

<b>Agenda Item</b> A9	<b>Committee Date</b> 7 April 2015	<b>Application Number</b> 15/00058/VCN
<b>Application Site</b> Land East Of Coastal Road Coastal Road Bolton Le Sands Lancashire	<b>Proposal</b> Erection of 37 dwellinghouses with associated new access and landscaping (pursuant to the variation of condition 2 on planning permission 13/00029/FUL to amend house types on plots 12, 13, 14, 15, 16, 17, 18, 35, 36 and 37)	
<b>Name of Applicant</b> Oakmere Homes Ltd.	<b>Name of Agent</b> Harrison & Pitt Architects	
<b>Decision Target Date</b> 24 April 2015	<b>Reason For Delay</b> None	
<b>Case Officer</b>	Mrs Jennifer Rehman	
<b>Departure</b>	No	
<b>Summary of Recommendation</b>	Approve subject to receipt of a signed Deed to the Unilateral Undertaking (s106).	

## **1.0 The Site and its Surroundings**

- 1.1 The triangular 1.48ha application site is situated between Coastal Road (A5105) and Lancaster Canal in the southern part of Bolton-Le-Sands. It is bound by Coastal Road to the northwest and a combination of field boundaries and domestic curtilage boundaries (namely 67 and 83 Coastal Road) to the remaining site edges. The canal runs almost parallel to Coastal Road at an elevated position to the south east of the application site.
- 1.2 The site is now under construction (implementation of planning permission 13/00029/FUL). There are protected trees which run along the boundary with Coastal Road that have been retained, with the exception of those removed to facilitate the construction of the access point. The site slopes downwards from south east to north west, with a maximum fall of circa 10.5m across the site. The high part of the site is adjacent to the canal. The lower section of the site abuts Coastal Road. The immediate surrounding area is largely residential with a mix of 1 to 2 storey semi-detached and detached properties predominating. Due to the diverse range of property styles the area is not characterised by any particular design of property nor is there a dominant palette of materials applied to these houses. However, the presence of mature trees and hedgerows along Coastal Road, existing native hedgerows, the presence of the canal itself, together with the topography of the area, contributes to local distinctiveness and underpins the suburban character of the immediate area.
- 1.3 Other designations in the locality include those affecting the canal towpath (National Strategic Cycle Network Route No.6); Public Footpath No.7 (off Coastal Road) and Primary Bus Routes. The site is designated in the Lancaster District Local Plan as a Housing Allocation surrounding by designated Countryside Area. The adjacent Lancaster Canal is a Biological Heritage Site. The site does not lie within the designated Green Belt.

## **2.0 The Proposal**

- 2.1 The applicant has submitted a Section 73 (s73) application to vary condition 2 of planning permission 13/00029/FUL relating to the approved plans. The purpose of the application is to amend the approved housetypes on 10 of the 37 plots. The revisions have led to modest changes to the site layout plan too.
- 2.2 The proposals seek to replace the previously approved 'house type G' with a new house type (called Thirlmere) on plots 12, 13 and 16. The changes relate to a marginal increase in height and the addition of a two-storey projection to the rear elevation with changes to the layout within the plot and external materials. Plots 12 and 13 are marginally repositioned within the plot. Plot 16 is relocated further west as a consequence of the changes to plot 15.
- 2.3 Plot 15 (previously approved 'house type G') is proposed to be replaced with a new house type (called Kirkstone). This new house type has a larger footprint but is no taller than the previously approved house type. The two-storey element is wider (but not significantly wider), with an attached single garage added to the side elevation. The fenestration has been revised with two gable features on its façade and alterations to the use and extent of stone/render to the front elevation. This has resulted in the development moving approximately 2m closer to the western boundary (relating only to the row of properties facing towards the canal).
- 2.4 Plot 17 and 18 are located with their rear elevations facing Coastal Road adjacent to the approved area of open space and SuDS attenuation area. The proposals seek approval to replace approved 'house type J' with two new housetypes (Bowfell V1 and Wasdale V1) which have split levels internally to deal with the external levels and are repositioned closer to Coastal Road than the previously approved dwellings. The dimensions of the proposed new dwellinghouses vary marginally from the approved house types. The fenestration and internal layout of both new house types vary from the approved dwellings and now incorporate integral garages and driveways down one side of each of the dwelling units.
- 2.4 The proposals seek approval to replace previously approved 'house type E' with a new house type (called Wasdale) on plots 14 and 37. The design and appearance of this new house type is materially different to the approved house type. The use and extent of materials and the fenestration have been revised with two-storey gable features incorporated on the front elevation. The height of the proposed dwelling is circa 0.1m taller than the previously approved house but not as wide.
- 2.5 Plots 35 and 36 are located on the east side of the main spine road close to the open space. The proposal seeks to replace the previously approved 'housetype L' on these plots with a new house type (called Grasmere). The proposed changes are quite significant and effectively amount to the approved dormer bungalow being replaced by a large two-storey dwelling. The width of the proposed dwelling is marginally less than the approved scheme and the overall ridge height just under 1m taller, though the removal of the hipped roof from the approved housetype and its replacement with a typical two-storey gable adds significant bulk to the proposed house type. The internal layout, fenestration and use and extent of materials have been altered in this re-design.
- 2.6 For clarification, the materials remain as approved though the amended house types vary in terms of the extent of stone/render to the elevations proposed.
- 2.7 The original planning permission was subject to a Unilateral Undertaking under s106 of the Town and Country Planning Act 1990. This was to secure the provision of on-site affordable housing (11 units). This application has been accompanied with a draft Deed to vary the Undertaking to account for this s73 application, but also includes modest changes to the terms of the Undertaking to account for the requirements of the Registered Provider.

## **3.0 Site History**

- 3.1 The most recent planning history is summarised in the table below. There has been an outline application for up to 77 dwellings for the whole site allocation considered by Members and resolved to be approved (14 November 2011), subject to the signing of the legal agreement. This application is still pending but the authority has received correspondence to initiate this outline application advancing, albeit after some considerable time. A full planning application for 37 dwellings was later submitted and subsequently allowed on appeal following the Members resolution to refuse planning

permission against the Officer's recommendation. Since then the developer has agreed all their pre-commencement conditions and has sought approval for some non-material amendments.

Application Number	Proposal	Decision
15/00069/NMA	Non-material amendments to vary housetypes on plots 6-11, 19 - 34.	Permitted
14/01047/NMA	Non-material amendments to vary housetypes on plots 1-8	Permitted
13/00029/FUL	Erection of 37 dwellinghouses with associated new access and landscaping.	Allowed at Appeal
10/00830/OUT	Outline application for the erection of up to 77 dwellings and creation of new access onto Coastal Road	Resolved to be approved (14.11.2011) subject to the signing of a legal agreement. The legal agreement has not yet been signed.

#### **4.0 Consultation Responses**

4.1 The following responses have been received from statutory and non-statutory consultees:

Consultee	Response
<b>County Highways</b>	No adverse comments or recommendations.
<b>Tree Protection Officer</b>	Initial objection removed. The amended positions for house types on plots 17 and 18 are closer to the protected trees. Comments provided indicating that the development will be close to the root protection areas of these trees and that the development must be carried out in accordance with their approved arboricultural method statement.
<b>Parish Council</b>	No adverse comments
<b>Canal &amp; Rivers Trust</b>	No comments on the amendments proposed.
<b>Council's Drainage Engineer</b>	No objections – the amendments will not have an adverse impact on the proposed and agreed drainage for the site.
<b>Lancashire Fire &amp; Rescue Service</b>	Generic comments in respect of Building Regulations provided.

#### **5.0 Neighbour Representations**

5.1 At the time of compiling this report only 1 letter has been received. This is an objection letter on the grounds that the local community are totally against any development on this site; the natural beauty and views of the Bay and Lakeland Fells from the canal will be lost; the development will change the fabric and character of the area; increase in traffic and traffic related accidents; pressure on local services and drainage concerns.

#### **6.0 Principal National and Development Plan Policies**

- 6.1 National Planning Policy Framework  
 Paragraphs 7, 12, 14, 17 - Sustainable Development and Core Principles  
 Paragraphs 56, 57, 58, 60, 61 and 64 – Design  
 Paragraphs 186, 187, 196, 197, 203 -206 – Decision making
- 6.2 Lancaster District Development Management DPD  
 Policy DM29 – Protection of Trees, Hedgerows and Woodland  
 Policy DM35 – Key Design Principles  
 Policy DM41 – New Residential Development
- 6.3 Lancaster District Core Strategy  
 SC1 – Sustainable Development
- 6.4 Lancaster District Local Plan  
 Saved Policy H2 – Housing Sites in Previous Local Plans

6.5 Supplementary Planning Guidance (SPG)  
SPG 12 – Residential Design Code

**7.0 Comment and Analysis**

- 7.1 An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied (Paragraph 013, NPPG) – i.e. - amendments that are more than non-material but such that the amendments would not result in a substantially different development to that approved. The NPPG clearly states that *'in deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application'* (paragraph 031, NPPG).
- 7.2 In this case, the main issues relate to design and amenity considerations associated with the revised house types proposed by this section 73 application. The principle of residential development on the site is acceptable and is enshrined in current Development Plan policy (housing allocation). The site has also had the benefit of a recent planning permission which was allowed at appeal.
- 7.3 The principle of developing the site has already been established and accepted by this Council and the Planning Inspectorate. Objections in relation to the loss of greenfield and the impact this has on the area are not relevant to this current application which seeks to amend house types. However, ensuring the amendments still represent an acceptable form of development in design and amenity terms is a material consideration.
- 7.4 Both national and local planning policy requires new development to respond well to local distinctiveness and character. The design, layout and appearance of the previously approved scheme was considered good design as advocated by the NPPF. The proposed amendments do not alter the overall design approach or overall layout of the development.
- 7.5 In the majority of cases the proposed revisions do not fundamentally alter the dimensions of the house types proposed on the individual plots – nor are the types of houses (detached/semi-detached/terraces) revised by this application. As Officers understand, the developer has simply sought to amend the previously approved house types to reflect their current portfolio of house types. Notwithstanding this, the revisions are generally sympathetic and remain high quality in terms of scale and external appearance.
- 7.6 Some of the larger house types have been revised to incorporate features such as integral garages, two storey gable projections, lean-to porch additions to some of the front elevations and the addition of bay windows. Changes to an extent and use of materials in all cases are acceptable and not dissimilar to the previously approved house types. These details are acceptable and add character to the development and would support the overall design of the scheme.
- 7.7 The most notable changes concern plots 17, 18, 35 and 36. In the case of plots 17 and 18, this s73 application originally proposed to relocate these two plots significantly closer to the protected trees along Coastal Road. Officers raised concerns over these revisions (use and size of gardens and impact on trees) and have subsequently negotiated amendments. Whilst the plots do still move closer to Coastal Road their repositioning within the plot should not compromise the protected trees provided the approved Arboricultural Method Statement is adhered to, particularly in relation to ground works and level changes in close proximity to the recognised root protection areas. Should Members support this application, conditions would be repeated to ensure adequate protection of existing protected trees.
- 7.8 The revised house types for plots 17 and 18 have been designed to address the topography of the site with an internal split level at ground floor. This approach is supported as it ensures that the external levels are not significantly altered instead, which could have greater implications for the protected trees and the visual appearance of the scheme when viewed from Coastal Road. In terms of garden sizes, these plots were approved backing onto quite substantial trees with the tree canopies relatively close to the dwellings themselves. The encroachment closer to the trees does not necessarily improve this relationship but would not be such that a refusal could be substantiated. The overall garden size exceeds the 50 sq.m of useable garden space and would provide sufficient private amenity space, despite them not meeting the Council's recommended 10m depth

requirement. Therefore the proposed amendments to plots 17 and 18 are considered acceptable.

7.9 Plots 35 and 36 are positioned along the eastern side of the development stepping uphill towards the approved area of public open space. These two plots previously had consent for large detached properties which were effectively (with the exception of a two-storey gable element) dormer bungalows. The proposed replacement house type is a substantial two-storey detached dwelling providing 4 bedrooms and an integral garage. The previous house type (and the ones approved for plots 6-8) did not include an integral garage but still proposed 3 or 4 bedrooms (as two options for this plot have been approved under a non-material amendment application). The internal layout is of no significant concern, however, the proposed changes add significant bulk to the proposed units on these plots, mainly through the removal of the hipped roof and its replacement with a typical two-storey building with pitched roof. They are also just under 1m taller than the approved house types. That said, given their position within the development site, the increased scale and bulk is not likely to lead to a significant adverse impacts to residential and/or visual amenity. The application has been accompanied with a short streetscene showing how the increase in scale would not appear out of keeping with the rest of the development or the surroundings. In terms of residential amenity, whilst there is an increase in bulk and first floor windows to the rear have been added, the proposals would not lead to significant adverse overlooking or overbearing impacts as a consequence of their position within the site, boundary treatments and the site contours.

7.10 The proposed revisions to the house types have resulted in minor changes to the site layout. This relates mainly to the plots running along the highest part of the site (facing the canal), where the increase in footprint on plot 15 has meant the neighbouring plots have had to shuffle westwards. The development is now slightly closer to the western boundary and the existing neighbouring dwelling to this side but remains well within the Council's accepted interface distances (distance measures approximately 19m). On this basis, the revisions to the layout are deemed acceptable.

#### 7.11 **Conditions**

Paragraph 203 of the NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. Paragraph 206 states that planning conditions should only be used where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects. The Inspector when allowing the appeal for the original scheme imposed a number of planning conditions. The developer has in part satisfied these conditions but as development is still under construction and not completed, they cannot be discharged in full. As such it is necessary to repeat these conditions but reworded to reflect the details agreed under recent discharge of condition applications. This approach accords with the NPPG which states that *decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged (paragraph 031).*

### **8.0 Planning Obligations**

8.1 The application has been accompanied by a draft Deed to amend the Unilateral Undertaking. In addition, the application has been accompanied with a supporting letter from Great Places Housing Group (Registered Provider) explaining the need to make minor changes to the terms of the Undertaking. The Deed seeks to include a mortgagee in possession (MIP) exemption clause. Officers accept this is quite common and that the majority of our Agreements now include such clauses. In this particular case, Great Places have reassured Officers that in reality the inclusion of such a clause is theoretical as they would still be regulated by the Homes and Communities Agency (HCA) and the HCA would step in if their continued existence looked at risk, potentially ensuring another Registered Provider stepped in to maintain the affordable housing stock. MIP exemption clauses allow Registered Providers to secure the maximum amount of finance against assets to fund future development of affordable housing. These amendments do not alter the provision and type of affordable housing required by the original permission and Undertaking. Officers are currently waiting on the final signed Deed to be submitted to the Local Planning Authority.

### **9.0 Conclusions**

9.1 The proposed amendments to the layout and house types do not fundamentally deviate from the originally approved development. The amendments maintain and secure a high quality form of development that accords with local planning policy DM35 and section 7 (requiring good design) of the NPPF. On this basis, Members are recommended to support the application.

## **Recommendation**

Subject to the receipt of a signed Deed of Undertaking, that condition 2 on planning permission 13/00029/FUL **BE VARIED** to state:

1. The development hereby permitted shall be carried out in accordance with the details shown on the submitted plans detailed below:  
Site Layout Plan – Dwg No. 1667-012\_X  
Streetscene A (plots 34-36) received 23 March 2015  
Plot 1 and 11 – Ascot House type 1667-201 A and 1667-200 B  
Plots 2-3 – House type K Dwg No: 1667-246 Rev B  
Plot 4 – House type J Dwg No: 1667-241 Rev B  
Plot 5 – House type O Dwg No: 1667-266 rev A  
Plots 6-8 – House type L Option 1 Dwg No: 1667-250 F and 1667-251 E  
Plots 6-8 – House type L Option 2 Dwg No: 1667-298 D and 1667-296 E  
Plots 9 and 10 - Borrowdale House type -Dwg Nos: 1667-221 A and 1667-220 B  
Plot 12, 13 and 16 – House type Thirlmere V1 Dwg Nos: 1667-230 B and 1667-231 A  
Plot 14 and 37 – House type Wasdale V1a Dwg Nos: 1667-275 C and 1667-276 C  
Plot 15 – House type Kirkstone Dwg Nos: 1667-255 A and 1667-256 A  
Plot 17 – Housetype Bowfell V1 Dwg No. 1667-216 D and 1667- 215 F  
Plot 18 – Housetype V 1 Elevations Dwg No: 1667-226 D and 1667-225 D  
Plot 17 and 18 – Section A-A Dwg No. 1667-SK07  
Plots 19 and 33 – Derwent House type (V1) Dwg Nos: 1667-205 B and 1667-206 B  
Plots 20 and 34 – Derwent House type (V1a) Dwg Nos: 1667-280 B and 1667-281 A  
Plots 23 and 32 – Derwent House type (V2) Dwg Nos: 1667-284 B and 1667-285 A  
Plot 26 – Derwent House type (V2a) Dwg Nos: 1667-287B and 1667-288 A  
Plots 21, 24 and 30 – Rothay House type V1 Dwg Nos: 1667-260 A and 1667-261 A  
Plots 22 and 31 – Rothay House type Dwg Nos: 1667-290 A and 1667-291 A  
Plot 25 – Rothay V1a Dwg Nos: 1667-262 A and 1667-263 A  
Plot 27 – Rothay V3 Dwg Nos: 1667-295 A and 1667-294 A  
Plots 28 and 29 House type Eamont Dwg Nos: 1667-211 A and 1667-210 B  
Plot 35 and 36 – House type Grasmere Dwg Nos: 1667-236 B and 1667-235 B  
Reason: To ensure a satisfactory standard of development.

All the other conditions attached to planning permission 13/00029/FUL will be applied to the new planning permission but varied to account for details approved under the relevant discharge of condition applications.

## **Article 31, Town and Country Planning (Development Management Procedure) (England) Order 2010**

In accordance with the above legislation, the City Council can confirm the following:

The proposal complies with the relevant policies and provisions of the Development Plan and on consideration of the merits of this particular case, as presented in full in this report, there are no material considerations which otherwise outweigh these findings. The local planning authority has proactively worked with the applicant/agent in negotiating amendments which have now positively influenced the proposal and have secured a development that now accords with the Development Plan and the National Planning Policy Framework.

## **Human Rights Act**

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

## **Background Papers**

None