

**Application Recommended for Delegation to
Approve subject to s106 Agreement**

FUL/2021/0691

Coal Clough With Deerplay Ward

Town and Country Planning Act 1990

Erection of 111no. dwellings and associated access, open space and landscaping
(Proposal affects Public Footpath nos. 7 and 8)

Land south of Rossendale Road, Burnley

Applicant: Seddon Homes Limited

DC Committee

The report from the DC Committee on the 14th March 2024 is produced below with changes as appropriate, including the content of the late correspondence (update report) prior to the meeting.

1.0 Background:

The application is being considered by this Committee due to objections that have been received.

- 1.1 The application site covers approximately 4.78ha and consists of undulating open fields used for pasture. A private track and Public Footpath no. 7 (1206007) cross the north section of the site and a shallow open watercourse flows north-south through the site. A further Public Footpath no. 8 (1206008) passes through the north west part of the site. A medieval Butter Cross is located towards the south east portion of the site.

Aerial view of application site (excluding area for proposed basin to the west of the site)



Source: Applicant's Design and Access Statement

- 1.2 The application has been amended and re-consulted on since first submitted. The amended scheme proposes 111 dwellings across the site [original scheme as submitted was 122 dwellings]. The changes that have been made during the application process have been to provide a policy compliant scheme that includes

appropriate public open space and a good quality layout and design that responds to the local area and relationship with the neighbouring properties.

1.3 Views of application site

Looking north to Barratts site



View towards Micklehurst Crescent



Access from site to Micklehurst Crescent



Private road and FP7 (1206007)



1.4 The amended scheme which includes a reduction from 122 to 111 dwellings is shown below on an extract from the proposed site plan:

Proposed Site Plan



The proposal would provide a mix of mainly detached and semi-detached houses and one terrace of three houses. There would be a range of eleven house types across the site which would provide 49no. four bedroom, 52no. three bedroom and 10no. two bedroom houses. All proposed dwellings would be two storey with one plot (Plot 1 adjacent to Micklehurst Avenue) having an individual dormer bungalow design.

Public open space would be provided principally to the north of the site where it would sit adjoining the public open space which is part of the approved development (by Barratt Homes) which is under construction (planning permission FUL/2021/0273). A Multi-Use Games Area (MUGA) is indicated within this body of open space which would provide recreation facilities for older children and complement the approved provision on the adjoining open space which is to be equipped with play equipment for younger children.

A ditch that runs north to south through the site would be retained and landscaped with the exception of a short distance (approximately 55m) which would be culverted to allow for the estate road that crosses its path and to provide a large functional area of open space for recreation purposes.

The listed Butter Cross base is shown to be retained on the site close to its current position in a corridor of open space on the east side of the ditch that runs through the site.

The site would be drained using a basin that would be located immediately to the west of the development site. Public footpaths that cross the site would be accommodated within the development.

Access to the site would be from the new junction at Rossendale Road, recently constructed as part of the on-going development by Barratt Homes to the north of the site. This route through the current Barratt Homes development would also be the construction access for the development. A private access, that also carries Public Footpath 1206007 between the north east corner of the site and Micklehurst Crescent is shown to be retained for the purposes of private access for four existing properties to the west of the site and would be integrated and include measures to maintain its private use only.

The proposed dwellings are designed in a coherent style with gable roofs, well balanced proportions, formal frontages, heads, cills and jambs and features such as chimneys to a number of dwellings. Corner plots are designed with dual aspects. An example of the proposed streetscenes is shown below:

Illustrative Street Scenes

Street Scene AA Plots 5-6,10-12, 26-27 & 41



Street Scene CC Plots 73-78



The properties would be constructed in reconstituted stone and a flat dark grey concrete tile. Electric vehicle charging (EVC) points would be installed for all dwellings. A minimum of 20% of the proposed homes would be constructed to comply with the optional Part M4(2) standards of Building Regulations to provide adaptable homes.

The proposal includes provision for a total of 11 Affordable Homes (9no. two bedroom and 2no. three bedroom).

2.0 Relevant Policies:

2.1 Burnley's Local Plan (July 2018)

- SP1 – Achieving sustainable development
- SP2 – Housing requirement 2012-2032
- SP4 – Development strategy
- SP5 – Development quality and sustainability
- SP6 – Green infrastructure
- HS1 (HS1/4) – Housing allocations (Land at Rossendale Road)
- HS2 – Affordable housing provision
- HS3 – Housing density and mix
- HS4 – Housing developments
- NE1 – Biodiversity and ecological networks
- NE4 – Trees, hedgerows and woodland
- NE5 – Environmental protection
- CC4 – Development and flood risk
- CC5 – Surface water management and sustainable drainage systems
- IC1 – Sustainable travel
- IC2 – Managing transport and travel impacts
- IC3 – Car parking standards
- IC4 – Infrastructure and planning contributions
- IC5 – Protection and provision of social and community infrastructure

2.2 Material Considerations

Developer Contributions Supplementary Planning Document (SPD) (Adopted December 2020)

Air Quality Management: Protecting Health and Addressing Climate Change Supplementary Planning Document (SPD) (Adopted December 2020)

Planning for Health Supplementary Planning Document (SPD) (Adopted October 2022)

The National Planning Policy Framework (2023)
National Planning Practice Guide
National Design Guide (2021)

3.0 Site History:

None.

4.0 Consultation Responses:

4.1 LCC Highways

No objections raised. The layout of the site is generally acceptable, other requirements such as junction tables and other traffic calming features can be addressed as part of the section 38 adoption process. The existing track across the site is also a Public Right of Way 12-6-FP7, contact with our PROW team should be made to ensure that its legal status and possible diversion. Similarly, 12-6-FP8 may need to be addressed. The means of traffic calming the existing access track which has a limited right of access has been agreed. The revised plans show a M.U.G.A. and it is expected that a suitable path from the gate to the adoptable footway will be provided. Whilst it is not known if this area is to be lit care should be taken to avoid light spilling onto the adoptable highway. There is a concern regarding the function of the existing traffic signals at the junction of Manchester Road and Rossendale Road. A Section 106 agreement is sought for a contribution to the upgrade of the traffic signals, this will include the provision of pedestrian crossing facilities and other improvements to improve the traffic flow. The value of this contribution is £70,000 and this is required prior to any works starting on site to ensure that the signal work can be completed prior to the expected increase in residential traffic.

Conditions are recommended to require a Construction Management Plan, a restriction on deliveries during construction to avoid peak traffic, wheel washing facilities, to withdraw Permitted Development rights to ensure garages remain available for parking and to screen external sources of lighting from drivers.

4.2 Lead Local Flood Authority (LCC)

No objection subject to conditions to require the implementation of the submitted Drainage Strategy and Design, Construction Management Plan for sustainable drainage system and Operation and Maintenance Plan; and to require a Verification Report to evidence the completion of the constructed sustainable drainage system.

4.3 United Utilities

The strategy for the disposal of foul and surface water is acceptable in principle. A condition is requested to require a detailed foul and surface water drainage

scheme.

4.4 Greater Manchester Ecology Unit (GMEU)

The site is located to the south of Rossendale Road (A646) and has existing residential areas to the east. Habitats to the south and west are consistent with the main habitats on the site, predominantly improved and marshy grassland as well as an ephemeral pond and ditch. Land to the north is subject to a planning permission (FUL/2021/0273) for over 87 dwellings, which GMEU has also commented on, and the comments provided on this application are in line with those made on the land to the north of the site.

Habitats, Layout/Landscaping and Net Gain

The majority of the terrestrial habitat on the site will be lost as a result of the proposed development including extensive areas of improved grassland. The existing ditch on the site will be retained and a buffer zone on either side is proposed, along with creation of a pond and grassland area to the west of the site, within the site edged red. The site is within the allocations plan for housing (HS1/4) and while it is not specifically identified that net gain for biodiversity is required as part of the scheme, the general policy in the Local Plan (NE1: Biodiversity and Ecological Networks) states that all development proposals should, as appropriate to their nature and scale, seek opportunities to maintain and actively enhance biodiversity in order to provide net gains where possible. The metric as presented demonstrates a small on site gain. The amended scheme will result in the loss of a section of the ditch on the site, which was previously proposed to be retained. This will now be culverted and an area of public open spaces created, which include other neutral grassland, scrub and tree planting. To compensate for the loss in this section of the ditch, measures to enhance the area of retained are proposed, and given the poor condition of the ditch currently, I am satisfied that this is adequate. The applicant acknowledges that a more exacting management regime will be required to achieve a good condition of habitat and has acknowledged that a LEMP (or similar) will be required. GMEU accept the condition of good in this instance and consider that a condition for a LEMP, with a particular emphasis on the requirement for monitoring and remedial action, which will be key to ensuring this habitat level is created and maintained.

A number of general enhancements for biodiversity, (which are not necessarily accounted for in the DEFRA metric) are recommended in the ecology report, such as inclusion of bat and bird boxes into the new houses, and designing connectivity through the site by providing appropriate gaps in boundary features etc., which should be secured in addition to the net gain requirements, through the planning system by use of an appropriately worded condition for an Ecological Enhancement Plan.

A Construction and Environment Management Plan (Biodiversity) will be required to protect retained habitats (the ditch and boundary vegetation for example) and to secure working practices which will not damage any of the wildlife that may be present on the site, such as a method statement for site clearance for species such as hedgehogs. This should also include measures to treat and prevent the spread of invasive non-native species recorded on the site, and other measures identified in section 5.2 of the ecology report. The agreed measures should be implemented and maintained for the duration of the construction period in accordance with the approved details.

Nesting birds

The habitats on the site (boundary shrubs and grassland for example) are suitable for nesting birds, and the active nests of all wild birds are protected under the Wildlife and Countryside Act, 1981 (as amended). Breeding has been confirmed on the site of low numbers of priority and species of conservation concern, including lapwing, skylark and house sparrow. The ecology report has acknowledged that the current scheme does not provide replacement habitat for species such as skylark and lapwing (paragraph 4.4.3) but opportunities for other priority species can be provided. This is justified by the low number of birds recorded, the location of the proposals next to existing residential development and the availability of similar habitat in the wider environment. GMEU had previously raised concerns that breeding priority species were recorded on the site. Mitigation for species such as house sparrow has been provided in the form of nest boxes, however for lapwing and skylark we were concerned that although there were only 1 pair of each species recorded breeding on the site, no mitigation was proposed, and this application is one of three in this area which will result in the dispersal of low numbers of ground nesting birds. The letter report (from the ecology consultant) has examined the cumulative impact of the proposals on ground nesting birds in relation to the suitable available habitat and has concluded that although there will be displacement of a small number of ground nesting birds, the impacts will be negligible. We would accept this analysis and not raise an objection on the basis of ground nesting birds. A condition should be used so that the applicant is aware of the legal protection that active bird nests receive. Work which may impact on nesting birds (such as ground and vegetation clearance) must be timed to avoid the main bird nesting season (March - August inclusive) unless it can otherwise be demonstrated that no active bird nests are present.

Bats

No suitable roosting features were identified on the site, and it was judged to have only low value of foraging and commuting bats. No further survey work is required in relation to bats, however the impact of lighting must be considered. Any new lighting for the site should be designed to minimise the impact on nocturnal mammals such as roosting bats in line with published best practice guidelines and section 5.4.1-5.4.3 of the ecology report.

Invasive Species

One invasive species listed on Schedule 9 of the Wildlife and Countryside Act, 1981 (as amended) has been recorded on the site (Montbretia). It is an offence to plant or cause these species to grow in the wild. A condition to secure a management plan to treat and prevent the spread of control of invasive species should therefore be used (if not incorporated into the CEMP).

Other Protected Species

There are judged to be no implications for other protected species and no evidence of other protected or priority species such as water vole, otter and badger was recorded. An informative should be used so that the developer is aware of the legislation that is in place to protect wildlife. If at any time protected species are found on the site, work should cease immediately and ecologist/LPA should be contacted.

4.5 LCC Schools Planning Team

A contribution towards eleven secondary school places is requested.

Summary of Education Requirements

In relation to this planning application the following education requirements have been identified. This is an objection to the planning application. The objection will be withdrawn if the following education requirements are met.

A summary of the requirements is provided below, with further detail provided in the full document.

This assessment represents the final position to inform committee, assessed on 04/09/2023, but will be adjusted by indexation at the point of payment.

The latest information available at this time was based upon the latest School Census available and resulting projections.

Based upon the latest assessment, taking into account all approved applications, LCC will be seeking a contribution for 11, secondary school places. However LCC will not be seeking a contribution for primary school places.

Calculated at the current rates, this would result in a claim of:

Permanent expansion

Secondary places:

= £26,717 per place

£26,717 x 11 places = £293,887.00.

If this is not the final point of decision or later information becomes available prior to decision, LCC reserve the right to reassess the education requirements taking into account the latest information available.

Expenditure Project

Following an initial scoping exercise of the local schools it has been determined that Lancashire County Council intend to use the secondary education contribution to provide additional secondary places at Unity College and/or Burnley High School. These are the closest secondary schools to the development that have space to accommodate an expansion.

Whilst the County Council have confirmed its intention to deliver projects at Unity College and/or Burnley High School, it should be noted that this would be subject to the following:

- willingness of school governing body to expand
- suitability of site
- planning permission & compliance with Section 77 of the Schools Standards and Framework Act 1998 and Schedule 1 to the Academies Act 2010.
- consultation with local schools and the community
- parental preference at the time that the places are required
- school standards at the time that the places are required
- availability of other funding streams.

Should the secondary education contribution not be spent on the project named within this assessment, the County Council will return the entire sum to the owner. Furthermore, the County Council will ensure that sufficient local secondary school places are provided to address the impact of the development at no cost to the owner.

Education Assessment 4th September 2023

Lancashire County Council is responsible for the provision of school places across the 12 county districts. The county has been facing significant increases in the birth rate at the same time as capital funding from the Department for Education has been significantly reduced.

In accordance with Lancashire County Council's 'School Place Provision Strategy', the following will apply:

Where the growth in pupil numbers is directly linked to housing development and existing school places are not sufficient to accommodate the potential additional pupils that the development may yield, Lancashire County Council would seek to secure developer contributions towards additional school places. Only by securing such contributions (which, depending upon the scale of development, may also include a contribution of a school site), can Lancashire County Council mitigate against the impact upon the education infrastructure which the development may have.

This assessment shows the level of impact on primary and secondary school places relevant to the following development and provides details on the level of contribution required to mitigate the development impact:

Land South of Rossendale Road

Pupil Yield

Through a detailed research project carried out during 2012 LCC have established a pupil yield to be applied for the bedroom mix within a development.

Using the Rightmove database (based on Land Registry information), a cross matching exercise was undertaken to match the first occupation of a house with the relevant School Census. The research enabled LCC to ascertain the likely impact of a dwelling with 1, 2, 3, 4, or 5+ bedrooms in terms of the child yield. This enabled LCC to project the pupil yield of new houses, based on the number of bedrooms per dwelling.

LCC will apply the accurate pupil yields to our assessment on full and reserved matters applications, as the bedroom mix is known at this stage. On outline applications, LCC will apply the 4 bedroom yield, to provide an initial worst case scenario. The accurate pupil yield will be calculated at reserved matters stage as required.

Local primary schools within 2 miles of development When assessing the need for an education contribution from this development Lancashire County Council considers primary school provision within a 2 mile radius of the proposed site. Details of the schools relevant to this site are provided below:

School Name	Latest Number on Roll *	Future Planned Net Capacity (Jan 2028) **	Projected Pupils by Jan 2028 ***
Christ The King Roman Catholic Primary School Burnley	211	210	207
Cherry Fold Community Primary School	366	420	322
Rosewood Primary School	420	420	398
Burnley Holy Trinity Church of England Primary School	208	210	210
Rosegrove Infant School & Burnley Lowerhouse Junior School	392	377	408
Burnley Springfield Community Primary School	211	210	200
Burnley Whittlefield Primary School	211	210	215
Burnley St. Stephen's Church of England Voluntary Aided Primary School	206	210	203
St. Augustine of Canterbury Roman Catholic Primary School Burnley	206	210	206
Burnley Ightenhill Primary School	337	420	318
Burnley St Peters Church of England Primary School	210	210	207
St. Mary Magdalene's Roman Catholic	205	210	208

Primary School Burnley			
Wellfield Methodist & Anglican Church School	203	210	209
Burnley Brunshaw Primary School	382	420	323
St. Mary's Roman Catholic Primary School Burnley	207	210	194
Total	3975	4157	3828

Projected places in 5 years: 329

Additional information which may provide context to the figures above has been included in the table below. This table provides year by year pupil projections for the schools affected by the development.

JAN 2024	JAN 2025	JAN 2026	JAN 2027	JAN 2028
3922	3844	3778	3746	3660

The figures above show the forecast number on roll before housing and migration is applied. Using the appropriate district's 5 year Housing Land Supply documents (or equivalent) and migration figures in 5 years' time we forecast there will be 3828 pupils in these schools.

Development details

Number of bedrooms	Yield applied per dwelling	Number of dwellings	Primary yield for this development
1	0.01	-	-
2	0.07	9	0.63
3	0.16	72	11.52
4	0.38	30	11.4
5	0.44	-	-
Totals		111	(23.6) 24 Places

Education Requirement

The calculation below details the effect on pupil places,

4157 Net Cap
- 3828 Forecast
329 Projected places available in 5 years
- 40 Yield from approved applications
289 Places available in 5 years
- 24 Yield from this development
265 Places available in 5 years

Latest projections for the local primary schools show there to be 329 places available in 5 years' time, with additional planning approvals expected to generate a demand for a further 40 school places. With an expected pupil yield of 24 pupils from this development, we would not be seeking a contribution from the developer in respect of Primary places.

Local Secondary schools within 3 miles of the development

When assessing the need for an education contribution from this development Lancashire County Council considers secondary school provision within a 3 mile radius of the proposed site. Details of the schools relevant to this site are provided below:

School Name	Latest Number on Roll *	Future Planned Net Capacity (Jan 2028) **	Projected Pupils by Jan 2028 ***
Burnley Unity College	1394	1466	1538
Burnley High School	580	634	684
Blessed Trinity Roman Catholic College	1283	1250	1175
Padiham Shuttleworth College	1107	1070	1139
Burnley Sir John Thursby Community College	1128	1125	1185
Total	5492	5545	5721

Projected places in 5 years: -176

Additional information which may provide context to the figures above has been included in the table below. This table provides year by year pupil projections for the schools affected by the development.

JAN 2024	JAN 2025	JAN 2026	JAN 2027	JAN 2028
5595	5622	5591	5497	5526

The figures above show the forecast number on roll before housing and migration is applied. Using the appropriate districts 5 year Housing Land Supply documents (or equivalent) and migration figures in 5 years' time we forecast there will be 5721 pupils in these schools.

Development details

Number of bedrooms	Yield applied per dwelling	Number of dwellings	Secondary yield for this development
1	0.00	-	-
2	0.03	9	0.27
3	0.09	72	6.48
4	0.15	30	4.5
5	0.23	-	-
Totals		111	(11.3) 11 Places

Education Requirement Latest projections for the local secondary schools show there to be a shortfall of 176 places in 5 years' time. These projections take into account the current numbers of pupils in the schools, the expected take up of pupils in future years based on the local births, the expected levels of inward and outward migration based upon what is already occurring in the schools and the housing development within the local 5 year Housing Land Supply document, which already have planning permission.

With an expected yield of 11 places from this development the shortfall would increase to 187.

Therefore, we would be seeking a contribution from the developer in respect of the full pupil yield of this development, i.e. 11 places.

Summary and Calculations

This is an objection to your planning application. The objection will be withdrawn if the following education requirements are met.

This assessment represents the final position to inform committee, assessed on 04/09/2023, but will be adjusted by indexation at the point of payment. The latest information available at this time was based upon the latest School Census available and resulting projections.

Based upon the latest assessment, taking into account all approved applications, LCC will be seeking a contribution for 11, secondary school places. However LCC will not be seeking a contribution for primary school places.

Should the secondary education contribution not be spent on the project named within this assessment, the County Council will return the entire sum to the owner. Furthermore, the County Council will ensure that sufficient local secondary school places are provided to address the impact of the development at no cost to the owner.

4.6 East Lancashire NHS Trust

Request a contribution (this request was made in February 2022). In summary, the Trust states that they currently provide acute, emergency and secondary healthcare across Blackburn with Darwen, Burnley, Hyndburn, Pendle, Ribble Valley and Rossendale. The impact of non-recurrent (capital) and recurrent (service provision)

infrastructure costs as a direct result of new housing development are very significant and as such a contribution is now sought to address the direct impact which the application will have on the Trust. A scheme for 122 new dwellings [the original number of dwellings proposed by this application] will support a population increase of 281 (assuming an average of 2.3 people per dwelling) all of whom will need to access health services. It follows that without the provision of additional facilities and services it will not be possible to accommodate the health impact of the development within the existing provision which is available. The Trust will in due course be able to obtain funding to meet the needs of the population which arises from the development but this funding will not be in place for approximately three years. Once in place, the funding will not be provided retrospectively, and as such the impact on the Trust for the initial period will not be met from any alternative source of funding. The Trust therefore request a contribution for this development in the sum of £208,194.00 (based on 122 dwellings). The Trust consider that this request meets the requirements of the appropriate tests.

4.7 Designing Out Crime Team (Lancashire Constabulary)

There has been a comprehensive and bespoke private Crime Impact Statement completed on this development, and having read through this document, I support and concur with recommendations made in this report.

4.8 Ramblers (Burnley and Pendle Group)

The main footpath crossing the site, 12-6-FP-7, is also an access road/track for Further Barn Farm and Lower Micklehurst Farm and therefore I would expect there to be access at all times throughout the build. However, this needs to be safe access for pedestrians also throughout. The other footpath, 12-6-FP-8, which goes along the NW edge of the site also needs to maintain safe access throughout and beyond the build. This would need to be waymarked and a clear path installed, as this area will, no doubt, become muddy/boggy.

4.9 LCC Public Rights of Way (PROW) Officer

Comments previously made concerning minor obstructions of the public footpath nos. FP1206007 and FP1206008. A hedgerow falls within the width of FP1206008 and confirmation is sought that changes to the layout has fully addressed this.

4.10 Environmental Health

No objection in principle in respect of noise, light, dust or odour nuisance but recommend conditions to require a site-specific Construction Management Plan to demonstrate the use of best practicable means to reduce the effects of noise, vibration, dust and site lighting and an informative regarding no burning of waste.

4.11 Greenspace and Amenities

The proposed open space is sufficient in size and request provision is made for a ball court area to provide recreation facilities for older children.

4.12 Council for the Protection of Rural England (CPRE)

Acknowledge that the site is allocated in the adopted local plan and make the following points in summary:

- An increase in the expected number of dwellings at the site allocation overall;
- Cumulative impacts should be considered;

- Mix of housing should be genuinely affordable and should also provide for older households;
- Should include appropriate traffic management systems;
- Protected species should be properly recorded and protected;
- Should be a high quality development;
- Recommend appropriate landscaping and boundary treatment to reduce the impact in the wider landscape;
- A listed Butter Cross base exists on the site and should be retained in situ and sensitively incorporated into the scheme.

4.13 Historic Environment Team

The archaeological desk-based assessment submitted as part of the application is appropriate and we do not disagree with the conclusions. The site to the north of this one did have some unexpected and previously unrecorded mine workings but the coal seam worked appears to be the basal one of the coal measures in this area and dips away to the north so it is unlikely that there will be any surprises relating to historical mining in this area as far as can be assessed from existing sources. The desk-based assessment suggests that an appropriate approach to this site would be to carry out further survey work, in the form of a geophysical survey. It would also be of value to carry out a metal-detector survey, using strictly archaeological methods of survey and analysis, in the area of the "Butter Cross" base to determine if this was used as a marketing site (from dropped small artefacts) or if it was a waymarker in the medieval landscape. The results of the survey work can then be used to inform the need for any further work to investigate features identified by these surveys. A condition is recommended to achieve this.

4.14 Burnley Wildlife Conservation Forum (BWCF)

The BWCF is disbanded but previously wrote to object to the application and further representations have been received from the former Chairman, Mr Peter Hornby, which maintain the objection. The letters state that the land comprises semi-natural grazing pasture which is in a prominent elevated part of the adjoining open countryside. This semi-natural grazing pasture comprises a mosaic of both drier and marshy grassland and boggy drainage ditch habitats. The September '21 Ecological Survey & Assessment accompanying the application confirms the vegetation species found in their earlier April '21 Ecological Survey & Assessment when an extended Phase 1 Habitat Survey found a wide range of drier and marshy grassland wildflower, grass and sedge species, notably Cuckooflower, Bog Stitchwort, Brooklime, Marsh Thistle, Self Heal, Thyme-leaved Speedwell, Meadow Vetchling, Common Mouse-ear and Celandine, and considered that the ditch and marshy grassland are of ecological value at the site level. As a result of this diversity of grassland habitats present on this plot of land, it is used for foraging for food by a wide range of bird species and most importantly as foraging and also nesting habitat for 4 upland breeding birds: Skylark, Meadow Pipit, Curlew and Lapwing. This is confirmed by breeding bird surveys undertaken as part of the April '21 survey which recorded a total of 35 bird species utilising the site, most importantly including counts of up to 5 Skylarks, 7 Meadow Pipits, 4 Curlews and 6 Lapwings. The later September '21 assessment is misleading as it was too late in the year for the breeding season. The L.E.R,N. assessment of the Local Plan sites states that species have been recorded with European and NERC Act section 41 protection, along with the Lancashire Biodiversity Action Plan long list and key species. Wildlife & Countryside Act Schedules 1, 5 & 8 species have

been recorded within 250m of the site. The site is in the Historic Woodland & Grassland Ecological Network stepping stone habitat. The proposal would result in a significant adverse effect on biodiversity, most especially in respect of birds.

The former Chairman of the BWCF, Peter Hornby, has made further comments in respect of amended plans for 111 dwellings, maintaining the objection and stating that there would still be a loss of the existing open landscape area of significant wildlife habitat which will result in a loss of a substantial area of biodiversity asset, especially for ground nesting and foraging by upland breeding birds. The letter repeats the points made in the earlier BWCF response and also states that since construction work began on the housing development on the adjacent plot of land, which is still in progress, the resulting disturbance has had an adverse effect on the species and numbers of birds present on this adjacent plot of land. This adverse effect will continue until the construction work is completed and only then will the species and numbers of birds present on the land recover. The letter concludes stating that the amended development proposal would still result in a significant adverse effect on biodiversity, most especially in respect of birds and consequently, object to the revised proposals.

4.15 Habergham Eaves Parish Council

Habergham Eaves Parish Council objected to this site being placed in the Local Plan for the very reasons which are now causing concern in the community.

Following re-consultation, the parish council maintain their objection. A summary of the points of objection is provided below:

- Number of houses is in excess of that allocated in the Policy HS1/4 of the Local Plan which has an indicative number 188 dwellings and no evidence of need for the extra.
- Burnley has thousands of empty homes which could be renovated and returned to people to live in and there is no justification to infringe any further on green belt land [it should be noted that it is not Green Belt land].
- Traffic will exit through the housing estate to north which is of great concern. The area is already saturated in traffic as vehicles access Rossendale Road from the existing estates
- Rossendale Road itself is a busy main road with housing on both sides and therefore parking on both sides, leading to poor sight lines, especially coming out from estates onto it.
- Impact at peak times
- Increase of traffic will also flow onto Rossendale Road from the proposed nearby industrial estate, heading for both Manchester and the M65 and lead to congestion and affect the quality of life for the existing community.
- The claim the development will improve biodiversity is contradictory as the Assessment of the Biodiversity Net Gain shows a 32% loss of habitat units.
- The use of enhancements proposed for biodiversity (i.e. the bat and bird boxes proposed) will not mitigate for the losses of habitat associated with the BNG Metric and is not a meaningful substitute for the provision of appropriately designed wildlife habitat.
- The proposal needs to demonstrate in advance it will (as it claims) that it will improve biodiversity.
- The proposed watercourse will be of limited value to biodiversity.
- The ponds will be of limited value for wildlife unless they are securely fenced and designed to support significant areas of marginal vegetation. They will

periodically dry out during the summer months, making them sub-optimal as wildlife habitat.

- Disappointed that the developer is choosing not to install any renewable energy systems in homes.
- Disappointed that the developer has not included a stand alone play area and instead is relying on existing play facilities and footpaths in the area.
- Disappointed that the loss of green fields is not resulting in a substantial contribution from the developer to compensate for the extra strain on services, especially education, within the existing community.
- Query provision made for the Grade II listed Butter Cross, and should be preserved and protected.

4.16 Burnley Civic Trust

Share the concerns of Habergham Eaves Parish Council about this application and for the following reasons, object to the proposed development:

1. This proposal is being used in tandem with the development of an adjoining site. Whilst provision for development is included in the district plan (to which we objected at the time) the total no of houses envisaged was 188 but now taking the two sites together permission is sought for 223 houses [total would now be 198 houses].
2. The Buttercross must be preserved.
3. Play areas and/or a community centre should be provided.
4. The provision for renewables is insufficient
5. The biodiversity provisions are contradictory.
6. Access is dependent on existing or other anticipated provision and the existing houses will be greatly affected by the traffic which will be generated by these houses which is unfair.
7. The amount of traffic spilling on to Rosendale Road not only from these housing developments but from the proposed industrial development is unacceptable and will cause great distress to the local community.
8. Query what provision will be made for bettering the infrastructure - schools, medical centres etc

4.17 Anthony Higginbotham MP

The MP has written to draw attention to views expressed by a number of constituents, raising specific concerns relating to the volume of traffic, both noise and air pollution and environmental impacts, particularly to ground nesting birds. Some constituents wonder whether the land could be used for other means such as a community vegetable patch with the potential for creating more local jobs and promoting local food produce. The letter requests that the constituents' concerns are fully considered and taken into account.

4.18 Publicity

Objections from 17 properties at Micklehurst Crescent, Buttercross Close, Rossendale Road, Rossendale Avenue, Helm Close and Plane Tree Close were received to the initial application for 122 dwellings. Further notifications relating to amended plans (for 111 dwellings) has led to objections from 28 properties (Micklehurst Crescent, Buttercross Close, Rossendale Avenue, Rossendale Road, Fairways Drive and Vandyke Avenue) and the most recent notification of minor changes and inclusion of MUGA within open space has led to six objections (Micklehurst Crescent, Buttercross Close and Rossendale Avenue). A summary of the points of objection is provided below:

- Loss of attractive open fields, countryside and impact on landscape
- Destruction of open farmland
- Affect on dog walkers and ramblers
- Brownfield sites/empty homes are available in Burnley
- Question the need for the development and slow down of other sites and properties unsold
- Impact on ecological habitats
- Removal of peat and release of carbon into the atmosphere and impact on climate change
- Large amount of wildlife in the area, birds such as Sparrowhawks, owls, Curlews, Starlings, Snipe, Red Bunting, Skylarks and Lapwings, bats, deer, hedgehogs, newts and insects
- Loss of land, trees and hedgerows
- Loss of habitat for ground nesting birds
- Will add 300+ people to the local area, putting pressure on local roads
- Will add 200+ cars to the roads
- Rossendale Road already has excessive traffic and will not cope with the increase
- Will worsen congestion, long queues of traffic on Rossendale Road which has been narrowed to single lane
- Quiet cul-de-sac at Micklehurst Crescent will become a rat-run
- Traffic calming measures are not enough to deter the use of the private road
- Would like the private access road to Micklehurst Crescent closed or bollards used, no parking and access only signs are needed
- Will lead to major issues of highway safety, noise and pollution at an over-subscribed junction at Rossendale Avenue where there are log jams at peat times to leave Rossendale Avenue
- Inadequately designed junction at Rossendale Road and speeding traffic west and east of Rossendale Road and road reduced to single lane
- The part of Rossendale Road that is 40mph should be reduced to 30mph
- Concern regarding the proposed speed cushions on the private access road and how this will affect farm traffic
- Disruption to means of access to four properties using the private access road where farm access and access for existing residents, farm machinery and emergency vehicles is required on a 24/7 basis
- Impact on traffic should be considered along with other developments in the area
- Considerable walk to bus stops
- Impact on the risk of flooding by building on land that has the ability to hold water
- The sewerage system through Micklehurst Crescent is an aging system
- Contamination from the development site into the existing watercourse
- No public services near the site
- Concern for the provision of services for children such as nurseries, schools, youth clubs and education and for adults such as jobs, training, education and public transport
- Concern for the provision of services such as surgeries, dentists, hospitals, shops, pharmacies and recreation
- Impact on health
- Access to clean air

- Currently a quiet and peaceful area which will be spoilt by vehicle noise
- Impact from noise, dirt, pollution, disruption and disturbance during construction
- Loss of privacy, daylight/sunlight, visual amenity, overshadowing and overbearing effect of development
- New homes will overlook into garden, kitchen and living areas
- Should be bungalows rather than two storey houses adjacent to existing bungalows at Micklehurst Crescent
- Query the proposal for a multi-use games area near to houses occupied by mainly older people
- Will lead to an increase in crime and reduce community safety
- Application boundary is within land maintained by many residents for over 20 years
- Safety of children near to pond/water
- It is in the coldest, wettest and windiest parts of Burnley
- Insufficient protection for the local buttercross
- Question the sustainability credentials of the development
- Record of shallow mining on the hills to the rear of Micklehurst Crescent
- the proposed MUGA may lead to noise.

5.0 Planning and Environmental Considerations:

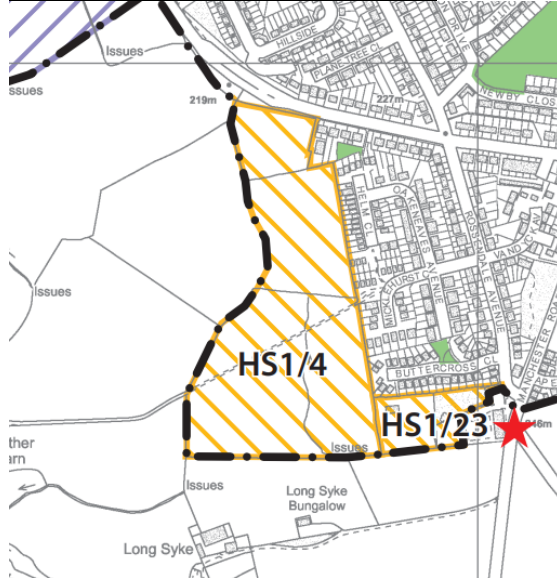
5.1 Principle of Proposal

Policy SP1 of Burnley's Local Plan, adopted in July 2018, states that the Council will take a positive approach that reflects the presumption in favour of sustainable development set out in the National Planning Policy Framework (NPPF). It will work proactively with applicants and to find solutions which mean that proposals can be approved wherever possible to secure development that improves the economic, social and environmental conditions of the Borough. It also echoes the guidance in the NPPF by stating that "Planning applications that accord with the policies in this Local Plan... will be approved without delay, unless material considerations indicate otherwise".

Policy SP2 sets out the Housing Requirement for the borough between 2012 and 2032, identifying a net additional requirement of 3,880 dwellings, of which there is a residual requirement of 1,798 dwellings to be met by site allocations. Policy HS1 identifies those sites that have been chosen through the local plan process to meet this requirement. The application site is part of one of the larger identified sites for housing, identified as Policy HS1/4 – Land at Rossendale Road (7.52ha) identified as a Greenfield site.

This application relates to 63% of the land area of the above housing allocation HS1/4 (that is, is 4.7ha). The application site area amounts to a larger area (5.19ha) in order to include land to the west of the allocated site which would be used to create a large landscaped drainage basin and no part of this would be built upon.

Extract from Policies Map (West)



Application Site area



Policy HS1 states that development on the allocated site will be acceptable in principle for housing development and will be required to be delivered in accordance with the site specific requirements [listed in HS1/4] together with the requirements of other relevant policies elsewhere in the Plan. The principle of developing the site for residential purposes has already therefore been established through the local plan process, taking into account the economic, social and environmental objectives of sustainable development.

Policy HS1/4 states that the site [as a whole] is acceptable for around 188 dwellings. The revised proposal is for 111 dwellings on part of this site. This would lead to a total of 198 dwellings on the allocation as a whole which is slightly higher but would be around the indicative figure. The proposal is acceptable in principle subject to the remaining site specific requirements (see below) and consideration of other plan policies.

Additional and Site Specific Policy Requirements and Design Principles

- 1) A mix of dwelling types, including a minimum of 55% 3+ bedroomed detached and semi-detached houses will be expected;
- 2) Appropriate traffic management systems will be required both at the site entrance and within the locality, for which contributions may be sought in accordance with Policy IC4;
- 3) Protected Species have been recorded on the site. An ecological survey will be required to accompany any planning application which identifies and addresses this issue in accordance with Policy NE1;
- 4) Appropriate landscaping and boundary treatment should include screening to the northern and western boundary to reduce the impact on the wider landscape, along with roadside trees and shrubs adjacent to Rossendale Road. New planting on the site will need to accord with Policy NE3; and
- 5) The presence of known heritage assets (Medieval and earlier) within close proximity of the site would suggest some limited potential for unknown archaeology of local-regional significance and suitable provision will need to be made for archaeological desk based assessment and field evaluation consistent with Policy HE4; and any further investigation or recording works that may be necessary as a consequence of development.

The proposed development would comply in principle with the spatial strategy for development in Policy SP4 and the specific housing allocation in Policy HS1.

The above requirements and other material considerations relating to plan policy requirements, including the impact of the development on traffic, ecology and neighbouring properties, are considered below.

5.2 Design, layout and visual impact of the development

Policy SP5 states, amongst other things, that the Council will seek high standards of design, construction and sustainability in all types of development. In respect of design and layout, this requires new housing to respect existing, or locally characteristic street layouts, scale and massing; contribute positively to the public realm; provide for new open space and landscaping which enhances/or provides mitigation for loss of biodiversity; respect the townscape or landscape setting; be orientated to make good use of daylight and solar gain; to ensure there is no unacceptable impact on the amenity of neighbouring occupants or new occupiers; and provide for carefully designed storage for bins and recycling containers.

The proposed scheme has been amended since first submitted to provide a greater amount of public open space, to increase separation distances with existing neighbouring houses and to improve the quality of the scheme.

The proposed open space amounts to a total of 0.9ha which exceeds the amount required by Policy HS4 (which would be 0.66ha based on the 111 dwellings) and is appropriately located with the main body to the north of the site to complement the public open space that is being created to the adjoining north side of the site. Public open space, in the form of amenity landscaping also forms a green corridor along the length of the retained watercourse (ditch) which contributes to the openness of the development and provides for biodiversity enhancements. The Grade II listed Butter Cross base would be located in this area which would be a suitable setting. Peripheral open space and planting to the south and west boundaries of the site would create a green and softer edge with the countryside. The applicant has included a ball court area (MUGA) within the main body of the public open space at the request of the head of Greenspaces and Amenities which would provide for the needs of older children (teenagers) and complement the play facilities to be provided on the adjoining open space (Barratt Homes development) which cater for younger children. The proposed MUGA would be enclosed by 3m high ball net fencing. A condition to require details of the surfacing and fencing is recommended. The areas of public open space would be maintained through a private management company which can be appropriately secured through a s106 Agreement.

The mix and range of house types complies with the site specific criteria of Policy HS1/4 that requires a minimum of 55% of three or more bedroom semi-detached and detached dwellings. Policy HS3 states that development should make efficient use of land and be built at a density appropriate to its location and setting. However, it states that developments should achieve a minimum of 25 dwellings per hectare (dph). In this case, the proposed development amounts to 23 dph which is a relatively low density which is acceptable on this greenfield site where a watercourse is integrated into the layout and additional open space provides the opportunity for more planting and a greener edge with the countryside. The proposed density would not differ significantly from the indicative number stated in Policy HS1/4 for this part of the site and would comply with Policy HS3.

The applicant has amended the proposed house designs through the application process to remove three storey dwellings and to create distinctive and attractive street scenes that reflect the character of the local area. The applicant has included in the designs the requirement (in Policy HS4) for 20% of the dwellings to comply with the optional technical standards of Part M4(2) Building Regulations for adaptable homes. A reduction in the number of dwellings would create an increased amount of public open space and also achieves sufficient spacing between dwellings. The layout creates frontages orientated to provide a good level of surveillance over the main body of open space that would be used for play. In addition to planting in areas of public open space, the layout has also been improved to provide trees along the new streets. This accords with the NPPF that states that new streets should be tree lined. There are few existing trees on the site, located on the eastern and southern boundaries, most of which would be retained.

In respect of the energy efficiency of the new homes, the houses would need to be constructed to comply with Part L1 of the Building Regulations 2021 which would achieve a high standard of energy efficiency. A condition is recommended to require details of photovoltaic (PV) panels which are likely to be needed to achieve the new higher building regulation requirements.

The design, layout, density and scale of the development complies with Policies HS4 and SP5 and would provide a high quality development.

5.3 Impact on traffic and highway safety

Policy IC1 seeks to promote sustainable travel and safe pedestrian, cycle and vehicular access for new developments. The National Planning Policy Framework (NPPF) has similar requirements and states that it should be ensured that any significant impacts on the transport network (in terms of capacity and congestion) or on highway safety can be cost effectively mitigated to an acceptable degree. It also states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Policy IC3 requires car parking to be provided in accordance with the standards at Appendix 9 which require two spaces for a 2 and 3 bedroom property and three spaces for a 4 bedroom property.

Electric car charging points are required at detached properties on developments over ten dwellings. In this case, a charging point would be provided for each property.

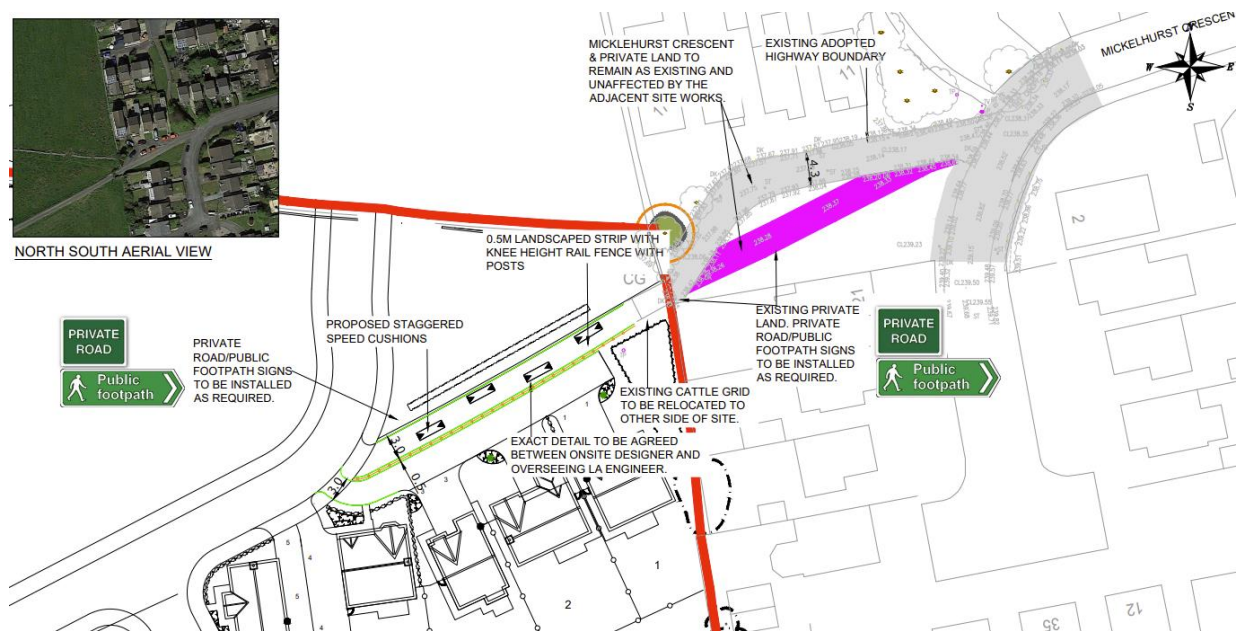
A Transport Assessment has been submitted with the application to assess the impact of the development on the highway network and to demonstrate measures to reduce reliance on the motor car. The supporting text at Policy HS1/4 states that Lancashire County Highway engineers have advised that vehicular access should be from Rossendale Road with appropriate sight lines and traffic management infrastructure. The new junction has recently been constructed as part of the planning permission for the site to the north of the current site. This junction has been designed with regard to the full housing allocation of Policy HS1/4 to ensure that it is suitable to cater for the remainder of the development. The new access from Rossendale Road would provide a suitable access and the local highway authority is satisfied that the additional traffic can be accommodated on the highway network subject to a contribution of £70,000 towards improvements to the signalised junction of Rossendale Road and Manchester Road. Contributions to these improvements have

already been secured from adjacent developments (FUL/2021/0273 and FUL/2022/0259) on Rossendale Road. The applicant agrees to this request.

The site is accessible to amenities and facilities within the urban area and is served by public transport, having bus stops on Manchester Road which provide services between the town centre and Manchester. The proposal would provide occupiers with good access to the existing public footpaths that cross the site.

Objection from neighbours to traffic refer to the potential impacts from the use of the private access between the site and Micklehurst Crescent. The plan shown below shows how the existing private access that serves four properties (including a farm) would be integrated by taking the path of a new estate road but at its easterly end, would be separated from the development by the geometry of the road design, traffic calming measures and signage. This would retain the private road (which has third party rights of way) but deter its use by others.

Measures to incorporate private access



The route to use the private road which leads to Micklehurst Crescent and Rossendale Avenue would be a less direct and favourable route and it is therefore likely that the new route to Rossendale Road would be more attractive for use by the current farmer and those other properties with a right of way along the public footpath route. Private road signs would also help to deter its use by others. The local highway authority consider the design of the scheme would achieve the objective in retaining the access road for those with a right of way only. All traffic from the proposed development would be accessed by the new estate road through the on-going Barratt Homes development.

All construction traffic would also be routed through the access to Rossendale Road through the Barratt Homes development and no construction traffic would be permitted to use the private access to Micklehurst Crescent.

The local highway authority is satisfied with the estate road layout and off-street parking which complies with Policy IC3. A condition is necessary to prevent any garages being adapted to habitable rooms.

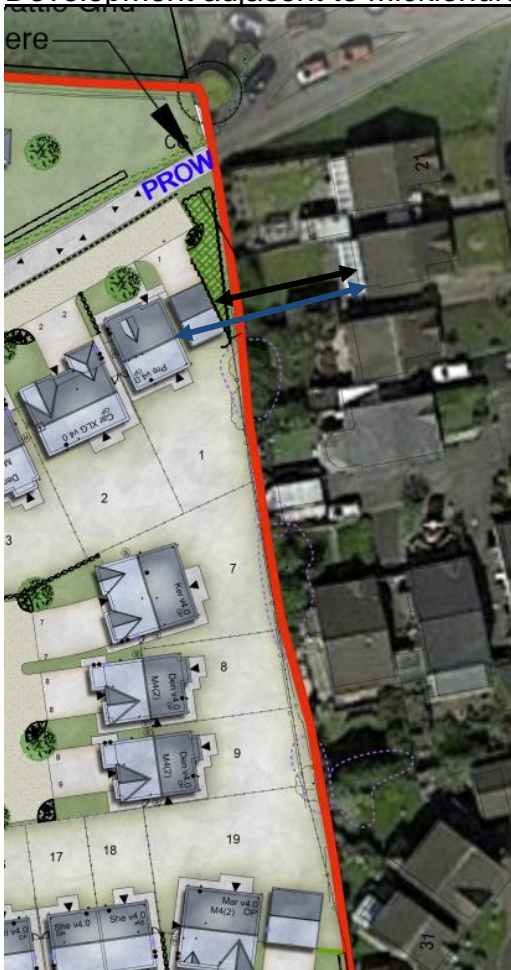
Subject therefore to a contribution to improve the off-site junction of Rosendale Road and Manchester Road, the proposal would provide satisfactory access and can be satisfactorily accommodated within the highway network without any significant impact on traffic or highway safety.

5.4 Impact on residential amenities

Policy SP5 seeks to ensure that development has no unacceptable adverse impact on the amenity of neighbouring occupants or result in unacceptable conditions for future users and occupiers of the development.

An amended layout and designs have addressed the separation distances in Policy HS4 (20m between elevations with habitable windows and 15m between habitable windows and a blank gable).

Development adjacent to Micklehurst Crescent



Black arrow: 16.4m between rear wall of neighbouring bungalow and gable to proposed garage at Plot 1.

Blue arrow: 21m between rear wall of neighbouring bungalow and gable to proposed gable to dormer bungalow at Plot 1.

The separation distances set out in Policy HS4 would be achieved. Any land that has been taken into third party boundaries is a private matter.

A condition is recommended to withdraw some Permitted Development rights for some plots to prevent roof enlargements that could adversely affect neighbouring amenities.

Conditions to require a Construction Management Plan and to control working hours would protect the safety, health and amenities of neighbouring properties during the development. No construction traffic would be permitted to enter or leave the site from the private access from the site to Micklehurst Crescent. Construction traffic parking

would be provided on site and would not be permitted within this neighbouring area. The applicant suggests setting up a liaison group with the developer and the Parish Council and/or local residents with regular meetings to discuss the phases of the development and to deal with any resident concerns. This would be a helpful means of providing information to residents and fostering good working relationships over the construction period. A condition is recommended to secure this.

The design and layout of the development would adequately safeguard the living conditions and amenities of the occupiers of neighbouring properties and future occupiers of the development. The proposal therefore complies with Policy SP5.

5.5 Impact on ecology

Policy NE1 states that all development proposals should, as appropriate to their nature and scale, seek opportunities to maintain and actively enhance biodiversity in order to provide net gains where possible.

Ecological surveys and assessments, ecological baseline surveys and a Biodiversity Net Gains (BNG) assessment have been submitted. The BNG Assessment has been appropriately prepared and demonstrates a net gain of 5.62%.

The site is identified as semi-improved grassland and marshy grassland that provides a semi-natural habitat. Whilst no protected species such as bats, great crested newts, water vole or badgers have been recorded, the site is used by nesting birds and ground nesting breeding has been confirmed on or close to the site of priority and species of conservation concern. The proposed scheme which provides considerable greenspace for planting along the retained watercourse and proposed drainage basin and within open space areas, would provide opportunities for birds to nest, including priority species but this would be more difficult for ground nesting birds such as lapwing and skylark. GMEU concur with the ecological assessment that the loss of the semi-natural habitat is justified given the low numbers of these nesting birds at or close to the site, the site's location and the availability of similar habitat in the wider environment. The applicant's ecology consultant affirms that there 4,200ha of land to the south, south-west and south-east of the site which is potentially suitable habitat for ground nesting birds (whereas the whole of the housing site allocation is 0.003% of this area).

GMEU accept that the loss would be a negligible loss and that there would be a small net gain in biodiversity throughout the site and recommend conditions to secure long term maintenance and management of ecologically enhanced landscaped areas, measures to protect wildlife during construction and other measures such as bat and bird boxes and connectivity for hedgehogs/small mammals through fencing.

With these provisions, the proposal would have an acceptable impact on biodiversity and provide for appropriate biodiversity enhancement in accordance with Policy NE1.

5.6 Affordable housing provision

Policy HS2 requires affordable housing on sites of over 10 dwellings. This will normally be an on-site requirement and the exact amount of financial contribution/number and tenure of affordable units will be determined by economic viability having regard to the individual site and market conditions.

Proposed Affordable Homes identified on site plan



The Developer Contributions SPD provides a guide to what the Council can expect for allocated sites which is based upon the Local Plan Viability Assessment which also takes into account other contributions that may be necessary.

The Developer Contributions SPD indicates that there is a viability ceiling of 10% for on-site Affordable Housing which has been agreed with the applicant.

Eleven Affordable Homes would be provided as shared ownership dwellings amongst the remainder of the development. The locations of the proposed Affordable Homes within the development would be satisfactory. A s106 Agreement would be necessary to secure the agreed Affordable Housing.

5.6 Other contributions

Policy IC4 states that development will be required to provide or contribute towards the provision of the infrastructure needed to support it. The Developer Contributions SPD provides guidance on the level of contributions (including Affordable Housing) that are likely to be viable on housing site allocations and other sites in the borough based on the Local Plan Viability Assessment.

The Schools Planning Team (LCC) has requested a contribution of £293,887 towards 11 secondary school places which are required to address a shortfall in places that would arise from future demand as a result of the proposal. This represents the full pupil yield from the development. LCC is satisfied that there is adequate capacity for primary school children. These conclusions are based on their adopted Education Methodology which provides evidence of school place capacity for the following five year period and takes into account commitments through other developments that have been approved. The applicant has agreed to this request which fully addresses the impact of the development on education and complies with Policy IC5.

The applicant has not been asked by the East Lancashire NHS Trust to contribute to secondary healthcare. Similar requests have been previously made to the Council where it has been found that the requests, as they stand, do not meet the tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010, mainly due to the overall assumption that is made by the Trust that the development would directly lead to an increase in 111 households in the Trust area. The Council

has previously sought counsel advice that has affirmed that, using the methodology and assessment for calculating contributions, the contribution would be unlawful.

The applicant is not therefore been asked to contribute to secondary health care. Stakeholders such as health providers are engaged in the Local Plan process and would expect development on allocated sites to come forward. No request has been made for a contribution towards primary healthcare or evidence submitted to indicate that there would not be access to primary healthcare in Burnley for future occupiers. The proposal would provide for school places, open space and recreation which complies with Policy IC5.

5.7 Other issues

The site is within Flood Zone 1 where there is the lowest risk of flooding. The proposal would provide a sustainable drainage solution to the site through an attenuation and swale that would also be landscaped to provide for biodiversity and visual amenity benefits. Subject to conditions recommended by the Lead Local Flood Authority and United Utilities, the site can be adequately drained and would not lead to an increase in flood risk on the site or elsewhere.

An air quality assessment has been submitted that indicates that there would be no significant adverse impact on air quality resulting from the proposed development. In accordance with the Air Quality Management SPD, electric vehicle charging points will be required as standard mitigation.

Ground Investigation reports have found no viable sources of pollution or ground contamination. The site falls within a low risk area to be affected by coal mining legacies and no further investigation is required in this respect.

5.8 Conclusion

The proposal seeks to develop a site that is allocated for housing purposes in Burnley's Local Plan. The proposed scheme has been amended since first submitted and proposes a high quality scheme that protects the amenities of existing neighbouring properties, provides safe access, provides for off-site highway improvements, would lead to biodiversity gains, provides affordable housing and school places, public open space, recreation facilities and a high quality layout and design that integrates into its surroundings. Objections to the proposal have been considered and have been addressed in the report. The NPPF states that decisions should apply a presumption in favour of sustainable development which for decision-taking means approving development proposals that accord with an up-to-date development plan without delay. The proposal complies with the development plan and there are no material reasons to outweigh this finding in which case the application should be approved.

Recommendation: Delegate to the Head of Housing and Development Control to approve subject to the applicant entering into a section 106 Agreement to secure contributions to highway improvements, education, to provide affordable housing and a scheme for open space management and responsibilities.

Conditions

1. The development must be begun within three years of the date of this decision.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans listed on this notice below.

Reason: To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.

3. No development of any kind, including vegetation clearance, shall be commenced until a Phasing Plan and Strategy to identify the sequence and the spatial phasing of development to include earthworks, ground works, access, infrastructure, landscaping, public open space provision and built development, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved Phasing Plan & Strategy unless any variation to it is otherwise first submitted to and approved in writing by the Local Planning Authority.

Reason: To assist the phasing of the construction of a major development on a large site and to ensure its effective delivery, in accordance with Policies HS1/4, SP5 and NE5 of Burnley's Local Plan (July 2018).

4. Representative samples of the external materials of construction to be used on the walls and roofs of the development shall be submitted to and approved in writing by the Local Planning Authority prior to any development above ground level. The development shall thereafter only be carried out in accordance with the approved materials.

Reason: To ensure a satisfactory appearance to the development, having regard to the character of the local area, in accordance with Policy SP5 of Burnley's Local Plan (July 2018). The details are required prior to the commencement of built development above ground level to ensure that the details are satisfactory and can be implemented at the appropriate stage of the development.

5. The development permitted by this planning permission shall be constructed, carried out and maintained thereafter in accordance with the following submitted surface water sustainable drainage strategy and design, construction management plan, and operation and maintenance plan:

- Drainage Strategy & Design, Manchester Road, Burnley, Seddon Homes Ltd, Ref: K40092.DS/001A, Rev A, 21 Sept 2023, RG Parkins, and associated drawings;
- Construction Management Plan for Sustainable Drainage Systems, Manchester Road, Burnley, Seddon Homes Ltd, Ref: K40092.CMP/003, 17 July 2023, RG Parkins; and
- Operation & Maintenance Plan for Sustainable Drainage Systems, Manchester Road, Burnley, Seddon Homes Ltd, Ref: K40092.OM/002, 17 July 2023, RG Parkins.

The approved Drainage Strategy & Design and measures contained within the Operation & Maintenance Plan shall be fully implemented prior to any dwelling being first occupied and in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed in writing by the Local Planning Authority. The drainage system shall thereafter be retained, managed, and maintained in accordance with the approved details.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site and to reduce the risk of flooding on-site and elsewhere during and after construction of the development, in accordance with Policies CC4 and CC5 of Burnley's Local Plan (July 2018).

6. No dwelling shall be first occupied until a site-specific verification report, pertaining to the surface water sustainable drainage system, and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority. The verification report must, as a minimum, demonstrate that the approved surface water sustainable drainage system has been constructed in accordance with the approved drawing(s) (or detail any minor variations) and is fit for purpose. The report shall contain information and evidence, including photographs, of details and locations (including national grid references) of critical drainage infrastructure (including inlets, outlets, and 3 control structures) and full as-built drawings. The scheme shall thereafter be maintained in perpetuity.

Reason: To ensure that surface water flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property, and ecological systems, and to ensure that the development as constructed is compliant with the requirements of Paragraphs 167 and 169 of the National Planning Policy Framework, in accordance with Policies CC4 and CC5 of Burnley's Local Plan (July 2018).

7. Foul and surface water shall be drained on separate systems and a scheme for the disposal of foul water shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of built development above ground level. The approved scheme shall be implemented in full and completed prior to any dwelling being first occupied. The foul water drainage scheme shall thereafter be retained at all times in the future.

Reason: To ensure the site can be adequately drained and to prevent pollution of groundwaters, in accordance with Policy NE5 of the Burnley's Local Plan (July 2018). The scheme is required prior to the commencement of built development above ground level to ensure that the measures identified in the scheme can be carried out at the appropriate stage of construction.

8. Prior to the commencement of built development above ground level, details of finished floor levels for all the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details.

Reason: To ensure the satisfactory implementation of the proposal, having regard to the appearance of the development and its surroundings, in accordance with Policy SP5 of Burnley's Local Plan (July 2018). The details are required prior to the commencement of built development above ground

level to ensure that the dwellings are constructed in accordance with the approved levels.

9. Prior to the commencement of development, a Landscape and Ecological Management Plan (LEMP), including a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:
 - a. Description and evaluation of features to be managed;
 - b. Ecological trends and constraints on site that might influence management;
 - c. Aims and objectives of management;
 - d. Appropriate management options for achieving aims and objectives;
 - e. Prescriptions for management actions;
 - f. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - g. Details of the body or organisation responsible for implementation of the plan; and
 - h. Ongoing monitoring and remedial measures.

The approved LEMP shall be implemented and adhered to at all times in accordance with the approved details and approved timescales in perpetuity.

Reason: To ensure that the planting and biodiversity assets and mitigation measures that are present and deployed on the site are effectively managed to ensure their long term protection and benefits to biodiversity, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018). The Plan is required prior to the commencement of development to ensure that it can be implemented at the appropriate stage in the development.

10. Prior to the commencement of development, a Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority which shall provide details for the following measures:
 - i) methodology for infilling part of the existing ditch to be culverted and protecting retained habitats, including the remaining ditch and boundary vegetation;
 - ii) method statement for site clearance to protect any species on the site such as hedgehogs;
 - iii) measures to treat and prevent the spread of non-native invasive species on and adjacent to the site; and,
 - iv) details of the construction lighting to be designed to avoid light spillage onto trees and areas of habitat.

The agreed measures shall be implemented prior to any site clearance or development being commenced and retained in their entirety for the duration of the development until its completion.

Reason: To protect the ecology of the site during the construction period, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018). The Plan is required prior to the commencement of development to ensure that the measures are implemented prior to any works taking place.

11. No development shall be commenced until a scheme for the means of protecting the trees and hedges to be retained on or adjacent to the application site, to be in accordance with BS 5837 (2012) and including the protection of root structures from injury or damage prior to and during the development works, has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall also provide for no excavation, site works, trenches or channels to be cut or laid or soil waste or other materials deposited so as to cause damage or injury to the root structure of the retained trees or hedges. The approved scheme of protection measures shall be implemented in its entirety before any works are carried out, including any site clearance work, and thereafter retained during building operations until the completion of the development.

Reason: To ensure adequate protection for the long term health of trees/hedges which should be retained in the interests of the visual amenities and biodiversity of the site and its surroundings, in accordance with Policy NE4 of Burnley's Local Plan (July 2018). The scheme is required prior to the commencement of development to ensure that the measures are implemented prior to any works taking place.

12. All planting, seeding or turfing comprised in the approved details of landscaping as approved in accordance with the Landscape Proposal Sheets 1-4 inclusive (drawing numbers 6671.01RevF, 6671.02RevF, 6671.03RevF and 6671.04RevF (received on 23rd January 2024) shall be carried out in the first planting and seeding seasons following the first occupation of any of the dwellings within any phase of the development or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.

Reason: In order that the landscaping works contribute to a satisfactory standard of completed development and its long term appearance harmonises with its surroundings and contributes to biodiversity enhancement, in accordance with Policies SP5 and NE1 of Burnley's Local Plan (July 2018).

13. Prior to commencement of development, a detailed external lighting plan to minimise the intensity of lighting in wildlife sensitive areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details of external lighting only and shall be retained at all times. No additional external lighting or variance to the approved scheme shall be carried out at any time without the prior written permission of the Local Planning Authority.

Reason: To protect wildlife, including protected species, which is sensitive to lighting, in accordance with Policy NE1 of Burnley's Local Plan (July 2018). The scheme is required prior to the commencement of development to ensure the avoidance of any harm to wildlife from intensive or inappropriate external lighting.

14. No development, site clearance/preparation, or demolitions shall take place on the site until the applicant, or their agent or successors in title, has secured the

implementation of a programme of archaeological works. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and agreed in writing by the Local Planning Authority. The programme of works should comprise:

(i) Geophysical survey using appropriate survey equipment over the site

(ii) A gridded metal-detector survey using an appropriate machine in the area around the "Butter Cross" base. A 25 m radius from the monument should be used as the initial area and extended if the results are deemed to merit a wider area of survey.

(iii) A programme of evaluation of any significant features identified by (i) and (ii) above

(iv) Any further excavation and recording of significant features identified in by (iii) above

This work should be undertaken by an appropriately qualified and experienced professional contractor to the standards and guidance of the Chartered Institute for Archaeologists (www.archaeologists.net). A digital copy of the report and the photographs shall be placed in the Lancashire Historic Environment Record prior to the dwelling consented being first occupied.

Reason: To ensure and safeguard the recording and inspection of matters of archaeological/historical importance associated with the buildings/site.

15. No removal of or any works to hedgerows, trees and shrubs or site clearance shall take place between the 1st March and 31st August inclusive unless a competent ecologist has inspected the area (including an inspection for ground nesting birds) no more than 24 hours prior to its removal and has provided written confirmation to the Local Planning Authority that no nests or breeding birds will be harmed by the development and/or that there are appropriate measures in place to protect nesting bird interest on the site.

Reason: To ensure that nesting birds which are protected by the Wildlife and Countryside Act 1981 are not harmed by the development, in accordance with Policy NE1 of Burnley's Local Plan (July 2018). This must be carried out prior to the commencement of development in order to prevent any potential harm to breeding birds.

16. Prior to the commencement of development, a scheme for the provision and implementation of Biodiversity Enhancement Measures on the site to include bird and bat boxes and fencing with appropriate holes for mammals as well as timescales for the completion of the measures, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be carried out and completed in accordance with the approved timescales and shall be retained thereafter.

Reason: To maintain and enhance biodiversity on the site, in accordance with Policy NE1 of Burnley's Local Plan (July 2018). The scheme is required prior to the commencement of development in order to ensure that it can be coordinated with other landscaping and ecology related schemes for the site and implemented at the appropriate stages of the development.

17. The boundary treatment indicated on the approved Boundary Treatment Plan (drawing number 2032SHW/MRB/BTP01RevD) shall be carried out and completed prior to the completion of the development.

Reason: To ensure adequate and sensitive boundary treatment to provide a satisfactory appearance to the development and provide screening where appropriate, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

18. No development shall take place, including any works of demolition or site clearance, until a Construction Management Plan (CMP) or Construction Method Statement (CMS) has been submitted to, and approved in writing by the local planning authority. The approved plan / statement shall provide:
- 24 Hour emergency contact number.
 - Details of the parking of vehicles of site operatives and visitors.
 - Details of loading and unloading of plant and materials.
 - Arrangements for turning of vehicles within the site.
 - Swept path analysis showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available and maintained, including any necessary temporary traffic management measures.
 - Measures to protect vulnerable road users (pedestrians and cyclists).
 - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
 - Wheel washing facilities.
 - Measures to control and deal with dirt, debris, mud, or loose material deposited on the highway because of construction.
 - Measures to control and deal with vibration.
 - Procedures for maintaining good public relations including complaint management, public consultation and liaison.
 - Measures to control the emission of dust, dirt and other air-borne pollutants during construction.
 - Mitigation measures to minimise noise disturbance from construction works.
 - Measures for controlling the use of site lighting whether required for safe working or for security purposes.
 - Details of a scheme for recycling/disposing of waste resulting from demolition and construction works.
 - Construction vehicle routing.
 - Delivery, demolition, and construction working hours and procedures for emergency deviation of agreed working hours.

The approved Construction Management Plan or Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: To ensure that the safety and amenities of occupiers of neighbouring properties and users of the local highway are satisfactorily protected, in accordance with Policies NE5 and IC1 of Burnley's Local Plan (July 2018). The Construction Management Plan is required prior to the commencement of development to ensure that the measures contained therein can be carried out at the appropriate phases of the construction period.

19. For the full period of construction facilities shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud, stones and debris being carried onto the highway. Provision to sweep the surrounding highway network by mechanical means will be available and the roads adjacent to the site shall be mechanically swept as required during the full construction period.

Reason: To prevent stones, mud and debris being carried onto the public highway to the detriment of road safety.

20. Unless otherwise approved in writing by the Local Planning Authority, all works and ancillary operations in connection with the construction of the development, including the use of any equipment, shall be carried out only between 0800 hours and 1800 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sundays, Bank Holidays or Public Holidays. Where permission is sought for works to be carried out outside the hours stated, requests in writing must be made with at least seven days' notice to the Local Planning Authority.

Reason: To safeguard the residential amenities of the local area, in accordance with Policy NE5 of Burnley's Local Plan (July 2018).

21. Prior to the commencement of development, a scheme for a developer led liaison group with Habergham Eaves Parish Council and/or local residents to facilitate the safe and efficient construction of the development, including a structure for timetabling meetings to discuss on and off-site activities within the phases of development and measures to safeguard residential amenity, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented and carried out in full at all times until the completion of the development.

Reason: To provide a forum for the applicant/developer to proactively deal with construction issues that may affect local residents in order to manage and mitigate against disruption to neighbours during the construction period, in accordance with Policies NE5 and SP5 of Burnley's Local Plan (July 2018). The scheme is required prior to the commencement of development to ensure that it can be effectively implemented at the start of the development.

22. There shall be no deliveries of materials and equipment associated with the construction of the development accepted or permitted to enter the site on Mondays to Fridays apart from between the hours of 9:00am and 2:30pm unless any exceptional cases are agreed in writing in advance with the Local Planning Authority.

Reason: To avoid peak traffic on the surrounding highway network, in the interests of highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

23. The approved access junction and estate road shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any development takes place within the site.

Reason: To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative, in the interests of highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

24. No development shall be commenced until the engineering, drainage, street lighting and constructional details of the proposed estate roads have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

Reason: To ensure these details are adequate to provide satisfactory access and amenity for the occupiers of the development, in accordance with Policy IC1 of Burnley's Local Plan (July 2018). The details are required prior to the commencement of development to ensure that the details are satisfactory and can be implemented at the appropriate time and stages of the development in the interests of highway safety.

25. No development shall commence other than site clearance, remediation and preparatory works until an estate street phasing and completion plan has been submitted to and approved in writing by the Local Planning Authority. The estate street phasing and completion plan shall set out the development phases and completion sequence that estate streets serving each phase of the development will be completed. The development shall then be carried out only in accordance with the approved estate street phasing and completion plan.

Reason: To ensure the phasing and completion of estate streets serving the development are completed to ensure the provision of satisfactory access, in accordance with Policy IC1 of Burnley's Local Plan (July 2018). The plan is required prior to the commencement of above ground development to ensure that the construction works and development are carried out in an appropriate manner.

26. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established for this purpose.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highway's infrastructure serving the approved development; and to safeguard the users of the highway and the visual amenities of the locality.

27. No dwelling shall be first occupied until drop kerbs have been installed at the carriageway edge for that dwelling and a vehicle cross-over constructed across the footway fronting the site in accordance with the approved plans and the Lancashire County Council Specification for Construction of Estate Roads and shall be so retained in that form thereafter for the lifetime of the development.

Reason: In the interests of pedestrian safety and accessibility, in accordance with Policies IC1 and IC3 of Burnley's Local Plan (July 2018).

28. No dwelling shall be first occupied unless and until all its associated car parking has been constructed, drained, surfaced (in black bitumen macadam or other approved bound material) and is available for use in accordance with the approved plans. The car parking spaces associated with each dwelling shall thereafter be retained for the purposes of car parking at all times.

Reason: To ensure adequate off-street parking, in the interests of highway safety and amenity, in accordance with Policy IC3 of Burnley's Local Plan (July 2018).

29. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order with or without modification), the garages hereby approved shall remain available at all times for the parking of a motor vehicle and shall not be altered to provide habitable space.

Reason: To ensure that car parking levels for each property are preserved to ensure the continued compliance with the Council's parking standards and avoid reliance on off-street parking, in accordance with Policy IC3 of Burnley's Local Plan (July 2018).

30. Notwithstanding the provisions of Article 3 and Part 1 of the Second Schedule of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order with or without modification), no development as specified in Class B of Part 1 of Schedule 2 of that Order shall be carried out at Plots 1, 7, 8, 9, 19, 20 and 32 without express planning permission first being obtained from the Local Planning Authority.

Reason: To allow the Local Planning Authority to assess the impact of any proposals to enlarge the roofs of dwellings (such as by way of a dormer construction) on the privacy and residential amenities of occupiers of neighbouring properties and its visual impact on the character and appearance of the development, in accordance with Policies SP5 and HS4 of Burnley's Local Plan (July 2018).

31. Electric vehicle charging points which shall be in accordance with the relevant Department for Transport guidance (minimum power rating output of 7kW and fitted with a universal socket) shall be installed externally at each plot prior to its first occupation.

Reason: To encourage the use of electric vehicles in order to reduce emissions and protect the local air quality in accordance with Policy IC3 of Burnley's Local Plan (July 2018).

32. Prior to the first occupation of any dwelling, refuse bins and recyclable waste storage for each respective dwelling shall be provided within a concealed area of the curtilage in accordance with details in the approved Refuse Plan. The refuse and recyclable waste storage provision for each dwelling shall thereafter be retained at all times.

Reason: To ensure adequate storage for refuse and recycling waste is provided away from public views, in the interests of residential amenities, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

33. A minimum of 22 dwellings within the development shall be constructed to comply with the optional technical standards of Part M4(2) of the Building Regulations 2010 to provide adaptable homes. Details of the plots to be constructed to comply with this specification shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. None of the specified plots subject to these requirements shall be first occupied until a verification report prepared by a suitably competent surveyor or professional to demonstrate that the standard has been achieved for that dwelling has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development provides benefits to new occupiers by the provision of adaptable homes to meet lifetime needs, in accordance with Policy HS4 of Burnley's Local Plan (July 2018).

34. Prior to the installation of any photovoltaic (PV) panels or equipment at any part of the development, details of the PV panels and their siting shall first be submitted to and approved in writing by the Local Planning Authority. The PV panels shall thereafter only be installed as approved.

Reason: To ensure that the details and appearance of the PV panels is satisfactory, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

35. The development shall be completed with the chimney features as detailed in the approved plans prior to each dwelling being first occupied.

Reason: To ensure the satisfactory implementation of the proposal and the inclusion of detailing which contributes to the quality of the development, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

36. No development shall be commenced until a scheme to deal with contamination has been submitted to and approved in writing by the Local Planning Authority. The scheme shall conform to current guidance and best practice as set out in BS10175:2011 Investigation of potentially contaminated sites - code of practice; CLR 11 - Model procedures for the management of land contaminations or other supplementary guidance and include the following phases, unless identified as unnecessary by the preceding stage and agreed in writing by the Local Planning Authority:

a) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study; and

b) A remedial strategy detailing the measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a suitably qualified person to oversee the implementation of the works.

No dwelling shall be first occupied until a Verification report (produced by the suitably qualified person) to evidence that all remediation works, as applicable, have been carried out in accordance with the approved remedial strategy, has been submitted to and approved in writing by the Local Planning Authority.

Reason: In order to deal appropriately and safely with the risks posed to the public and future occupiers by the historic use of the site and land uses in the surrounding area, in accordance with Policy NE5 of Burnley's Local Plan (July 2018). The site investigation and remediation scheme are required prior to the commencement of development in order to ensure that any mitigation measures that are found to be necessary through the investigation can be carried out at the appropriate stage in the development process.

37. The Multi-Use Games Area (MUGA) indicated on the approved plans shall be constructed, completed and available for use in accordance with timescales and details of its design, surfacing, perimeter fencing, which shall be previously submitted to and approved in writing by the Local Planning Authority. The approved MUGA shall thereafter be available for use in accordance with the approved timescales and be retained in perpetuity. The approved MUGA shall not at any time be illuminated.

Reason: To ensure satisfactory and appropriate recreation provision to cater for the needs of the development, in accordance with Policy HS4 of Burnley's Local Plan (July 2018).

Janet Filbin
DC Report Updated 9th April 2024