shown on the approved plan 1039-PL-03 Rev C.  
*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 of the Adopted Chorley Borough Local Plan Review.*
6. The external works to the leisure building as shown on drawing number 1039-PL-07 shall be carried out within two years of the commencement of the development.  
*Reason: To ensure the leisure building is altered to match the new care home building hereby permitted to ensure the design of the two buildings is complementary and in accordance with Policy GN5 of the Adopted Chorley Borough Local Plan Review.*
7. The development must not proceed without the prior acquisition of a licence from Natural England for the derogation of the protection of bats under the Habitats Directive. The proposed measures given in paragraphs 12.3 and 12.4 of the report '*Former Mawdesley Hotel, Hall Lane, Mawdesley, Nr Ormskirk, L40 2QZ. Ecological Scoping Survey*' (The Tyrer Partnership, September 2011) for the avoidance of impacts on protected and priority species (and avoidance of any breach of the Conservation of Habitats and Species Regulations 2010) must be implemented in full.  
*Reason: To ensure protected species are protected during building works and in accordance with PPS9.*
8. Tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds will be avoided between March and August inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections that have been submitted to and approved in writing by the Council.  
*Reason: To ensure breeding birds are protected during construction and in accordance with PPS5.*
9. During the construction period, all trees and hedges to be retained shall be protected by 1.2 metre high fencing as specified in paragraph 8.2.2 of British Standard *BS5837:2005 Trees in relation to construction - Recommendations* 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 No. EP9 of the Adopted Chorley Borough Local Plan Review.*

10. Japanese knotweed (*Fallopia japonica*) is present within the site. This shall be eradicated from the site and working methods shall be adopted to prevent the spread of this species.

*Reason: To ensure the eradication of Japanese Knotweed in accordance with the Wildlife and Countryside Act 1981 (as amended) and PPS9.*

11. No development shall take place until details of the proposed surface water drainage arrangements have been submitted to and approved by the Local Planning Authority in writing. Surface water should discharge directly in to the adjacent watercourse and may require the consent of the Environment Agency. 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.*

12. No part of the development hereby approved shall commence until a scheme for the construction of the site access and footway improvement works (reinstatement) has been submitted to, and approved by the Local Planning Authority in writing. The development shall only be carried out in accordance with the approved details.

*Reason: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site and in accordance with Policy TR4 of the Adopted Chorley Borough Local Plan Review.*

13. No part of the development hereby approved shall be occupied or opened for trading until the access works as shown on the approved site plan have been constructed and completed in accordance with the approved details.

*Reason: In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway scheme/works and in accordance with Policy TR4 of the Adopted Chorley Borough Local Plan Review.*

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 there shall not at any time in connection with the development hereby permitted be erected or planted or allowed to remain upon the land hereinafter defined any building, wall, fence, hedge, tree, shrub or other device. The visibility splay to be the subject of this condition shall be that land in front of a line drawn from a point 2.4m measured along the centre line of the proposed road from the continuation of the nearer edge of the carriageway of Hall Lane to points measured 120m in the westerly direction and 90m in the easterly direction along the nearer edge of the carriageway of Hall Lane, from the centre line of the access, and shall be constructed and maintained at footway/verge level.

*Reason: To ensure adequate visibility at the site access and in accordance with policy TR4 of the Adopted Chorley Borough Local Plan Review.*

15. 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.*

16. A Full Travel Plan shall be developed along the following timescales:

- Travel Plan Co-ordinator/s appointed and LCC's Travel Plan team informed of contact details at least 1 month prior to occupation.

- Travel Questionnaire undertaken within 3 months of occupation
- A Full Travel Plan submitted to the Planning authority within 6 months of occupation of the building hereby permitted.

The Full Travel Plan needs to include the following as a minimum:

- Details of Travel Plan coordinator
- Details of Travel questionnaire results
- Details of cycling, pedestrian and public transport links to and through the site
- Details of the provision of secure covered cycle parking
- SMART Targets for non-car modes of travel
- Action plan of measures to be introduced
- Details of arrangements for monitoring and review of the Travel Plan for a period of at least 5 years.

The building hereby permitted shall only be occupied in accordance with the Full Travel Plan.

*Reason: To encourage the use of sustainable and alternative methods of transport and in accordance with Policy TR4 of the Adopted Chorley Borough Local Plan Review.*

17. 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. It shall specifically include detail of a replacement tree for the Oak tree to be removed on the site frontage. The scheme shall specifically include details of the landscaping of the site (including any walls) to the frontage of the site in front of the approved car park.

*Reason: In the interests of the amenity of the area and in accordance with Policy No.GN5 of the Adopted Chorley Borough Local Plan Review.*

18. 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.

*Reason: In the interest of the appearance of the locality and in accordance with Policy No GN5 of the Adopted Chorley Borough Local Plan Review.*

19. Due to the size and sensitive end-use, the development hereby permitted shall not commence until the applicant has submitted to and had approved in writing by the Local Planning Authority a report to identify any potential sources of contamination on the site and where appropriate, necessary remediation measures.

The report should include an initial desk study, site walkover and risk assessment and if the initial study identifies the potential for contamination to exist on site, the scope of a further study must then be agreed in writing with Local Planning Authority and thereafter undertaken and shall include details of the necessary remediation measures.

The development shall thereafter only be carried out following the remediation of the site in full accordance with the measures stipulated in the approved report.

*Reason: In the interests of safety and in accordance with PPS23.*

20. Surface water must not discharge to the combined sewer. This site must be drained on a separate system, with only foul drainage connected into the foul sewer.

*Reason: To prevent foul flooding and pollution of the environment and in accordance with PPS25.*



21. The measures set out in the Ashmount Consulting Engineers report dated July 2011 shall be incorporated into the building to reduce the carbon emission of predicted energy use by at least 15%.  
*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 in accordance with Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.*
22. The development hereby permitted shall not commence until samples of the 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. This shall include brick, slate and render samples and details of the windows to be used (including their reveal). 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 of the Adopted Chorley Borough Local Plan Review.*