

Item 4e **13/00803/OUTMAJ**

Case Officer **Mrs Nicola Hopkins**

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

Proposal **Section 73 application to vary condition 2 (Code for Sustainable Homes) attached to outline planning approval 12/00941/OUTMAJ**

Location **Land North Of Lancaster Lane And Bounded By Wigan Road And Shady Lane Lancaster Lane Clayton-Le-Woods**

Applicant **Redrow Homes Ltd (Lancashire Division)**

Consultation expiry: 10 October 2013

Application expiry: 26 November 2013

Proposal

1. This application is submitted under Section 73 of the Town and Country Planning Act 1990 to vary condition 2 attached to outline planning approval 12/00941/OUTMAJ

Recommendation

2. It is recommended that this application is granted conditional planning approval subject to the Unilateral Undertaking.

Main Issues

3. The main issues for consideration in respect of this planning application are:
 - Background information
 - Proposed Modification
 - Carbon Reductions
 - Section 106 Agreement

Representations

4. **Clayton le Woods Parish Council** have confirmed that they have no comments to make

Assessment

Background Information

5. Outline planning permission was granted to Redrow Homes in November 2012 to erect up to 160 dwellings on the land with associated open space with all matters reserved, save for access. The outline approval was conditional and subject to associated planning obligations, in accordance with planning policy at that time, which included:
 - 30% affordable housing
 - On site play space
 - £288,000 sustainable/public transport improvements
 - A contribution, to be determined at reserved matters stage, towards primary school places
6. Condition 2 of the outline approval relates to Core Strategy Policy 27 and states:

Each dwelling hereby permitted shall be constructed to achieve the relevant code for Sustainable Homes level required by Policy 27 of the Adopted Central Lancashire Core Strategy or in accordance with national standard postdating the Core Strategy at the time of construction. The current requirements to be completed are as follows: 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 and achieve 2 credits within

Issue Ene7: Low or Zero Carbon Technologies. *Reason: To ensure that the development is in accordance with Policy 27 of the Adopted Central Lancashire Core Strategy.*

Relevant Planning Policy

7. Condition 2 was attached to the planning approval to ensure that the proposals accord with Policy 27 of the Adopted Core Strategy. Policy 27 states:

Incorporate sustainable resources into new development through the following measures:

All new dwellings will be required to meet Level 3 (or where economically viable, Level 4) of the Code for Sustainable Homes. This minimum requirement will increase to Level 4 from January 2013 and Level 6 from January 2016. Minimum energy efficiency standards for all other new buildings will be 'Very Good' (or where possible, in urban areas, 'Excellent') according to the Building Research Establishment's Environmental Assessment Method (BREEAM).

Subject to other planning policies, planning permission for new built development will only be granted on proposals for 5 or more dwellings or non-residential units of 500 sq metres or more floorspace where all of the following criteria are satisfied:

- (a) Evidence is set out to demonstrate that the design, orientation and layout of the building minimises energy use, maximises energy efficiency and is flexible enough to withstand climate change;
- (b) Prior to the implementation of zero carbon building through the Code for Sustainable Homes for dwellings or BREEAM for other buildings, either additional building fabric insulation measures,
or
appropriate decentralised, renewable or low carbon energy sources are installed and implemented to reduce the carbon dioxide emissions of predicted energy use by at least 15%;
- (c) Appropriate storage space is to be provided for recyclable waste materials and composting;
- (d) If the proposed development lies within a nationally designated area, such as a Conservation Area or affects a Listed Building, it will be expected to satisfy the requirements of the policy through sensitive design unless it can be demonstrated that complying with the criteria in the policy, and the specific requirements applying to the Code for Sustainable Homes and BREEAM, would have an unacceptable adverse effect on the character or appearance of the historic or natural environment.

The integration of the principles above into other types of development will also be encouraged.

8. This Policy is contained within the Central Lancashire Core Strategy which was found sound by the Planning Inspector in June 2012. In respect of Policy 27 the Inspector commented that the *evidence base is sufficiently convincing to justify the Policy in terms of requirements rather than expectations.*
9. Members may recall that the Council had a similar Policy (Policy SR1) prior to the adoption of the Core Strategy which was contained within the Sustainable Resources DPD. This was an adopted Policy and was applicable to all new housing schemes since its adoption in September 2008. This Policy was superseded when the Core Strategy was adopted however similar requirements have been required on new housing schemes for over 5 years now.
10. In order for large new housing schemes to accord with the Core Strategy Policy all of the dwellings are required to meet the specified code level dependent on when they are constructed and secure a reduction in carbon emissions over and above the relevant code level. This notwithstanding the preamble to the Policy does enable a relaxation on this requirement where the applicant can demonstrate that an individual site's circumstances are such that development would not be economically viable if the policy were to be implemented.

Therefore although an applicant may not submit viability information at the application stage to justify code 4 throughout the lifetime of the development or choose to appeal the condition, which is the case in respect of this site, an applicant/ developer could still seek to vary the condition at a later date based upon the sites viability.

11. Members will be aware that other house builders/ applicants within the Borough have recently varied similar conditions in this way. Although the applicant chose not to submit viability information in support of this application at submission stage this information has now been submitted and is addressed below.

Proposed Modification

12. Redrow Homes consider that this condition fails the tests of reasonableness, that the *commencement* should reflect the commencement of the development as a whole and not the individual plots and that the recent Housing Standards Review (August 2013) indicates that carbon and energy targets should be addressed via Building Regulations. This is explored further below. As such Redrow Homes are seeking the following amendments to the wording of the condition:

The dwellings hereby approved shall achieve Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for that dwellings certifying that Code Level 4 has been achieved for that dwelling.

Reason: To ensure that the development is in accordance with Policy 27 of the Adopted Central Lancashire Core Strategy.

13. Redrow Homes have also cited an appeal decision at Preston where Code Level 6 is not cited. This is explored further below.
14. Justification for varying the wording of the condition has been split, by the applicant, into four separate arguments which are explored below.

Test of Reasonableness

15. Redrow Homes consider that an onerous interpretation of condition 2 would nullify the benefit of the planning approval for any dwellings not commenced before the 1st January 2016 and is unduly restrictive in terms of the test of reasonableness in Circular 11/95. Paragraph 35 of Circular 11/95 states:

A condition may be unreasonable because it is unduly restrictive. Although a condition may in principle impose a continuing restriction on the use of land (provided that there are good planning reasons for that restriction), such a condition should not be imposed if the restriction effectively nullifies the benefit of the permission. For example, it would normally be reasonable to restrict the hours during which an industrial use may be carried on if the use of the premises outside these hours would affect the amenities of the neighbourhood, but it would be unreasonable to do so to such an extent as to make it impossible for the occupier to run the business properly. If it appears that a permission could be given only subject to conditions that would be likely to be held unreasonable by the courts then it will be necessary to refuse permission altogether.

16. The wording of the condition, as set out above effectively ensures that the commencement of the construction of any dwelling after 1st January 2016 will be required to be constructed to Code for Sustainable Homes Level 6.
17. The Council's interpretation of Policy 27 is that the Code Level to be secured is not fixed at the commencement of the development as a whole but at the commencement of each individual plot. This interpretation has also been applied by the Secretary of State and the Planning Inspector at the Wigan Road appeal (APP/D2320/A/10/2140873) where the following condition was attached:

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 postdating 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 1st 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.

18. Members may also note that Redrow Homes, the applicant, applied to construct up to 135 dwellings at Lucas Lane, Whittle le Woods. This application was subsequently refused although allowed on appeal (APP/D2320/A/12/2172693) where the requirements of Policy 27 were considered. At the Public Inquiry Redrow Homes raised a similar argument as those put forward in respect of this application, in that the relevant Code Level should be Level 4 for all the dwellings permitted now on this development, however the Inspector disagreed with the assertion and made the following comments:

For similar reasons, conditions would be required to secure the compliance of all dwellings on the site to the relevant level of the Code for Sustainable Homes. Whilst the Appellants argued that the relevant Code Level should be Level 4 for all the dwellings permitted now on this development, Policy SR1 (which is part of the Development Plan) simply says that 'All new homes will be required to meet....' the stated levels by certain dates. The whole purpose of the Policy and the Code is to drive dwellings towards the higher levels and the fact that those dwelling started later would be to a higher standard would be a planning benefit which the developer should be perfectly able to accommodate. The condition would therefore require compliance as set out in the Council's suggested condition. With this it would be necessary to ensure there was an assessment on completion in order to show that the houses did comply with the Code. It would be for the developer to do his own pre-construction assessment to achieve this.

19. Notwithstanding the comments made by the Inspector Redrow Homes also seek to vary the wording of the condition attached by the Planning Inspector at Lucas Lanes. This application (13/00804/OUTMAJ) is also included on this agenda.
20. It is not considered that condition 2 nullifies the benefit of the planning permission as the requirement to construct any dwellings commenced after the 1st January 2016 to meet Code Level 6 does not restrict the developer from constructing dwellinghouses as per the outline permission. The requirements of the condition just ensures that dwellings started later within the build period meet a higher standard of construction.

Definition of Commencement

21. The applicant considers that the commencement of the development, that being the carrying out of a material operation, in respect of the interpretation of the condition in this case would fix the code level for the site to level 4 (as development will commence in 2013/ 2014). This is based upon the consideration that the provision of infrastructure (roads, sewers etc.) common to all the dwellings will be provided at the outset.
22. Redrow argue that there is no legal basis for determining that undertaking a material operation common to all the dwellings does not constitute the commencement of all the dwellings.
23. Notwithstanding the definition of commencement of development the wording of the Policy is very specific in that the relevant Code level relates to when the dwelling commences construction. The Council interpret this to be the actual commencement of each individual plot an interpretation which was supported by 2 different Planning Inspectors and the Secretary of State. The alternative interpretation, forwarded by the applicant, would not drive dwellings towards the higher levels of construction which is the purpose of the Policy.

Policy 27: Sustainable Resources and New Development

24. The applicant considers that there is no explicit intention within Policy 27 that its requirements will be applied to each individual dwelling on a development site at the date of its actual construction. Redrow Homes consider that a more logical and practical interpretation is that the appropriate level should be fixed at the time permission is granted or first commenced. The applicant considers this is the only sensible interpretation.

25. However it is considered that the alternative interpretation, which the Council has applied on other schemes within the borough, ensures that new large housing schemes, which will extend into 2016, contributes to the government's climate change strategy of reducing carbon emissions by greater energy efficiency in the construction and use of buildings. The Core Strategy confirms that this can be achieved by requiring new developments to be constructed to higher levels than those required by the Building Regulations. Fixing the Code for Sustainable Homes Level at the date of planning permission or when the development is first commenced would not secure the Government's or Council's objectives in respect of tackling climate change over the lifetime of the development.

Housing Standards Review (August 2013)

26. The applicants have cited the recently published Housing Standards Review (DCLG) which Redrow assert demonstrates that the Government does not see a need for the levels or separate carbon and energy targets provided by the CfSH. Redrow considers that the review will result in carbon and energy targets being set in Building Regulations as the move is made towards zero carbon homes.
27. The recently published review was a review of the building regulations framework and voluntary housing standards. It aims relates to rationalising the number of codes, standards, rules, regulations and guidance. The report was commissioned by the Secretary of State although it does note that the findings and recommendations do not necessarily represent the views or proposed policies of the Department for Communities and Local Government.
28. The findings of the review group are out to consultation until 22nd October and following the consultation, the Government will analyse responses and consider the way forward. Subject to the consultation, the current intention is to issue a National Described Standards document as soon as possible, alongside a final impact assessment, analysis of consultation responses, and the planning Policy Statement setting out how housing standards should henceforth be treated in the planning system. Additionally the Government will also be considering whether further changes may be needed to the Building Regulations, possibly to integrate elements of housing standards however this would be subject to cost benefit analysis and further consultation.
29. Notwithstanding the findings of the review any legislative changes following the consultation process are yet an unknown entity and as such it is not possible to determine the Governments direction of travel at this time. Prior to any reforms/ legislative changes this cannot be known and at this time the only way of securing the Government climate change targets is an interpretation of the Policy as set out within the originally worded condition and this report.

Central Lancashire Authorities

30. The applicants have cited a recent appeal decision at Preston Council (APP/N2345/A/13/2193377) for up to 330 houses at Lightfoot Lane. In this case the Planning Inspector imposed the following condition:
The dwellings hereby approved shall achieve Level 4 of the Code for Sustainable Homes. No dwelling in any phase shall be occupied until a final Code Certificate has been issued for that dwelling certifying that Code Level 4 has been achieved for that dwelling.
31. The condition reflects the applicant's suggested proposed amendments. Whilst the Inspectors decision (para 37) does confirm that this condition is required in the interests of reducing reliance on non-renewable energy resources there is no reference back to Policy 27 or reasoning why the level does not increase in 2016, as per the Policy wording.
32. The Case Officer for this site has confirmed that the condition attached by the Inspector was agreed by all parties. Preston Council attaches conditions to approvals which set out the Code Level at the time of the planning approval and not at the time of the commencement of the individual plots. This effectively results in all of the dwellings approved from the beginning of this year until December 2015, which are not actually constructed on sites until after January 2016, being constructed to Code Level 4 with no uplift. It also appears, from recent decisions on large housing schemes, that South Ribble also takes the same approach as Preston as their conditions only refer to Code Level 4.

33. The decisions of both Preston and South Ribble Council's appear to show inconsistency within the Central Lancashire Authorities between the interpretation of the requirements of Policy 27. However it must be acknowledged that the Inspector at the recent appeal within Preston was silent in respect of the requirements of Policy 27 whereas the Inspector at Lucas Lane referred back to Policy SR1 (as set out above this Policy formed part of the adopted Sustainable Resources DPD which were superseded by the Core Strategy and had the same requirements in respect of the Code Level) confirming that the requirements are the stated level for new dwellings at specified dates.
34. As such the interpretation that the code level relates to the commencement of the construction of each individual plot is considered to be correct.

Financial Viability

35. Members will recall that this application was considered at Development Control Committee on 29th October with a recommendation to refuse the application however the applicant, Redrow Homes, requested that determination be deferred to enable submission of financial viability information to further justify varying the wording of the condition. Members agreed to defer the application and the viability information has since been provided by Redrow Homes. This has been assessed by Liberata on behalf of the Council.
36. Liberata have summarised that two viabilities have been submitted, one showing the scheme at Code 4 which the developer is willing to develop to and keep the land value at £347,150.26 per acre with 14% profit. The second viability shows if the scheme is developed to Code 6, whilst keeping the profit of 14%, reduces the land value to £72,486.46 per acre whereas the scheme becomes unviable. The submitted information includes the following headline figures:

| Element | Code Level | Included figure | Profit | Liberata's comments |
|--------------------------------|------------|----------------------|--------|--|
| Land Value (per acre) | | £347,150.26 | | This land value is within the comparable evidence range. |
| Costs of Construction | 4 | £93,153 per unit | | This is equivalent to an average of £87.71 per sq ft. These are relatively average to higher net build costs. |
| | 6 | £93,153 per unit | | The developer shows the same build costs for development to Code 6 but shows a big increase on the abnormals- see below |
| Abnormals | 4 | £15,819 per unit | | This equates to a large cost of £2,531,040 for the whole site. |
| | 6 | £59,019 per unit | | This is extremely cost heavy which is assumed is required for the Code 6 works. |
| Revenue from House Sales | 4 | £194,670 per unit | | Taking into account likely selling prices and numbers of units, this is a fair reflection of the current market without being overly cautious. |
| | 6 | £194,670 per unit | | |
| Land price which could be paid | 4 | £347,150.26 per acre | 14% | |
| | 6 | £72,486.46 per acre. | 14% | This appraisal shows that the required 14% return but the very large costs impact on the land value by reducing it substantially to £72,486.46 per acre. |

37. The two submitted appraisals demonstrate that constructing a development to meet Code Level 4 enables an acceptable land price to be paid whilst securing a reasonable level of 14% profit.

If Code 6 is required then this significantly reduces the land price which could be paid which would mean that the land owner would not secure a reasonable level of return and would be unlikely to sell.

38. Liberata have based their assessment on a number of assumptions and have raised the following points for clarification:
- It is not clear how the 14% profit has been worked out.
 - When Code 6 is applied the abnormals cost per unit increases from £15,819 to £59,019. This overall tips the appraisal to unviable and a resulting land value that is too low. Further details would be required on the abnormals cost and whether this is directly related to Code 6.
 - Within the Code 6 appraisal the total development cost is identifiable however it is not clear exactly why the land value has been reduced so much from this calculation.
39. Whilst clarification is being sought from Redrow Homes on these points, in particular the significant difference in the abnormals cost from Code Level 4 to Code Level 6, it is clear from the submitted information that the values and costing related to securing Code 6 is almost the same price as the average selling price which renders the scheme unviable. The preamble to Policy 27 confirms that *The requirement to meet the higher than national minimum Code Level and all other provisions of Policy 27 will apply unless the applicant can demonstrate, including through the use of open book accounting, that an individual site's circumstances are such that development would not be economically viable if the policy were to be implemented.*
40. It is considered that in this case the applicant has demonstrated that the inclusion of Code Level 6 significantly impacts on the price which could be paid for the land. The 'RICS Professional Guidance: Financial viability in planning' confirms that *An objective financial viability test of the ability of a development project to meet its costs including the cost of planning obligations, while ensuring an appropriate Site Value for the landowner and a market risk adjusted return to the developer in delivering that project.* The land price which could be paid with the inclusion of Code Level 6 is not considered to be reasonable and is likely to result in the land owner being unwilling to sell the land.
41. This guidance reflects National Government's guidance with The Framework which confirms 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.*

Carbon Reduction

42. The second part of the condition, *achieve 2 credits within Issue Ene7*, directly relates to the second part of Policy 27 which requires new housing schemes (for over 5 dwellings) to demonstrate a reduction in carbon emissions over and above the code level. The requirement for Issue Ene7 this ensures the development limits CO2 emissions and running costs arising from the operation of a dwelling and its services by the specification of low and zero carbon energy sources to supply a significant proportion of energy demand.
43. Within the applicants suggested condition variation there is no mention of the requirements of this part of the Policy and this has been deleted in its entirety. However as this scheme is for more than 5 dwellings this part of the Policy is applicable.
44. Policy 27 allows developers to achieve a reduction over and above the code level either through additional fabric improvements or by the installation of decentralised, renewable or low energy sources. Issue Ene7 secures a reduction only via renewable technologies and as such the condition as worded would not allow for fabric improvements, if desired, in accordance with Policy 27.
45. The 2008 The Planning and Energy Act enabled local authorities to set policies asking for a proportion of energy used in developments in their area to be from renewable or low carbon energy sources. The second part of Policy 27 accords with this part of the Act.

46. To ensure that the development accords with both parts of the Policy and to address the suggested deletion of the reference within the originally worded condition the following additional condition could be attached to any positive recommendation which enables the developers to choose how to reduce carbon emissions in accordance with the Policy wording:

Prior to the commencement of the development a Carbon Reduction Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall demonstrate that either appropriate decentralised, renewable or low carbon energy sources will be installed and implemented to reduce the carbon dioxide emissions of the development by at least 15% or additional building fabric insulation measures are installed beyond what is required to achieve the relevant Code Level rating. The development shall only be carried out in accordance with the approved Carbon Reduction Statement.

Section 106 Agreement

47. If this application were to be approved a Unilateral Undertaking would be required to tie this new permission into the original obligations.

Overall Conclusion

48. The 2008 Planning and Energy Act enabled local authorities to set local plan policies for development in their area to set energy efficiency standards that exceed Building Regulations. In practice the Code is the only such standard nationally recognised. Any policies should be based on national policy and should be reasonable.
49. The Adopted Core Strategy Policy 27, which was subject to public consultation and scrutiny by an Inspector prior to adoption, sets a Code for Sustainable Home Level which is higher than Building Regulations in accordance with the above Act. It is considered that the correct interpretation of the Policy requires the relevant code level to be applied to new dwellings should be at the time of construction of each individual dwelling in order to secure the national and local climate change objectives. This view has recently been supported by a Planning Inspector and reflected within Inspectors decisions for large housing schemes within the Borough.
50. Although it is acknowledged that the Government are seeking a review of the relationship between Building Regulations, the Code, the Planning and Energy Act 2008 and local standards any proposed changes are yet to be secured by legislative changes. At this stage the Government's position is that possible changes are only subject to consultation. As such at this time the interpretation of the Policy, as per the original condition wording, ensures a benefit is secured with a higher standard of dwelling.
51. Whilst it is considered that the Policy wording is specific in respect of securing Code Level 6 for all dwellings commenced after 1st January 2016 the preamble to the Policy does allow for this requirement to be relaxed when it is demonstrated that the scheme would be unviable if the provisions were attached. As set out above the inclusion of Code Level 6 within this scheme significantly impacts on the price the applicants could pay for the land which would be contrary to advice contained within the Framework as this would not secure a competitive return to the land owner resulting in an undeliverable development. As such in this case it is considered appropriate to vary the wording of the condition removing the requirement to secure Code Level 6.
52. The site is allocated within the emerging Local Plan for mixed use housing and employment uses and as such forms part of the Council's 5 year housing land supply. The principle of erecting housing on this site has already been established and it is considered that varying the wording of the Code for Sustainable Homes condition is not only justified, as set out above, but also ensures the development of this site within a sustainable location.

Planning Policies

National Planning Policies:

National Planning Policy Framework

Central Lancashire Core Strategy 2012

Policy 1, Policy 2, Policy 3, Policy 4, Policy 5, Policy 7, Policy 9, Policy 17, Policy 27

Adopted Chorley Borough Local Plan Review

The following policies are of relevance to this proposal:

- DC3- Areas of Safeguarded Land
- GN1- Settlement Policy – Main Settlements
- GN5- Building Design and Retaining Existing Landscape Features and Natural Habitats
- HS4- Design and Layout of Residential Developments
- HS6- Housing Windfall Sites
- HS21- Playing Space Requirements.
- TR4- Highway Development Control Criteria.

Emerging Local Plan 2012-2026

- ST4- Parking Standards
- HS1- Housing Site Allocation
- HS4A- Open Space Requirements in New Housing Developments
- HS4B- Playing Pitch Requirements in New Housing Developments
- EP1- Employment Site Allocations
- BNE1- Development Criteria for New Development

Planning History

11/00981/SCE: Request for a screening opinion under the Town and Country Planning (EIA) regulations by Fox Land & Property for Land off Wigan Road, Clayton le Woods. EIA not required

11/00990/SCE: Request for a screening opinion under the Town and Country Planning (EIA) regulations by Redrow Homes for Land off Wigan Road, Clayton le Woods. EIA not required

11/01004/OUTMAJ: Outline application for a mixed use development incorporating up to 700 dwellings, 40,000sqft of B1 office space, public house/ restaurant, convenience store, community building, single form entry primary school, public open space, highway works and associated works. (All matters reserved save for access). Pending consideration

11/01093/OUTMAJ: Outline planning application for the development of land to the east of Wigan Road for the erection of up to 160 dwellings and associated open space with all matters reserved, save for access. Refused

12/00941/OUTMAJ: Outline planning application for the development of land to the east of Wigan Road for the erection of up to 160 dwellings and associated open space with all matters reserved, save for access. (Resubmission of Application: 11/01093/OUTMAJ). Approved November 2012

Recommendation: Permit (Subject to Legal Agreement) Conditions

1. Before the development hereby permitted is first commenced, full details of the reserved matters to be approved (namely the siting, design, landscaping of the site and the external appearance of the dwellings) shall be made to the Council before the expiration of five years from the 6th November 2012 and the development hereby permitted shall be begun three years from the date of Reserved Matters approval. *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. All the dwellings hereby permitted shall meet Code Level 4 of the Code for Sustainable Homes. Within 6 months of occupation of each dwelling a Final Certificate, certifying that the relevant Code for Sustainable Homes Level for that dwelling has been achieved, shall be submitted to the Local

Planning Authority. *Reason: In the interests of minimising the environmental impact of the development and taking into account the financial viability justification submitted in support of this application.*

3. 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: To secure the appropriate excavation and recording of any archaeological deposits that may survive on the site.

4. Full detail of the design 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 the first occupation of the development hereby permitted, the works shall be implemented in accordance with the approved details and programme. *Reason: To allow for adequate drainage of the site and capacity within Walton-le-Dale Wastewater Treatment Works area.*

5. 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.

The plan shall provide full details of measures that will be implemented during works for the avoidance of impacts on wildlife (e.g. bats, nesting birds, amphibians, reptiles, hedgehogs) and for the protection of features of biodiversity value (e.g. Biological Heritage Site, hedgerows, ponds, mature trees). *Reason: To ensure that habitats are suitable protected at all times during any works on site.*

6. During the construction period, all trees to be retained shall be protected by 1.2m 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 areas to be fenced. All excavations within the areas so fenced shall be carried out by hand. *Reason: to safeguard the trees to be retained and in accordance with policy Nos. EP9 and HT9 of the Adopted Chorley Local Plan Review.*

7. 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: To ensure the protection of nesting birds during the construction period.*

8. There shall not be any site clearance, site preparation or development work carried out until a Construction Method Statement, including details of measures for 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: To ensure there is no disturbance to habitats by works on site.*

9. 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; 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 and change of ground level or landform. Thereafter, landscaping shall be carried out in accordance with the approved details. *Reason: In the interests of amenity of the area and in accordance with Policy GN5 of the Chorley Local Plan Review and Policy 17 of the Adopted Core Strategy.*

10. The development hereby permitted shall not commence until full details of the colour, form and texture of all hard ground surfacing materials has 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 in accordance with the approved details. *Reason: To ensure a satisfactory form of*

development in the interests of visual amenity of the area and in accordance with policies GN5 and HS4 of the Chorley Local Plan Review and Policy 17 of the Adopted Chorley Local Plan Review.

11. All seeding, planting and turfing comprised in the approved details of landscaping as set out in condition 9 shall be carried out in the first planting and seeding seasons following the occupation of any buildings or the completion of the phase of development to which the landscaping relates, whichever is sooner. Any trees or plants which within a period of five years from the completion of the phase of development to which they relate 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 interests of the appearance of the locality, in accordance with Policy GN5 of the Chorley Borough Local Plan Review and Policy 17 of the Adopted Central Lancashire Core Strategy.*

12. The development shall be limited to no more than 160 properties and shall be carried out in accordance with the following plans and documents:

| Title | Drawing Reference | Received date |
|----------------------------------|--------------------------|------------------------------|
| Proposed Residential Master Plan | RED/MP/RMP/03 | 2 nd October 2012 |
| Location Plan | RED/LP/01 | 2 nd October 2012 |
| Design and Access Statement | | 4 th October 2012 |
| Phasing Plan | 4225-PPL-7 | 30 th August 2013 |

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

13. Development shall not begin until 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 subsequently accord with the Design and Access Statement submitted with the planning application. Any amendments to either shall also be submitted 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;
- Cycling provision;
- Pedestrian and cycle links to adjoining land;
- Public transport routes;
- Boundary treatments;
- Building types;
- Building heights;
- Building materials;
- Sustainable drainage systems;
- Public open spaces;
- Implementation, and
- Mechanisms for periodic review and necessary revision

Applications for the approval of reserved matters shall be in accordance with the Master plan and Design Code as approved. *Reason: To define the permission and in the interests of proper development.*

14. No development shall take place until details of the proposed surface water drainage and attenuation scheme for the site, based on sustainable urban 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 shall be included. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent an increased risk of flooding, to improve habitat and amenity and to ensure future maintenance of the surface water drainage system and to comply with Policy EP18 of the Chorley Local Plan Review and Policy 29 of the Adopted Central Lancashire Core Strategy.

15. The development hereby permitted shall be carried out in accordance with the approved phasing plan, reference 4225-PPL-7, received 30th August 2013. *Reason: To define the permission and in the interests of the proper development of the site.*

16. No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site highway improvement works referred to below have been submitted to, and approved by the Local Planning Authority in consultation with the Highway Authority.

Prior to first occupation of any part of the development hereby approved, the highway works should be constructed in accordance with the details approved.

The required highway improvement works to include:

- a) Construction of the site access based on Drawing No SCP/11171/SK006 revision E or variation as requested by the LPA in consultation with the HA.
- b) The provision of two bus stops (one in each direction) to Quality Bus Standard incorporating real time bus information, located close to the site access either on Wigan Road, or on the site access road as requested by the LPA in consultation with the HA.
- c) A footway/cycleway link has been provided along the eastern side of Wigan Road from the site entrance to Lancaster Lane.
- d) The provision of a TOUCAN crossing to Moss Lane.
- e) Associated traffic calming measures (including gateway treatment, lines, signs and street lighting) to provide support for the reduction in speed limit to 30mph on Wigan Road between Lydiate Lane and Lancaster Lane to support the extended 30 mph zone

Reason: In order to satisfy the Local Planning Authority and the Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site, and in order to improve the accessibility of the site and ensure that residents of the development have satisfactory access to services and facilities.

17. Prior to the first occupation of any dwelling hereby permitted a scheme for the provision of a bus route(s) through the site shall first be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- The route(s) for the movement of buses between the site access, Phase 1 (land defined by application refs: 10/00414/OUTMAJ and 11/01085/OUTMAJ and appeal ref: APP/D320/A/10) and the wider masterplan area,
- The specification of the estate roads carrying the bus route, including details of public transport infrastructure
- The vertical and horizontal alignment of a vehicular link between Phase 1 and 2.
- The phasing and timing of provision of the bus route(s), including its adoption as a public highway.

Reason: To ensure a seamless link for the movement of buses at an early stage.

18. Reserved Matters submitted pursuant to Condition 1 shall include details to demonstrate how the development will provide vehicular and pedestrian connections through to adjacent land (land defined by application refs: 10/00414/OUTMAJ and 11/01085/OUTMAJ and appeal ref: APP/D320/A/10) including the opportunity to provide a bus route through the site and footway/cycleway links to the east. *Reason: to ensure a comprehensive development of the area and satisfactory links to improve the accessibility of the site.*

19. No development shall commence until commencement of the improvements to the signal controlled junction of the A49 and B5256 (Hayrick Junction) including the improvements at and on the exit slip roads of Junction 28 of the M6 motorway as detailed below:

- f) Junction geometry improvement scheme incorporating lane realignments and additions;
- g) Upgrade of signal control systems for the Hayrick Junction with bus priority;
- h) Upgrade of signal timings and installation of queue detection on both exit slip roads at Junction 28 of the M6 motorway.

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), ii) and iii) above shall broadly accord with the details shown in SCP drawing numbers SCP/11171/SK101 and SCP/11171/SK102. *Reason: to ensure that the closely related junctions of the motorway slip roads and the A49 can operate in an efficient and safe manner.*

20. No part of the development shall be first occupied until the improvements detailed in Condition 19, (relating to Hayrick Junction) have been completed. *Reason: to ensure that the closely related junctions of the motorway slip roads and the A49 can operate in an efficient and safe manner.*

21. Prior to the first occupation of the development hereby permitted, the Travel Plan Coordinator should be appointed and their contact details supplied to the Planning and Highways Authority. The first residents Travel Survey shall be conducted within three months of 40% site occupation and a Full Travel Plan submitted to the Local Planning Authority within three months of the first residents travel survey. The Travel Plan shall include objectives, targets, measures to achieve, monitoring and implementation, timescales and continue with the provision of a Travel Plan Coordinator. The approved plan(s) will be audited and updated at regular intervals and shall be carried out as approved. *Reason: to ensure that the potential impact of additional vehicle flows generated by the development on the Trunk Road Network, in particular at Junction 28 of the M6 motorway, is minimised.*

22. Due to the size/scale of the development and sensitive end use (residential housing with gardens), no development shall take place until:

- i) A methodology for investigation and assessment of ground contamination has been submitted to and agreed in writing with the Local Planning Authority. The investigations

and assessment shall be carried out in accordance with current best practice including British Standard 10175:2011 'Investigation of Potentially Contaminated Sites – Code of Practice.' The objectives of the investigations 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 boundary of the site;

- j) All testing specified in the approved scheme (submitted under 1)) 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;
- k) The Local Planning Authority has given written approval to any remediation proposals (submitted under 2)), which shall include an implementation timetable and monitoring proposals. Upon completion of remediation works a Validation Report containing and validation sampling results shall be submitted to the Local Planning Authority.

Thereafter the development shall only be carried out in full accordance with the approved plans. 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 the site is suitable for the proposed end use in accordance with paragraph 121 of the National Planning Policy framework.

23. 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 approved details, for each phase of the development. *Reason: To ensure proper drainage of the development and in accordance with Policy EP17 of the Chorley Local Plan Review and Policy 29 of the Adopted Central Lancashire Core Strategy.*

24. Before the development hereby permitted is first commenced, full details of the layout, phasing or 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: To ensure adequate provision for public open space and play areas within the development and in accordance with Policy HS21 of the Chorley Borough Local Plan Review.*

25. 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: To ensure that the materials used are visually appropriate to the locality in accordance with Policies GN5 and HS4 of the Chorley Local Plan Review and Policy 17 of the Adopted Core Strategy.*

26. Before the development, hereby approved, is first commenced, full details of the position, height and appearance of all boundary 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 of the fences and walls shown on the approved details to bound its plot have been erected in conformity with the approved details. *Reason: To ensure a visually satisfactory form of development and to provide reasonable standards of privacy to residents and in accordance with Policy HS4 of the Chorley Local Plan Review.*

27. Prior to the commencement of the development, a 'Design Stage' assessment and related certification shall be submitted to and approved in writing by the Local Planning Authority. The assessment and certification shall demonstrate that the dwellings will meet the relevant Code Level of the Code for Sustainable Homes. The development shall be carried out entirely in accordance with the approved assessment and certification. *Reason: In the interests of minimising the environmental impact of the development*

28. No dwelling shall be occupied until a letter of assurance, detailing how that plot has met the necessary Code Level, has been issued by a Code for Sustainable Homes Assessor and submitted

to the Local Planning Authority. *Reason: In the interests of minimising the environmental impact of the development.*

29. Prior to the commencement of each phase of the development a Carbon Reduction Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall demonstrate that either appropriate decentralised, renewable or low carbon energy sources will be installed and implemented to reduce the carbon dioxide emissions of the development by at least 15% or additional building fabric insulation measures are installed beyond what is required to achieve the relevant Code Level rating. The development shall only be carried out in accordance with the approved Carbon Reduction Statement. *Reason: In the interests of minimising the environmental impact of the development*