

**Application Recommended for Delegation to
Approve subject to s106 Agreement**
Cliviger With Worsthorne Ward

FUL/2022/0629

Town and Country Planning Act 1990

Erection of 36 three and four bedroom dwellings with associated landscaping, car parking and access from Heckenhurst Avenue
Land West Of Heckenhurst Avenue Brownside Burnley

Applicant: Mr R Calderbank, Applethwaite Ltd

DC Committee

This application was deferred at the DC Committee meeting on 7th February 2024 in order to further consider traffic, school places and health services and details reserved by condition. The following additional information was brought to the following meeting on 14th March 2024:

To assist in addressing concerns, the applicant has been requested to provide the cost of a pedestrian refuge island on Brownside Road which is likely to cost £100,000.

A response has been received from the Schools Planning Team (LCC) requesting a contribution towards five secondary school places. LCC assert there is capacity for primary school children and no contribution is sought in this respect.

No contributions are sought for either primary or secondary healthcare. The latter is dealt with in the report below. The former has not been requested and could not be justified in respect of meeting the tests of conditions.

A revised set of contributions have been agreed as follows:

- 2 no. affordable ownership units
- £133,585 education contribution
- £60,450 POS contribution (for local projects such as Rowley Lake to Worsthorne Recreation Ground greenway and pump track upgrade or alternatively, other small scale upgrades/projects for recreation facilities in the vicinity of the application site, and including potential upgrades at Worsthorne Recreation Ground, which the local planning authority considers to be a priority)
- £40,000 sum for s278 works (2 no. bus stop upgrades)
- £100,000 highway safety contribution (towards off site improvement works to Brownside Road)

This would comply with Policy IC4 and the Developer Contributions SPD.

The former agenda report is re-produced and updated where appropriate below:

1. Background:

1.1 The application is being considered by this Committee due to the number of objections from neighbouring properties.

- 1.2 The proposal is for 36no. two storey houses (10 no. three bedroom and 26no. four bedroom) on the site of part of the former reservoir at the west end of Heckenhurst Avenue. The land is currently part of open fields used for grazing.

Aerial view of application site



Source: Design and Access Statement

- 1.3 The site amounts to approximately 1.55ha and is rectangular in shape and bound by existing residential development on Heckenhurst Avenue on its east side, the rear gardens to properties on Riddings Avenue to its south side and by open fields to its north and west sides. Beyond the site's boundary to the south west corner of the site is a residential development site that has approval for 38no. bungalows (land off Smithfield Avenue -FUL/2021/0274).

The site slopes from higher ground at its north east side to lower ground to the south west of the site.

View across site to rear of Riddings Avenue



View looking south from Heckenhurst Avenue



View looking north west towards Pendle Hill No physical edge to site's northern boundary



Overgrown land within application site



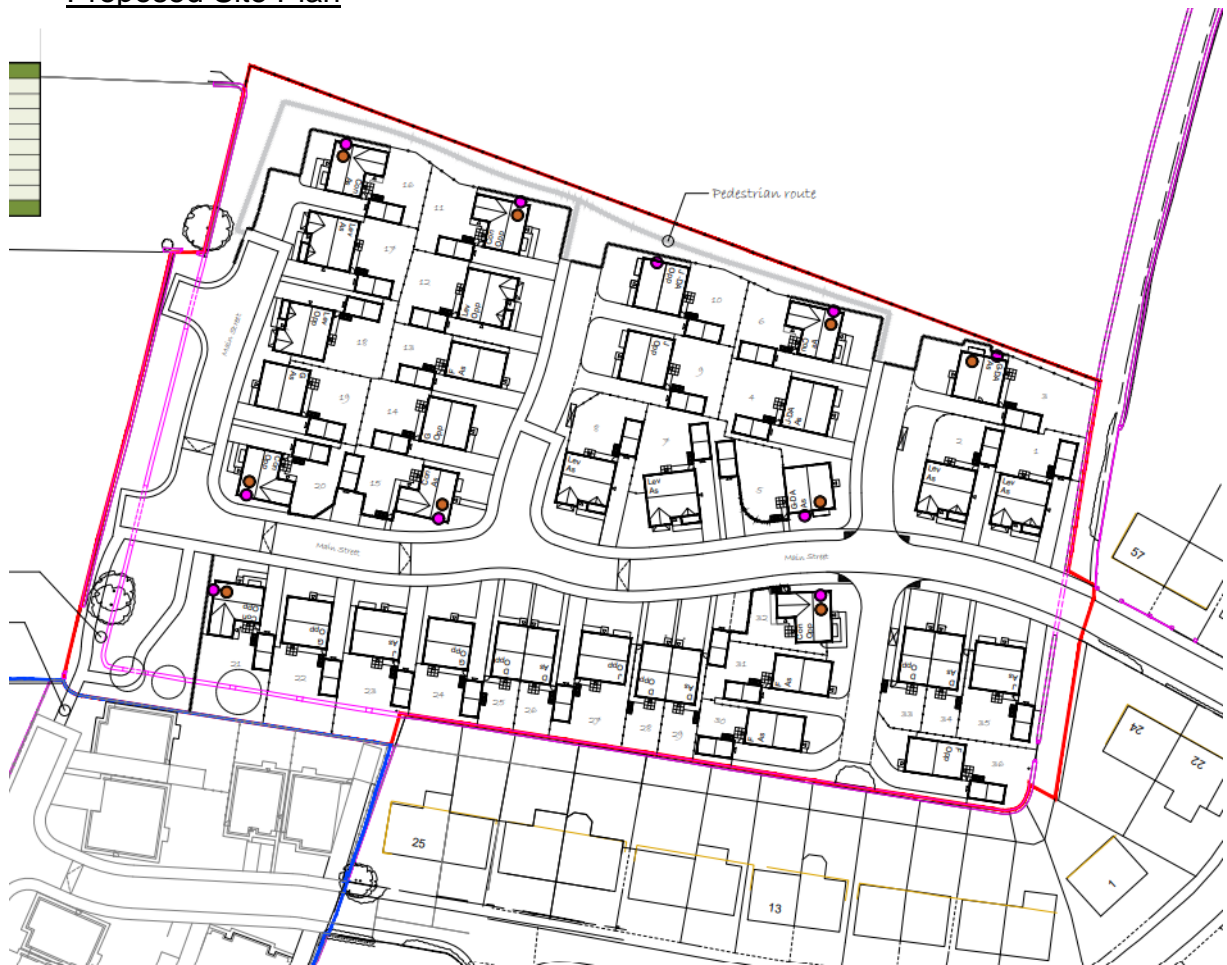
Stone wall to east side of application site adjacent to track which is also PF No.1211002



An overgrown area between the former reservoir wall and the rear boundary of the adjacent end dwelling at Heckenhurst Avenue is part of the application site. To the southern boundary of the application site, the former reservoir wall to the rear of houses on Riddings Avenue is the edge of the application site. The former reservoir wall continues close and in parallel to the remainder of the southern and western boundaries of the site. There is no physical feature within the open field to delineate the northern boundary of the application site. Public Footpath 1211002 follows the track from the end of Heckenhurst Avenue in a northerly direction immediately to the east side of the application site.

- 1.4 The proposed vehicular access would be formed by extending Heckenhurst Avenue into the field to form a new cul-de-sac. The proposed layout is displayed below, indicating a spine road with frontage development running east-west and short cul-de-sacs running mainly to the north. Peripheral areas of public open space are indicated to the western side and northern edge of the site.

Proposed Site Plan



1.5 The proposed houses are designed with gable roofs, well proportioned elevations, heads/cills and some variety through projecting gables, bay windows and chimneys to some of the plots.

Proposed street scenes



The proposed dwellings would be constructed in natural stone and partial render to a relatively small number of house types. Detached single garages and driveways are indicated to all plots except the 6no. semi-detached houses that would have forecourt parking.

- 1.6 The proposed scheme would provide 26no. houses that would comply with the optional technical M4(2) standard of Building Regulations to achieve adaptable homes. All plots would have an electric vehicle charging point.

2 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 (HS1/12) – Housing allocations (Former Heckenhurst Reservoir)
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 Site History:

- 3.1 None.

4 Consultation Responses:

4.1 LCC Highways

No objection. The general layout is acceptable, however the plans show two sections of remote footways at plots 5-6 and 11-13 and it is unlikely that these sections will be adopted as part of the Section 38 Agreement, should the development be put forward for adoption. Additionally, there are two sets of bus stops on Brownside Road within the vicinity of the proposed development. In line with the National Planning Policy Framework (NPPF) to support sustainable travel

to and from the site, LCC requests that the two stops located outside 200A and 187/9 Brownside Road, Worsthorne are upgraded to full EA compliant status as part of the proposed development, under a section 278 legal agreement of the Highways Act 1980. Other conditions are requested to require a Construction Management Plan, construction deliveries outside peak traffic, wheel washing facilities, construction to base course level, completion of vehicular access, provision of cycle storage in garages/alternative where no garage, and management/maintenance of estate roads.

4.2 LCC Public Rights of way Officer

No objection. Footpath FP1211002 runs along Heckenhurst Avenue before turning north along outer edge of the application boundary. The public right of way is not to be used for the storage of materials or plant machinery and remain unobstructed at all times. Any changes in ground level or installation of drainage should ensure that surface water is not channelled towards or onto a public right of way either within the proposed development site or in close proximity – this is to ensure public rights of way are not exposed to potential flooding or future maintenance issues. If works relating to the proposed development are likely to cause a health and safety risk to users of a public right of way a temporary closure order must be made and in effect prior to commencing those works. Applications should be made 4 weeks before commencement to avoid delay to the works. If a diversion is needed or intended the applicant needs to ensure that the diversion is in place prior to any work commencing on a public right of way. If the applicant intends landscaping they need to ensure that any trees or bushes are at least 3 metres away from a public right of way to prevent any health and safety issues and potential maintenance issues.

4.3 Lead Local Flood Authority (LCC)

No objections subject to conditions. An Initial objection which was due to a lack of evidence to demonstrate a satisfactory drainage scheme has been withdrawn following further information and a survey of the downstream watercourse and section of culvert. The Lead Local Flood Authority (LLFA) request conditions are imposed to require off-site culvert improvement works and verification of completed works; a detailed final surface water sustainable drainage scheme; a construction surface water management plan; a sustainable drainage system operation and maintenance manual; and, a verification report of the constructed sustainable drainage system.

4.4 United Utilities

No further comments received following re-consultation. A condition is recommended to require details of a sustainable surface water drainage scheme and a foul water drainage scheme to be submitted for approval prior to the commencement of development.

4.5 The Coal Authority

The application site does not fall within the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. A Coal Mining Risk Assessment is therefore not required.

4.6 Greater Manchester Ecology Unit (GMEU)

No objections. Although the site is within 2km of the South Pennine Moors SPA/SAC designated nature conservation sites, I would not consider that the

development will have any harmful impacts on the special nature conservation interests of the designated sites, because:-

- there is no direct connectivity between the application site and the designated sites; and,
- the site is not considered to be functionally linked to the SPA; that is, significant numbers of notable bird species associated with the SPA are considered very unlikely to use the application site on a regular basis.

The site itself supports rather featureless agricultural grassland of limited nature conservation value, although it may support small numbers of Lapwing, both in the breeding season and during the winter. Given the small numbers of birds involved, and the extent of alternative suitable habitat nearby, I would not consider that the development will cause any harm to the conservation status of Lapwing. I would accept that, given the current landscape status of the site and the fact that new landscaping will be introduced to the site, including garden spaces, the development can achieve a net gain in local biodiversity over time. I would advise that no ground clearance should commence during the optimum time of year for nesting birds (including ground nesting birds)(March to August inclusive) unless nesting birds have been shown to be absent by a suitably qualified person.

4.7 East Lancashire NHS Trust

East Lancashire NHS Trust (“the Trust”) currently provides 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. Assuming an average of 2.3 people per dwelling, the Trust state that the proposal would support a population increase of 85 persons [based on 37 dwellings as first proposed] and request a commuted sum on £63,141.00 towards their services to cater for a three year time lag in obtaining central funding. The Trust consider that this request meets the requirements of the appropriate tests.

4.8 LCC Schools Planning Team

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.

The submitted assessment (including a Summary) is set out below:

Summary of Education Requirements

In relation to this planning application the following education requirements have been identified. Please ensure that the full requirements are reported to planning

committee. 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 16/02/2024, 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 5 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 5 places = £133,585.00

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 Burnley High School, and/or Sir John Thursby Community College. 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 Burnley High School, and/or Sir John Thursby Community College, 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 16th February 2024

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birth rate at the same time as capital funding from the Department for Education has been significantly reduced.

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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 West of Heckenhurst Avenue 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.

School Name	Latest Number on Roll *	Future Planned Net Capacity (Jan 2029) **	Projected Pupils by Jan 2029 ***
Worsthorne Primary School	208	210	236
Brunshaw Primary School	372	420	315
St. Mary's Roman Catholic Primary School, Burnley	205	210	193
Heasandford Primary School	631	630	638
Burnley St. Stephen's Church of England Voluntary Aided Primary School	208	210	205

St. James Lanehead Church of England Primary School	277	270	292
Springfield Community Primary School	211	210	205
Burnley St. Peter's Church of England Primary School	210	210	200
Briercliffe Primary School	391	420	420
Casterton Primary School	294	280	284
St. John the Baptist Roman Catholic Primary School, Burnley	211	210	223
Barden Primary School	472	420	456
Stoneyholme Community Primary School	419	420	420
Total	4109	4120	4087

Projected places in 5 years: 33

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 2025	JAN 2026	JAN 2027	JAN 2028	JAN 2029
4075	3999	3977	3919	3862

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 **4087** 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	-	-
3	0.16	10	1.6
4	0.38	26	9.88
5	0.44	-	-
Totals		36	(11.5) 11 Places

Education Requirement

The calculation below details the effect on pupil places,

4120	Net Cap
- 4087	Forecast
33	Projected places available in 5 years
- 5	Yield from approved applications
28	Places available in 5 years
- 11	Yield from this development
17	Places available in 5 years

Latest projections for the local primary schools show there to be 33 places available in 5 years' time, with additional planning approvals expected to generate a demand for a further 5 school places. With an expected pupil yield of 11 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 2029) **	Projected Pupils by Jan 2029 ***
Sir John Thursby Community College	1133	1125	1140
Burnley Unity College	1457	1466	1487
Blessed Trinity Roman Catholic College	1284	1250	1313
Marsden Heights Community College	1042	1050	991
Total	4916	4891	4931

Projected places in 5 years: -40

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 2025	JAN 2026	JAN 2027	JAN 2028	JAN 2029
3955	4913	4822	4825	4810

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 **4931** 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	-	-
3	0.09	10	0.9
4	0.15	26	3.9
5	0.23	-	-
Totals		36	(4.8) 5 Places

Education Requirement Latest projections for the local secondary schools show there to be a shortfall of 40 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 5 places from this development the shortfall would increase to 45.

Therefore, we would be seeking a contribution from the developer in respect of the full pupil yield of this development, i.e. 5 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 16/02/2024, 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 5 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

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= £26,717 per place

£26,717 x 5 places = £133,585.00

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 Burnley High School, and/or Sir John Thursby Community College. 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 Burnley High School, and/or Sir John Thursby Community College, 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.

4.9 Contaminated Land Officer

No objections. Recommend a condition to require a scheme to deal with the risks associated with contamination of the site. In addition, following completion of the landfill gas monitoring programme a verification report demonstrating completion of any necessary works must be submitted for approval.

4.10 Environmental Health

No objection in principle to the proposed development of the site, regarding noise, light, dust or odour nuisance, but would recommend the inclusion of a number of conditions as part of the approval if granted: - a site-specific Construction Environmental Management Plan to demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting.

4.11 Greenspaces and Amenities

As there is no provision of on-site usable recreational public open space within the development, a commuted sum payment towards an existing or proposed open space facility nearby is requested in accordance with Policy HS4 and the Developer Contributions SPD. The 37 dwellings will have 134 bedrooms in total which (at £350 per bedroom) would amount to £46,900. Request that a commuted sum is used to create a permissive route to Brun Valley Forest Park from Worsthorne Recreation Ground and to re-develop the dilapidated pump track on Worsthorne Recreation Ground. Improved links to the Brun Valley Forest Park is highlighted in the Council's Green Infrastructure Strategy as a priority as part of the Greenway Routes recommendations and the suggested route has been in discussion for over 20 years. The permissive route would provide a safe off-road extension to existing multi-user paths in the locality and link in with the Council's aim to improve local cycling and walking infrastructure across Burnley. It could be used by pedestrians, cyclists and horse riders.

4.12 Burnley Civic Trust

Wish to support the use of a s106 agreement contribution to ensure that the nearby non-vehicle pathway/bridle path/cyclists route from Rowley to Worsthorne is developed and improved to ensure there is a safer route available to those permitted users avoiding the increasing busy Brunshaw Rd and Brownside Rd roads which new developments are putting increased pressure upon. Non-motorised traffic needs to be encouraged and the proposed route is an important step forward.

4.13 Worsthorne Parish Council

A letter expressing concerns and observations is summarised below:

- principal concern is in regard to the increased traffic flow along Brownside Road and adjoining streets, particularly at peak times such as from 7:00am to 9:00am, 3:15pm to 3:45pm (end of school time), and from 5:00pm to 6:30pm.
- the need to consider the cumulative impact of multiple developments, and the particular impact of traffic generated at peak times which could be regarded as severe. Refer to approvals for development at Brownside Road (FUL/2020/0186), Butchers Farm (FUL/2020/0321) and Smithyfield Avenue (FUL/2021/0274) which total 84 dwellings This figure does not include the application under consideration (FUL/2022/0629).
- The Parish Council disagree with the conclusions of the LCC Education Contribution Assessment and consider that the capacity in terms of primary school places will be exceeded and request further evaluation.

Worsthorne Parish Council has been consulted on amended plans and repeated its earlier comments.

4.14 County Councillor Cosima Towneley

In summary, a request is made to improve off-road provision and create opportunities for exercise, sport and recreation, by contributing to a route to link Worsthorne Recreation Ground (WRG) to the Forest Park along a route which has been in discussion for over 20 years. The establishment of this route would also create a safe corridor to the Pennine Bridleway/Mary Towneley Loop National Trails and would be in line with the Burnley Green Spaces innovative programme of multi-user, off road routes into and around the town linking urban and rural areas.

Following re-consultation, a further response states that Councillor Towneley has no objection in principle but requests that the following be taken into account:

1. That a s106 contribution is reserved for the implementation of a bridleway/greenway between Worsthorne Recreational ground, Heckness Farm and Rowley Farm to create safe, multiuser (including horse), off road access from the north side of Worsthorne to the central greenways in the urban centre via Rowley, Netherwood and Bank Hall.
2. That there is adequate supervision of conditions with regard to wheel washes and road cleaning, noting that this is a particularly wet site.
3. That adequate on-site parking is prepared and operational before any ground preparation for housing goes forward.

4.15 Publicity

Eleven letters of objection from occupiers at Heckenhurst Avenue and Riddings Avenue (with the exception of one letter from elsewhere in Burnley) were received to the original neighbour notification. A further 15 letters of objection (from occupiers at Heckenhurst Avenue and Riddings Avenue) have been received

following re-notification in respect of amended plans. This has increased the total number of households that have objected to the application to 18. A summary of the points of objection is provided below:

- Loss of greenspace, greenfield site, impact on landscape;
- Destruction of countryside and wildlife;
- Uninterrupted view of Trough of Bowland across Pendle towards Harle Syke will be permanently lost;
- Over-development of village, being turned into a town;
- Plans indicate that they are looking to build more houses at a later date, eating into more greenspace;
- Houses are not needed;
- There are plenty of brownfield sites that could be used;
- Does not tackle the problem of housing supply for low income households;
- The houses on this site would not be Affordable;
- The site is a wildlife haven for wildlife such as lapwings, skylarks, bats, owls, red bunting, curlew, hares, pheasants, badgers, foxes and deer;
- There are nesting birds in the field through spring and summer;
- Will reduce the biodiversity of the borough;
- Increase in traffic to dangerous levels and will increase the likelihood of accidents;
- Will generate 70+ more cars driving in and out of Heckenhurst Avenue;
- Residential roads are already busy and approved development at Smithyfield will increase traffic and hazards, making it unsafe for children playing out and for elderly people who live here;
- Brownside Road can barely cope with the existing traffic, it is reduced in part to single file traffic due to parked cars, causes congestion, inconvenience and accidents/near misses;
- Alternative routes out of the village cannot accommodate the traffic;
- Speeding traffic on Brownside Road, dangerous bend at access to Heckenhurst Avenue;
- Will increase traffic congestion around Worsthorne Primary School, causes gridlock at start and close of school day;
- Absence of safe crossing on Brownfield Road for school children walking from Heckenhurst Avenue (lollypop person not replaced) and pavement on one side of road only in places;
- Surrounding roads becoming a rat-run;
- Insufficient car parking for proposed houses;
- Dwindling bus service and is unreliable;
- Whole infrastructure in this area is at its limit, road traffic electricity capacity and services;
- Surrounding schools are already full(Worsthorne Primary, Cliviger and Brunshaw);
- Strain on local doctors/hospitals;
- No consideration has been given to the cumulative impact of development in the area (new developments at Red Lees Road, Smithyfield Avenue, Brownside Road and Bull and Butcher Farm);
- Drains and water supplies are in a poor state;
- Drainage in the area struggles to cope with winter weather and increase in surface water run-off will make this worse;

- Additional flows into the River Brun will increase the danger of flooding further downstream;
- Loss of privacy, will result in being overlooked;
- Proximity and height of proposed houses will be imposing and have an overbearing impact and lead to a significant loss of light to the garden;
- Loss of peace and quiet;
- Impact on neighbourhood from disruption during construction from traffic, noise, dust, pollution and muddy roads;
- Concern over the integrity of the existing stone reservoir wall and who will be responsible for its maintenance;
- Foundations due to former reservoir will be difficult;
- Concern over elevated levels of ground gases at the site and the possibility of contamination from landfill site.

4.16 In addition to the number of neighbour letters that have been received a letter relating to ecology matters has been received from Mr Peter Hornby, the former Chairman of the Burnley Wildlife Conservation Forum which has been disbanded. The letter objects to the application and, in summary, states that:-

- The land comprises semi-natural grassland which forms part of the adjoining attractive countryside. This would be inappropriate excessive urban sprawl in the Pennine landscape which functions as an important valuable greenspace and wildlife corridor, separating the existing built-up areas of Brownside and Pike Hill.
- The site's grassland is valuable wildlife habitat because it is used as a resource for foraging for food by a range of bird species, in particular, upland breeding species, notably Meadow Pipit, Skylark, Curlew and Lapwing. The submitted Ecological Appraisal confirms that lapwing is breeding adjacent to this plot of land and will therefore be using the site's grassland for foraging for food.
- The proposed high density of development leaves inappropriate and inadequate landscaping and scope for mitigation for a loss of open semi-natural grassland habitat and will result in a significant loss of biodiversity resource.

4.17 A letter has been received from the Head Teacher at Worsthorne Primary School, expressing concerns about the safety of pupils in crossing Brownside Road coming to and from school. The letter states that they hope there will be a safe point of crossing between the school on Brownside Road and Heckenhurst Avenue. The letter also states that additional housing in the vicinity of the school puts pressure on pupil numbers.

5 Planning and Environmental Considerations:

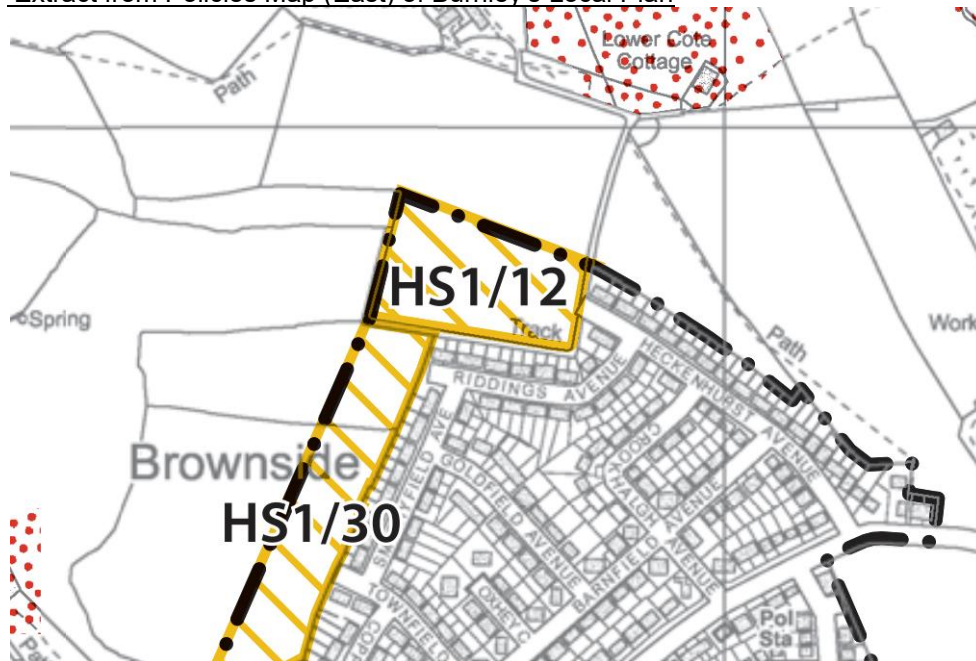
5.1 Principle of Proposal

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”.

- 5.2 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 one of these allocated sites for housing, identified as Policy HS1/12 – Former Heckenhurst Reservoir (1.38ha) identified as a Greenfield site. The extent of the allocation is indicated on the Policies Map of Burnley’s Local Plan:

Extract from Policies Map (East) of Burnley’s Local Plan



This application site consists of all the land with the allocation HS1/12.

Policy HS1/12 states that the site is acceptable for around 35 dwellings. The application as amended proposes a total of 36 dwellings [reduced by one dwelling since the application was first submitted] and this accords with the approximate number stated in the policy allocation. Policy HS1/12 contains a number of site specific policy requirements and design principles which will be considered in relation to the detail of the proposals. In terms of the principle of residential development, the proposal reflects the parameters of the allocation, in which case it is acceptable in principle.

5.3 Design, appearance and open space provision

Policy SP5 states, amongst other things, that the Council will seek high standards of design, construction and sustainability in all types of development. The site specific policy requirements and design principles that relate to the allocation are copied below:

HS1/12 – Former Heckenhurst Reservoir

Housing Delivery

The site is acceptable for around 35 dwellings.

Additional and Site Specific Policy Requirements and Design Principles

- 1) A mix of dwelling types including a minimum of 60% 3+ bedroomed detached and semi-detached houses will be expected;
- 2) Appropriate landscaping and boundary treatment should include screening to the northern and western boundary to reduce the impact on the wider landscape. New planting on the site will need to accord with Policy NE3;
- 3) Contributions towards off-site highways improvements may be required in line with Policy IC4;
- 4) Land contamination investigation and the relevant remediation will be required in accordance with Policy NE5;
- 5) Development proposals should retain the existing wall around the former reservoir; and
- 6) Protected Species have been recorded on the site. An ecological survey will be required to accompany any planning application which identifies any Protected Species and South Pennines SPA qualifying species present and addresses these issues in accordance with Policy NE1.

The Supporting Information also states that: “This is greenfield site in the open countryside. A high quality scheme is expected in line with Policies SP5 and lower density housing is preferred not only to provide quality and choice, but to provide a greater opportunity for landscaping, planting and minimising impacts.” All proposed dwellings would be 3 or 4 bedroom detached and semi-detached dwellings which would exceed the minimum 60% stated above.

- 5.4 The proposed density of the scheme is approximately 23.2 dwellings per hectare which is relatively low dense and provides a total of 0.2ha Public Open Space which is indicated on the plan below:

Proposed Public Open Space



The amount of public open space (POS) would be consistent with the requirements of Policy HS4 which requires a minimum of 0.3ha of POS for every 50 dwellings (or part thereof). The location of open space at the south west corner of the site would provide a pedestrian link to the site from the approved bungalow development site (FUL/2021/0274) and an informal area of landscaped greenspace with seating to enjoy views across to Pendle Hill. An informal path within the open space along the western and northern boundaries of the site would provide connectivity [also using part of the estate roads] to the Public Footpath to the east of the site. The site specific policy requirements refer to landscaping and screening to the northern and western boundaries of the site. The proposed areas of POS would provide appropriate boundary tree planting.

Landscape Proposal



Three Category C (low quality) hawthorn trees would be removed as part of the development. The proposed new tree planting around the outer boundaries of the site and within the areas of POS and streets would more than compensate for the minor loss and respond to the National Planning Policy Framework (NPPF) which states that streets should be tree lined.

- 5.5 The proposed houses are two storey which is consistent with the scale of development in the surrounding residential area and have been designed with gable roofs, well proportioned elevations, head and cills, door surrounds and window lights above front doors, detailing such as corbels, chimneys to some dwellings and a variety in house types. Natural stone is the predominant facing material with a small proportion of render to some house types. This is indicated in the example of a partial street scene below:

Examples of house types



- 5.6 The use of single garages to the side of plots also helps to create more variety in spacing between houses and contributes to the quality of the scheme. All plots would be fitted with an electric vehicle charger and more than 20% of the dwellings would comply with the optional technical standards in Part M4(2) of the Building Regulations to provide adaptable homes.
- 5.7 The proposed houses would be constructed to comply with Part L1 of the Building Regulations 2021 and achieve a high standard of energy efficiency with a fabric first approach to include mechanical ventilation heat recovery and photovoltaic (PV) panels to all plots.
- 5.8 The proposed design and layout would achieve a high quality of development that is appropriate for the site and would comply with Policies SP5 and HS4. The future maintenance and management of the proposed public open space, together with the perimeter reservoir wall should be secured through a s106 Agreement.
- 5.9 Impact on residential amenity
Policy SP5 requires new development to safeguard the residential amenities of existing occupiers as well as provide a satisfactory level of amenity for new occupiers. Policy HS4 requires a minimum of 20m between elevations with habitable rooms and 15m between a blank gable and habitable rooms. The applicant has reduced the number of proposed dwellings by one unit and made some minor adjustments to the layout to ensure that adequate privacy and outlook can be achieved for the development.
- 5.10 In the case of the south-east portion of the site, the distance between the rear



elevation of existing houses and the blank gable elevations of plots 30 and 36 shown above would be over 20m which exceeds the minimum 15m separation in Policy HS4. In other cases around the site's perimeter, the separation distances required by Policy HS4 are complied with and in many cases are exceeded. The houses are two storey in scale and the height to the ridge of the houses has been slightly reduced to ensure the heights are not excessive (maximum height is approximately 8.57m to ridge, lowest is approximately 7.84m). The layout and design would therefore satisfactorily protect the outlook, privacy and daylight/sunlight of existing neighbouring properties.

- 5.11 The spacing within the proposed development site would also provide adequate privacy and outlook.
- 5.12 There would be some noise and disruption during construction which can be expected but a Construction Management Plan would be required to control the noise and dust. Working hours would also be restricted by condition to 8am-6pm Monday to Friday and 8am to 1pm on Saturdays.
- 5.13 Objections from neighbours have also referred to loss of views which cannot be protected, although the proposed scheme would provide open space with seating and an informal path for walking from where open views across to Pendle Hill would be maintained.
- 5.14 The proposal therefore has an acceptable impact on residential amenities and would comply with Policies SP5 and HS4.
- 5.15 Impact on traffic, highway safety and parking
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 3 bedroom property and three spaces for a 4 bedroom property.
- 5.16 Neighbour objections that have been received refer to the limited options for motor traffic to Worsthorne, the congestion around Worsthorne primary school and the parking on Brownside Road which confines a stretch of the road to single width. The main route for motor traffic to Worsthorne is along Brownside Road and it is acknowledged that parking on one side of the road does affect the free flow of traffic, although with intervisibility from each end of parked cars, the waiting time to pass parked cars is limited and the local highway authority has raised no objections and is satisfied that the relative small increase in proportion to the traffic using Brownside Road as a result of this proposal would not adversely affect the capacity of the highway network or highway safety. Notably, the amount of traffic that would result from this development would be limited and would not significantly affect the quantity of traffic or the amount of traffic during peak

periods. Following concerns expressed by the DC Committee on the 7th February 2024 in respect of a safe crossing on Brownside Road and liaison with LCC Highways, the applicant has been requested and agreed to a highway safety contribution of £100,000, to be used to provide a pedestrian refuge island. This would require some localised widening to accommodate a 2m wide traffic island at an appropriate location. LCC Highways consider this to be appropriate, having regard to the volume of pedestrian movements, visibility for drivers and viability. This feature would improve the safety for school children and elderly persons in particular which would be a benefit to future occupiers of the development and local residents in general.

- 5.17 The congestion that is referred to around the entrance to Worsthorne Primary School is a matter of safety in general to be dealt with but would not make development of this site unacceptable. There are footways to link the site to Worsthorne and the school and the local highway authority has requested improvements to two bus stops on Brownside Road to promote the use of regular bus services between Worsthorne and Burnley.
- 5.18 The applicant has agreed to a contribution for the creation of a greenway route between Rowley (Brun Valley Forest Park) to the Worsthorne Recreation Ground as indicated below:-

Proposed route of Greenway



This is expected to be a permissive route for use by walking, cycling and on horseback. The creation of the new route is identified as a priority in the Council's Green Infrastructure Strategy. This will provide connectivity from the site along the route of the public footpath 1211002 to the east side of the site to the proposed greenway which will enhance access to the countryside and create a non-traffic route to Worsthorne Recreation Ground. This, together with bus stop improvements would increase accessibility and promote sustainable travel in accordance with Policy IC1 and the NPPF.

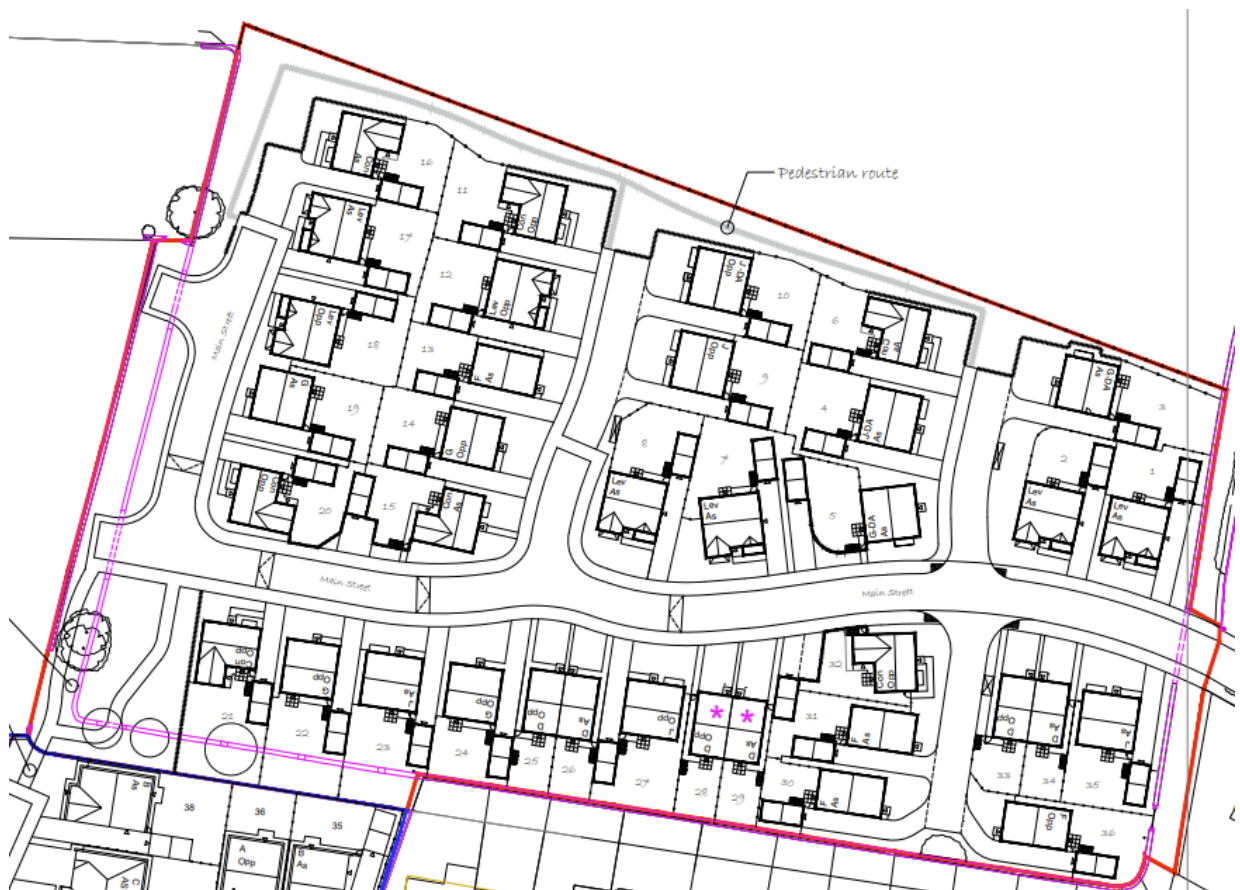
- 5.19 Each of the proposed dwellings would have the required level of off-street parking as required by Policy IC3 and Appendix 9. The proposal would not therefore lead to an increase in on-street parking elsewhere. A condition is recommended to restrict the use of garages in order that they remain available for the parking of a car.

5.20 The proposal would not therefore unacceptably increase traffic on the highway network or significantly affect highway safety. The creation of a greenway route for walking and cycling would improve connectivity with Worsthorne and the surrounding area and the improvement of local bus stops would also promote sustainable travel. The proposal would therefore be in accordance with Policies IC1, IC3 and the NPPF.

5.21 Affordable Housing provision

Policy HS2 requires affordable housing on sites of over 10 dwellings and for this to be provided on-site where there is a reasonable justification for this. The Developer Contributions SPD indicates that a 10% contribution of the development should be achieved. This would equate to 3.6 Affordable Homes. Since the date of the DC Committee meeting on 7th February 2024, additional contribution requests for education and highway safety improvements (a total additional contribution of £233,585) has been sought and prioritised. As a result of this the former request for 4no. Affordable Homes has been reduced to 2no. Affordable Homes. The applicant has agreed to the provision of 2no. Affordable Homes and indicated where these will be located in the layout copied below:

Proposed Affordable Housing Units



5.22 The 2no. affordable houses reflect the design characteristics of the development

Proposed Affordable Homes



as a whole and each provides a three bedroom house which would be transferred to a Registered Provider (RP) for Shared Ownership tenure.

5.23 Shared ownership tenure would be appropriate for this site and provide a small number of quality homes under this tenure which would add to the variety and range of affordable homes in the borough, providing a means if desired towards staircasing to full ownership in the future. A s106 Agreement is necessary to secure the agreed scheme.

5.24 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 as well as protecting Protected Species, Priority Habitat and local and regional sites and maintaining Ecological Networks. Policy HS1/12 states that Protected Species have been recorded on this site and that an ecological survey is required to identify any Protected Species and South Pennines Special Protection Area (SPA) qualifying species and to address these issues.

5.25 A Preliminary Ecological Appraisal has been submitted with the application which details and assesses survey results from the site. The report notes that the site

consists of poor semi-improved grassland and that there are no statutory or non-statutory designations which either directly or indirectly affect the site. GMEU accept the findings of the report and affirm that although the site is within 2km of the South Pennines Special Protection Area (SPA) and Special Areas of Conservation (SAC), it will lead to any harmful impacts on the special nature conservation interests of the designated sites because there is no direct connectivity between the sites and the site is not functionally linked to the SPA. GMEU assert that significant numbers of notable bird species associated with the SPA are considered very unlikely to use the application site on a regular basis. The site is of only limited nature conservation value and although it is noted that it may support small numbers of lapwing in the breeding season and winter, the small number of birds involved and the availability and extent of alternative suitable habitat nearby would not result in any harm to the conservation status of the lapwing.

- 5.26 The survey also assessed other protected species and wildlife, such as great crested newts, badgers, bats, brown hare and other birds and plant species. It found that the plant species assemblages are all common in the local area and are of low ecological value, stating that domestic gardens and sympathetically landscaped open space is considered to offer habitat of equal or greater ecological value. Whilst birds were recorded, suggesting nesting on fields adjacent to the site, there is no indication of nesting on the site. Low numbers of common bat species were recorded foraging adjacent to the site but no bats were found to be roosting on the site. No other notable or protected species were found to be present or adversely affected by the development. GMEU advise that no ground clearance should commence during the optimum time of year for nesting birds (March to August inclusive) unless bird nests have shown to be absent (including a check for ground nesting).
- 5.27 In respect of overall biodiversity and achieving a net gain (in accordance with Policy NE1), GMEU advise that, given the current landscape status of the site and the fact that new landscaping will be introduced, including garden spaces, the development can achieve a net gain in local biodiversity over time. The submitted landscape scheme has been amended to include further trees to the site boundaries and a condition to provide a scheme of biodiversity enhancement measures (bird and bat boxes) would also contribute to a net gain in biodiversity. With these provisions, the development would not adversely affect Protected Species or biodiversity and complies with Policy NE1.
- 5.28 Impact on drainage
Policy CC4 seeks to ensure that new development does not result in increased flood risk either on the development site or elsewhere. Policy CC5 requires surface water discharge to be appropriately managed and discharge to be restricted through measures including SuDS.
- 5.29 In this case, the site falls within Flood Zone 1 where there is the lowest risk to flooding. The red line application site includes land to the south of the site for the drainage connections to the approved development of 38 bungalows at Smithyfield Avenue (FUL/2021/0274) which flows downstream to the River Brun adjacent to Brownside Mill. The Lead Local Flood Authority (LLFA) first objected to the application and requested further information and evidence that the downstream route and culvert at Brownside Mill is capable of receiving the surface water flows from the site. This is a particular concern as flooding events are known to occur at Brownside Mill. The applicant has carried out a survey of the

culvert under Brownside Mill and found that it has a restricted diameter of 300mm which is smaller than the inflow at the top of the channel which is a 525mm diameter outfall pipe. The applicant proposes to upgrade the culvert at Brownside Mill to a specification to be agreed with the LLFA. The LLFA is satisfied that this will provide adequate capacity for the development to be drained in accordance with the submitted outline drainage strategy and requests conditions to require the off-site culvert improvement works to be carried out and completed. In the event that planning permission is granted, the applicant's drainage consultants will need to carry out further work to prepare detailed specifications for a replacement section of culvert.

A pre-commencement condition is recommended to ensure that the specification is agreed by the LLFA prior to any development being commenced. It is anticipated that the improvements to this section of culvert will address longstanding flooding issues which may otherwise continue. Whilst this is necessary for the proposed means of drainage from the development, it also represents a key benefit to addressing flooding away from the development site. Further conditions are recommended as outlined at sections 4.3 and 4.4 of the report. These will ensure, amongst other things, that the capacity of attenuation which is proposed to be stored in underground tanks, is of sufficient size to store stormwater from a worse case scenario of a 1 in 100 year flood event with an additional 50% allowance for climate change. The lower discharge rate as a result of attenuation would be agreed with the LLFA. The details which are subject to conditions as recommended by the LLFA and UU will be subject to further consultation as part of applications for the discharge of details reserved by condition. These controls will ensure a satisfactory drainage scheme for the site and satisfactorily manage and reduce the risk of flooding on site and elsewhere. It is also noted that the applicant intends to use a private management company for the maintenance and management of the SuDS (which includes the attenuation works) and advises that this should be secured as part of a s106 Agreement.

5.30 The proposed drainage which includes an upgrade to the off-site culvert at Brownside Mill is therefore satisfactory subject to conditions and is likely to also bring about a benefit to the local area by reducing the risk of flooding. The proposal therefore complies with Policies CC4 and CC5.

5.31 Impact on ground conditions

Policy NE5 requires development proposals to evaluate environmental risks. The former reservoir was infilled from 1993 onwards. A land investigation and remediation strategy (dated April 2023) have been submitted to demonstrate that the land is suitable for residential use. The report finds that the topsoil and made ground are suitable for retention and no formal remediation is required for soft landscape areas. Formal remediation is required detailing gas precaution measures. The Council's Contaminated Land Consultant recommends a condition to require a verification report following the completion of the landfill gas monitoring programme. With this provision, the site would be made suitable for residential use and would satisfactorily deal with any risks associated with the historic infilling of the former reservoir.

5.32 Electric vehicle charging points would be installed at all properties which promotes the use of electric cars and contributes to mitigating against pollution from carbon dioxide emissions. Measures to protect air quality during construction would be

dealt with through a Construction Management Plan that includes dust control measures.

5.33 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. This provides us with a sound evidence base to determine the 'ceilings' for contributions. Where requests are under the ceiling and they are reasonably necessary and relevant to make the development acceptable then it is expected that these will be agreed with the applicant. Where there are requests that go beyond the ceiling figure then this indicates that the viability of a development would be compromised and as such, may lead to problems such as measures to reduce overall costs and the quality of the scheme or it may prevent the development going ahead. Where there are multiple requests then priorities would normally be made in accordance with the SPD.

- 5.34 In this case, the Developer Contributions SPD indicates that 10% of the development should be affordable housing. Contributions are also sought from the Head of Greenspaces and Amenities in line with Policy HS4 to provide improved play space/equipment for children and to contribute to a new greenway route between Rowley Park and Worsthorne Recreation Ground (amounting to a total of £60,450). The local highway authority has requested the improvement of two bus stops on Brownside Road which would be agreed through s278 works but also fall within the contributions that are calculated. Since the DC Committee meeting on 7th February 2024, the applicant has been asked and has agreed to a highway safety contribution of £100,000, to be used to improve safety for crossing Brownside Road. Schools Planning Team (LCC) did not initially request a contribution to either primary or secondary school places but on a more recent assessment (set out at 4.8 above) a request has been made for the cost of five secondary school places, amounting to £133,585. Given the importance and relevance of the improvements to road safety to facilitate crossing Brownside Road which would be a priority within the Developer Contributions SPD, and the need for school places, the applicant has been asked to provide these contributions (in addition to the £60,450 for open space/greenway and 2no. bus stop improvements) and provide 5 % Affordable Housing (rounded up to 2 Affordable Homes). All these contributions are reasonably necessary and relevant to the development and would come within the viability ceilings in the Developer Contributions SPD. The applicant has agreed to all of these.
- 5.35 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 37 [reduced to 36] 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. No request has been made for a contribution towards primary healthcare, or would be expected to be made

and no evidence submitted to indicate that there would not be access to primary healthcare in Burnley for future occupiers.

- 5.36 Some neighbour objections and the Headteacher of Worsthorne primary school have referred to pressure on school places or a lack of school places (particularly primary school places) and infrastructure to support the development. There is however no evidence of a lack of primary school places in the following five year projected period. The thorough and adopted assessment process of LCC (set out at 4.8 above) identifies the capacity of schools within a 2 mile radius of the site (for primary school places), which indicates sufficient capacity for the pupil yield from the proposed development. This includes school places from a total of 13 primary schools, thereby taking in account a significantly greater number of schools than just Worsthorne primary school. School places will be given through individual school admission policies which take of location/distance to school. LCC has identified a shortfall in capacity for secondary school places (within a 3 mile radius) and has asked for a full pupil yield contribution of five secondary school places which the applicant has agreed to. This fully addresses the impact of the development on education and complies with Policy IC5.
- 5.37 A revised set of Contributions that have been agreed with the applicant to take account of improvements to road safety (£100,000) and a new request for five secondary school places (£133,585). This is in addition to open space and greenway improvements (£60,450) and improvements to 2no. bus stops through a s278 Agreement (£40,000) and 2no. Affordable Homes which is revised to allow for the viability ceilings in compliance with Policy IC4 and the Developer Contributions SPD. It should also be noted that in addition to the foregoing contributions, the applicant has also agreed to carry out off-site culvert improvement works which are an additional and unexpected cost. The works are therefore an abnormal cost to the developer which represent a benefit to the local area.

6 Conclusion

- 6.1 The proposed development would provide an appropriate development on a site allocated for this purpose and has been sensitively designed to reflect the character of the local area and to have regard to the amenities of adjacent properties. It provides a suitable level of public open space and planting and connectivity with its surroundings, including the approved development site directly to its south side. The impact of the development on infrastructure and traffic and safety has been considered. The relative small proportional increase in traffic using Brownside Road can be accommodated and measures to improve nearby bus stops and provide a new off-site greenway route would promote travel by bus, walking and cycling and give greater access to the countryside for recreation. The proposal would also lead to an upgrade in an off-site section of culvert that is likely to address flooding issues that currently occur away from the site. The proposal would not adversely affect protected species and the proposed landscaping would contribute to a net gain in biodiversity. The proposed scheme is a high quality development, includes benefits from the provision of 2no. Affordable Homes which adds to the range and variety of Affordable Housing in the borough, and is policy compliant. The proposal therefore complies with the development plan and there are no material considerations which outweigh this finding. The application is therefore recommended for approval as set out below:

- 7. Recommendation: Delegation to the Head of Housing and Development Control to Approve subject to a section 106 Agreement to secure affordable housing, open space improvements, greenway creation and maintenance and management of public open space, reservoir walls and SuDS and education and highway contributions.**

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. Representative samples of the external materials of construction, as indicated on the approved plans, 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 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.

4. No development shall be commenced until protective fencing to protect the trees to be retained on the site has been erected in accordance with details as indicated in the submitted Tree Protection Plan (drawing number 6966.03RevA, prepared by Trevor Bridge Associates Ltd). There shall be 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. The protection measures shall be implemented and remain in situ during building operations until the completion of the development.

Reason: To ensure adequate protection for the long term health of trees 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 protective fencing is required to be erected prior to the commencement of development in order to give adequate protection to the trees from construction vehicles, plant, deliveries and other site activities.

5. All planting, seeding or turfing comprised in the approved details of landscaping as approved in accordance with the Landscape Proposal, drawing number 6966.01RevE (received on 30th 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).

6. 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.

7. 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 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.

8. The boundary treatment indicated on the submitted Boundary Treatment Plan (drawing number 21-86-P02RevF) shall be carried out and completed prior to the completion of the development, in accordance with details of the materials and design of the proposed screen walls which shall be first submitted to and approved in writing by the Local Planning Authority.

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).

9. 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.

10. 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.

11. 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).

12. Prior to the commencement of development, a scheme for the detailed design of the proposed site access and off-site works of highway improvement to include the following shall be submitted to and approved in writing by the Local Planning Authority:-
 - The improvement of two bus stops outside 200A and 187/9 Brownside Road.

The approved scheme shall thereafter be implemented in its entirety and completed prior to any dwelling being first occupied.

Reason: To ensure that satisfactory access is provided to the site and is made safe for all highway users and satisfactory provision is made to encourage use of public transport, having regard to sustainable travel and highway safety, 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.

13. 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).

14. 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.

15. 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.

16. 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).

17. No dwelling shall be first occupied unless and until all its associated car parking has been constructed, drained, surfaced 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).

18. 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).

19. Prior to each dwelling being first occupied, garage wall hanging cycle storage suitable for two bicycles shall be provided within each garage and a separate secure cycle storage facility suitable for two bicycles shall be provided for units without a garage, in accordance with details which shall be first submitted to and approved in writing by the Local Planning Authority. The bicycle storage facility for each dwelling shall thereafter be retained at all times.

Reason: To promote sustainable transport as a travel option and reduce carbon emissions, in accordance with Policy IC3 of Burnley's Local Plan (July 2018).

20. No development shall be commenced unless and until a scheme of off-site culvert improvement works to increase the capacity of the existing 300mm diameter culverted ordinary watercourse under Brownside Mill to its outfall to the River Brun and to include timescales for the implementation of the scheme, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme of off-site culvert improvement works shall thereafter be carried out and completed in accordance with the approved details and approved timescales and no dwelling shall be first occupied until a verification report to certify that the approved scheme is complete and operational has been submitted to and first approved in writing by the Local Planning Authority.

Reason: The proposed development would lead to an increase in surface water run-off into an inadequate downstream culvert under Brownside Mill which would unacceptably increase the risk of flooding without significant off-site improvements that are required by this condition, in accordance with Policy CC4 of Burnley's Local Plan (July 2018). The scheme is required prior to the commencement of development due to the nature of the risks of flooding and to ensure that the improvements are secured at the outset.

21. No development shall commence until a detailed, final surface water sustainable drainage strategy for the site has been submitted to, and approved in writing by, the Local Planning Authority. The detailed surface water sustainable drainage strategy shall be based upon the indicative surface water sustainable drainage strategy submitted (drawing 21152/100/1 Rev D, REFA, 15/01/2024 and supporting letter dated 17th January 2024, Townsend Water Engineering) and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly. The details of the drainage strategy to be submitted for approval shall include, as a minimum;

a) Sustainable drainage calculations for peak flow control and volume control for the:

- i. 100% (1 in 1-year) annual exceedance probability event;
 - ii. 3.3% (1 in 30-year) annual exceedance probability event + 40% climate change allowance, with an allowance for urban creep;
 - iii. 1% (1 in 100-year) annual exceedance probability event + 50% climate change allowance, with an allowance for urban creep
- Calculations must be provided for the whole site, including all existing and proposed surface water drainage systems.

b) Final sustainable drainage plans appropriately labelled to include, as a minimum:

- i. Site plan showing all permeable and impermeable areas that contribute to the drainage network either directly or indirectly, including surface water flows from outside the curtilage as necessary;
- ii. Sustainable drainage system layout showing all pipe and structure references, dimensions and design levels to include all existing and proposed surface water drainage systems up to and including the final outfall;

- iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
- iv. Drainage plan showing flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
- v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building and connecting cover levels to confirm minimum 150 mm+ difference for FFL;
- vi. Details of proposals to collect and mitigate surface water runoff from the development boundary;
- vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and delivers suitably clean water to sustainable drainage components.

The sustainable drainage strategy shall be implemented in accordance with the approved details.

Reason To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 173 and 175 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems and Policies CC4 and CC5 of Burnley's Local Plan (July 2018). The details are required prior to the commencement of development to ensure that satisfactory details can be secured and implemented at the appropriate stage in the construction.

22. No development shall commence until a Construction Surface Water Management Plan, detailing how surface water and stormwater will be managed on the site during construction, including demolition and site clearance operations, has been submitted to and approved in writing by the Local Planning Authority. The details of the plan to be submitted for approval shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include for each phase, as a minimum:
- a) Measures taken to ensure surface water flows are retained on-site during the construction phase(s), including temporary drainage systems, and, if surface water flows are to be discharged, they are done so at a restricted rate that must not exceed the equivalent greenfield runoff rate from the site.
 - b) Measures taken to prevent siltation and pollutants from the site entering any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

The plan shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water during each construction phase(s) so it does not pose an undue surface water flood risk on-site or elsewhere during any construction phase in accordance with Paragraph 173 of the National Planning Policy Framework and Policies CC4 and NE5 of Burnley's Local Plan (July 2018). The Management Plan is required prior to the commencement of development in order to avoid the potential impacts of surface water run-off at the outset of the construction.

23. The occupation of the development shall not be permitted until a site-specific Operation and Maintenance Manual for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority. The details of the manual to be submitted for approval shall include, as a minimum:
- a) A timetable for its implementation;
 - b) Details of the maintenance, operational and access requirement for all SuDS components and connecting drainage structures;
 - c) Pro-forma to allow the recording of each inspection and maintenance activity, as well as allowing any faults to be recorded and actions taken to rectify issues;
 - d) The arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme in perpetuity;
 - e) Details of financial management including arrangements for the replacement of major components at the end of the manufacturer's recommended design life;
 - f) Details of whom to contact if pollution is seen in the system or if it is not working correctly; and
 - g) Means of access for maintenance and easements.

Thereafter the drainage system shall be retained, managed, and maintained in accordance with the approved details.

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 sustainable drainage system is subsequently maintained pursuant to the requirements of Paragraph 175 of the National Planning Policy Framework and in accordance with Policies CC4 and NE5 of Burnley's Local Plan (July 2018).

24. The occupation of the development shall not be permitted 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 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 5 national grid references) of critical drainage infrastructure (including inlets, outlets, and 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 173 and 175 of the National Planning Policy Framework and in accordance with Policies CC4 and NE5 of Burnley's Local Plan (July 2018).

25. 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.

26. 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.

27. No dwelling shall be first occupied until a verification report to demonstrate the completion of gas protection measures and recommendations in the submitted Phase II Geo-environmental Investigation Report Final Issue, dated April 2023 (reference 2152/GEIR 01), has been first 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 landfill of the site, in accordance with Policy NE5 of Burnley's Local Plan (July 2018).

28. 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).

29. 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 drawing number 21-86-P03RevF. 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).

30. A minimum of nine 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).

31. 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).

32. The development shall be completed with the chimney features as detailed in the approved plans and drawing number 21-86-P09RevF (Chimney Location Plan) 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).

33. A footpath connection at the south west corner of the site shall be constructed and made available for use in accordance with details and specifications of its construction and timescales for its completion and availability for use by member of the public, which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The footpath connection shall thereafter be so retained and remain open for use in perpetuity.

Reason: To ensure the development provides connectivity with surrounding development, in the interests of amenity and to promote accessibility, in accordance with Policy IC1 of Burnley's Local Plan (July 2018). The details are required prior to the commencement of development to ensure the levels and details are satisfactory and can be implemented at the appropriate stage in the development.

34. 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 any dwelling 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).

Janet Filbin
Updated 8th April 2024