

**Application Recommended for Refusal**  
Briercliffe Ward

**APP/2017/0155**

Full Planning application  
Proposed erection of industrial units (B2) (re-submission of planning application APP/2014/0209)

WIDOW HILL COURT WIDOW HILL ROAD BRIERCLIFFE

**Background:**

The application seeks planning permission for the erection of four industrial units, comprising a total floorspace of 2422.9 sq. metres for general industrial uses (Use Class B2)

The application is being reported to Committee because it has been called in for a decision by three Ward members.

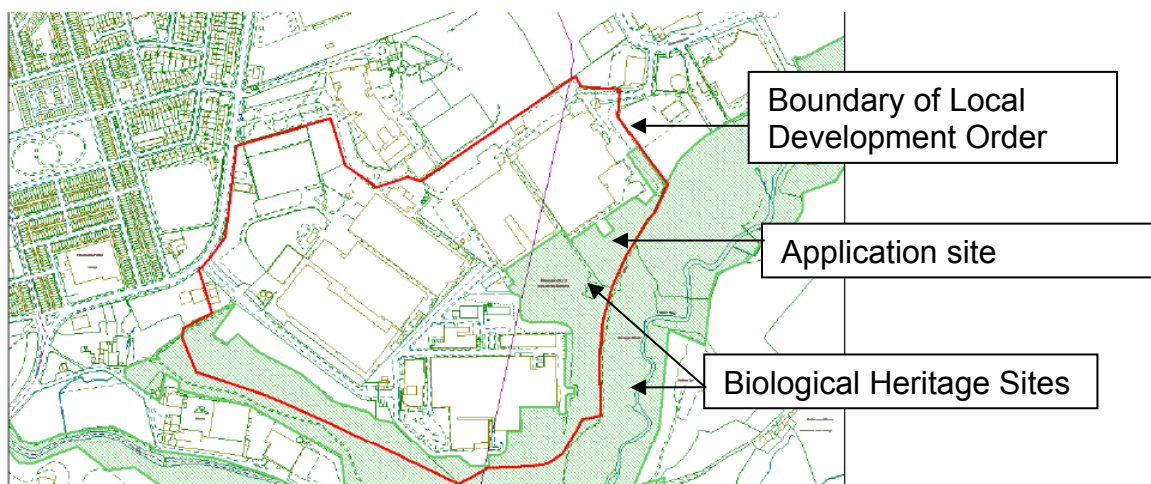
The application site, of 0.94 hectares, is located within Heasandford Industrial Estate which includes a number of businesses operating within the advance engineering and manufacturing sector.

The site is triangular in shape and the development comprises four industrial units with the larger unit of approximately 1246 sq.metres at right angles to the three smaller units (2 units at approximately 238 sq. metres and one at 693 sq.metres).

There would be four units of approximately 1246 sq. metres, 693 sq. metres, 235 sq. metres and 238 sq. metres. They would be constructed in Staffordshire blue brickwork to the elevations at low level with blue / grey polycoated steel sheeting above and with a blue / grey polycoated steel sheet roof.

The applicant sets out that the development would provide for 50 full time and 6 part time jobs.

A Local Development Order (LDO) is in place which includes the site and, subject to conditions, this allows certain types of development to be undertaken without the need for a planning application.



Extent of Local Development Order.

However, Condition 11 of the LDO excludes development within the Biological Heritage Site (BHS) and as the application site forms part of a BHS a full planning permission is required for the proposed development.

The site forms part of the Michelin Factory and Smallshaw Industrial Estate Grounds BHS which is designated for habitats such as pond, swamp, grassland and scrub, and for its amphibians (including great crested newt) and invertebrates. Adjacent to the site is also River Don BHS, designated for its species rich grassland, flushes and broad leaved (some ancient semi natural) woodland.

Extensive discussions have previously taken place in respect of the ecology aspects of the application having regard to the site's designation as a BHS and that a medium population of Great Crested Newts is known to be present on the site.

Objections have been received to the application in respect of the ecology issues.

### **Relevant Policies:**

#### Burnley Local Plan Second Review

E2 - Nature conservation locally important sites

E3 - Wildlife links and corridors

E4 - Protection of other features of ecological value

E5 - Species protection

E6 - Trees, hedgerows and woodlands

EW1 - Land for Business (B1) and Industrial (B2) and Warehousing (B8) Development

EW5 - Development and Improvement of Major Industrial Estates

GP1 - Development within the Urban Boundary

GP3 - Design and quality

GP7 - New Development and the Control of Pollution

TM2 - Transport Assessments

TM3 - Travel Plans

TM15 - Car parking Standards

National Planning Policy Framework (NPPF)

Wildlife and Countryside Act 1981

### **Site History:**

APP/2001/0036 – Outline application. Erection of buildings and use of land for metal recycling facility – withdrawn

APP/2008/0461 – Erection of 8 Class B2 units within 2 blocks – invalid application

APP/2014/0209 - Proposed erection of industrial units to support high-tech engineering uses - refused

## Consultation Responses:

1. Lancashire County Council (Highway Authority) comments that the development is unlikely to generate any adverse highway conditions and no objections are raised to the application subject to conditions requiring:

- a construction method statement to be submitted to cover the construction period
- The car park to be surfaced and marked out before the use starts
- The provision of cycle facilities
- The provision of motor cycle facilities
- The submission of a Travel Plan

*(Conditions are recommended to be imposed on any consent granted)*

2. United Utilities – comments as follows:

*Drainage comments:* In accordance with the NPPF and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way. The developer should consider the following drainage options in order of priority

1. In the ground (infiltration)
2. To a surface water body
3. To a surface water sewer, highway drain or other drainage system
4. To a combined sewer.

*Drainage Conditions:* UU raise no objection to the development providing the following conditions are attached to any approval:

Condition 1: Foul and surface water shall be drained on separate systems

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

Condition 2: Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system directly or indirectly.

The development shall be completed, maintained and managed in accordance with the approved details.

Reason: To promote sustainable development secure proper drainage and to manage the risk of flooding and pollution and flooding. This condition is imposed in light of policies with the NPPF and NPPG.

*Water Comments:* Further information will be required in respect of the supply of water for industrial purposes. The water mains will need extending to serve the development. This would be the subject of a private arrangement.

*(Conditions are recommended to be imposed on any consent granted)*

3. Natural England:

- The proposal is unlikely to affect any statutorily protected sites or landscapes.
- The NE Standing Advice should be applied in respect of protected species and the advice would be a material planning consideration
- The LPA should ensure that it has sufficient information to fully understand the impact of the proposal on a local site before the application is determined.
- The authority should consider measures to enhance the biodiversity of the site, in accordance with para 118 of the NPPF.

4. Lancashire Wildlife Trust object to the application on the following grounds:

- The application is not compliant with the paragraph/requirement 165 of the National Planning Policy Framework (NPPF), i.e. Planning decisions “*should include an assessment of existing and potential components of ecological networks*”. Lancashire environment Record Network (LeRN) has produced ecological network habitat maps for Lancashire and these are available at the Borough and other levels. The planning application does not take account of potential impacts on the network, discuss the conservation of the components and/or identify opportunities for restoration and enhancement of the ecological network(s) and their functionality. Approval of the application as it stands would be contrary to the requirements of the NPPF.
- It is acknowledged that the application would result in the destruction of approx. 0.59ha of the Biological Heritage Site (BHS) known as ‘*Michelin Factory and Smallshaw Estate Grounds*’ (BHS ref: 83SE02). However, an area of the BHS (approx. 0.17ha) to the northeast of the development site would become isolated from the rest of the BHS and the ecological information supplied by Bowland Ecology suggests that this area (polygon T) would not meet the guidelines for site selection in its own right and would most likely be removed from the BHS. Hence the development would probably result in a reduction of the area of the BHS from 5.1ha to 4.3ha, a loss of 0.76ha or 14.9%.
- The application does not deliver a net gain in nature as required by paragraphs 9 and 109 of the NPPF. The application will result in a net loss in biodiversity in terms of the site’s status (BHS) and area of Habitats of Principal Importance, as listed under Section 41 of the Natural Environment

and Rural Communities Act (NERC 2006). Approval of the application as it stands would be contrary to the requirements of the NPPF.

- In order to be compliant with the requirement of the NPPF to deliver a net gain in nature, the applicant needs to provide at least 0.76ha of OFF-SITE compensatory habitat outside of the BHS that is capable of supporting Great Crested Newts. The land would have to be adjacent to the development boundary and within the tenure and/or control of the applicant. Note that in order to satisfy Biodiversity Offsetting guidance, a significantly larger area of land than that lost to development would need to be provided.
- The Management Schedules years 1-5 and 5-15 for Objectives A-D and Monitoring in Appendix 1 of the Habitat Management Plan are not costed. If the Council was minded to approve the application, the actions for years 1-5 and 5-15 should be costed up in full – including provision for increases in costs and/or inflation – and the applicant required to dedicate a commuted sum, e.g. through a Section 106 agreement, in order to deliver the Habitat Management Plan.

If approved as it stands, the application would be an example of unsustainable development and should be refused.

8. Burnley Wildlife Conservation Forum - object to the application for the following reasons:

- The land forms a significant part of the BHS which is designated for its important populations of amphibians, dragonflies and damselflies. It supports five amphibian species – frog, toad, smooth newt, palate newt and great crested newt. It is one of the borough's most important sites because it contains the Borough's only significant population of great crested newts and a wide range of dragonflies and damselflies including the emerald damselfly which is very rare in east Lancashire.
- The land forms part of the Burnley Aerospace Supplier Park Local Development Order where condition 11 states that no development is permitted within the boundary of the BHS. The LDO clearly acknowledges and accepts the importance and the integrity of the BHS.
- The proposed landscaping scheme submitted with the application is for the most part identical to the one submitted with the previously refused application. The only landscaping alteration is that a very small proposed pond has been moved a short distance to the south. The only other alteration are minor changes to the car parking layout. These alterations constitute minor insignificant changes and do not add any new wildlife mitigation features to those proposed on the refused application.

- The proposed landscaping scheme shows newt exclusion fencing to be installed along all the boundaries between the development and proposed landscaping. Newt exclusion fencing, even when regularly inspected and maintained in good condition is often less than 100 % effective because newts and other amphibians especially small juveniles can easily flatten themselves to crawl under the smallest gaps. The present newt exclusion fencing has been very poorly maintained with some sections having fallen down. They serve no useful purpose and the proposed newt exclusion fencing will be ineffective as a newt protection measure.

9. Environment Protection Team raise no objections subject to the following:

- There is potential for noise nuisance to nearby residents during the construction phase, and therefore I would recommend a condition relating to hours of construction.
- Similarly, if any operations may present a noise or light nuisance, particularly outside the hours of 8am and 6pm, I would recommend a condition addressing the potential for nuisance.

*(Conditions are recommended to be imposed on any consent granted)*

10. The Business Support Officer of the Regeneration & Planning Policy Team supports the application. Heasandford is close to full capacity with the last available plots of land on the estate now either developed or under offer. The redevelopment of the Michelin site has been very successful with all plots developed and occupied or under offer. Additional industrial space on the site will no doubt be popular with similar users and will provide welcomed increases in employment numbers. In terms of the wider Borough property market demand still remains high for quality industrial space and is currently outstripping supply. Any additional accommodation would help to alleviate some of the built up demand.

11. Greater Manchester Ecology Unit (GMEU) is the Council's consultant on Ecology matters. Following site visits and assessment of the ecology information submitted by the application it is recommended that the proposal will result in the loss of an area of BHS and will also isolate a further area of BHS in the north east. There would be a net loss of approximately 18% of the BHS area. The site still contains the ecological interest that it was designated for and it is not 'poor quality habitat' as put forward by the applicant.

The small compensation area suggested is not adequate to compensate for the impacts of the development and the proposal offers no net gain in biodiversity.

It is recommended that the application is refused on these grounds.

*(The comments are set out in more detail in the planning and environmental considerations below.)*

## **Planning and Environmental Considerations:**

The application site forms part of the former Michelin factory curtilage. However, it appears to have remained largely unused since the factory closed down. There is some evidence that, in the past, part of the site has been excavated and levelled with hardcore in preparation for future expansion, but no planning permissions have been granted on this area and no building work has taken place. Some tree planting took place on the site around 20 years ago and grass cover has established over the years. The land has recolonised to a natural state.

The policy basis against which this scheme should be appraised is set out in the context of national and local development plan policies. At a national level the National Planning Policy Framework (NPPF) states that there is a presumption in favour of sustainable development. For decision-taking this means 'approving development proposals that accord with the development plan without delay.' The NPPF advocates a presumption in favour of sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

There are three dimensions to sustainable development – economic, social and environmental and the NPPF sets out that these roles should not be taken in isolation because they are mutually dependent. To achieve sustainable development economic, social and environmental gains should be sought jointly through the planning system.

The NPPF does not change the statutory status of the Local Plan as the starting point for decision making. Development which accords with an up to date development plan should be approved without delay.

The main issues for consideration of the application relate to the economic benefits of the scheme; the highway implications of the proposal; the layout and design of the site and buildings; the principle of development on the site which lies within the Biological Heritage Site; and whether or not the BHS and known protected species on the site can be satisfactorily mitigated or compensated for.

### **The Economic Benefits of the Scheme**

The site falls within the Heasandford Industrial site where Policy EW5 of the Local Plan sets out that the expansion and improvement of the estate will be permitted subject to a range of criteria including provision of landscaping and screening; accessibility by a choice of transport modes including a Travel Plan where necessary; and retention and enhancement of any built and natural features/ areas that contribute to the amenity or biodiversity of the area.

A Local Development Order is in place which covers the site and adjacent buildings and the purpose of the LDO is to accelerate development at the Burnley Aerospace Supplier Park site through simplifying the planning permission requirements. The LDO specifically sets out that no development is permitted within the boundary of the BHS, so the LDO provisions do not apply to this site.

The applicant puts forward that the proposal will complement the current offer allowing businesses to grow and expand leading to additional jobs and bring economic wealth and prosperity to Burnley.

It has not been put forward that end-users have been identified and it appears that this is a speculative development

The NPPF sets out that significant weight should be placed on the need to support economic growth and Council's should plan positively for the location, promotion and expansion of clusters or networks of knowledge driven, creative or high technology industries.

The development has the potential to support the aerospace and advanced manufacturing uses in the area and provide jobs in the town and in principle would deliver economic benefits to the town's economy.

### *The Highway Implications of the Proposal*

The access to the site is via a private internal road leading from Widow Hill Court which leads from Widow Hill Road.

A Transport Statement has been submitted by the applicant in support of the planning application which sets out the anticipated traffic movements associated with the site in order to assess the cumulative impact on the junctions in the vicinity of the site. The statement indicates that the development will operate within the capacity of the junctions and the Highway Authority accept the conclusions and consider that there will be no adverse highway impacts, subject to a number of conditions.

A Construction Method Statement will be required by planning condition which provides for the parking of the vehicles of site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development, the erection and maintenance of security hoarding; wheel washing facilities; measures to control the emission of dirt and dust during construction; details of working hours, etc. to ensure that the site operates without detriment to highway safety during the construction period.

A total of 60 on-site parking spaces will be provided together with turning and manoeuvring areas, which is acceptable in terms of the car parking standards set out in the Local Plan. A condition requiring these spaces to be surfaced and marked out would be appropriate before the use starts. Motor cycle and cycle provision would be required by planning condition to ensure that there is a choice of modes of transport, complementing the bus service which runs along Eastern Avenue.

It would also be appropriate to require a Green Travel Plan by planning condition, in line with Policy TM2, which sets out targets and mechanisms for achieving reductions in car use, especially single occupant journeys; management of parking; targets and mechanisms for increased use of walking, cycling and public transport; management and delivery of freight movements; and provision for effective monitoring and regular review.

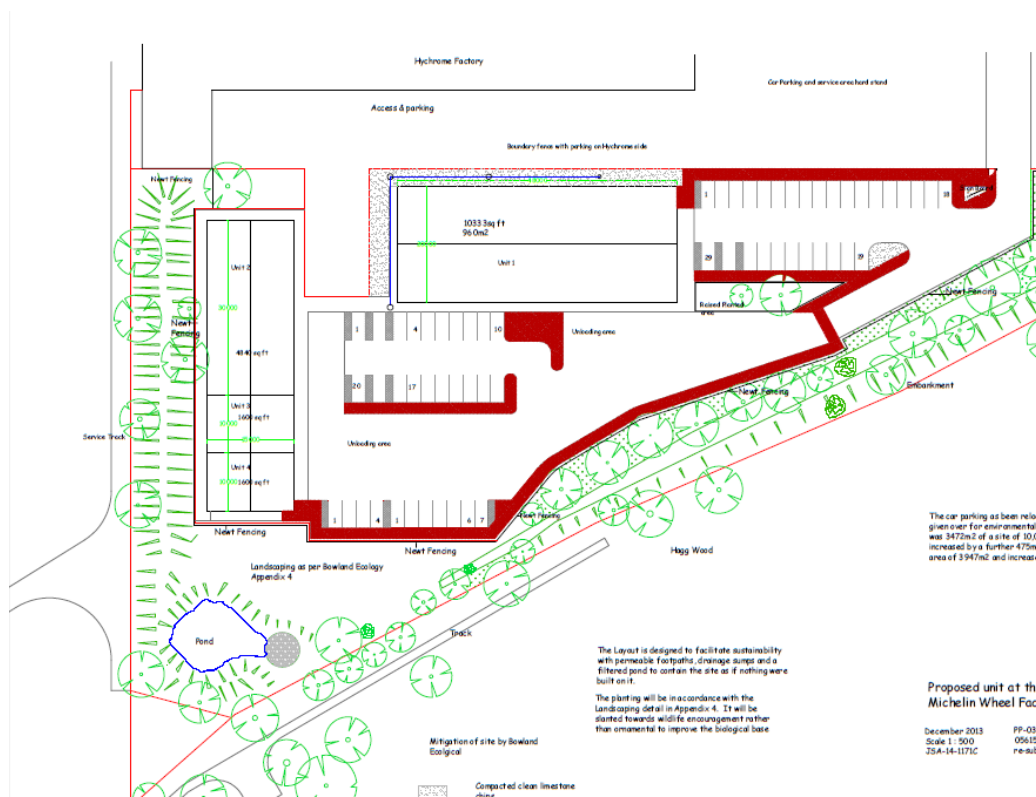
On this basis, the proposal should not have an adverse impact on the highway network.



## Layout and Design of the site and buildings

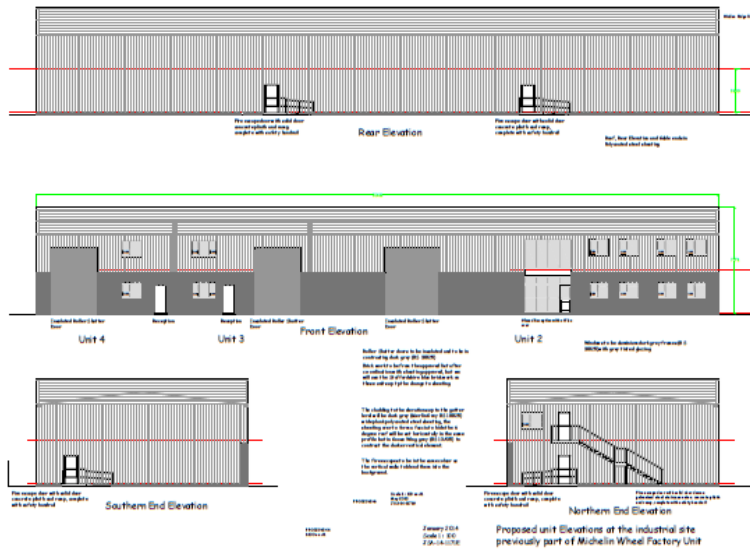
The layout of the site is acceptable and provides for the larger unit set at right angles to the three smaller units to take account of the triangular nature of the land. The car park would be split into 3 car parking areas and the manoeuvring and turning facilities broken up into three areas with areas of landscaping.

The measures suggested in respect of the ecology mitigation inform the landscaping requirements to some extent. The layout includes allocated space to incorporate an ecological enhancement / compensation area around the southern and western boundary. A new pond will be created to the western end of this retained area. A new fence is proposed to separate the development area from the remaining Biological Heritage site. (the ecology issues are considered later in this report).



Layout of the buildings on the site.

The buildings and proposed materials are typical of the design of other buildings within Heasandford Industrial Estate and are acceptable.



### Typical elevations

The materials for the buildings would match those specified in the LDO for the buildings which are permitted by the Order and would comprise Staffordshire blue brickwork to the buildings at low level with blue / grey polycoated steel sheets with a grey steel sheet roof.

The materials are acceptable and would harmonise with the surrounding buildings on the estate.

### *Impact of the Proposal on the Biological Heritage Site (BHS) and the protected species on the site*



### Typical views of site

The site forms part of the Michelin Factory and Smallshaw Industrial Estate Grounds BHS which comprises an area of land to the east of the Michelin Tyre Factory and adjacent industrial units. Of particular interest is a pond with a seasonally fluctuating water level and associated areas of swamp, grassland and scrub.

The amphibians present include breeding great crested newts with smooth newts and common toad. The pond supports an assemblage of breeding dragonflies and damselflies - the regionally scarce emerald damselfly as well as common hawkers and common darter dragonflies and azure, blue-tailed and large red damselflies.

The open water has abundant bog pondweed and common duckweed, occasional broad-leaved pondweed and commonstonewort. The swampy areas beside the pond and elsewhere on the site are dominated by bulrush and common spike-rush with hard rush around the margins. Other frequent species include jointed rush, toad rush, greater bird's-foot-trefoil, tufted forget-me-not, lesser spearwort, cuckoo-flower, glaucous sedge, marsh willowherb, common marsh-bedstraw and occasional sneezewort, common yellow sedge, great willowherb, hoary willowherb, branched bur-reed, bog mosses (*Sphagnum*) and narrow buckler-fern, an uncommon plant in East Lancashire.

The grasslands and disturbed ground around the pond and swampy areas includes species such as tufted hair-grass, Timothy, Yorkshire fog, yarrow, common spotted-orchid, common knapweed, creeping thistle, curled dock, creeping buttercup, field horsetail, white clover and zig-zag clover.

The adjacent scrub consists of self-sown grey willow, goat willow and silver birch with planted sycamore, grey alder, ash, crack willow and white willow.

Butterfly species include green-veined white, small heath, meadow brown, small copper, large skipper and small skipper.

A significant consideration for the application is whether the development will have an adverse impact on this designation and the species contained within the BHS.

Policy E2 of the Local Plan sets out that development likely to have an adverse impact on Biological Heritage Sites will not be permitted.

Policy E5 sets out that development on site supporting a protected species will not be permitted unless adequate provision is made to avoid disturbance to the species or habitat, or, adequate provision is made to facilitate the survival of the species, reduce the disturbance to a minimum, and provide adequate alternative habitats to sustain the viability of the local population of the species.

Policy EW5 of the Local Plan includes within the criteria for the development and improvement of major industrial estates that applications are required to demonstrate that development retains and enhances any built and natural features / areas that contribute to the amenity or biodiversity of the area.

In addition, Paragraph 9 of the NPPF sets out that pursuing sustainable development involves seeking positive improvements including 'moving from a net loss of biodiversity to achieving net gains for nature'

Paragraph 109 sets out that the planning system should contribute to and enhance the local environment, including 'minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures'.

Paragraph 118 of the NPPF sets out that when determining planning applications, lpa's should aim to conserve and enhance biodiversity by applying a set of principles, including that if significant harm resulting from a development cannot be avoided (through locating to an alternative site with less harmful impacts), adequately

mitigated, or, as a last resort, compensated for, then planning permission should be refused.

*Ecology Assessments and a Habitat Management Plan have been submitted as part of the application and these set out the views of the applicant's ecologist as follows:*

The submitted Ecology Assessment acknowledges that the area of the development site is approximately 0.94 Ha, located within the Smallshaw Estate Grounds and Michelin Factory BHS and that the BHS encompasses approximately 4.98 Ha in total. As a result of the development approximately 0.45 Ha of plantation and 0.14 Ha of semi-improved grassland within the BHS will be lost. Approximately 0.35 Ha is to be retained as landscaping / habitat creation area. The development will lead to a net loss of 0.59 Ha from the BHS.

The majority of the habitat lost would be woodland plantation of low ecological value in terms of its floral composition. A smaller area of more florally significant grassland habitat will also be lost. The area to be lost also provides terrestrial habitat for great crested newts.

Areas making up 1.16 Ha in total, that could be brought into positive management to help to mitigate this loss have been identified within the development site. In addition the creation of new breeding habitat for great crested newts, bat roosting habitat and bird nesting habitat will also assist in off-setting ecological impacts.

The assessment comments that the BHS is designated on the basis of the presence of breeding great crested newts and dragonfly/ damselfly populations. The habitat lost will not affect either of these populations

Opportunities for mitigation, compensation and enhancement of the development site and the wider BHS have been identified which inform the production of a detailed management plan. This along with mitigation required in terms of newt licencing, it is considered that there will be no residual impact from the development with regard to the BHS or great crested newts.

#### *Advice from the Council's Ecology consultant*

The submitted reports and the ecological aspects of the development have been fully assessed by the Council's qualified ecology consultant (Greater Manchester Ecology Unit) and are set out in summary in the 'Consultation Responses'.

Based on the ecological consultant's figures, overall the development site represents some 21% of the entire remaining area of the BHS. Within the development footprint, it is claimed that some 0.35ha will be retained. However, from the newt fencing shown on the landscape plan the proposals will also isolate 0.16ha of the BHS in the north east. Overall this means that the proposals would result in a net loss of some 18% of the BHS area. Based on figures from the Lancashire Wildlife Trust, previous development has already resulted in a loss of some 8% of the original BHS.

Following site visits It is considered that the BHS within the application site still retains the ecological interest for which it is selected and is not considered to be "poor quality habitat" as stated in the Design and Access Statement. The BHS is primarily designated for its amphibian interest, including the specially protected species great

crested newt. Amphibians spend most of their time on land; the grassland, scrub and developing woodland on the application site supports excellent terrestrial habitat for amphibians.

Policy E2 of Burnley's adopted Local Plan states that "Development likely to have an adverse effect on the Biological Heritage Sites....will not be permitted." Direct loss of some 18% of the BHS area supporting good quality habitat is clearly an adverse effect. To compensate for this direct loss, the applicant is proposing some habitat enhancement and management within 0.35ha of the application site, although see above. We do not consider such a small compensation area adequate for the impacts of the development and on its own this proposal offers no net gain for biodiversity, as required by the National Planning Policy Framework.

A management plan has been submitted for the wider BHS area outside of the application site. It is proposed that qualitative improvements to the remaining area of the BHS will compensate for quantitative losses. This is questionable, given the extent of the potential loss. In addition the majority of this land appears to be outside of the ownership or control of the applicant.

No information has been provided on the available mechanisms for the implementation of the management plan, including appropriate permission, funding and responsible parties. The management plan is fundamentally the same plan that was submitted for the previous application and still covers 15 years rather than the lifetime of the development or in perpetuity.

The applicants have not demonstrated that there will not be an adverse effect on the BHS and the proposal would be contrary to Policy E2.

As set out above, paragraph 118 of the NPPF sets out that when determining planning applications, lpa's should aim to conserve and enhance biodiversity by applying a set of principles, including that if significant harm resulting from a development cannot be avoided (through locating to an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused

On balance it is advised that the development would result in significant harm to biodiversity for which insufficient avoidance, mitigation or compensation has been included within the proposals put forward.

### **Planning Balance and Conclusions**

The Highway Authority is satisfied that there will be no significant impact on the highway network resulting from the development. The design and materials of the development are acceptable.

The issue for consideration is whether the economic case for the development would be outweighed by the potential harm which would be caused to biodiversity.

The NPPF says that the purpose of the planning system is to contribute to the achievement of sustainable development and sets out the three dimensions of sustainable development to be:

Economic – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation and by identifying and co-ordinating development requirements, including the provision of infrastructure.

Social – supporting strong, vibrant and healthy communities by providing a supply of housing required to meet the needs of the present and future generations and by creating a high quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being.

Environmental – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving a to low carbon economy.

The NPPF advises that these roles should not be undertaken in isolation because they are mutually dependent and to achieve sustainable development, economic, social and environmental gains should be sought jointly through the planning system. The development raises conflicting issues in respect of the economic aspects of the development and the environmental roles.

As set out above, the development could satisfy the aims of Policy EW5 of the Local Plan providing it retains and enhances any built and natural features/areas that contribute to the amenity or biodiversity of the area. It is situated within an existing Industrial Estate and would provide a development which could complement the existing aerospace and advanced manufacturing uses in the locality. In economic terms it would potentially bring benefits to the economic prosperity of the town by providing employment opportunities and supporting the existing business in the area. However, it does not retain and enhance areas which contribute to biodiversity and as such it is contrary to the economic policies of the Local Plan.

The Council's ecological consultant has advised that the development would result in significant harm to biodiversity for the reasons set out in the report. It would lead to the destruction of an area of the BHS and destroy great crested newt sheltering habitat and insufficient avoidance, mitigation or compensation has been included within the proposals.

It is not proposed to provide any additional compensatory land to mitigate for the area which will be lost. The proposal provides only for the improvement of the existing habitat.

On balance it is considered that the harm caused to biodiversity would outweigh the economic benefits which may be achieved by the development. Furthermore, the arguments put forward by the applicant are not likely to be sufficient to form the basis of a successful application for a Derogation Licence to Natural England.

There is a presumption in favour of sustainable development and for decision making this means approving development proposals that accord with the development plan without delay.

The development is not in accordance with the policies of the adopted Burnley Local Plan and it would not represent sustainable development when taking the policies of the NPPF as a whole.

For these reasons the development should be refused.

**Recommendation:**

That planning permission is refused for the following reason:

The development would result in significant harm to biodiversity in that it would lead to the destruction of an area of the Michelin Factory and Smallshaw Industrial Estate Grounds Biological Heritage Site and would potentially harm great crested newts and destroy great crested newt sheltering habitat. Insufficient avoidance, mitigation or compensation measures have been included within the application proposals.

The development would represent unsustainable development and would be contrary to Policies EW5; E2, and E5 of the Burnley Local Plan Second Review and contrary to Paragraphs 9, 109 and 118 of the National Planning Policy Framework.