

Item 4e **14/00177/FULMAJ**

Case Officer **Caron Taylor**

Ward **Astley And Buckshaw**

Proposal **Application to vary condition 7 of planning permission ref: 12/00945/REMMAJ (which was a Reserved Matters application for the erection of 32 no. dwellings) to allow the dwellings to be built to Code Level 3 (but Code 4 Energy) rather than Code Level 4 or 6.**

Location **Parcel H3 Group 1 West Of Central Avenue And South Of Worden Brook Euxton Lane Euxton**

Applicant **Persimmon Homes Lancashire**

Consultation expiry: 11th April 2014

Application expiry: 21st May 2014

Proposal

1. Application to vary condition 7 of planning permission ref: 12/00945/REMMAJ (which was a Reserved Matters application for the erection of 32 no. dwellings) to allow the dwellings to be built to Code Level 3 (but Code 4 Energy) rather than Code Level 4 or 6.

Recommendation

2. It is recommended that this application is refused.

Representations

3. No representations have been received.

Consultations

4. Chorley Planning Policy

Advise that Policy 27 states that the policy will apply unless the applicant can demonstrate, including through the use of open book accounting, that an individual site's circumstances are such that the development would not be economically viable if the policy were to be implemented. The applicant has not submitted any information demonstrating this.

Assessment

5. 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.
6. Condition 7 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 area '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 floor space 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.

7. This Policy is contained within the adopted 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.*
8. In order for new housing schemes to accord with the Policy all of the dwellings are required to meet the specified code level dependent on when they are constructed and schemes of five or more dwellings are also required to secure a reduction in carbon emissions over and above the relevant code level or incorporate additional building fabric insulation measures. The current Code Level is Code Level 4 which increases to Level 6 from 1st January 2016.
9. The preamble to Policy 27 (paragraph 12.7) states the provision of the policy will require unless 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.
10. Members will be aware that other house builders/applicants within the Borough have varied similar conditions in this way when viability information has been submitted.
11. The applicant has submitted a sustainability report with the application. This sets out that the development will still meet the mandatory carbon energy requirement of Code Level 4, but will not meet the other aspects and so will only achieve Code Level 3 certification. The report states:

Whilst the applicant is determined to embrace core sustainability principles and seeks to implement all viable energy efficiency and carbon reduction aspects throughout the development, to attain CSH [Code for Sustainable Homes] Level 4 certification the

development would be affected by the near certain requirement of having to achieve Lifetime Homes compliance. This would impact upon the size of the dwellings and consequently the coverage and density of the development. The commercial viability of the project would be significantly impacted as a result.

The CSH is also seen by many in the industry as an unwelcome burden, being both time consuming and costly. The biggest cost of the Code lies in the administration associated with collection of data, documentation and general bureaucracy. There is also considered to be significant duplication within the regulations and the code...

...For the reasons stated above, and with a view to 'taking off the bureaucratic handbrake that holds back house building and adds unnecessary cost', the Department for Communities and Local Government (DCLG) recently announced (20th of August, 2013) the findings of the Government's Housing Standards Review. One of the important proposals within the published consultation document is to '...wind down the role of the Code'.

12. The applicants have cited the Housing Standards Review (published in August 2013 by the Department of Communities and Local Government) which indicates that the Code will be 'wound down'. This was a review of the building regulations framework and voluntary housing standards. Its aims relate 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.
13. A written ministerial statement was published on 13 March 2014 which sets out the outcome of the Housing Standards Review. This does propose to reduce the number of different standards that developers have to implement, by consolidating the Code for Sustainable Homes into the Building Regulations with draft regulations and technical standards currently proposed to be published this summer. Once finalised, Core Strategy Policy 27 that sets out the current Code Levels developments need to meet, will need to be withdrawn or amended to reflect these regulations.
14. However, until this time Policy 27 will continue to be applied to new residential developments unless, as stated in paragraph 12.7 in the pre-ambles to the policy, the applicant can demonstrate, including through the use of open book accounting, that an individual site's circumstances are such that the development would not be economically viable if the policy were to be implemented.
15. As stated above the Council has accepted reduced Code Levels on some developments in the Borough, but has been consistent in requiring applicants to demonstrate that sites will not be economically viable as set out in the policy pre-ambles.
16. The applicant has not submitted any information demonstrating the site is not economically viable with full Code Level 4 and it is not therefore considered that the condition can be varied.
17. The application is therefore recommended for refusal.

Planning Policies

National Planning Policies:

The National Planning Policy Framework

Joint Core Strategy

Policy 27 Sustainable Resources and New Developments

Planning History

13/01144/REMAJ Proposed erection of 20 no. dwellings and associated landscaping and highway works (re-plan of part of site previously approved by permission ref: 12/00945/REMAJ). Permitted February 2014.

12/00945/REMAJ Reserved matters application for the erection of 32no residential dwellings and associated landscaping treatment and highway works (pursuant to outline permission reference 08/00910/OUTMAJ). Permitted December 2012.

08/00910/OUTMAJ Outline planning application for the redevelopment of land at Group One (Site Area 54.34 Hectares), Royal Ordnance Site, Chorley for mixed use development comprising housing and commercial uses (including uses A1, A2, A3, B1, B2, C1, C2 and C3 of the Town and Country Planning (Use Classes) (Amendment) (England) Order 2006) and associated landscape treatment and highway works. Permitted December 2009.

Recommendation: Refuse

Reasons to follow.