

Item 4n **12/00454/FULMAJ**

Case Officer **Mrs Nicola Hopkins**

Ward **Heath Charnock And Rivington**

Proposal **Section 73 application to vary condition 28 (facing materials) attached to planning approval 11/00999/FULMAJ**

Location **Weldbank Plastic Co Ltd Westhoughton Road Heath Charnock Chorley Lancashire**

Applicant **Mr John Matthews**

Consultation expiry: **6 June 2012**

Application expiry: **10 August 2012**

Proposal

1. This application is a section 73 application to vary condition 28 attached to planning approval 11/00999/FULMAJ. Condition 28 relates to the approved facing materials of the dwellinghouses which will be constructed at the Weldbank Plastics Site, Heath Charnock
2. Full planning permission was granted in May 2011 to construct 20 dwellinghouses at the site (11/00168/FULMAJ). This approval was varied, in respect of conditions 1 and 24 the approved plans, by the submission and approval of a S73 application in March 2012 (11/00999/FULMAJ). This previous S73 application was submitted to adapt the scheme to take account of the position of a mine shaft that exists on the south-eastern part of the site.
3. The approved scheme for this site incorporates the erection 16 detached four and five bedroomed dwellings and a row of four 2 bedroomed terraced properties. The site is occupied by Weldbank Plastics and the business is still operating from the premises. It is intended that the business will relocate.

Recommendation

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

Main Issues

5. The main issues for consideration in respect of this planning application are:
 - Principle of the development
 - Condition 28
 - Section 106 Agreement

Representations

6. 1 letter of objection have been received raising the following points:
 - The elevation increase of plot 17 will block light to the adjacent rear garden
 - Any damage done to the party walls during construction should be rectified
 - Any damage to the adjacent garage will need to be rectified.

Assessment

Principle of the development

7. The principle of the residential development of the site was established with the grant of full planning permission in May 2011. This application purely relates to amending the detail of the planning approval.

Condition 28

8. Condition 28 of planning approval 11/00999/FULMAJ states:
The external facing materials detailed within the submitted Design and Access Statement shall be used and no others substituted. Namely Ibstock Old English, Ibstock Beamish Blend and Ibstock Ravenhead Red Smooth bricks and Russell Grampian roof slates, colour slate grey. *Reason: To ensure that the materials used are visually appropriate to the locality and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.*
9. Condition 28 specifically detailed the approved facing bricks which the dwellings will be constructed out of. However the developer now wishes to replace the facing bricks to utilise Ibstock Cumberland Blend and Ibstock Beamish Blend bricks.
10. Both bricks are red bricks versions which are considered to be an appropriate material for this site.

Section 106 Agreement

11. As the approval of this application results in the issuing of a new planning approval a short supplemental S106 Agreement is required tying this application into the original obligations.

Overall Conclusion

12. The proposed amendments are minor and considered to be acceptable as such it is proposed to vary condition 28 as follows:
The external facing materials detailed on the approved plans shall be used and no others substituted. Namely Ibstock Cumberland Blend and Ibstock Beamish Blend bricks and Russell Grampian roof slates, colour slate grey. *Reason: To ensure that the materials used are visually appropriate to the locality and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.*

Other Issues

13. As set out above the neighbour to the site has raised concerns with the proposed 'elevational amendments' set out within this application. This application does not propose any amendments to the siting or appearance of the dwellinghouses. The neighbour has been advised that this is the case and this application purely relates to amendments to the materials.
14. Concerns in respect of the structural integrity of the adjacent properties is a private matter between the developers and property owner.
15. As set out below an application to discharge the conditions attached to the previous approval has been submitted any condition which have been formally discharged will be reflected within the conditions attached to this recommendation.

Planning Policies

National Planning Policies:

Policies: National Planning Policy Framework

Regional Spatial Strategy:

DP1, DP2, DP3, DP4, DP5, DP7, DP9, L4

Adopted Chorley Borough Local Plan Review

GN1, EP4, EM9, HS4, HS21, TR4

Supplementary Planning Guidance:

- Statement of Community Involvement
- Design Guide
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Chorley's Local Development Framework

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

Sites for Chorley- Issues and Options Discussion Paper December 2010

CH0157- Weldbank Plastics

Planning History

11/00168/FULMAJ: Full planning application for the demolition of the existing buildings and erection of a residential development comprising of 20 new houses and associated access, car parking and landscaping arrangements. Approved May 2011

11/00999/FULMAJ: Section 73 application to vary conditions 1 (approved plans) and 24 (list of approved plans) attached to planning approval 11/00168/FULMAJ. Approved March 2012

12/00419/DIS: Application to discharge conditions 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 22, 28 and 33 attached to planning approval 11/00999/FULMAJ. Pending consideration

Adjacent sites:

Danesway:

89/00914/OUT- Outline application for 1.7 acres of land for residential purposes. Approved June 1990

93/00316/OUT- Renewal of outline planning permission no 9/89/914 for residential development of 1.7 acres of land. Approved September 1993

93/00835/REM- Erection of 23 dwellings. Approved February 1994

95/00523/FUL- Erection of 9 detached houses. Approved October 1995

Mercer Court:

09/00106/FUL- Resubmission of application 07/01270/FUL for erection of two detached dormer bungalows (revision of house types). Approved April 2009

Kings Lea:

87/00255- Outline application for erection of 19 dwellings on 1.07 ha of land. Approved June 1987

87/00638- Erection of 19 dwellings inc garages roads and sewers. Approved October 1987

88/00466/FUL- Substitution of house types plot 2 and 6. Approved August 1988

Recommendation: Permit (Subject to Legal Agreement)

Conditions

1. The proposed development must be begun not later than three years from the date of planning approval reference 11/00168/FULMAJ.

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. No dwelling on plots 10, 11, 13, 14 and 18 hereby permitted shall be occupied until garden sheds have been provided in accordance with the approved details submitted as part of discharge of condition application 12/00419/DIS. The garden sheds shall be retained in perpetuity thereafter.

Reason: The garages are smaller than would normally be provided and therefore to ensure sufficient storage/cycle storage is provided at the properties in accordance with Manual for Streets

3. Notwithstanding the submitted details prior to the occupation of the dwellings hereby permitted the planting and fence on the highway frontage of the site to Westhoughton Road and within a visibility splay, which is drawn from a point 4.5m measured along the centre line of Danesway from the continuation of the nearer edge of the carriageway of Westhoughton Road to a point measured 70m in the south eastern direction along the nearer edge of the carriageway of Westhoughton Road from the centre line of Danesway , shall be permanently maintained at a height not greater than 1m above the crown level of the carriageway of Westhoughton Road.
Reason: To ensure adequate visibility at the junction and adequate visibility is maintained for the neighbouring property. In accordance with Policy TR4 and advice contained in Manual for Streets
4. Prior to the occupation of the dwellings hereby permitted the existing vehicular access on Westhoughton Road (Plot1) shall be physically and permanently closed and the existing verge/footway and kerbing of the vehicular crossing shall be reinstated in accordance with the Lancashire County Council Specification for Construction of Estate Roads.
Reason: To maintain the proper construction of the highway and in accordance with Policy TR4 of the Adopted Chorley Borough Local Plan Review.
5. The development hereby permitted shall be carried out in accordance with the submitted Wardell Armstrong remediation strategy (submitted as part of discharge of condition application 12/00419/DIS).
Following the completion of the remediation and prior to the completion of the dwellinghouses a validation report shall be submitted to and approved in writing by the Local Planning Authority. This should confirm that all the remedial measures have been completed as detailed in the strategy.
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 and in accordance with Policy No. EP16 of the Adopted Chorley Borough Local Plan Review.
6. Notwithstanding the submitted details prior to the commencement of the development full details of the boundary treatment adjacent to the watercourse (plots 5-9) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the boundary treatments will be implemented in accordance with the approved details.
Reason: To protect/conservate the habitat/amenity value of this watercourse in accordance with Government advice contained in PPS9.
7. Himalayan balsam is present within the application area. Under the Wildlife and Countryside Act 1981 (as amended) it is an offence to cause Himalayan balsam to grow in the wild. Himalayan Balsam at this site should be controlled/treated in accordance with Environment Agency guidelines and in accordance with the Method Statement undertaken by ERAP (submitted as part of discharge of condition application 12/00419/DIS). Following treatment of the species evidence shall be submitted to and approved in writing by the Council which demonstrates that the species had been eradicated/controlled.
Reason: To ensure the eradication of Himalayan balsam in accordance with the Wildlife and Countryside Act 1981 (as amended).
8. During the construction period temporary fencing shall be erected along the bank top of the brook to protect the river corridor and prevent debris and construction material

from encroaching into this area. The temporary fencing shall be erected in accordance with the approved details submitted as part of discharge of condition application 12/00419/DIS. The fencing shall thereafter be retained during the construction period in accordance with the approved details.

Reason: to ensure the protection of Eller Brook during the construction period.

9. The development hereby permitted shall be completed in accordance with the approved planting proposals plan (ref: 1055-902 Rev B) (submitted as part of discharge of condition application 12/00419/DIS). The approved landscaping shall remove Elder from the hedgerow mix to be replaced with Hawthorn and include small gaps within the fencing to allow for habitat connectivity.

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 and Government advice contained in the National Planning Policy Framework

10. The bat roosting opportunities, to be incorporated into the new development, shall be completed in accordance with the approved details (submitted as part of discharge of condition application 12/00419/DIS)

Reason: To mitigate the loss of potential bat roosting opportunities in accordance with Policy EP4 of the Adopted Chorley Borough Local Plan Review and Government advice contained in the National Planning Policy Framework

11. The communal bin collection points to serve plots 5, 6, 7, 8, 9, 10 and 11 and 14, 15, 16 and 17 shall be provided in accordance with the approved details submitted as part of discharge of condition application 12/00419/DIS. The collection points shall only be utilised for the storage of bins on bin collection days and shall be free of bins at all other times. The collection points shall thereafter be retained in perpetuity.

Reason: To ensure adequate refuse collection facilities are provided on site and in the interests of the visual amenities of the area. In accordance with Policy GN5 of the Adopted Chorley Borough Local Plan Review.

12. Prior to the commencement of the development full details of the Management Company and arrangements for the future management and maintenance of the site, including the private highway, parking areas and bin collection points, shall be submitted to and approved in writing by the Local Planning Authority. The site shall thereafter be managed by the approved Management Company in accordance with the approved arrangements.

Reason: To ensure the satisfactory management of the private highways, parking areas and the storage of bins at the collection points at the site. In accordance with Policies GN5 and TR4 of the Adopted Chorley Borough Local Plan Review.

13. The development hereby permitted shall be carried out in accordance with the submitted Traffic Management Plans (submitted as part of discharge of condition application 12/00419/DIS) setting out the site compound and contractor parking arrangements. The construction operating hours including deliveries and site construction staff will be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays.

Reason: To ensure that noise and disturbance resulting from hours of operation and delivery does not adversely impact on the amenity of existing residents.

14. 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 (Level 3 for all dwellings commenced from 1st January 2010, Level 4 for all dwellings

commenced from 1st January 2013 and Level 6 for all dwellings commenced from 1st January 2016).

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

15. No phase or sub-phase of the development shall begin until details of a 'Design Stage' assessment and related certification have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out entirely in accordance with the approved assessment and certification.
Reason: To ensure the development is in accordance with Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.
16. No dwelling shall be occupied until a letter of assurance, detailing how each plot will meet the necessary code level, has been issued by an approved code assessor and approved in writing by the Local Planning Authority. The development thereafter shall be completed in accordance with the approved measures for achieving the required code level. Prior to the completion of the development a Final Code Certificate shall be submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure the development is in accordance with Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.
17. The development hereby permitted shall incorporate the on site measures to reduce the carbon emissions of the development, through the use of renewable or low carbon energy sources/ technologies, by 15% in accordance with the approved details submitted as part of discharge of condition application 12/00419/DIS.
Reason: To ensure the development is in accordance with Policy SR1 of Chorley Borough Council's Adopted Sustainable Resources Development Plan Document and Sustainable Resources Supplementary Planning Document.
18. The integral and detached garages hereby permitted shall be kept freely available for the parking of cars, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995.
Reason: In order to safeguard the residential amenity and character of the area and to ensure adequate off street parking is retained. In accordance with Policies HS4 and TR4 of the Adopted Chorley Borough Local Plan Review
19. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.
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 and in accordance with Government advice contained in the National Planning Policy Framework
20. The development hereby permitted shall be carried out in accordance with the precautionary measures for tree works outlined in paragraphs 5.5.3 – 5.5.6 of the report 'Land at Weldbank Plastic Co Ltd, Westhoughton Road, Heath Charnock.

Ecological Survey and Assessment (including a licensed bat survey)' (ERAP, January 2011).

Reason: To ensure the continued protection of bats as part of the development. In accordance with Policy EP4 of the Adopted Chorley Borough Local Plan Review and The Conservation of Habitats and Species Regulations 2010

21. The development hereby permitted shall be carried out in accordance with the mitigation measures for bats in buildings during demolition as recommended in paragraphs 5.5.9 – 5.5.13 of the report 'Land at Weldbank Plastic Co Ltd, Westhoughton Road, Heath Charnock. Ecological Survey and Assessment (including a licensed bat survey)' (ERAP, January 2011) and the further recommendations submitted as part of discharge of condition application 12/00419/DIS.

Reason: To ensure the continued protection of bats as part of the development. In accordance with Policy EP4 of the Adopted Chorley Borough Local Plan Review and The Conservation of Habitats and Species Regulations 2010

22. The development hereby permitted shall be carried out in accordance with the measures for the protection of retained trees, other vegetation and Eller Brook, as recommended in section 5.3 the report 'Land at Weldbank Plastic Co Ltd, Westhoughton Road, Heath Charnock. Ecological Survey and Assessment (including a licensed bat survey)' (ERAP, January 2011). *Reason: To protect/conservate the habitat/amenity value of this watercourse and trees*

23. The approved plans are:

Plan Ref.	Received On:	Title:
317-101	15 November 2011	Location Plan
317-102 Rev M	15 November 2011	Planning Layout
317-103 Rev F	15 November 2011	Streetscenes
1055-901 Rev E	15 November 2011	General Arrangements
317-104 Rev B	15 November 2011	Planning Site Sections
5896/01	15 November 2011	Topographical Survey
317-H736-2/101 Rev A	15 November 2011	Aspull 2 Bed House
317-H1207-4/101	15 November 2011	Hale 4 Bed House
317-H1540-4S/101	15 November 2011	Appleton Side Garage (Plot 16)
317-H1589-5/103 Rev A	15 November 2011	Bowden 5 Bed House (Plot 15)
317-H1672-5/101 Rev A	15 November 2011	Newbury B (Plots 11, 14 & 18)
317-H1672-5/102 Rev A	15 November 2011	Newbury B (Plots 10 & 13)
317-H1836-5/101 Rev A	19 December 2011	Waverton (Plot 1)
317-H1836-5/102 Rev A	19 December 2011	Waverton (Plots 17 & 20)
317-H1843-5/101 Rev A	15 November 2011	Portland (Plot 4)
317-H1207-4/102	15 November 2011	Hale (Plot 10)
317-H1384-4/101	15 November 2011	Hale+ (Plot 2)
317-H1782-5/101	15 November 2011	Westminster (Plot 3)
317-H2174-5/101	15 November 2011	Harbury (Plot 19)
317-H2174-5/102	15 November 2011	Harbury (Plot 12)
317-TG/DETAIL/101	15 November 2011	Twin Garage (Plots 9 & 10)
317-DG/DETAIL/101	15 November 2011	Double Garage (Plots 1, 2, 3, 4, 17 & 20)
STD DETAILS- SD-??	1 March 2011 1800	High Closeboard Fence
STD DETAILS- SD-??	1 March 2011 1500	High Closeboard Fence with 300mm trellis
STD DETAILS-SD-15-W0 Crease	11 March 2011	1800 High Brick Wall with Tile
317-105 Rev A	3 May 2012	Materials Layout

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

24. 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.
25. 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 No GN5 of the Adopted Chorley Borough Local Plan Review.
26. The development hereby permitted shall only be carried out in conformity with the proposed ground and building slab levels shown on the approved plans or as may otherwise be agreed in writing with the Local Planning Authority before any development is first commenced.
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.
27. The external facing materials detailed on the approved plans shall be used and no others substituted. Namely Ibstock Cumberland Blend and Ibstock Beamish Blend bricks and Russell Grampian roof slates, colour slate grey.
Reason: To ensure that the materials used are visually appropriate to the locality and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.
28. The ground surfacing materials detailed on the approved plans shall be used and no others substituted.
Reason: To ensure that the materials used are visually appropriate to the locality and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.
29. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (Schedule 2, Part 1, Classes A to E), or any Order amending or revoking and re-enacting that Order, no alterations or extensions shall be undertaken to the dwellings on plots 1, 2, 3, 4, 5, 16, 17 and 20 hereby permitted, or any garage, shed or other outbuilding erected (other than those expressly authorised by this permission).
Reason: To protect the appearance of the locality and in accordance with Policy No. HS4 of the Adopted Chorley Borough Local Plan Review.
30. Surface water must drain separate from the foul and no surface water will be permitted to discharge to the foul sewerage system.

Reason: To secure proper drainage and in accordance with Policy Nos. EP17 of the Adopted Chorley Borough Local Plan Review.

- 31. The two bathroom windows in the first floor of plot 15's rear elevation shall be fitted with obscure glass and obscure glazing shall be retained at all times thereafter.**

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.

- 32. Prior to the commencement of the development full details of the proposed retaining wall within the north east corner of the site, including levels and sections, shall be submitted to and approved in writing by the Local Planning Authority. An appropriate retaining wall structure has been identified as a timber post retaining structure submitted as part of discharge of condition application 12/00419/DIS. The development thereafter shall be carried out in accordance with the approved details.**

Reason: In the interests of the visual amenities of the area and in accordance with Policy GN5 of the Adopted Chorley Borough Local Plan Review.