

DEVELOPMENT CONTROL COMMITTEE

Thursday, 7th April, 2022
6.30 pm





DEVELOPMENT CONTROL COMMITTEE

ROOMS 2 & 3, BURNLEY TOWN HALL

Thursday, 7th April, 2022 at 6.30 pm

Members of the public may ask a question, make a statement, or present a petition relating to any agenda item or any matter falling within the remit of the committee.

Notice in writing of the subject matter must be given to the Head of Legal & Democracy by 5.00pm three days before the meeting. Forms can be obtained for this purpose from the reception desk at Burnley Town Hall, Manchester Road or at the Contact Centre, Parker Lane, Burnley or from the web at: [Request To Speak form](#). You can also register to speak via the online agenda. Requests will be dealt with in the order in which they are received.

Due to Public Health guidance re social distancing there is limited space for members of the public to observe the meeting. Priority will be given to those who have registered to speak on an application. If you wish to attend the meeting we advise that you contact democracy@burnley.gov.uk in advance of the meeting.

A G E N D A

1. Apologies

To receive any apologies for absence.

2. Minutes

5 - 20

To approve as a correct record the Minutes of the previous meeting.

3. Additional Items of Business

To determine whether there are any additional items of business which, by reason of special circumstances, the Chair decides should be considered at the meeting as a matter of urgency.

4. Declaration of Interest

To receive any declarations of interest from Members relating to any item on the agenda in accordance with the provision of the Code of Conduct and/or indicate if S106 of the Local Government Finance Act applies to them.

5. Exclusion of the Public

To determine during which items, if any, the public are to be excluded from the meeting.

6. List of Deposited Plans and Applications 21 - 22

To consider reports on planning applications for development permission:

a) **HOU/2022/0012 - 11 Mansergh Street, Burnley** 23 - 30

b) **FUL/2021/0676 - St Andrews Recreation Ground (Rakehead Rec) Land Adjacent To Burnley General Hospital** 31 - 40

c) **FUL/2021/0273 - Land South Of Rossendale Road Burnley** 41 - 78

d) **FUL/2021/0755 - Land On Corner Of Harold Avenue And Valley Street Harold Avenue Burnley** 79 - 88

7. Decisions taken under the Scheme of Delegation 89 - 100

To receive for information a list of delegated decisions taken since the last meeting.

8. Appeal Decisions 101 - 120

MEMBERSHIP OF COMMITTEE

Councillor Saeed Chaudhary (Chair)
Councillor Anne Kelly (Vice-Chair)
Councillor Gordon Birtwistle
Councillor Frank Cant
Councillor Phil Chamberlain
Councillor Scott Cunliffe
Councillor Sue Graham
Councillor Sarah Hall

Councillor John Harbour
Councillor Alan Hosker
Councillor Jacqueline Inckle
Councillor Karen Ingham
Councillor Mohammed Ishtiaq
Councillor Neil Mottershead
Councillor Mark Payne
Councillor Ann Royle

PUBLISHED

Wednesday, 30 March 2022

This page is intentionally left blank



DEVELOPMENT CONTROL COMMITTEE

BURNLEY TOWN HALL

Wednesday, 9th February, 2022 at 6.30 pm

PRESENT

MEMBERS

Councillors S Chaudhary (Chair), A Kelly (Vice-Chair), G Birtwistle, F Cant, P Chamberlain, S Cunliffe, S Graham, J Harbour, A Hosker, K Ingham, M Ishtiaq and A Royle

OFFICERS

Paul Gatrell	– Head of Housing & Development Control
Alec Hickey	– Planning Team Manager
Janet Filbin	– Principal Planner
Catherine Waudby	– Head of Legal and Democratic Services
Alison McEwan	– Democracy Officer

76. Apologies

Apologies for absence were received from Cllr Jackie Inckle

77. Minutes

The Minutes of the meetings held on 13th and 24th January 2022 were approved as a correct record and signed by the Chair.

78. List of Deposited Plans and Applications

The following members of the public attend the meeting and addressed the Committee under the Right to Speak Policy:

Deborah Smith	FUL/2021/0659 – Land at west of Briercliffe Road, Burnley General Hospital (For)
---------------	--

Alan Kinder	FUL/2021/0719– Land at Vicarage Avenue, Padiham (for)
-------------	---

RESOLVED That the list of deposited plans be dealt with in the manner shown in these minutes.

79. HOU/2021/0607 - Southside, The Grange, Marsden Road

Decision

That the application be approved subject to the following conditions.

Conditions & Reasons:

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

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

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings: Proposed Plans Dwg no 2082/102 Rev D received 25.01.2021 Site Location Plan: Dwg no 2028/10

Reason: For the avoidance of doubt and to clarify which plans are relevant to the consent.

3. The external facing materials, detailed on the approved plans, shall be used and no others substituted.

Reason: To ensure that the materials to be used are appropriate to the locality.

4. The landscaping proposals hereby approved indicated on Dwg no 2082/102 Rev D shall be implemented in the first planting season following occupation or use of the development, whether in whole or part and shall be maintained thereafter for a period of not less than 10 years to the satisfaction of the Local Planning Authority. This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted.

Reason: To ensure the adequate visual amenity value on and adjacent to the site or those likely to be affected by the proposed development.

5. The proposed roof terrace hereby permitted shall be fitted with the privacy screen as detailed on the amended plan Dwg no 2082/102 Rev D received 25.01.2021. For the avoidance of doubt the screen shall be 1.8m tall. The screen shall be implemented in accordance with the approved details prior to the first occupation of the development and retained thereafter.

Reason: To ensure the protection of privacy for neighbouring occupiers, and in the interests of residential amenity.

80. ADV/2021/0679 - 150-152 St James St, Burnley

Decision

That the application be approved subject to the following conditions.

Conditions & Reasons

1. The signs hereby approved shall be removed from the site by 09/02/2022.

Reason: In the interests of visual amenity

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings: Location Plan: Dwg no 1 RLB Proposed Hoarding: Dwg no 2 RLB

Reason: For the avoidance of doubt and to clarify which plans are relevant to the consent.

3. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.

Reason: In the interests of visual amenity

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public

Reason: Required to be imposed by the Town and Country Planning (Control of Advertisement) Regulations 2007.

5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: Imposed by Regulation 14 (7) (a).

81. FUL/2021/0659 - Land to the West of Briercliffe Road, Burnley General Hospital, Burnley

Decision

That approval be delegated to the Head of Housing & Development Control subject to the agreement of a S106 agreement and the following conditions

Conditions & Reasons

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. Prior to the commencement of built development above ground level, details of the external materials of construction to be used on the walls and roofs of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details.

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 material details are required prior to the commencement of development to ensure that the approved materials are available for use 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 within the Arboricultural Report (dated October 2021). All measures contained within the report shall be adhered to at all times and 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. Prior to the commencement of built development above ground level, a scheme of landscaping, to include details of retained trees and new tree and shrub planting, to

include native species (noting species, plant sizes/heights on planting and proposed numbers/ densities where appropriate), shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure a satisfactory scheme of landscaping, in the interests of visual amenities and biodiversity, in accordance with Policies SP5 and NE1 of Burnley's Local Plan (July 2018). The scheme is required prior to the commencement of development to ensure that the works are agreed early in the process in order that they can be carried out at the appropriate stage of the development.

6. All planting, seeding or turfing comprised in the approved details of landscaping (as approved by Condition 5) shall be carried out in the first planting and seeding seasons following the first occupation of any apartment 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).

7. Prior to the commencement of development except for demolition, a scheme of off-site works of highway improvement to include improvements to two bus stops adjacent to the site on Briercliffe Road and the promotion of a Residents Only Parking Scheme on Boundary Street, shall be submitted to and approved in writing by the Local Planning Authority. With the exception of the latter (the Residents Only Parking Scheme), the approved scheme of off-site works of highway improvement shall thereafter be implemented in its entirety and completed prior to any apartment being first occupied.

Reason: To ensure that satisfactory access is provided to the site and to mitigate against potential impacts on on-street parking, in the interests of highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018). The scheme is required prior to the commencement of development to ensure that the works can be agreed and carried out at the appropriate stage of the development.

8. The approved access and egress and access 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, except for demolition works, takes place.

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).

9. Prior to the commencement of built development above ground level, a scheme of biodiversity enhancement measures, which shall include measures for the planting of locally native/wildlife friendly species and details of the amount, type and positions of bat boxes and nesting boxes (suitable for swifts and starlings)

shall be submitted to and approved in writing by the Local Planning Authority. The approved biodiversity enhancement measures shall thereafter be carried out and completed prior to any apartment being first occupied or in the case of planting proposals, shall be carried out as part of the approved landscaping scheme.

Reason: To ensure that the scheme provides adequate benefits for wildlife to enhance the biodiversity of the site and to compensate for lost habitat for bats and birds, in accordance with Policy NE1 of Burnley's Local Plan (July 2018). The scheme is required prior to the commencement of development to ensure that the approved measures can be incorporated into the building design.

10. Prior to the removal of any vegetation on the site or commencement of development except for demolition, a method statement for the removal of Wall cotoneaster and to prevent its spread from the site 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 method statement.

Reason: To control the spread of an invasive species which has been recorded on the site, in accordance with Policy NE1 of Burnley's Local Plan (July 2018). The method statement is required prior to the commencement of the development so that it can be effectively implemented from the earliest stages of the development.

11. Prior to the commencement of development, a Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority which shall provide details of reasonable avoidance measures for species such as hedgehogs and toads. The agreed measures shall be implemented prior to any site clearance or development being commenced and retained in their entirety for the duration of the development until its completion.

Reason: To protect wildlife that may be present on the site during the construction period, 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 wildlife.

12. No works or removals of trees or shrubs on the site shall take place during the bird nesting season between the 1st March and 31st August inclusive in any year unless a qualified ecologist has inspected the area no more than 24 hours prior to the works/removal and provides written confirmation to the Local Planning Authority that no nests or breeding birds will be affected by the development.

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.

13. No trees on the site shall be felled unless a method statement for their removal, in accordance with the recommendation of the Preliminary Ecological Appraisal (reference 80-250-R1-1, dated February 2021) has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in full accordance with the approved method statement.

Reason: To protect protected species (birds and bats), in accordance with Policy NE1 of Burnley's Local Plan (July 2018). This is required prior to the commencement of development in order to prevent any potential harm to birds or bats.

14. Prior to the commencement of built development above ground level, a scheme for external lighting to be sensitive to wildlife, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved scheme and only external lighting that accords with the approved scheme shall be permitted to be installed or operate at the premises at any time.

Reason: To ensure sensitive external lighting to avoid harm to birds, bats and other wildlife, in accordance with Policy SP5 of Burnley's Local Plan (2018). A scheme is required prior to the commencement of development in order it can be satisfactorily integrated into the design of the development.

15. No apartment shall be first occupied until the car park and manoeuvring areas as indicated on the approved plans have been constructed, drained, surfaced in tarmac or an alternative bound treatment to be previously agreed in writing with the Local Planning Authority, marked out and made available for use. The car parking area shall thereafter be kept free of obstruction and available for the parking of cars at all times.

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

16. 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 and stones being carried onto the highway. The roads adjacent to the site shall be mechanically swept as required during the full construction period.

Reason: To avoid the deposit of mud or debris on the public highway, in order to protect highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

17. 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 deal with dirt, debris, mud or loose material deposited on the highway as a result of construction
- Measures to control the emission of dust and dirt during construction
- Details of a scheme for recycling/disposing of waste resulting from demolition and construction works
- Construction vehicle routing
- Delivery and construction 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.

18. 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 or deliveries to the site, 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).

19. Prior to the commencement of built development above ground level, details of the design and implementation of a surface water sustainable drainage scheme, based on sustainable drainage principles, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented and completed in accordance with the approved scheme prior any apartment being first occupied. The approved drainage scheme shall be retained at all times thereafter.

Reason: To ensure the adequate drainage of the site and to reduce the risk of flooding, in accordance with Policies CC4 and CC5 of the Burnley's Local Plan (July 2018). The scheme is required prior to the commencement of development to ensure that acceptable works can be agreed before works start and can then be implemented at an appropriate stage in the development.

20. The approved development shall not be first occupied until a Verification Report and Operation and Maintenance Plan for the approved surface water drainage system for the lifetime of the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be completed, retained, maintained and managed at all times in accordance with the approved plan.

Reason: To ensure adequate and appropriate funding, responsibility and maintenance mechanisms are in place for the lifetime of the development, in order to

ensure the appropriate drainage of the site and to reduce the risk of flooding, in accordance with Policies CC4 and CC5 of the Burnley's Local Plan (July 2018).

21. Prior to the commencement of any development, details of how surface water and pollution prevention will be managed during the construction process shall be submitted to and approved in writing by the Local Planning Authority. The agreed measures shall be implemented at all times during the construction of the development until its completion.

Reason: To manage any risks from pollution and flooding arising from construction activities on site, in accordance with Policies NE5 and CC4 of Burnley's Local Plan (July 2018). The details are required to be submitted prior to the commencement of development in order that they can be in place prior to any work taking place that could lead to pollution or flooding from the site.

22. Foul and surface water shall be drained on separate systems.

Reason: To ensure the site can be adequately drained, in accordance with Policy NE5 of the Burnley's Local Plan (July 2018).

23. Prior to any apartment being first occupied, the enclosed refuse store shall be constructed and available for use in accordance with the approved plans. The refuse store 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).

24. The development shall be constructed and completed in accordance with the recommendations contained within the submitted Phase I and Phase II Geo-environmental Site Assessment (report references 12-779-R1-RevA and 12-779-R2-RevB, both dated October 2021) and the Ground Gas Addendum report (reference 12-779-R3-RevA, dated October 2021). In the event that previously unidentified contamination is discovered during any part of the works then further investigation and risk assessment shall be undertaken which shall together with an additional remediation scheme be submitted to and approved in writing by the Local Planning Authority before works continue. A Validation and Verification report to evidence that all remediation works have been carried out in accordance with the approved scheme shall be submitted to and approved in writing by the Local Planning Authority before the approved residential care home is first occupied.

Reason: In order to deal appropriately and safely with the risks posed to the public and future occupiers by the historic use of the site and surrounding area, in accordance with Policy NE5 of Burnley's Local Plan (July 2018).

25. The development shall not be carried out otherwise than in accordance with the measures for energy efficiency contained within the submitted Sustainability Part L Assessment Summary Report Revision 04, dated 07.01.2022 and shall be completed in their entirety prior to the completion of the development.

Reason: To ensure the development delivers the expected energy efficiencies, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

26. A minimum of two Electric Vehicle Charging points shall be installed externally within the car park as indicated on the approved plans prior to the completion of the development.

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).

27. Prior to any apartment being first occupied, a full and up to date Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall thereafter be implemented in accordance with the timescales within the approved Travel Plan and shall be audited and updated at intervals of not greater than 18 months. The measures contained with the Travel Plan shall be adhered to at all times.

Reason: To promote and provide access to sustainable travel options, in accordance with Policy IC2 of Burnley's Local Plan (July 2018).

28. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any provision within the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any statutory instrument revoking and re-enacting those Orders, the approved development shall operate as an extra care apartment scheme (Class C3) for residents generally aged over 55 where care supports independent living only and shall not be used for any other purpose within Class C3 or for any other purpose.

Reason: To ensure the satisfactory implementation of the proposal which has been assessed on the details of the proposed use only, a deviation from which would need to be re-assessed in respect of potential needs for open space, education and car parking amongst other material considerations, in accordance with Policies HS4, IC4 and IC3 of Burnley's Local Plan (July 2018).

29. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any provision within the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any statutory instrument revoking and re-enacting those Orders, the commercial facilities (indicated as bistro and salon on the approved plans) shall not exceed a combined floor area of 131sqm and shall be used as a café/restaurant/coffee shop and retail shop or hair salon use only and not for any other use falling within Class E and shall not be used for any other purposes.

Reason: To ensure the satisfactory implementation of the proposal which has been assessed on the proposed use only, to ensure that these facilities are relevant to the principal development of the site for extra care apartments, in accordance with Policies HS1/10 and TC1 of Burnley's Local Plan (July 2018).

30. The development shall be constructed to incorporate the recommendations contained within the submitted Noise Impact Assessment (reference 50-093-R1-2, dated October 2021), details of which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development above ground level.

Reason: To ensure satisfactory mitigation against traffic noise, in the interests of residential amenities, in accordance with Policy SP5 of Burnley's Local Plan (July 2018). The details are required prior to the commencement of development to ensure that acceptable works can be agreed before works start and can then be implemented at an appropriate stage in the development.

31. A scheme for the provision and continued use of the development for Affordable Housing shall be submitted to and approved in writing by the Local Planning Authority prior to any apartment being first occupied. The approved scheme of Affordable Housing shall thereafter be implemented in full and shall continue to do so at all times.

Reason: To ensure that the scheme delivers the intended benefits from the provision of Affordable Housing, in accordance with Policy HS2 of Burnley's Local Plan (July 2018).

32. The approved boundary treatment as indicated on drawing number CAL02-TEP-EC-XX-DR-L-90003-S2-P02 shall be carried out and completed prior to the completion of the development or the first occupation of any apartment, whichever is the sooner. The approved boundary treatment shall thereafter be retained at all times.

Reason: To ensure a suitable edge to the development and neighbouring occupiers, in the interests of visual amenities, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

33. All external glazing to be used in the development shall be non-coloured glass only and windows/doors shall be installed in accordance with the approved window dimensions plan (drawing number CAL02-BCA-EC-ZZ-DR-A-32002-S2-P2) and in accordance with details of the materials and colour of the window and door frames and Juliette railings which shall be previously submitted to and approved in writing by the Local Planning Authority, unless any variation to this is previously agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

82. FUL/2021/0719 - Land at Vicarage Avenue, Padiham

Decision

That the application be approved subject to the following conditions

Conditions & Reasons

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

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

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings: REE/07 DWG 02 Proposed Site Plan REE/07 DWG 01

Reason: For the avoidance of doubt and to clarify which plans are relevant to the consent.

3. The new access and access way in the site the site and 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.

4. The access road for the approved development shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level up before any development takes place within the site and shall be further extend before any development commences fronting the new access road.

Reasons: To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative.

5. Before the access is used for vehicular purposes, that part of the access extending from the highway boundary for a minimum distance of 5m into the site shall be appropriately paved in tarmacadam, concrete, block paviments, or other approved materials.

Reasons: To prevent loose surface material from being carried on to the public highway thus causing a potential source of danger to other road users.

6. Before the access is used for vehicular purposes, any gateposts erected at the access shall be positioned 5m behind the back edge of the footway. The gates shall open away from the highway.

Reasons: To permit vehicles to pull clear of the footway when entering and exiting the site and to ensure the swing of the gates do not affect the availability for a car to wait off road.

7. All gates and associated mechanisms to be located outside the adopted highway and the gates to have physical restraints to prevent the gates from opening towards the adopted highway.

Reasons to ensure the adopted highway is not obstructed by the gates or are a hazard to other road users.

8. 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 and stones being carried onto the highway. The roads adjacent to the site shall be mechanically swept as required during the full construction period.

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

9. The development shall not be occupied until the car parking areas to serve the development have been laid out and hard surfaced in accordance with approved drawings and made available for use and retained as such thereafter.

Reason: In the interests of highway safety in accordance with policies IC3 and SP5 of Burnley's adopted Local Plan

10. An electric vehicle charging to serve the dwelling shall be installed prior to first Occupation and shall be retained as such at all times thereafter.

Reason: In accordance with policy IC3 of Burnley's adopted Local Plan.

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 or deliveries to the site, shall be carried out only between 0800 hours and 1700 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, applications in writing must be made with at least seven days' notice to the Local Planning Authority.

Reason: To safeguard the amenities of nearby residents in accordance with policy SP5 of Burnley's adopted Local Plan.

12. In the event that any evidence of potential contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with a methodology previously approved by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to mitigate any adverse impact on the environment.

13. The garage shall not be used for any purposes other than for domestic storage and for the garaging of private motor vehicles in association with Plot 1 and no trade or business shall be carried out therefrom. Reason: To control the use of the development in the interests of the character of the are and the amenity of the neighbouring property and to comply with Policy SP5 of Burnley's Local Plan (July 2018)

Decision

That the application be approved subject to the following conditions.

Conditions & Reasons

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 not be carried out other than to the approved drawings and specification of works noted thereon except where modified by the conditions of this consent. The approved drawings are: BTH07/P010 (Basement Floor Plan Proposed Repairs at 1:100 Scale) BTH07/P011 (Ground Floor Plan Proposed Repairs at 1:100 Scale) BTH07/P012 (First Floor Plan Proposed Repairs at 1:100 Scale) BTH07/P013 (Second Floor Plan Proposed Repairs at 1:100 Scale) BTH07/P014 (Third Floor Plan Proposed Repairs at 1:100 Scale) BTH07/P020 (South Wing Elevations Proposed Repairs at 1:100 Scale) BTH07/P021 (West Wing Elevations Proposed Repairs at 1:100 Scale) BTH07/P022 (North Wing Elevations Proposed Repairs at 1:100 Scale) BTH07/P100 (North Wing Plan Proposed at 1:50 Scale) BTH07/P101 (North Wing South Gutter Sections Proposed at 1:50 Scale) BTH07/P102 (North Wing Central Gutter Sections Proposed at 1:50 Scale) BTH07/P103 (North Wing North Gutter Sections Proposed at 1:50 Scale) BTH07/P104 (North Wing, East and West Gutter Sections Proposed at 1:50 Scale) BTH07/P105 (West Wing Plan Proposed at 1:50 Scale) BTH07/P108 (South Wing Plan Proposed at 1:50 Scale) BTH07/P200 (Proposed North Wing Valley Gutter at 1:10 Scale) W89/104 (Great Hall Ceiling at 1:100 Scale) W89/200 (Great Hall: Ceiling Joist Repairs at 1:200 and 1:10 Scale) W89/201 (Great Hall: External Wall Repairs at 1:00 Scale) W89/202 (Great Hall: Cornice Strapping Detail at 1:200 and 1:10 Scale) W89/210 (South Wing - First Floor Plan First Floor Strengthening at 1:100 Scale) W89/211 (South Wing - Roof Plan First Floor Strengthening at 1:100 Scale) W89/212 (South Wing Sections First Floor Strengthening at 1:50 Scale) W89/213 (South Wing Details First Floor Strengthening at 1:10 Scale) W89/214 33 (South Wing - Section C-C First Floor Strengthening at 1:100 Scale)

Reason: To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity; and to preserve the character and special interest of the building in accordance with Policy HE2 of Burnley's Local Plan (July 2018).

3. The development hereby permitted shall be carried out strictly in accordance with the Specification of Materials and Workmanship (V3 20201) prepared by Knox-McConnell Architects Ltd received on the 21.10.21 unless approved otherwise in writing by the Local Planning Authority.

Reason: To avoid ambiguity; and to preserve the character and special interest of the building in accordance with Policy HE2 of Burnley's Local Plan (July 2018).

4. All materials to be used in the approved scheme shall be as stated on the application form and approved drawings and shall not be varied without the prior written approval of the Local Planning Authority.

Reason: In order to safeguard the special architectural or historic interest and heritage significance of the building and comply with Policy HE2 of Burnley's Local Plan (July 2018).

5. Before the repointing hereby granted consent is carried out, details of the mortar(s) to be used for re-pointing (including mortar mix, colour, texture and pointing finish) shall be submitted to and agreed in writing by the Local Planning Authority. The specification shall be informed by an analysis of existing historic mortar mixes the results of which shall be submitted with the details of the mortar. The works shall be carried out only in accordance with the agreed details.

Reason: In order to safeguard the special architectural and historic interest of the listed building and to comply with Policy HE2 of Burnley's Local Plan (July 2018).

6. This approval is limited to the works shown on the approved drawings and does not indicate approval for associated or enabling works that may be necessary to carry out the scheme. Any further works must be submitted to and approved in writing by the Local Planning Authority prior to any works commencing.

Reason: In order to safeguard the special architectural and historic interest of the listed building and to comply with Policy HE2 of Burnley's Local Plan (July 2018).

7. Any works of making good to the retained fabric, shall be finished to match the adjacent work with regard to the methods used and to colour, material, texture, and profile, except where indicated otherwise on the drawings hereby approved

Reason: In order to safeguard the special architectural and historic interest of the listed building and to comply with Policy HE2 of Burnley's Local Plan (July 2018).

8. No development shall take place on the site until the applicant, or their agent or successors in title, has secured the implementation of a programme of building recording and analysis, and the preparation of an archive detailing the work carried out. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and agreed in writing by the Local Planning Authority. The programme of works should comprise the creation of an appropriate record of those areas of the building affected by the works, with photogrammetric or similar recording of the areas of stonework to be removed and a survey of the leadwork to record any historical features or graffiti. It should include a full description of the areas affected, drawn plans, elevations and sections which may be derived from the documentation already prepared for the works, and a full photographic coverage, inside and out. The record should also include a rapid desk-based assessment, putting the building and its features into context. This work should be undertaken by an appropriately qualified and experienced professional contractor to the standards and guidance of the Chartered Institute for Archaeologists (www.archaeologists.net). A digital copy of the report and the photographs shall be placed in the Lancashire Historic Environment Record and other appropriate archives.

Reason: To ensure and safeguard the recording and inspection of matters of archaeological/historical importance associated with the buildings/site in accordance with Policy HE2 of Burnley's Local Plan (July 2018).

84. Decisions taken under the Scheme of Delegation

Members noted the decisions taken under the scheme of delegation.

BURNLEY BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE

REPORTS ON
PLANNING APPLICATIONS



Photograph McCoy Wynne

Part I: Applications brought for
Committee consideration

7th April 2022

Housing and Development

This page is intentionally left blank

Housing & Development
Town Hall, Manchester Road

Ref.

HOU/2022/0012

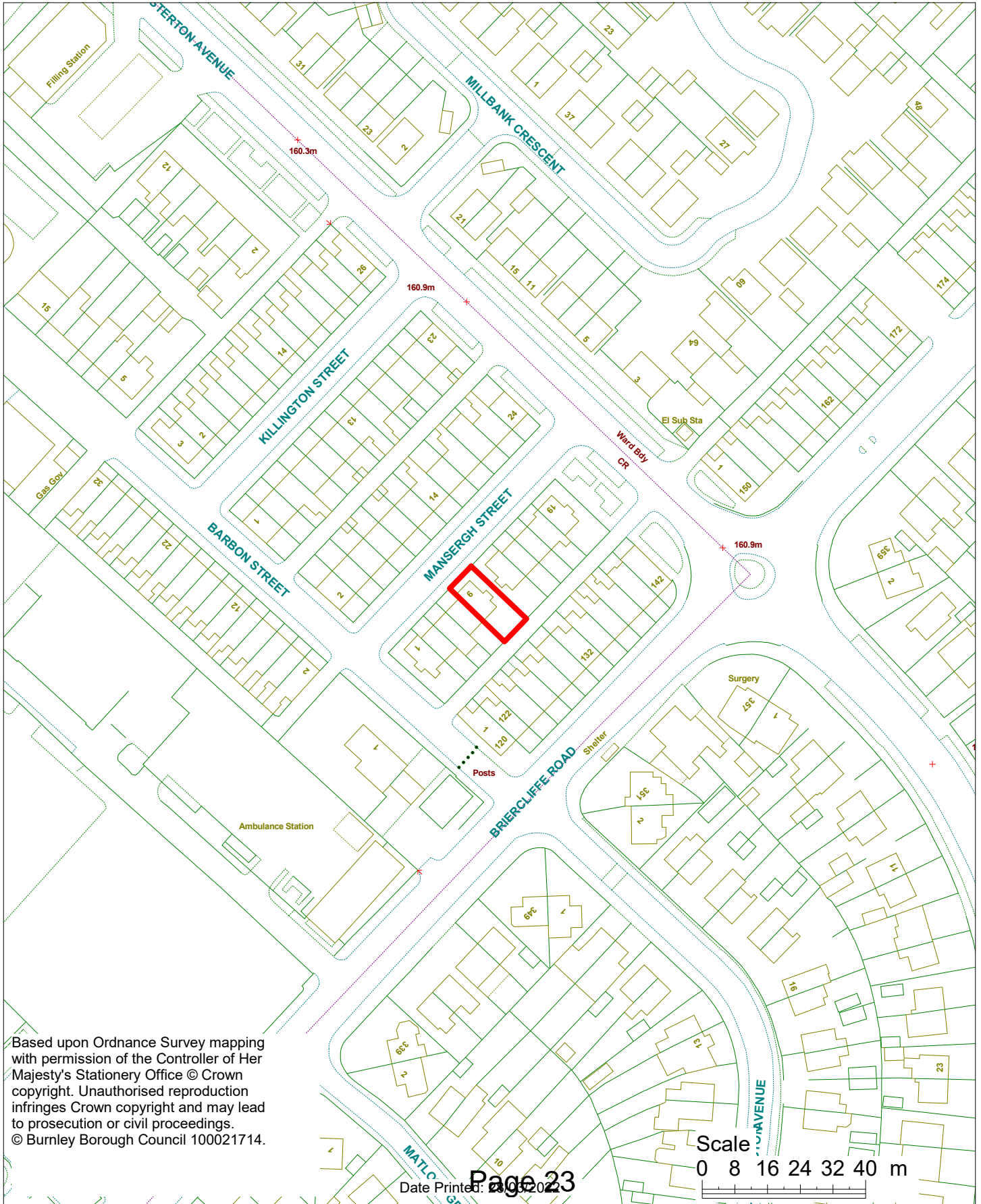
Paul Gatrell Head of Housing and Development

Location:

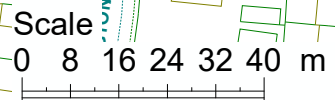


11 Mansergh Street, Burnley

1:1250



Based upon Ordnance Survey mapping with permission of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
© Burnley Borough Council 100021714.



This page is intentionally left blank

**Application Recommended for Approve with
Conditions**
Queensgate

HOU/2022/0012

Town and Country Planning Act 1990
Proposed single storey extensions to the side and rear
11 Mansergh Street Burnley Lancashire BB10 1TR

Applicant: Mrs Zubaida Fazal

Background:

The application site relates to an end terrace dwelling located in Burnley. The property benefits from a garden to the front, side and rear. The application is a resubmission of a previously refused application ref HOU/2021/0524. The development was refused due to the development have an unacceptable impact on no 13 Mansergh, an unacceptable loss of private amenity space for the occupier and its design.

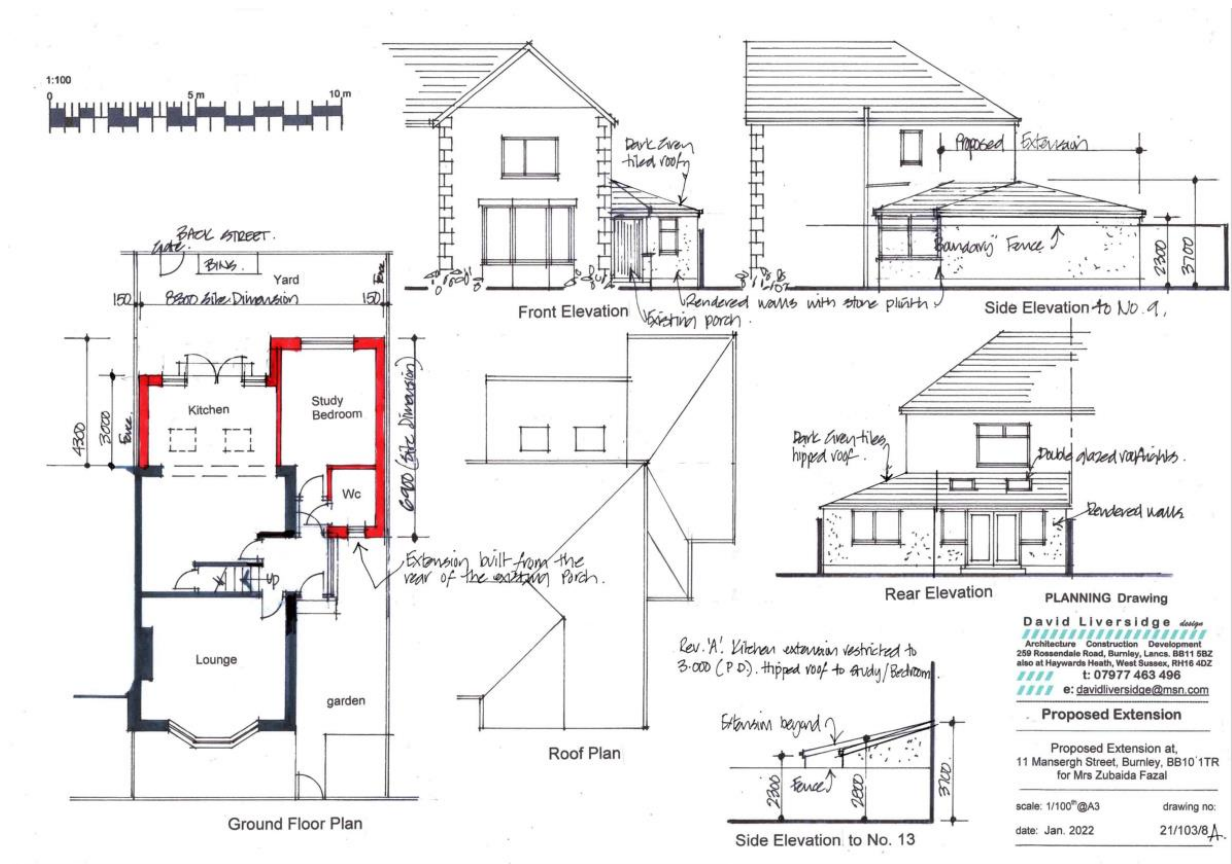
The application has been brought to Development Control Committee as a letter of objection has been received.



Proposed development:

Consent is sought for the development of the porch to the side and erection of an extension to the side and rear of the property. The side extension has a sideward projection of 2.8m and measures 6.9mm in length as it links to the proposed study/bedroom extension that has a 4.3m rearward projection. The kitchen extension proposes a rearward projection of three metres. The total width of the rear extension measures is 8.3m. The extensions form two separate lean to extensions that are of the same height measuring at 2.3m at the eaves and 3.7 in maximum height.

When compared with the previous refusal the overall footprint has reduced.



Relevant Policies:

Burnley Local Plan

- SP1: Achieving Sustainable Development
- SP4: Development Strategy
- HS5: House Extensions and Alterations
- SP5: Development Quality and Sustainability

NPPF

Site History:

App Number	Proposal	Status	Received Date	Decision Date
HOU/2021/05 24	Proposed single storey extensions to the side and rear	REF	01.09.2021	14.12.2021

Consultation Responses:

Highways - The Highways Depot (Burnley District)	No objections.
--	----------------

Interested Party Comments:

One letter of objection has been received with concerns that the development would result in an unacceptable loss of light to the kitchen and garden area of their property.

Planning and Environmental Considerations:

The key issues in relation to this application are:

- Principle of Development
- Visual Amenity / Design
- Residential Amenity

Principle of Development:

The site is located within the development boundary of Burnley of the adopted Local Plan, as such Policy SP4 states that development will be focused on Burnley and Padiham with development of an appropriate scale. Given that the works will take place within the curtilage of an existing dwelling sited within the development boundary of Burnley the principle of the development is considered acceptable.

Visual Amenity and Design:

Local Plan policy SP5 sets out requirements for the design quality of all types of development. Policy HS5 further sets out a requirement for the extension to remain subordinate to the existing building with appropriate building materials and that the extension should not have an adverse impact upon the character of the street scene. Also, the proposal should not lead to an unacceptable loss of useable private amenity space.

Paragraph 126 of the NPPF states the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

As the property is an end terraced dwelling it benefits from a garden to the rear, side, and front. The proposed development would wrap around the side and rear of the dwelling behind the existing porch. The side extension would extend to the shared boundary and the rear extension would have a rearward projection of 4.3m reducing to 3m. The overall footprint of the extension has reduced considerably therefore the property would retain garden space to the front, side and rear. The side and rear

extension is considered to remain subservient to the main dwelling in terms of its scale and proposed materials. Furthermore, the extensions both form a hipped roof and therefore the side extension will have an acceptable impact on the visual amenity of the area when viewed from Mansergh Street.

Impact on Residential Amenity

Policies SP5 and HS5 seek to ensure that development does not result in an unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, including by reasoning of overlooking, lack of privacy or reduction of outlook or daylight.

The neighbour with the most potential to be impacted by the proposed development is the attached neighbour, no 13 Mansergh Street. This neighbour benefits from a ground floor window and door on the rear elevation. The window is a bay window that projects from the rear elevation by approximately 0.5m and has windows on the sides and rear. Between the site and this neighbour there is an existing boundary wall that measures approximately 2m in height. The proposed development has been amended so that the rearward projection of the extension on this shared boundary is restricted to 3m to ensure that the development has an acceptable impact on this neighbour. When assessed against the 45degree rule the extension would result in some loss of light however it would not be so significant to warrant refusal of the development. As well as this the 3m rearward projection is not considered to result in an overbearing impact on the neighbour's property or garden area. The 4.3m rear extension is set far enough away from the shared boundary to ensure this extension does not result in the loss of light or overbearing impact to this neighbour.

The neighbour to the west, no 9 Mansergh Street is also an end terrace dwelling, and it shares a side boundary with the application property. The proposed extension to the side of the dwelling would extend 2.6m along this shared boundary. The side extension proposes a lean to roof therefore on the boundary the maximum height would be 2.3m. This neighbour benefits from a porch to the side but would not have any other windows facing the extension. As such the proposed side extension would not have a detrimental impact on this neighbour.

The extension to the rear proposes a maximum height of 2.3m on the shared boundary gradually increasing to 3.7m when the extension meets the rear wall. When assessed against the 45 degree rule the proposed extension would not result in the loss of light to the rear elevation of this neighbour. Due to the separation distance between the neighbouring property and the side wall of the extension, it is considered that this extension would not have a significantly detrimental impact in terms of overbearing impact to warrant refusal of the application.

Recommendation:

That planning consent be granted subject to conditions.

Conditions

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

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

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Proposed Floor Plans and Elevations: Dwg no 21/103/8A amended plan received 07 March 2022.

Reason: For the avoidance of doubt and to clarify which plans are relevant to the consent.

3. The external facing materials, detailed on the approved plans, shall be used and no others substituted.

Reason: To ensure that the materials to be used are appropriate to the locality.

RB
Planning and Compliance Officer

This page is intentionally left blank

Housing & Development
Town Hall, Manchester Road

Ref.

FUL/2021/0676

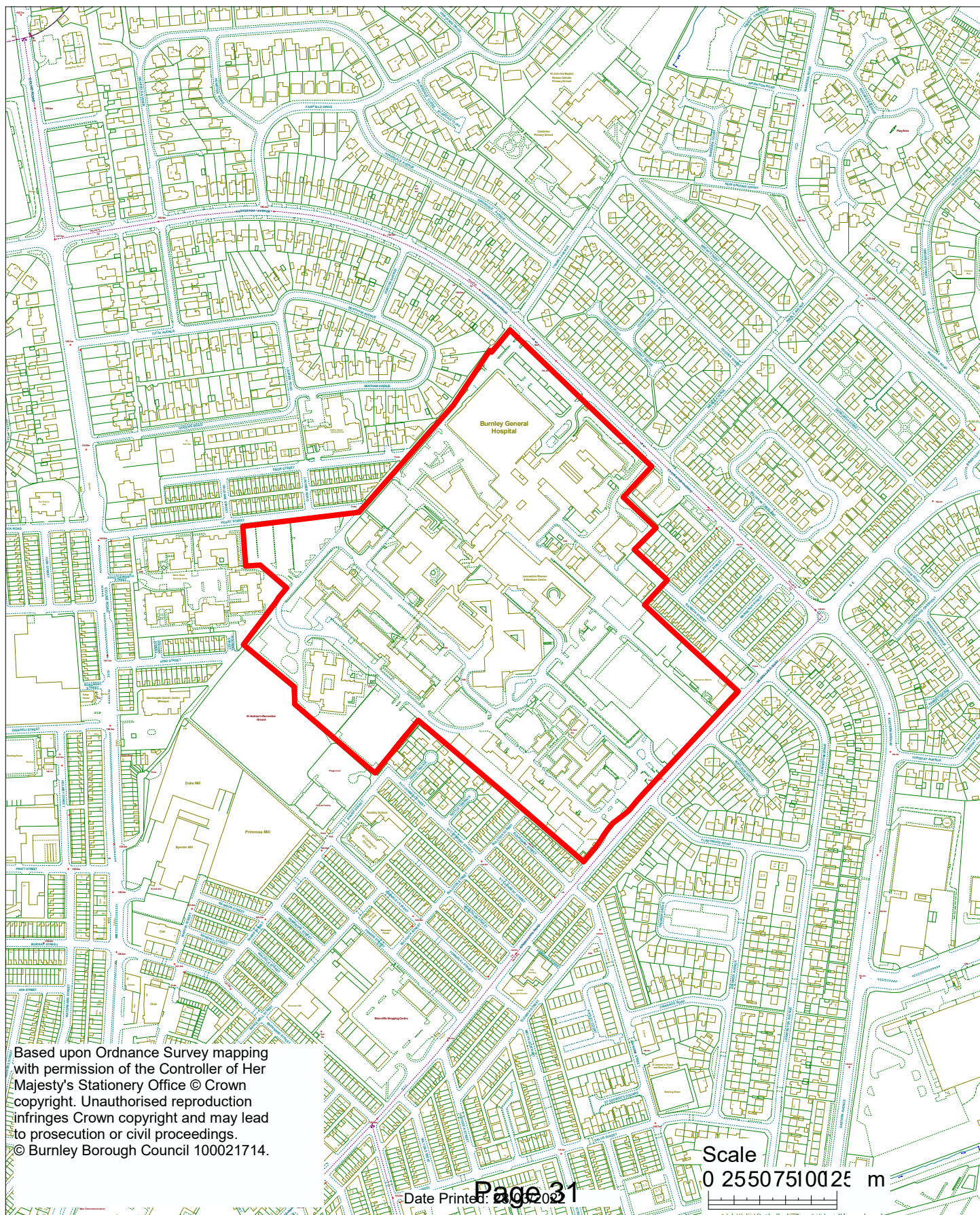
Paul Gatrell Head of Housing and Development

Location:



St Andrews Recreation Ground, Adj to Burnley Gen Hospital

1:5000



Based upon Ordnance Survey mapping with permission of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
© Burnley Borough Council 100021714.

Scale
0 25507510025 m

This page is intentionally left blank

Application Recommended for Approval

FUL/2021/0676

Queensgate ward

Town and Country Planning Act 1990

Temporary use of recreation land for car park

St Andrews Recreation Ground (Rakehead Rec) Land Adjacent To Burnley General Hospital Casterton Avenue

Applicant:- Royal Blackburn Hospital, East Lanc

Background:

The application is being considered at Committee due to objections that have been made.

The proposal is for a temporary use of part of a recreation ground adjacent to Burnley General Hospital to use for a temporary period as a car park. The recreation ground is in the ownership of the Council.

Proposed site

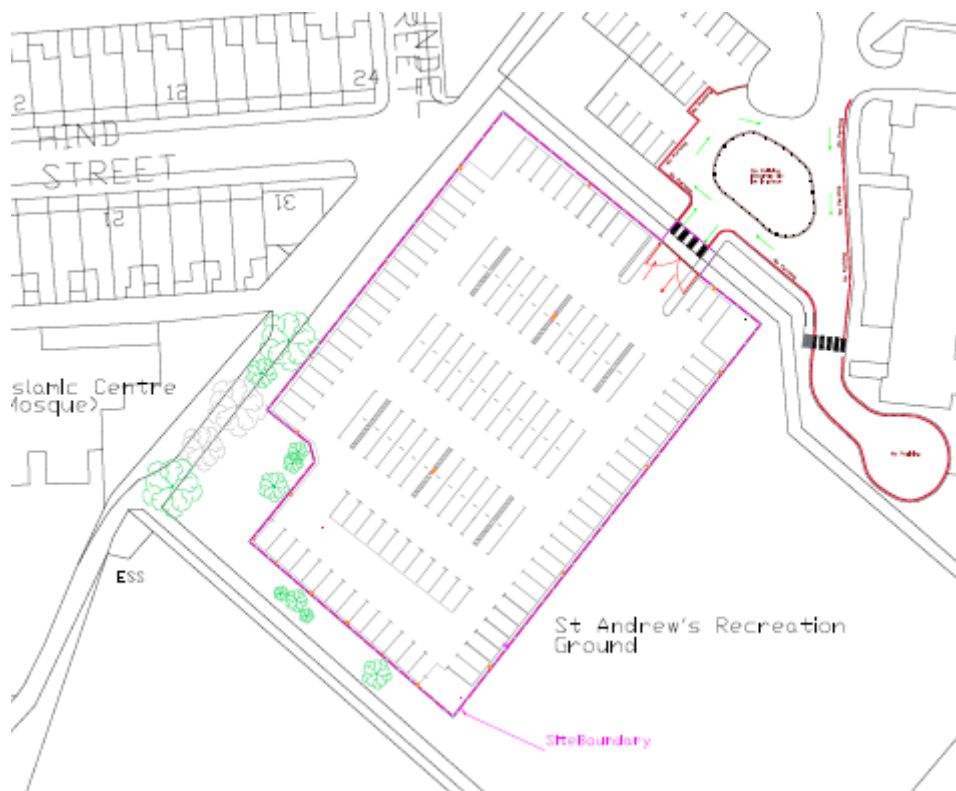


The affected area amounts to approximately 457sqm of open grassed playing area on St Andrew's Recreation Ground (also known as Rakehead Recreation Ground). A path circles the larger area of open space and gates open onto Hind Street to its north west side. The north east boundary of the site bounds the part of the hospital grounds where there is some car parking and a turning area.

The proposal involves forming an access from the hospital grounds into the recreation ground on the north east edge of the site, stripping the turf and laying a gravel surface, erecting new fencing to secure the site and installing lighting.

The applicant initially sought a temporary consent for three years which is intended to relieve pressure and problems with hospital parking following the redevelopment of parts of its site up to a time when a permanent new car parking facility can be provided on the hospital site. The applicant has supplied information to demonstrate how it seeks to achieve its goals for a new car park by July 2024.

Proposed layout



The proposed site has been modified since first submitted to avoid any potential impacts on perimeter trees. The site would be enclosed by a 2.4m high green paladin fence with locked gates at the hospital entrance. Sodium lighting columns up to 6.6m high would be installed at regular intervals around the site perimeter.

The proposed car park layout indicates approximately 160 spaces. Given that the car park would be surfaced in grit there would be no demarcation of spaces.

Relevant Policies:

Burnley's Local Plan (July 2018)

SP1 – Achieving sustainable development

SP4 – Development strategy

SP6 – Green infrastructure

SP5 – Development quality and sustainability

NE2 – Protected open space

IC1 – Sustainable travel

IC5 – Protection and provision of social and community infrastructure

Material Considerations

The National Planning Policy Framework (2021)

Burnley's Green Spaces Strategy 2015-2025

Site History:

None relevant.

Consultation Responses:

LCC Highways

No objections to the principle of the proposed development. However the layout and access arrangements as submitted are currently unacceptable; a number of amendments are required, these are listed below:

1. A proposed one way system has been shown on the existing access roads to the front of the Rakehead rehab building. Cars currently park along the buildings frontage I have concerns that this is not conducive with the levels of traffic that would be utilising the new car park, especially where the one way and two way traffic merges, there is the potential for conflict. Therefore suitable parking restrictions need to be implemented in this area to keep the access clear.

2. The submitted documentation indicates that the proposed parking will not be marked out, I have concerns that this would lead to inefficient parking and the potentially for cars to block each other in.

In addition to the above I would request that a Travel Plan is produced [a Green Travel Plan 2021=2024 has subsequently been submitted].

Head of Greenspaces and Amenities

Do not wish to raise an objection in principle subject to some or all of the income received during the temporary period being re-invested into the site once the temporary car park has ceased. The field suffers from poor drainage and as such investment in improving the drainage would be recommended. We would also want to look at using some of the income for upgrading existing play facilities on site which currently consist of a MUGA and play area.

It is important that the rest of the field and the recreational facilities provided on site are left open for public use during the temporary period and there is no disruption that would prohibit use for local people.

It would also need to be written into any agreement with the Hospital that the land be put back to the state they find it when they first move on to site (grassed field) and all remedial groundworks are undertaken to our satisfaction.

The requested drainage improvements should be carried out alongside the remedial works to be undertaken by the Hospital's contractors in order to minimise disruption to the local area.

Burnley Civic Trust

Request an undertaking that when the permission to use this for car parking expires they will vacate the land as this is the only land in the area which can be used for recreational purposes.

Publicity

Letters of objection have been received from the occupiers of five houses on Hind Street. A summary of the points in these letters is provided below:-

- This is an important part of the fabric of the local community
- Concern that an important community asset will be lost
- Further creep by the hospital into open space

- Lack of analysis of demand and availability of car parking spaces
- Redundant hospital buildings could be demolished and used for car parking
- Appears to be a permanent use
- It is a valued green space that is used by young children and elderly people and dog walkers and used for socialising and by uniform organisations
- It is a safe place to play where parents can watch their children
- It is the only available site for children without crossing a main road
- Impact on living conditions for residents from traffic, outlook onto a car park, exhaust fumes
- Impact on wildlife, loss of flora and fauna and vegetation that will remove habitat for bats, foxes, hedgehogs, butterflies, moths and insects
- Proposed lighting of the car park will adversely affect wildlife
- Runs contrary to the ethos and environmental policy of the Council
- Unsuitable style of fencing
- Impact on underground watercourse
- Impact on surface water drainage and flooding
- Land stability issues from mine shafts and tunnels on the site
- Will make it difficult to maintain the remainder of the open space.

Planning and Environmental Considerations:

Principal of proposal

The proposed site forms part of a larger area of public open space, consisting of green space and play equipment which is designated as Protected Open Space. The application site is approximately a third of the overall protected open space at the northerly end of the space.

Extract from Policies Map (west)



Policy NE2 states that development will not be permitted within Protected Open Spaces except where the proposals are for appropriate recreational, community and nature conservation uses and where any building and structures would not undermine the fundamental nature and purpose of the site as open space. It also states that Protected Open Spaces should be maintained and enhanced for recreational, amenity, biodiversity or other benefits as they provide an important component of Burnley's green infrastructure network.

A proposed use of this land for a car park use would therefore run contrary to Policy NE1 which seeks to protect this area of open space. The need for the open space as referenced by letters of objection that have been received from local residents is established through the local plan process and the level of protection that this affords is without question. The current proposal seeks to use approximately a third of the green open space as a car park for a temporary period. The original proposal stated that a temporary period of three years was sought. Following the submission of further information, the applicant states that the temporary use is required up to July 2024 after which the use of the land as public open space would be resumed. Whilst in principle this would conflict with Policy NE1, it is necessary to also consider the applicant's justification for the proposal and whether there would be any longer term benefits that would mitigate against a temporary loss of open space.

Proposed temporary use

The circumstances surrounding the applicant's temporary need for off-site parking have been described in the application submission. The applicant affirms that there is a need to improve sustainable access to hospital car parking in order to meet the current and expansion demands for additional staff, patient and visitor numbers. The applicant reports that there is an increased number of patients attending site for elective cases which puts a strain on car parking. The applicant anticipates that problems with on-site car parking will be managed in the future by the development of a multi-storey car park within the hospital grounds. In the short term however this would displace approximately 140 surface car park spaces. To relieve pressure from a shortage of car parking spaces, the applicant wishes to use the application site for staff parking up to July 2024 when it is anticipated that a new multi-storey car park would be complete.

It is accepted that a short term need for the parking of hospital staff is a concern for the applicant and for the delivery of hospital services. There would therefore be a benefit in permitting a short term solution that would have a public benefit by ensuring staff can park at or close to work. The public benefit would not however outweigh the harm from any prolonged or permanent loss of open space. There are concerns from neighbours that any temporary use may become permanent. The applicant reports that alternative park and ride options for the hospital will be explored to cater for any need that remains present after a temporary period up to July 2024.

The impact of a temporary loss of the open space until July 2024 can be partially mitigated if improvements to the open space can be secured which, once restored, would provide a longer term benefit to the local population that use the open space. The Head of Greenspaces and Amenities suggests the need for drainage works to the land and other improvements to the remainder of the open space which includes play equipment and a MUGA. The provision of seating and landscaping on the open space would also enhance its value as open space.

On the basis of a short term need only (up to July 2024), the public benefits of providing car parking to serve the needs of hospital staff would, subject to longer term improvements to the open space, outweigh the harm from a short term loss of part of the protected open space at this site. This would not however be the case without tangible improvements to the open space following the expiry of the temporary period. In addition, it should be noted that no further temporary period is likely to outweigh the harm from a loss of protected open space.

A condition is recommended to require a scheme for the restoration and measures to improve the open space. The delivery of these requirements will be a matter between the applicant and the owner of the land (Burnley Borough Council).

Access and safety

Policy IC1 requires development to provide safe access. Whilst LCC Highways has no objections in principle to the proposal, it recommends that on-street parking within the hospital grounds is prohibited outside the Rakehead rehab building to ensure access is not impeded to the car park. LCC Highways also express concern that the proposed grit surfacing of the car park would prevent line marking which would maximise the use of the space for car parking. The applicant states that as the car park would be for staff only, cars would be guided and marshalled to ensure its optimum use. This would be a matter for the applicant to manage. There are therefore no fundamental highway objections to the proposal.

Other issues

The path around the perimeter of the existing open space would be maintained which would continue to allow access to the remainder of the open space, equipment and MUGA.

The proposed site has been amended to avoid any disruption to trees; the removal of vegetation would be limited to a short section to gain access to the site.

The proposed green paladin fencing is an open mesh design that is relatively unobtrusive and would be practical by preventing balls to be carried over into the car park.

The proposed sodium lights are relatively sensitive to the site's surroundings and the light source would be directed down into the car park to avoid light spillage or affect on wildlife.

The surfacing of the car park is designed for a temporary use only but would be permeable which would be beneficial in reducing surface water run-off.

Conclusion

The site is designated Protected Open Space and as such the proposal is not in accordance with Policy NE1 of Burnley's Local Plan. In this case, the public benefits from a temporary use only, in order to relieve parking issues for staff at Burnley General Hospital, would, subject to securing longer term improvements to the open space, outweigh the short term harm of the loss of this area of open space. Conditions are necessary to control the temporary period and ensure that the open space is restored with benefits to users of the protected open space.

Recommendation: Approve

Conditions

1. The use of the car park shall cease no later than the 1st July 2024.

Reason: This is a temporary consent only. A longer term or permanent use of the land as car park would be harmful to the availability of open space in the local area and would be contrary to Policy NE2 of Burnley`s Local Plan (July 2018).

2. Within six months from the date of this permission, a scheme for the restoration (to also include what will be removed from the) and improvement of the site and the open space shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the details are satisfactory to ensure that the standard of the open space is maintained and improved to provide longer term benefits to users of the open space, in accordance with Policy NE2 of Burnley`s Local Plan (July 2018).

3. By no later than 1st September 2024, the approved scheme of restoration and improvement works (required by Condition 2) shall be carried out, completed and the site made available for use as public open space.

Reason: To ensure that the necessary works take place and the protected open space is restored for public use, in accordance with Policy NE2 of Burnley`s Local Plan (July 2018).

4. Prior to the temporary use of the land being commenced, details of how on-street parking within the hospital grounds will be controlled to permit traffic to flow in and out of the car park, shall be implemented in accordance with details which shall be first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that access is not impeded, in the interests of highway safety, in accordance with Policy IC1 of Burnley`s Local Plan (July 2018).

5. The Green Travel Plan 2021-24 submitted with this application shall be adhered to throughout the temporary period of this consent.

Reason: To encourage sustainable travel patterns, in accordance with Policy IC1 of Burnley`s Local Plan (July 2018).

Janet Filbin
30th March 2022

This page is intentionally left blank

Housing & Development
Town Hall, Manchester Road

Ref.

FUL/2021/0273

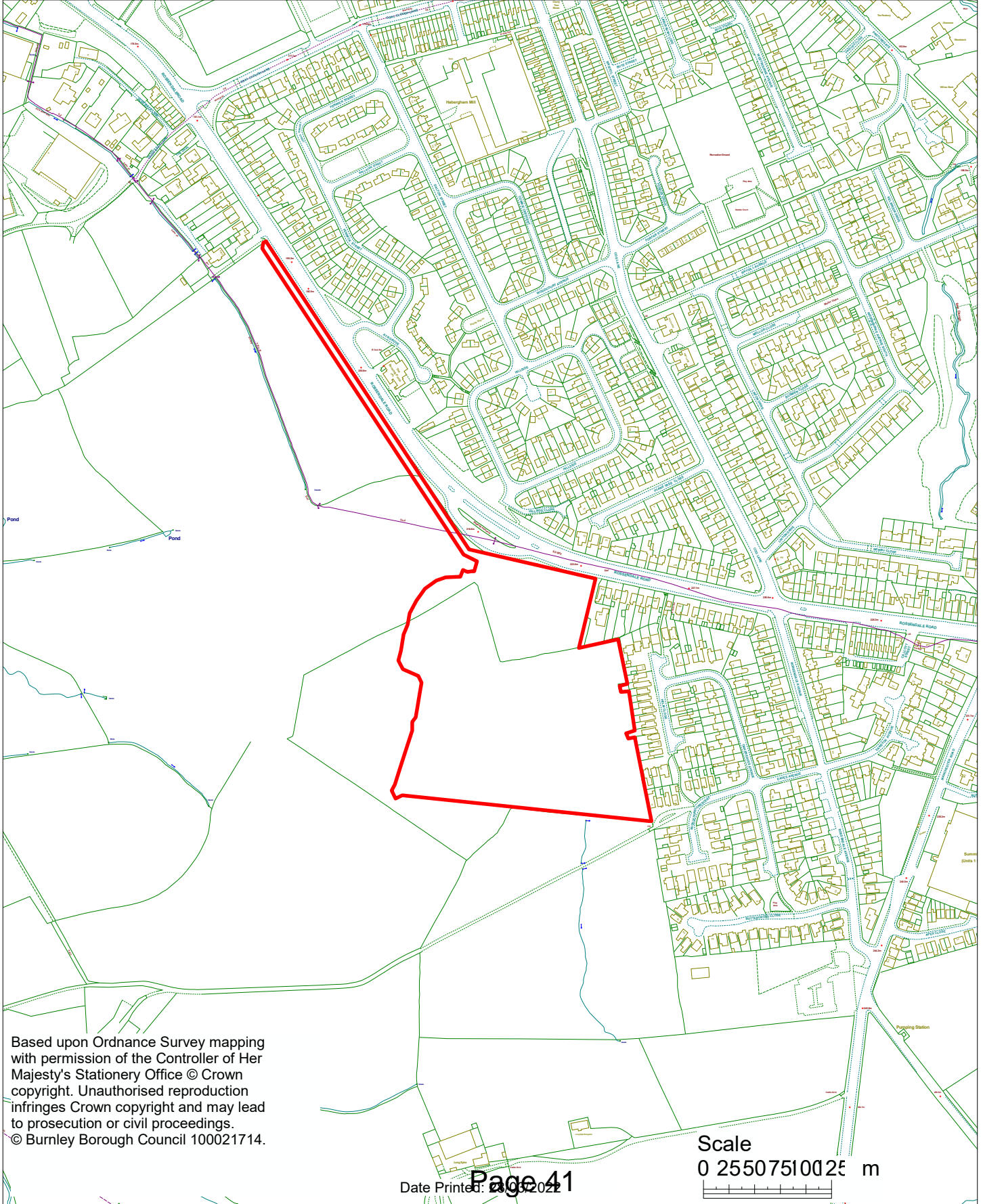
Paul Gatrell Head of Housing and Development

Location:



Land South Of Rossendale Road, Burnley

1:5000



Based upon Ordnance Survey mapping with permission of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
© Burnley Borough Council 100021714.

This page is intentionally left blank

Application Recommended for Delegation to approve subject to s106 Agreement

FUL/2021/0273

Coal Clough With Deerplay Ward

Town and Country Planning Act 1990

Proposed residential development of 87 houses with new access from Rossendale Road and associated estate roads, open space and infrastructure. Proposal affects Public Footpath No. 8 (Habergham Eaves).

Land South of Rossendale Road Burnley

Applicant: BDW Trading Ltd trading as Barratt Homes

Background:

The application proposes a residential scheme for 87 dwellings on approximately 4ha of grazing land that bounds Rossendale Road to its north and north east side, Helm Close and Micklehurst Crescent to its east side and open fields to its west and south sides. The site is closely related to the urban area, approximately 2Km to the south west of Burnley town centre, situated on the A646 which is a main traffic route around the southern urban fringe of Burnley. Public Footpath No. 8 flanks the western side of the site and would be affected by the proposal.

The originally submitted scheme for 101 dwellings has been amended to 87 dwellings to take account of objections, planning policies and to improve the quality of the scheme.

Site edge with Rossendale Road



Undulating pasture



Rossendale Road with lay-by and bus stop adjacent to the site



buffer areas around the drainage basin and swale would be landscaped and form part of the open space for the scheme.

The proposal would provide 59no. three bedroom houses, 27no. four bedroom houses and 3no. two bedroom houses with 66% semi-detached, 31% detached and 3% terrace properties. The development would be constructed in reconstituted stone and flat dark grey tiles.

Proposed street view facing Rossendale Road



There would be a mix of nine house types, all of which would be two storey and designed with gable roofs, stone heads, cills and surrounds and features such as chimneys to prominent plots which display a distinctive character.

Proposed house frontages facing westerly onto countryside



The proposed scheme would be built to achieve an energy efficient development with a 20% betterment on the current requirements of building regulations by using a combination of fabric improvements and photovoltaic (PV) panels.

A 22% proportion of the development (19 dwellings) which consists of 4no. two bedroom dwellings and 15no. three bedroom dwellings would be built as Accessible and Adaptable Homes to comply with the optional technical standard M4(2) of the Building Regulations 2010.

The proposal would provide 4no. Affordable Houses to comply with policy requirements for this part of the housing allocation.

Electric charging points for cars would be installed on all plots.

A landscaping scheme has been submitted that includes a frontage of heavy standard trees to Rossendale Road, native trees and shrubs within the site, including street trees and native hedges to plot frontages and corners of the development, species rich meadow grass and trees to areas of amenity open space, and an orchard of fruit trees, species rich grasses and meadow grasses within the green buffer around the sustainable drainage features. A Locally Equipped Area for Play (LEAP) and a Local Area for Play (LAP) which would provide play equipment for children would be located within an area of public open space to the south side of the site.

Relevant Policies:**Development Plan**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
- HS1/4 – Housing allocations (Land at Rossendale Road)
- HS2 – Affordable housing provision
- HS3 – Housing density and mix
- HS4 – Housing developments
- HE2 – Designated heritage assets
- HE4 – Scheduled monuments and archaeological assets
- NE1 – Biodiversity and ecological networks
- NE3 – Landscape character
- 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

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)

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

Relevant Planning History:

None.

Consultation Responses:LCC Highways

No objection.

There is a concern that the potential increase in the traffic will create issues with the capacity of the signalised junction of Rossendale Road, Manchester Road and Glen View Road. The bus services at this location are being promoted as support to the sustainability of the development. It has been suggested by our Transport team that there will also need to be some improvements to the bus stops on Manchester Road and the possible relocation of the bus stops at the site location on Rossendale Road.

The junction for a new access road is to be formed with the provision of a number of additional traffic islands, a right turn lane, the provision of some build-outs (to limit on

street parking and aid junction visibility), we would look for additional off-site highway works in the following areas:

- A financial contribution of £70,000 to support the provision of pedestrian facilities at the signalised junction [of Manchester Road and Rossendale Road] and other measures to improve the functionality of the junction.
- A sum of money in the region of £20,000 to provide new shelters, raised kerbs and boarding point with Bus Stop Boxes for the X43 stops on Manchester Road one of the stops will also require some kerbs to be re-aligned, to allow the bus to pull parallel to the kerb.

These improvements are best delivered as part of the section 278 agreement.

The general layout of the proposed Section 278 works has been agreed; there are however still some minor points such as the relocation of 2 bus stops on Rossendale Road which need to be agreed. Whilst significant these points can be agreed as part of the details of the s278 agreement with the local highway authority.

Earlier concerns regarding off-street parking have been addressed.

It is noted that the dwellings are to be provided with Electric vehicle charging points. These should be fitted in line with the DfT guidance regarding Electric Vehicle Charging in Residential and Non-residential buildings, which states:- charge points must have a minimum power rating output of 7kW, be fitted with a universal socket that can charge all types of electric vehicle.

Conditions are recommended to require a Construction Management Plan; to restrict deliveries during the construction period outside of peak traffic hours; to require wheel washing facilities; an estate street phasing and completion plan; highway works to facilitate access for construction traffic; construction to base course level prior to any occupation of dwellings; a detailed scheme for a surface water drainage of highways; the provision of electric vehicle charging points; details of the management and maintenance of estate streets prior to adoption; full engineering, drainage, street lighting and constructional details of streets; and, the removal of permitted development rights to retain garages for the parking of a car(s) and the retention of approved car parking spaces.

Local Lead Flood Authority (LCC)

No objection subject to conditions to require the development to be carried out in accordance with the principles set out within the site specific flood risk assessment as well as to require a detailed surface water drainage strategy; a construction surface water management plan; a sustainable drainage system operation and maintenance manual; and, a verification report of the constructed sustainable drainage system.

United Utilities

The proposals are acceptable in principle. Drainage conditions are recommended to secure a detailed design for the drainage scheme; separate systems; and, a sustainable drainage management and maintenance plan for the lifetime of the development. A public sewer crosses the site and building over it may not be permitted; an access strip 3m either side of the centre line is required.

Greater Manchester Ecology Unit (GMEU)

The following comments were received prior to the submission of an amended landscape proposal, biodiversity net gain assessment and plans for bat/bird boxes and hedgehog highways which seek to address the issues that are raised:

An ecological assessment of the site was undertaken in May 2019 and updated in April 2021, and includes 3 breeding bird surveys undertaken between April – June 2019, and updated in April 2021. The survey findings are included with the ecology report submitted with this planning application (ERAP (Consultant Ecologists) Ltd ref 2019-063d) and the survey work appears to have been undertaken by suitably experienced ecologists following best practice guidelines.

The site is located to the south of Rossendale Road (A646) and has existing residential areas to the north and east. Habitats to the south and west are consistent with the main habitats on the site, predominantly improved and marshy grassland as well as an ephemeral pond and ditch.

Habitats, Layout/Landscaping and Net Gain

The majority of the semi-natural habitats on the site will be lost as a result of the proposed development including extensive areas of improved grassland, marshy grassland and the ephemeral pond and ditch on site. The proposed development does incorporate a length of native screening planting down the western edge of the residential boundary and land to the west of the site has been identified as an area for a Sustainable Urban Drainage Scheme which the ecology report has identified will provide some compensation for the loss of some of the habitats on the site. However the landscaping plan does not reflect all of the recommendations made within the ecology report for enhancements (for example the use of a wetland meadow mix or marshy grassland species in the mix in the SuDS scheme and a hedgerow on the southern boundary).

The site is within the allocations plan for housing (HS1/4) and while it is not specifically identified that net gain for biodiversity is required as part of the scheme, the general policy in the Local Plan (NE1: Biodiversity and Ecological Networks) states that “all development proposals should, as appropriate to their nature and scale, seek opportunities to maintain and actively enhance biodiversity in order to provide net gains where possible.” This is in line with Policies in the NPPF which encourage biodiversity improvements as part of developments to secure measurable net gains for biodiversity. Whilst the on-site habitats may not be priority habitats, they do support priority species (confirmed breeding of lapwing and skylark for example) and will be providing a valuable resource for local wildlife. No DEFRA metric calculations have been submitted with this application and it is not clear that the biodiversity value has been maintained (i.e. no net loss) or any net gains provided within the current proposals.

I would therefore recommend that given the existing planning policies, and the size and scale of the proposals, that it is appropriate for the DEFRA Biodiversity Metric (latest version) to be used to evaluate the biodiversity value of the site and provide an indication of the level of mitigation/compensation required for each habitat. This could also be used to demonstrate if no net loss/biodiversity enhancements are being delivered as a result of the development and be used to guide the proposed layout of the site and the required levels of mitigation/compensation for the loss of habitat. An appropriate long term management plan for the habitat will also be required (LEMP).

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

A Construction and Environment Management Plan (Biodiversity) will be required to protect retained habitats (the offsite ditch for example) and to secure working practices which will not damage any of the wildlife that may be present on the site, such as a methodology for drainage and infilling of the existing ditch and pond, and method statement for site clearance for species such as hedgehogs). This should also include measures to treat and prevent the spread of invasive non-native species recorded on and adjacent to the site. Once this is agreed in writing with the LPA all measures will be implemented and maintained for the duration of the construction period in accordance with the approved details.

Nesting birds

The habitats on the site (structures, trees, grassland) are suitable for nesting birds, and the active nests of all wild birds are protected under the Wildlife and Countryside Act, 1981 (as amended). Breeding has been confirmed on and close to the site of priority and species of conservation concern, including lapwing, skylark and dunnock. The ecology report has acknowledged that the current scheme does not provide replacement habitat for species such as skylark and lapwing (paragraph 5.5.3) but opportunities for other priority species can be provided. This is justified by the low number of birds recorded, the location of the proposals next to existing residential development and the availability of similar habitat in the wider environment. However, I would like to see a greater consideration of the habitat loss for these ground nesting birds. The current residential boundary is being moved closer into the grassland habitat, which not only creates habitat loss in these areas, but expands the area of habitat that is then considered sub-optimal as it will become adjacent to a new residential area which was previously grassland. In addition to this, I am concerned that the cumulative impacts of development in this area, on similar types of habitat (with similar low levels of priority species) has not been considered. Land to the north-west has outline planning permission (OUT/2019/0625) with a further phase indicated for the future in this area, and land to the south of the current application also in the allocation for housing. I would advise that further measures to reduce the impact on ground nesting birds are considered such as increasing the opportunities within the SuDs (further scrapes/wet grassland to the south of the attenuation area for example) or (preferably) an opportunity to enhance the wider habitat for these species.

A condition should be used so that the applicant is aware of the legal protection that active bird nests receive. Work which may impact on nesting birds (such as structure demolition, site and vegetation clearance) must be timed to avoid the main bird nesting season (March - August inclusive) unless it can otherwise be demonstrated that no active bird nests are present (see section 5.5.1-5.5.2).

Bats

The structures (dry stone walls) and trees on the site were judged to have negligible potential to support roosting bats, and no evidence of roosting bats was found. No further survey work is required in relation to roosting bats.

Any new lighting for the site should be designed to minimise the impact on nocturnal mammals such as roosting bats in line with published best practice guidelines and section 5.4.1-5.4.3 of the ecology report.

Invasive Species

Two invasive species listed on Schedule 9 of the Wildlife and Countryside Act, 1981 (as amended) have been recorded on the site (Wall cotoneaster and Japanese rose). It is an offence to plant or cause these species to grow in the wild.

A condition to secure a management plan to treat and prevent the spread of control of invasive species should therefore be used (if not incorporated into the CEMP).

Other Protected Species

There are judged to be no implications for other protected species such as water vole and otter and no evidence of other protected or priority species such as badger was recorded. Other than the ephemeral water body on the site which was not considered highly suitable for great crested newts, no other water bodies are present within 500m which have connectivity to the proposed development site.

An informative should be used so that the developer is aware of the legislation that is in place to protect wildlife. If at any time protected species are found on the site, work should cease immediately and ecologist/LPA should be contacted.

Further comments will be reported from GMEU in respect of the further biodiversity net gain assessment and plans that have been received.

Burnley Wildlife Conservation Forum (BWCF)

The BWCF is no longer taking part in consultations on planning applications but made the following comments on the original scheme for 101 houses. As such, their comments are provided below for information:

The land comprises semi-natural grazing pasture which is a prominent elevated part of the adjoining attractive open countryside. The semi-natural grazing pasture has a mosaic of habitats containing both drier and marshy grassland areas, a boggy drainage ditch and a shallow pond. The vegetation on the site contains a wide range of drier and marshy grassland wildflower, grass and sedge species, notably, Cuckooflower, Bog Stitchwort, Brooklime, Marsh Thistle, Self Heal, Thyme-leaved Speedwell, Meadow Vetchling, Common Mouse-ear and Celandine. This is confirmed by the April 2021 Ecological Survey and Assessment by ERAP Ltd (on behalf of the applicant) which states that the ditch and marshy grassland are of ecological value and contribute to the site's diversity of habitats. As a result of this, the land is used for foraging for food by a wide range of bird species and most importantly, for foraging and nesting habitat for four upland breeding birds: Skylark, Meadow Pipit, Curlew and Lapwing. This is confirmed by the applicant's breeding bird surveys which recorded a total of 35 bird species (with counts of 5 skylarks, 7 Meadow Pipits, 4 Curlews and 6 Lapwings). The LERN Assessment of Local Plan sites (June 2015) states that species have been recorded with European and NERC Act section 41 protection along with Lancashire Biodiversity Action Plan long list and key species. Wildlife and Countryside Act schedules 1, 5 and 8 species have been recorded within 250m of the site. The site is in the Historic Woodland Survey and intersects Lancashire Woodland and Grassland Ecological Network stepping stone habitat. The Planning Layout shows a high density development of 101 houses with no open space provision for loss of wildlife habitat mitigation. This would result in a significant adverse effect on biodiversity for the reasons outlined above and consequently the BWCF formally object to the application.

The Coal Authority

Following the submission of further details there are no objections subject to conditions. The application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

Based on an initial desk based review of coal mining and geological information, the Coal Mining Risk Assessment correctly identifies that the Arley Mine coal seam is conjectured to outcrop across the application site. As this seam has been extensively mined in the locality, it correctly considers that the seam may have been subject to unrecorded mining activity in the past and recommends that an intrusive investigation of the site is required to establish the shallow mining situation.

The Coal Mining Investigation indicates that 18 boreholes were subsequently drilled within the application site. The report indicates that these investigations established extensive shallow mine workings in the Arley Mine coal in the northern half of the site along with three unrecorded mine shafts.

The Coal Mining investigation advises that further investigations are required to identify any further unrecorded shafts present within the northern half of the site. Once these works have been carried out and the building layout designed accordingly, the report advises that a scheme of mine working stabilisation works can be designed.

The Mineshaft Investigation indicates that investigatory trenching works subsequently carried out at the site encountered 15 further unrecorded mine entries. It advises that any development layout for the site should avoid the identified shafts and advises that the clusters of shafts effectively sterilise certain parts of the site. It outlines that each shaft should be capped at rock head (2m depth) with a structural engineer designed reinforced cap measuring at least twice the external shaft diameter.

The Mineshaft Investigation also makes broad recommendations for stabilising the shallow mineworkings within the Arley Mine coal under proposed buildings by means of drilling and grouting on a 3.0m grid pattern. It also advises that structural foundations (rafts) will be required for all properties underlain by the Arley Mine coal. The applicant has also submitted a *Specification for the Treatment of Mine Shafts and Shallow Coal Workings* document (March 2022). The specification document confirms that each mine shaft will be treated by means of grout injection, with a reinforced concrete cap constructed within rock, at a nominal depth of 2.0m below existing ground levels.

It is noted that the shafts will be accommodated in POS, private gardens, driveways and estate roads, and we are pleased to note that buildings and structures have now been arranged to avoid the shafts and their calculated potential zones of influence.

The specification document also sets out proposals to stabilise shallow mine workings present within the northern part of the site. Section 6.2.1 confirms that grouting will take place “*across the development footprint of House Plot Nos. 1-54 and 83-87 and associated driveways and roadways.*”

We welcome the recommendations for the undertaking of remedial stabilisation works to the shafts and shallow workings. The remedial works should be designed and

carried out by competent persons in order to ensure the safety and stability of the proposed development as a whole, including buildings and external parts of the site.

The Coal Authority affirm that that shallow coal mining activity and recorded mine shafts pose a stability risk to the proposed development and that remedial measures are required in order to ensure the safety and stability of the development. As such, conditions are recommended to require the carrying out of remedial treatment works to ensure the site is made safe and stable for the development and verification of the works prior to the occupation of the development.

The Coal Authority also advise on the need for the applicant to be aware of potential mine gas, stability issues for a SuDs system and for the Local Planning Authority to take into account that its records indicate that surface coal resource is present on the site.

Environmental Health

Air Quality: The submitted Air Quality Assessment (AQA) indicates that there is negligible potential for health related air quality impacts as a result of the occupation of housing at the Rossendale Road site. Background NO₂ and PM levels are relatively low, and pollutants are mainly road traffic related, the additional road traffic on local roads would have a negligible impact. No additional requirements to control pollution are needed. Construction activities are more significant with a *medium risk* of health related exposure from trackout dusts. A dust management plan should be prepared by the site contractor addressing all the mitigation measures identified in the submitted AQA. Any such plan should include:

- Proposals for monitoring dust deposition and, if necessary respirable dusts
- Identification and implementation of the primary controls, particularly in relation to minimising production of respirable dusts.
- Compliance monitoring for dust at or adjacent to sensitive receptors to demonstrate compliance.

Based on the recommendations of the above report, the development is acceptable in air quality terms subject to condition to require an appropriate Dust Management Plan.

Noise: The submitted Noise Impact Assessment identifies that day and night time noise levels would exceed the BS8233 criteria for proposed premises adjacent to the main road. The level of exceedance requires acoustic glazing and ventilation systems to be installed for the identified premises that effectively provide a barrier effect to those further into the site. The report identifies façade treatment and glazing specifications and acoustic fencing on plot 1. Subject to implementing the mitigation requirements the proposal is acceptable subject to a further condition to restrict construction hours to 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays.

Contaminated Land Officer

Comments to be reported in Late Correspondence.

LCC Schools Planning Team

An education contribution is not required at this stage in regards to this development.

East Lancashire NHS Trust

Request a contribution. In summary, the Trust states that they currently provide acute, emergency and secondary healthcare across Blackburn with Darwen, Burnley,

Hyndburn, Pendle, Ribble Valley and Rossendale. The impact of non-recurrent (capital) and recurrent (service provision) infrastructure costs as a direct result of new housing development are very significant and as such a contribution is now sought to address the direct impact which the application will have on the Trust. A scheme for 101 new dwellings [the original number of dwellings proposed by this application] will support a population increase of 232 (assuming an average of 2.3 people per dwelling) all of whom will need to access health services. It follows that without the provision of additional facilities and services it will not be possible to accommodate the health impact of the development within the existing provision which is available. The Trust will in due course be able to obtain funding to meet the needs of the population which arises from the development but this funding will not be in place for approximately three years. Once in place, the funding will not be provided retrospectively, and as such the impact on the Trust for the initial period will not be met from any alternative source of funding⁶. We therefore request a contribution for this development in the sum of £172,357.00 [this would equate to a reduced figure of £148,465 for a total of 87 dwellings]. The Trust consider that this request meets the requirements of the appropriate tests.

LCC Historic Environment Team (Archaeology)

No objections. The Archaeological Desk Based Assessment & Walkover and Geophysical survey identified little of interest but it suggested that evidence for former coal working on the site of a possible medieval date might be encountered by the development. However, coal pits are recorded about 500m to the north west (survey 1844) but none were recorded by the Ordnance Survey at the same time within the boundary of the proposed development. Coal mining data records workings in the area but these are all post 1950. Field names on the Tithe Map for Habergham Eaves (1842) do not suggest the area to have been used for coal mining either in the 19th Century or earlier. Consequently, the works already undertaken have demonstrated that the site has a low-nil archaeological potential and no further intrusive archaeological works are required.

Burnley Civic Trust

Support the comments of the Habergham Eaves Parish Council; would like to see a smaller number of houses with adequate green spaces and provision of affordable housing and including some bungalow properties.

CPRE The Countryside Charity

The number of dwellings exceeds the housing allocation. The scheme should include genuinely affordable homes and enough homes for Burnley's older households and people with mobility requirements. Access to the site should include appropriate traffic management systems. Recommend that appropriate landscaping and boundary treatment is used to screen the northern and western boundaries to reduce the impact on the wider landscape with roadside trees and shrubs adjacent to Rossendale Road.

Ramblers (Burnley and Pendle Group)

No objection. The proposed slight diversion of Footpath 12-6-FP-8, to join up with the start of FP-6 about 10yrds down Rossendale Road is minimal and of no real consequence. The developers will need to apply for a footpath diversion.

Head of Greenspaces and Amenities

No objection. Initially, raised concerns over the lack of proposed public open space (POS). In respect of the amended plans, it is affirmed that there is sufficient POS for

the development and the location of the POS that includes a LEAP (Locally Equipped Area for Play) and LAP (Local Area for Play) to the south end of the development adjoining the remainder of the housing allocation would be appropriate.

Habergham Eaves Parish Council

Initial response to the application (prior to changes to the scheme): The Parish Council objected when this land was first considered for inclusion in the Local Plan and our concerns are broadly the same, that is, pressure on Rossendale Road due to the increase of traffic from not only the houses but the new industrial estate. Just to extend the 30mph zone will not reduce speed. The Parish Council raised concerns in respect of mineshafts when the Local Plan was being considered. The open space that is planned is poor and too small for this size of development. There appears to be no affordable housing or contributions to the infrastructure. Also object to the affect of the proposal on Pubic Footpath no. 8 and ask that the footpath issue is decided before the planning application is considered in order to be fair to those people with concerns.

A further response has been received in respect of the amended plans for 87 dwellings which states that the Parish Council is pleased that the developer has taken note of concerns regarding housing numbers, affordable housing, access for the disabled and the open play area provision but still has the following concerns which are summarised below:-

- Concern about the impact on the area from the volume of traffic;
- Lack of evidence of promotion of more sustainable ways of travelling;
- Concern that as Public Footpath 8 will be affected;
- The separate application by Seddon Homes uses the same access onto Rossendale Road and as such although the applications are separate, the access issue affects both and should be looked at together;
- Our major concern is a lack of real concern shown by the developer in the ecology report. The Council has declared a climate emergency and has promised to take more measures to protect our borough. The proposal has calculated 36% loss of biodiversity habitat units which is unacceptable. The submission claims that there is no need to accommodate net gain for biodiversity as part of a scheme for the site. We disagree with this interpretation which is contrary to Policy NE1, the National Planning Policy Framework and the Environment Act (2021) which is set to require developments across England to achieve at least 10% net gain in biodiversity as measured by the Biodiversity Metric. It is not acceptable for the developer to claim that a net gain in area-based habitats cannot be achieved and thereby side-step national and local planning policies.

Councillor Gordon Birtwistle

Object to this application on the grounds of access onto Rossendale Road which in my view would be extremely dangerous and on the destruction of the natural environment, with the caveat that I will read carefully the highway authority report on the access and listen to any environmental report received by the Council.

Publicity

Letters of objection have been received from a total of 18 properties in the local area, mainly: Rossendale Road, Helm Close, Micklehurst Crescent, Buttercross Close and Rossendale Avenue. Neighbours were consulted on amended plans, following

which ten letters were received that maintain and state their objections. A summary of all the comments received (including those received prior to the changes made to the scheme) is provided below:-

- Should preserve green areas and countryside
- Impact on landscape and the environment
- People park on the lay-by to enjoy the views of this site
- Nearby brownfield sites are available and are not being used
- Inadequate new public open space to comply with policy requirements
- Rossendale Road is a very busy main route from Yorkshire to Junction 9 of the M65 with a fast four lane with speeding traffic at 50mph and dangerous location for a new junction
- Speeding traffic in both direction will contribute to collision, injury and death
- Concerns about excessive speeds on this road have been previously lodged with authorities
- Site entrance is on a brow of a hill where visibility is limited, presenting a danger to vehicles and pedestrians
- There will already be increased traffic from the new Rossendale Road industrial estate development
- Would lead to a further 200+ cars entering and leaving the site
- The additional traffic from the land to the south side (Seddon Homes site) should be considered at the same time
- Volume of traffic on match days
- An extension of the 30mph zone will not reduce the speed of vehicles down this stretch of road
- Contributions to improve junctions is not sufficient to deal with traffic problems
- Impact on the Rosegrove and the Manchester Road signal junctions which are bottle necks, traffic congestion and lengthy queues of traffic
- Site access and right turn is unsuitable and will cause accidents from cars being rammed on the brow of a hill and from cars crossing two lanes of fast traffic, with traffic backing up both entering and leaving the site
- All of Rossendale Road should become a 30mph zone and speed camera placed near new junction
- Pedestrians put at risk by trying to cross four lanes of traffic
- Increasingly difficult to get out of Rossendale Avenue
- New pedestrian crossing is close to private access road
- Question whether there would be sufficient room for cars to safely turn right into private access road
- Personal accounts of accidents on Rossendale Road
- Impact of additional traffic on air quality and effect of pollution on children and people with respiratory conditions
- Additional noise from traffic
- Loss of habitat of wild species of animals, birds including protected birds and insects such as foxes, stoats, deer, brown hare, hedgehogs, bats, bees, barn owls, kestrels, sparrowhawks, lapwing, skylarks, snipe, starlings, curlew, reed bunting, butterflies
- There is a significant population of ground nesting birds in the pastures located west of the site that will be indirectly affected, includes curlew, lapwing and skylark which are Priority Species and Red List species

- The scheme does not show it will deliver a net biodiversity benefit through mitigation or incorporate the recommendations of the Ecological Survey into the design, including planting around the new wetland
- Cumulative impacts of this and other development in the area on ground nesting birds
- Re-routed Public Footpath will create further disturbance to birds
- Underground mineshafts may lead to flooding and subsidence in the area
- Overcrowding/cramped development, density higher than Policy HS1/4
- Insufficient Affordable Housing on the site
- Impact on health and mental health
- Would like to see bungalows on the site
- Impact on daylight, sunlight, privacy
- Overlooking into property and garden from proximity of kitchen, bedrooms and lounge
- Overshadowing of garden
- Increase vulnerability to crime
- Will create a strain on schools and GP surgeries
- There is a stream that runs through the centre of the site which feeds the stream in Scott Park.

Planning and Environmental Considerations:

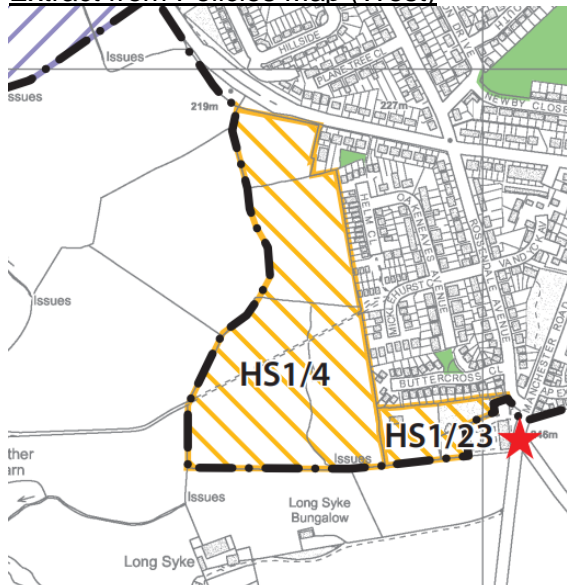
Principle of Proposal

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

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

This application relates to 37.5% of the land area of the above housing allocation HS1/4 (that is, is 2.78ha out of a total 7.52ha). The full red edge application site area amounts to approximately 4ha and includes a sewer easement parallel with Rossendale Road and land to the west of the site allocation to be used to provide a sustainable urban drainage system consisting of an attenuation basin and swale and including a green buffer. An access road to the western side of the site also sits on the edge of the housing allocation and into the adjoining field.

Extract from Policies Map (West)



Application Site area



Policy HS1 states that development on the allocated site will be acceptable in principle for housing development and will be required to be delivered in accordance with the site specific requirements [listed in HS1/4] together with the requirements of other relevant policies elsewhere in the Plan. The principle of developing the site for residential purposes has already therefore been established through the local plan process, taking into account the economic, social and environmental objectives of sustainable development. The inclusion of adjoining land for ancillary purposes to provide a sustainable drainage system, green buffer and access road which would support the delivery of the housing allocation will be assessed in terms of its visual impact.

Policy HS1/4 states that the site [as a whole] is acceptable for around 188 dwellings. The revised proposal is for 87 dwellings on part of this site. The proposal is acceptable in principle subject to the remaining site specific requirements and consideration of other plan policies.

Additional and Site Specific Policy Requirements and Design Principles

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

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

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

Design, layout and visual impact of the development

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

The proposed scheme has been amended since first submitted to reflect some of the concerns raised by neighbours and to ensure a high quality scheme for a key housing allocation for the borough. The proposed scheme appropriately addresses the main road location of the site with a frontage of houses and a row of trees to provide a satisfactory view of the development from Rossendale Road. The scale of dwellings has been maintained at two storey that reflects the predominant scale of surrounding development.

The proposed development creates a new edge with the countryside to the west of the site. The view of the development from the countryside would be a row of fronts of two storey houses, tree planting and planting around the proposed drainage features (attenuation pond and swale). This would allow the development to integrate sensitively and provide an appropriate edge and appearance to the countryside. Street trees and landscaping have been incorporated into the scheme.

The mix and range of house types complies with the site specific criteria of Policy HS1/4 that requires a minimum of 55% of three or more bedroom semi-detached and detached dwellings. Policy HS3 states that development should make efficient use of land and be built at a density appropriate to its location and setting. However, it states that developments should achieve a minimum of 25 dwellings per hectare (dph). In this case, the proposed development amounts to 31 dph which is accommodated on the site with adequate spacing, landscaping and impact on its surroundings. The proposed density would not differ significantly from the indicative number stated in Policy HS1/4 from this part of the site and would comply with Policy HS3.

Adequate spacing between new dwellings is achieved and a mix of houses with driveways to the side and forecourt parking to the front provides a spacious development. The use of reconstituted stone and designs with gable roofs, head/cills, well proportioned facades and the use of chimneys for some of the plots, reflects the local distinctive character of development.

Public open space is proposed along the site frontage, close to the site entrance and to the south side of the site, amounting to 0.32ha. The layout creates frontages

orientated to provide a good level of surveillance over the main body of open space that would be used for play.

Houses designed to overlook public open space



The open space would also provide a suitable edge to the southern boundary which bounds the remainder of the housing site allocation.

Smaller pockets of open space also form part of the development and contribute to a spacious layout. Policy HS4 requires new residential developments to provide a rate of 0.3ha of new open space per 50 dwellings, inclusive of a smaller area of equipped space for play. The required level of open space is calculated at 0.52ha. The provision of 3.2ha within the housing allocation site would be supplemented by a further 0.34ha of amenity open space within the green buffer areas which is contiguous with the western boundary of the site. This would provide amenity open space for walking, sitting and being outdoors and would in total amount to 0.66ha of public open space which would be above the policy expectation. This would create adequate open space and play provision to meet the needs of the development and provide a high quality environment for new occupiers. A condition is recommended to require details of the siting and specification of play equipment to be agreed with the Local Planning Authority.

The proposal would comply with requirements of Policy HS4 in respect of Adaptable Homes which requires 20% of dwellings to achieve the optional technical standard M4(2) of the Building Regulations 2010. The purpose of the policy is to provide homes that will allow occupiers to stay within their homes to retain independence as their needs change. The applicant has produced a checklist to demonstrate that 22% of their dwellings (19 properties) would meet this standard. A condition is recommended to require the implementation of the scheme and verification of its completion prior to occupation.

Policy SP5 requires developments to incorporate measures to minimise energy and water consumption and seek opportunities for on-site energy supplies from renewable or low carbon energy sources. The submitted Carbon Reduction Report has demonstrated that a 20% betterment on energy efficiency performance can be achieved for the development using a combination of fabric improvements and renewable energy by way of photovoltaic panels (PV) on a minimum of 7 properties. The proposed scheme would provide an energy efficient development that would comply with Policy SP5.

The proposed scheme would provide a well planned development that is sensitive to its surroundings and reflects the character of the local area. The layout and construction of the proposed dwellings would provide energy efficient homes, would contribute to the stock of Adaptable Homes and would provide a high quality living environment for occupiers. It would therefore comply with the relevant provisions of Policies HS1/4, HS3, HS4 and SP5.

Impact on residential amenities

Policy SP5 seeks to ensure that development has no unacceptable adverse impact on the amenity of neighbouring occupants or result in unacceptable conditions for future users and occupiers of the development. Amendments have been made to the scheme since first submitted to ensure full compliance with the minimum separation distances between properties as set out in Policy HS4 (20m between elevations with habitable windows and 15m between habitable windows and a blank gable). The amended scheme would therefore satisfactorily safeguard the outlook and privacy of neighbouring properties and this which would also protect daylight and sunlight provision. A condition is recommended to withdraw some Permitted Development rights for plot 85 to prevent side extensions that may affect the outlook or privacy of existing dwellings and to withdraw permitted development rights for roof enlargements for plots 72 to 84 to avoid potential overlooking from such developments. A condition is also necessary to implement the recommendations of the Noise Assessment submitted with the application which includes some measures to reduce noise to those properties that may be affected by traffic noise. With these provisions, the design and layout of the development would adequately safeguard the living conditions and amenities of the occupiers of neighbouring properties and future occupiers of the development.

Affordable housing provision

Policy HS2 requires affordable housing on sites of over 10 dwellings. This will normally be an on-site requirement and the exact amount of financial contribution/number and tenure of affordable units will be determined by economic viability having regard to the individual site and market conditions. The Developer Contributions SPD provides a guide to what the Council can expect for allocated sites which is based upon the Local Plan Viability Assessment which also takes into account other contributions that may be necessary.

It is recognised that there are substantial abnormal costs in developing this site due to coal mining legacies that affect this northern part of the housing site allocation. In these circumstances, the Developer Contributions SPD indicates that there is a viability ceiling of 5% for on-site Affordable Housing. This should also be considered alongside other contributions which would affect the viability of the scheme as a whole. Notably, other contributions for off-site highway works and ecology that are discussed later in the report would exceed the indicative ceiling heights for the viability of the scheme and this would reinforce the SPD ceiling height of 5% for affordable housing. As such, a contribution of 5% Affordable Housing which would be delivered on site with 4no. two bedroom dwellings has been agreed which would consist of three intermediate (shared ownership) and one affordable rent which would be in accordance with Policy HS2. This represents a positive outcome and a benefit of the development. A s106 Agreement would be necessary to secure the agreed Affordable Housing.

Impact on traffic and highway safety

Paragraph 111 of the NPPF states that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The NPPF also requires proposals to provide safe and suitable access for all users and to create opportunities for walking, cycling and public transport.

Policy IC1 seeks to promote sustainable travel and safe pedestrian, cycle and vehicular access, including adequate visibility splays.

Policy IC3 requires two off-street parking spaces for two and three bedroom dwellings and three off-street parking spaces for four bedroom dwellings. Electric car charging points are required at detached properties on developments over ten dwellings.

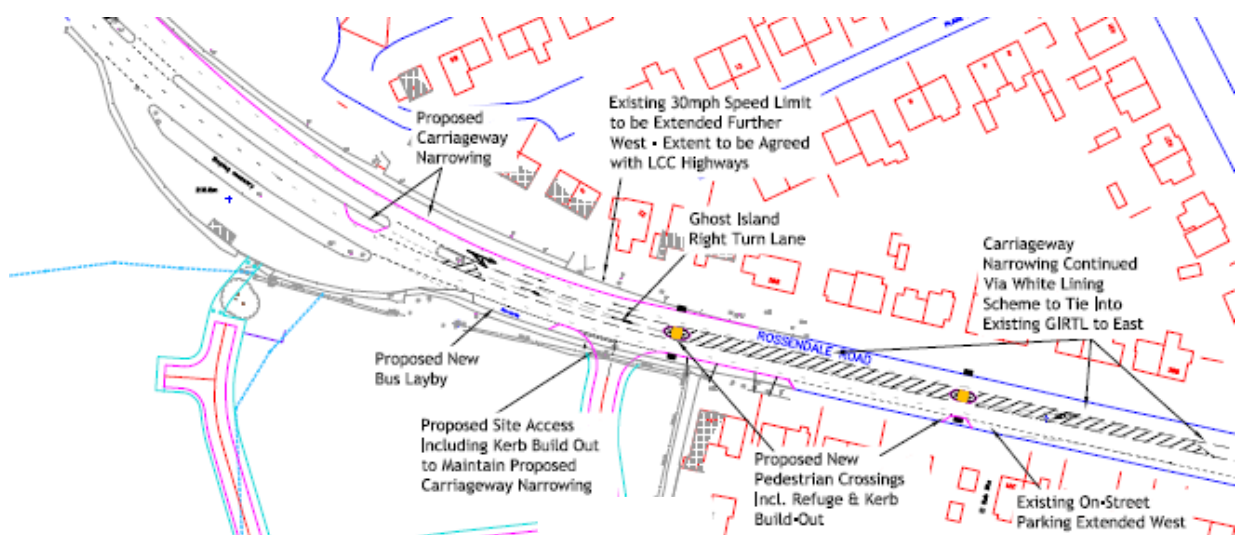
A Transport Assessment and Travel Plan have been submitted with the application to assess the impact of the development on the highway network and to demonstrate measures to reduce reliance on the motor car.

The supporting text at Policy HS1/4 states that Lancashire County Highway engineers have advised that vehicular access should be from Rosendale Road with appropriate sight lines and traffic management infrastructure.

The site is accessible to amenities and facilities within the urban area and is served by public transport, having bus stops adjacent to the northern boundary of the site on Rosendale Road.

The proposed new junction on Rosendale Road would provide the access to the proposed development. A second access onto Rosendale Road would be constructed for emergency use only and exit onto the lay-by (and controlled through lockable bollards). Amendments have been made to the design of the new junction, including a minor increase in the width of the site access to take account of comments from the local highway authority. The local highway authority has also taken account of the whole of the site allocation for housing development which would increase traffic generation at the junction in the future.

Proposed junction



The proposed junction would involve carriageway narrowing with kerb edging which reduces the carriageway at the site entrance to two lanes and a right turn lane. A kerbed pedestrian refuge would be constructed at the site entrance and a further refuge installed between the site entrance and the signalised junction of Rossendale Road and Manchester Road. The existing bus stop located at the site entrance would be re-located to a nearby site that would be agreed with the local highway authority. A build-out to the east side of the junction would prevent on-street parking within the visibility splays and a further small build-out in an easterly direction would create an extended area of on-street parking. The existing zones for the 30/40 mph speed limits would be changed in order to extend the 30mph speed limit in a westerly direction, the positioning of which would be for the local highway authority to determine.

Objections have been received from local residents and the Parish Council, amongst others, refer to Rossendale Road as a dangerous road where an increase in traffic would increase hazards for vehicles and pedestrians. The main impacts of the development on traffic and safety are at the proposed junction, Rossendale Road and the signalised junction of Rossendale Road and Manchester Road.

The Transport Assessment which is based on the original figure of 101 dwellings from this application calculates (using a TRICS database) that there would be a total of 39 trips west and 28 trips east of the site access in the morning peak hour of traffic which would be less than one car movement per minute in each direction. The trip rates in the afternoon peak hour would be similar, having up to 2.5% impact on traffic rates. The reduction in the number of homes from 101 to 87 would reduce these figures further. The proposed junction with associated road narrowing and safety measures would be able to cater for the proposed traffic and provide pedestrian crossing facilities. Conditions are necessary to require further details of the access junction and off-site highway works which would also require the applicant to enter into a s278 Agreement with the local highway authority.

In respect of the impact of the development on the function of the signalised junctions of Rossendale Road with Manchester Road to the east of the site, the Transport Assessment found that whilst the traffic numbers from this development would be limited in proportional terms, the junction operates close to its operational capacity. It therefore explores mitigation measures with a view to providing operational improvements at the signalised junction. The local highway authority consider that concerns regarding the capacity of this signalised junction can be adequately addressed by improvements to its functionality and the provision of pedestrian facilities. A contribution of £70,000 towards junction improvements and a further contribution of £20,000 to be used to provide new bus stop facilities and raised kerbs on Manchester Road (to serve X43 stops) has been requested and agreed by the applicant. With these provisions, the amount of traffic from the proposed development would not significantly impact on the capacity of the highway network.

The internal layout of the site would provide adequate access, turning and off-street parking to comply with the Council's car parking standards. An electric car charging point would be provided for each dwelling.

The development would require a minor diversion of Public Footpath No. 8 around the open space surrounding the proposed drainage basin at the north west side of the site. This is unlikely to cause any significant inconvenience or detract from the existing route, in which case it is unlikely to raise any material objections. The

Ramblers group for Burnley and Pendle reports that they do not object to the minor diversion. A separate application will be required for a Public Footpath Diversion Order.

In conclusion, the proposed new junction and the traffic impacts of the development on the highway network have been carefully considered. Subject to conditions recommended by the local highway authority relating to the details of highway design and construction, and measures to control activities during the construction period, and to a contribution to improving the junction of Rossendale Road and Manchester Road and improving bus stop facilities to encourage sustainable transport, the development can be satisfactorily accommodated within the highway network and maintain highway safety. Further conditions to require the implementation of a travel plan and to restrict the future use of parking spaces/garages are also required to meet the objectives of encouraging sustainable travel and retaining adequate levels of off-street parking. As such, the proposal complies with Policies IC1 and IC3.

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. An ecological survey and assessment has been submitted with the application which has identified that the site contains improved and marshy grassland that provides a semi-natural habitat. Whilst no protected species such as bats, great crested newts, water vole or badgers have been recorded, the site is used by nesting birds and ground nesting breeding has been confirmed on or close to the site of priority and species and species of conservation concern. The proposed scheme would provide opportunities for birds to nest, including priority species but this would be more difficult for ground nesting birds such as lapwing and skylark. GMEU concur with the ecological assessment that the loss of the semi-natural habitat is justified given the low numbers of these nesting birds at or close to the site, the site's location and the availability of similar habitat in the wider environment. GMEU recommend, however, that further consideration is given to improving opportunities for nesting birds.

A Biodiversity Net Gain (BNG) Assessment has been carried out by the applicant's ecologist that calculates a loss of Habitat units which would be commensurate with a development of this nature. Notably, the proposed landscape scheme which has been improved to include suitable grasses and meadow mixes around the wetland areas, native hedgerows and trees would minimise the loss of habitat units but a loss would be inevitable. The policy approach towards BNG as set out in Policy NE1 and the National Planning Policy Framework (NPPF) requires losses in biodiversity to be positively addressed. A contribution towards improving habitat for ground nesting birds at a suitable off-site location would achieve this and provide opportunities to provide suitable habitat elsewhere for ground nesting farmland bird species recorded on this site. A contribution has been calculated based on the identified loss of 3.51 Habitat Units and Defra guidance which amounts to £31,590. Details of a scheme to provide these improvements would need to be established as part of a section 106 Agreement. The applicant has agreed to this contribution.

In addition to the proposed landscape proposals which seek to maximise the opportunities for biodiversity on site, other on-site biodiversity enhancements including measures to incorporate 7 bat boxes, 7 swift boxes, 5 house sparrow nesting terraces and 6 small bird nest boxes and hedgehog highways throughout the development are

also proposed and will create favourable conditions for biodiversity on the site. The on-site measures would mitigate for nesting birds in general whilst the off-site measures would mitigate the impacts of the development for farmland ground nesting birds. The proposed residential scheme would in these circumstances sufficiently mitigate against the loss of biodiversity on the site and maximise opportunities for enhancing biodiversity. As such, the proposal would comply with Policy NE1.

GMEU recommend conditions to require a Landscape and Ecological Management Plan (LEMP) to ensure the ecology of the landscape scheme is appropriately managed; a Construction and Environment Management Plan to protect biodiversity during the construction period, including treating and preventing the spread of non-native invasive species that have been recorded; implementation of an Ecological Enhancement Plan; a lighting scheme and the avoidance of site clearance works in the bird nesting season.

Impact on ground conditions

Policy NE5 requires development proposals to demonstrate that environmental risks have been evaluated and appropriate measures have been taken to minimise risks.

A Phase I and II Geo-environmental Ground Investigation has been submitted that identifies no viable sources of pollution or ground contamination. There are however potential pollutants from past coal mining activities, including mine gas, which will require further assessment and appropriate remediation.

Past coal mining activity has been assessed through a coal mining risk assessment that has identified up to 18 coal mining shafts across the application site. The proposed layout has been designed to avoid building over the exclusion zones to these areas. The Coal Authority is satisfied that the investigations and measures outlined for dealing with this legacy have adequately addressed the risks of land instability and recommend a condition to ensure the implementation of remedial measures. With this provision, the site would be made safe and stable and would not, therefore pose a risk to the land stability or human health. The proposal therefore complies with Policy NE5.

Air quality

An air quality assessment has been submitted that indicates that there would be no significant adverse impact on air quality resulting from the proposed development. In accordance with the Air Quality Management SPD, electric vehicle charging points will be required as standard mitigation. A condition is recommended to require a Dust Management Plan to mitigate against potentially higher levels of dust and air pollutants during the construction period.

Health provision

Policy IC4 of Burnley's Local Plan states that development will be required to provide or contribute towards the provision of the infrastructure needed to support it. The policy provides a list of appropriate matters that may be funded by planning contributions and this includes Health Infrastructure. Impact on health is therefore a material planning consideration.

A request has been received by the East Lancashire NHS Trust (The Trust) for a contribution of £148,465 towards health care provision. The contribution would be used for capital and revenue funding within the Trust area. The Trust provides acute,

emergency and secondary healthcare across Blackburn with Darwen, Burnley, Hyndburn, Pendle, Ribble Vally and Rossendale.

The Trust is a public sector NHS body and funded from the social security contributions and other State funding. The Trust is commissioned to provide planned and emergency acute healthcare to the population of East Lancashire and Blackburn with Darwen. Acute healthcare services incorporate activities delivered in a hospital setting. The request is made on the basis that a direct impact of the development would be an increase in demand for its services within the Trust area which is not accounted for in the first three years of occupation. The Trust state that if there is a shortfall in funding that this will impact on service delivery.

The request has been fully considered against the requirements for obtaining contributions. Counsel opinion was obtained on a similar matter (for a larger and more significant development) and the advice remains relevant in these circumstances. A contribution must assist in mitigating the impact of the development in order to make the development acceptable. It can only be sought where it meets all of the three tests in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 which are also repeated in the National Planning Policy Framework. An obligation must be:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

The Trust has explained in its methodology that the need for the health care contribution for revenue funding is due to the impact from an increase in population in the Trust area due to the development on the site. The Trust seeks funding for the first year of occupancy of all the proposed dwellings based on an average household occupancy (2.3 persons per household) at a calculated contribution rate of £1,707 per dwelling. Whilst, in principle, the provision of healthcare is a material planning consideration, it can only be material to an individual case where the impact has been clearly assessed. This request for capital and revenue funding is based on there being an increase in population from the whole of the development. Given, however, the breadth of the geographical area that the Trust covers which goes far beyond the Burnley area, it is unrealistic to assume that all new occupants of the proposed development will be new to the Trust area. The Trust also do not consider how new occupancies may result from changes in households or whether it would receive the same share of patients from the new development as it receives from the existing population. The Trust provide no reasoning or evidence to support their assumptions on these matters and in, effect, this could lead to double counting.

Without any evidence to support the assumption that the proposed development would lead to an increase in population in the Trust area from all the proposed dwellings on this site, there is no reliable reasoning or evidence to conclude that the development will have an impact on the health care services provided by the Trust. On a recent appeal where a similar request had been made (FUL/2020/0321- Butchers Farm), the Inspector agreed with the Council's reasoning on this matter.

In these circumstances, a contribution is not necessary to make the development acceptable. As such, as a matter of law and policy, the Council cannot either request or accept a contribution as sought by the Trust. Given that the requested contribution

is not necessary to make the development acceptable, the concerns raised by the Trust are not reasons to object to the application.

Other issues

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

Some neighbour objections refer to a strain on education and GP surgeries. The Schools Planning Team is satisfied that there are sufficient school places within the local area for additional school places. There is no evidence that GP practices will have insufficient capacity for new patients. An objection to the proposed development on these basis could therefore not be sustained.

There is no notable tree loss associated with the development but there are some off-site boundary trees within neighbouring gardens that will need adequate protection during construction.

Conclusion

The proposal seeks to develop a site that is allocated for housing purposes in Burnley`s Local Plan. The proposed scheme has been amended since first submitted and proposes a high quality scheme that protects the amenities of existing neighbouring properties, addresses the need to provide safe access and to improve the functioning of a nearby junction and provide for safe pedestrian access, includes measures to encourage the use of public transport by improving nearby bus stop facilities and provides for the biodiversity of the site and for off-site measures for farmland ground nesting birds. The scheme would also provide highly energy efficient homes on a key housing site and provide a degree of affordable housing with and a proportion of accessible and adaptable homes. Objections to the proposal have been considered and have been addressed in the report. The NPPF states that decisions should apply a presumption in favour of sustainable development which for decision-taking means approving development proposals that accord with an up-to-date development plan without delay. The proposal complies with the development plan and there are no material reasons to outweigh this finding in which case the application should be approved.

Recommendation: Delegate to the Head of Housing and Development Control to approve subject to the applicant entering into a section 106 Agreement to secure contributions to highway improvements and biodiversity and to provide affordable housing

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. Prior to the commencement of development, details and representative samples of the external materials (natural stone and natural slate) of construction to be used on the walls and roofs of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details.

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 material details are required prior to the commencement of development to ensure that the approved materials are available for use at the appropriate stage of the development.

4. Prior to the commencement of development, a scheme of landscaping, to include details of all retained trees and new tree and shrub planting, to include native species on and near to site boundaries and within the development site (noting species, plant sizes/heights on planting and proposed numbers/densities where appropriate), shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure a satisfactory scheme of landscaping that provides biodiversity and visual benefits to the site, in accordance with Policies NE4, SP5 and NE1 of Burnley's Local Plan (July 2018). The scheme is required prior to the commencement of development to ensure that the works are agreed early in the process in order that they can be carried out at the appropriate stage of the development.

5. All planting, seeding or turfing comprised in the approved details of landscaping (as approved by Condition 4) shall be carried out in the first planting and seeding seasons following the first occupation of the approved 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. The boundary treatment indicated on the approved plans (drawing number 490-P-BTL-01Rev4) shall be carried out and completed prior to the completion of the development or the occupation of the first dwelling (whichever is the sooner). The approved boundary treatment shall thereafter be retained at all times.

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).

7. No demolition, site works or removals of trees or shrubs on the site shall take place during the bird nesting season between the 1st March and 31st August inclusive in any year unless a qualified ecologist has inspected the area no more than 24 hours prior to the works/removal and provides written confirmation to the Local Planning Authority that no nests or breeding birds will be affected by the development.

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.

8. Prior to the commencement of development, a Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority which shall provide details for the following measures:
 - i) methodology for draining and infilling of the existing ditch and pond on the site;
 - ii) method statement for site clearance for species such as hedgehogs; and,
 - iii) measures to treat and prevent the spread of non-native invasive species on and adjacent to the site.The agreed measures shall be implemented prior to any site clearance or development being commenced and retained in their entirety for the duration of the development until its completion.

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

9. Prior to the commencement of development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The submitted LEMP shall provide details for the following:-
 - a) description and evaluation of the features to be managed;
 - b) ecological features and constraints that may influence management;
 - c) aims and objectives of management;
 - d) appropriate management options and prescriptions for management actions;
 - e) a work schedule (including an annual work plan capable of being rolled forward over a five year period);
 - f) details of the body or organisation responsible for implementation of the plan; and,
 - g) on-going monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanisms by which the long-term implementation of the plan will be secured by the developer with the management company or body responsible for its delivery.

The Plan shall also set out how contingencies and/or remedial action will be identified, agreed and implemented. The approved LEMP shall thereafter be carried out and adhered to at all times in perpetuity.

Reason: To ensure that the biodiversity benefits of the landscaping scheme and biodiversity enhancements for the site are appropriately managed to ensure their long term protection and benefits to biodiversity, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018).

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

Reason: To ensure adequate protection for the long term health of trees/hedges which are located on or close to boundaries and should be retained in the interests of the visual amenities, in accordance with Policy NE4 of Burnley's Local Plan (July 2018). The details are required prior to the commencement of development to ensure that provision can be made for their implementation at the appropriate stage of the development process.

11. The ecological enhancements consisting of Bird and Bat boxes (drawing number (Fig 1 2019 -63e V1) and Hedgehog Gaps (drawing number Fig 2 2019-063e V1) shall be carried out in accordance with the submitted details prior to any dwelling associated with such measures being first occupied. The bird and bat boxes and hedgehog gaps shall thereafter be retained in situ in perpetuity.

Reason: To ensure adequate biodiversity enhancement measures for birds, bats and hedgehogs and other mammals, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018).

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

Reason: To protect wildlife, including protected species, which is sensitive to lighting, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018).

13. 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 deal with dirt, debris, mud or loose material deposited on the highway as a result of construction
 - Measures to control the emission of dust and dirt during construction
 - Details of a scheme for recycling/disposing of waste resulting from demolition and construction works
 - Construction vehicle routing
 - Delivery and construction 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.

14. 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 or deliveries to the site, 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).

15. The applicant or developer shall only permit delivery vehicles to arrive at or enter or exit the site between the hours of 08:00 and 18:00 hours on Monday to Friday, between 08:00 and 13:00 on Saturdays and no deliveries shall be made at all on Sundays or Bank Holidays.

Reason: To manage traffic and protect the amenities of local residents, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

16. 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 and stones being carried onto the highway. The roads adjacent to the site shall be mechanically swept as required during the full construction period.

Reason: To avoid the deposit of mud or debris on the public highway, in order to protect highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

17. Prior to the commencement of development, a scheme for the detailed design of the proposed site access and off-site works of highway improvement as outlined in the approved plans shall be submitted to and approved in writing by the Local Planning Authority. 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.

18. The approved access junction and estate road which shall include the full length of the estate road up to the red edge southern boundary of the application site, shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any dwelling is occupied on 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).

19. The development shall not be commenced until all the highway works to facilitate construction traffic access to the site have been constructed in accordance with a scheme which shall be first submitted to and approved in writing by the Local Planning Authority.

Reason: To enable all construction traffic to enter and leave the development site in a safe manner, in the interests of highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

20. No development shall take place until an estate street phasing and completion plan has been submitted to and approved in writing by the Local Planning Authority. The estate street phasing and completion plan shall set out the development phases and completion sequence that estate streets serving each phase of the development will be completed. The development shall then

be carried out only in accordance with the approved estate street phasing and completion plan.

Reason: To ensure the phasing and completion of estate streets serving the development are completed to ensure the provision of satisfactory access, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

21. No development shall commence other than site clearance, remediation and preparatory works until details of a highway surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The approved highway surface water drainage scheme shall thereafter be implemented in accordance with the approved details as part of the highway construction and completed prior to the occupation of any dwellings within each phase.

Reason: To prevent water from discharging onto the public highway, in the interest of highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

22. No development shall be commenced until the engineering, drainage, street lighting and constructional details of the proposed estate roads and details of the maintenance of all streets, access roads and drives 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.

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

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

24. 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 (including integral/attached/detached garages) 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).

25. 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).

26. Prior to the first occupation of any dwelling, refuse bins and recyclable waste containers for each respective dwelling shall be provided within a concealed area of the curtilage in accordance with the approved plans. 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).

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

- a) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study; and
- b) A remedial strategy detailing the measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a suitably qualified person to oversee the implementation of the works.

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

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

28. No development shall commence until;
- a) a scheme of intrusive investigations has been carried out on site to

establish the risks posed to the development by past coal mining activity and the extent of zones of influence/instability of off-site mine shafts; and
b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance and a verification report to demonstrate that any identified remediation and/or mitigation measures have been implemented in full shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any dwelling.

Reason: To ensure that the issues arising from historic shallow coal mine workings close to the site are adequately dealt with in order to ensure the safety of the construction, in accordance with Policy NE5 of Burnley's Local Plan (July 2018).

29. Prior to the commencement of built development above ground level, details of the design and implementation of a surface water sustainable drainage scheme, based on sustainable drainage principles, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented and completed in accordance with the approved scheme prior any dwelling to any dwelling within each phase of the development being first occupied. The approved drainage scheme shall be retained at all times thereafter.

Reason: To ensure the adequate drainage of the site and to reduce the risk of flooding, in accordance with Policies CC4 and CC5 of the Burnley's Local Plan (July 2018). The scheme is required prior to the commencement of development to ensure that acceptable works can be agreed before works start and can then be implemented at an appropriate stage in the development.

30. The approved development shall not be first occupied until a Verification Report and Operation and Maintenance Plan for the approved surface water drainage system for the lifetime of the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be completed, retained, maintained and managed at all times in accordance with the approved plan.

Reason: To ensure adequate and appropriate funding, responsibility and maintenance mechanisms are in place for the lifetime of the development, in order to ensure the appropriate drainage of the site and to reduce the risk of flooding, in accordance with Policies CC4 and CC5 of the Burnley's Local Plan (July 2018).

31. Prior to the commencement of any development, details of how surface water and pollution prevention will be managed during the construction process shall be submitted to and approved in writing by the Local Planning Authority. The agreed measures shall be implemented at all times during the construction of the development until its completion.

Reason: To manage any risks from pollution and flooding arising from construction activities on site, in accordance with Policies NE5 and CC4 of Burnley`s Local Plan (July 2018). The details are required to be submitted prior to the commencement of development in order that they can be in place prior to any work taking place that could lead to pollution or flooding from the site.

32. 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.

33. 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 A of Part 1 of Schedule 2 of that Order shall be carried out at plot 85 and no development as specified in Class B of Part 1 of Schedule 2 of that Order shall be carried out at plots 72-84 inclusive 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 future changes relating to the enlargement of plot 85 on the privacy and outlook of existing adjacent properties and to assess any enlargement to the roofs of plots 72-84 on residential amenities of other neighbouring properties, in accordance with Policies SP5 and HS4 of Burnley`s Local Plan (July 2018).

34. 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 in respect of the approved house types T50 and T52 (a total of 19 dwellings) as indicated on the approved plans. None of these dwellings 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 each 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).

35. The development shall be constructed to achieve a 20% betterment on energy efficiency standards (compared to current Building Regulation requirements) as set out in the submitted Carbon Reduction Report, Detailed proposals for energy efficiency measures shall be submitted to and approved in writing by the Local Planning Authority prior to any development being commenced above

ground level. The development shall thereafter be constructed in accordance with all the approved measures and a verification report shall be prepared by a suitably qualified person and submitted to the Local Planning Authority to verify compliance with the Strategy prior to any dwelling being first occupied.

Reason: To ensure that the scheme provides high quality energy efficient dwellings, in accordance with Policy SP5 of Burnley`s Local Plan (July 2018). The Strategy is required prior to the commencement of development to ensure that the measures that are necessary to achieve energy efficiencies can be designed into the construction of the development at the earliest stages.

36. Prior to the commencement of built development above ground level, details of the management, responsibilities and maintenance schedules for all areas of open space within the site excluding private gardens, to cover the lifetime of the development, shall be submitted to and approved in writing by the Local Planning Authority. Any subsequent changes to the management details shall be submitted to the Local Planning Authority prior to the change taking place.

Reason: To ensure that these areas are appropriately managed and maintained, in the interests of the amenities of the site, in accordance with Policy HS4 of Burnley`s Local Plan (July 2018). The details are required prior to the commencement of the built development above ground level in order that proper arrangements can be secured at the earliest opportunity for the maintenance of the open space which is for the lifetime of the development.

37. Play areas shall be constructed and completed in accordance with timescales and details of the location, design, layout and specification of play equipment to include its surfacing, seating, bins and boundary treatment which shall be previously submitted to and approved in writing by the Local Planning Authority. The approved play areas shall thereafter be available for use in accordance with the approved timescales.

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

38. All mitigation measures identified in the Noise Impact Assessment (E3P report Reference: 50-154-R1-2) shall be implemented in full prior to first occupation of the associated dwellings.

Reason: To protect the amenities of future residents, in accordance with Policy SP5 of Burnley`s Local Plan (July 2018).

39. No development shall be commenced until a Dust Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Dust Management Plan shall identify all areas of the site and site operations where dust may be generated and further identify control methods to ensure that dust does not travel beyond the site boundary. The identified measures shall be implemented and maintained at all times. Should any equipment used to control dust fail, all handling of materials shall cease immediately until the dust control equipment has been repaired or replaced.

Reason: To minimise the risk of pollution to occupiers of nearby buildings, in accordance with Policy NE5 of Burnley`s Local Plan(July 2018).

Janet Filbin
30th March 2022

This page is intentionally left blank

Housing & Development
Town Hall, Manchester Road

Ref.

FUL/2021/0755

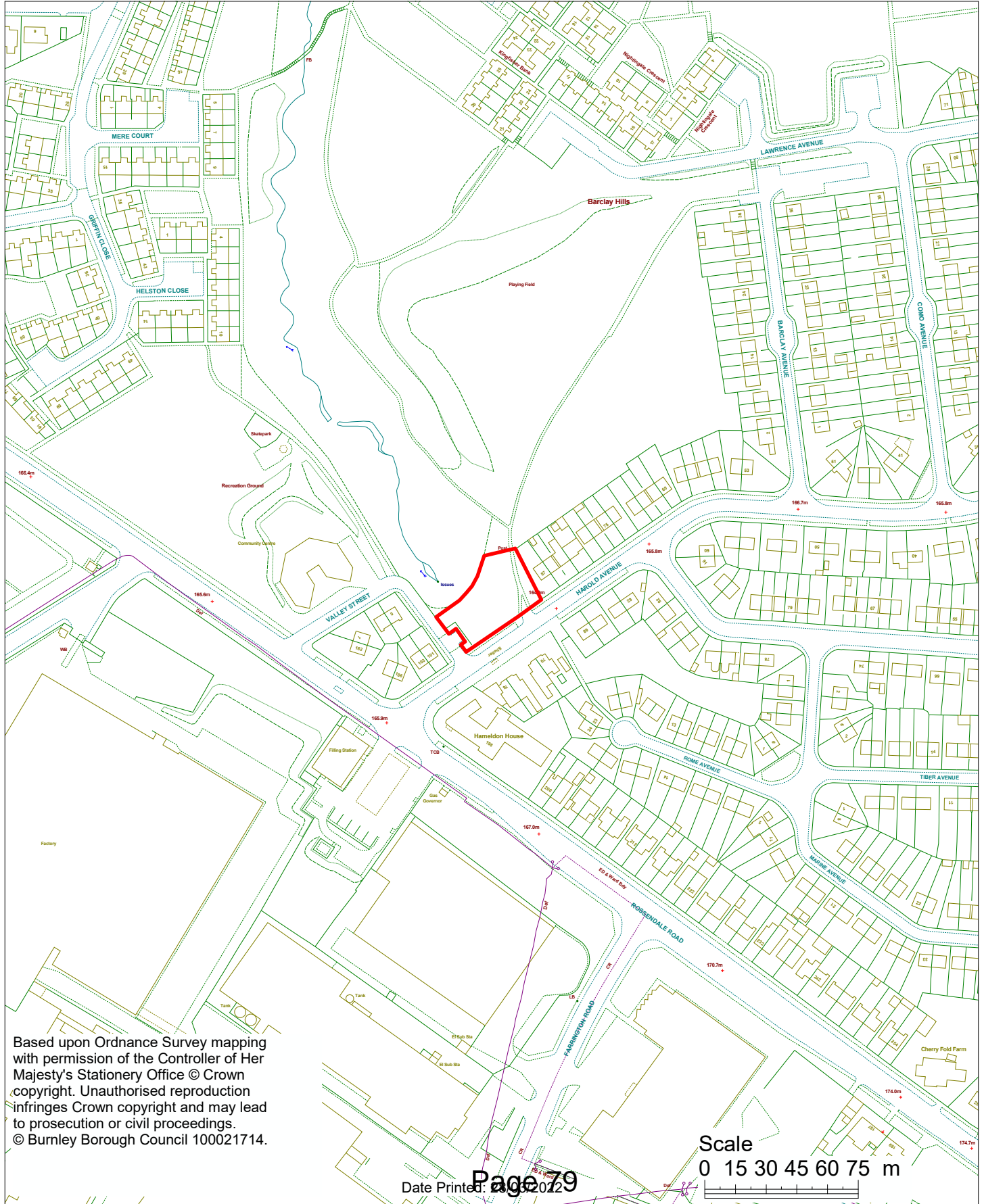
Paul Gattrell Head of Housing and Development

Location:



Land On Corner Of Harold Avenue and Valley Street, Burnley

1:2500



Based upon Ordnance Survey mapping with permission of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
© Burnley Borough Council 100021714.

Scale
0 15 30 45 60 75 m

This page is intentionally left blank

**Application Recommended for Approve with
Conditions
Rosegrove With Lowerhouse**

FUL/2021/0755

Town and Country Planning Act 1990

Change of use from amenity grass to a formal children's play area. The proposal affects and involves the diversion of Public Footpath No. 81

Land On Corner Of Harold Avenue And Valley Street Harold Avenue Burnley Lancashire

The application has been brought to Planning Committee as the applicant is the Council.

Background

The site is located within the defined development boundary as designated in Burnley's adopted Local Plan in which policy SP4 applies.

The land is currently designated open space as the extract below shows, forming part of the wider Barclay Hills and Griffin Clough open space. The site sits between residential properties, number 101 Harold Avenue being the closest to the west and number 87 Harold Avenue to the east. The area is approximately 1,050 sqm and is relatively flat in nature with a rise in levels to the north.

The Council's Parks Department state that the area is an under-used amenity green space. As a result of the Play Strategy (2017 – 2027), it was recommended that the play area further along Harold Avenue, that had problems with drainage and flooding, be closed down and railings and any equipment that could be salvaged be refurbished to be re-located on an alternative site nearby. The amenity green space, near the Valley Street Community Centre, was chosen as the preferred alternative location for the new play area and the project was included in the Play Area Improvement Programme for 2021/22.



Plan extract: showing the space as allocated open space



Photo 1: source www.google.com taken September 2021



Photo 2: Public Right of Way No 82



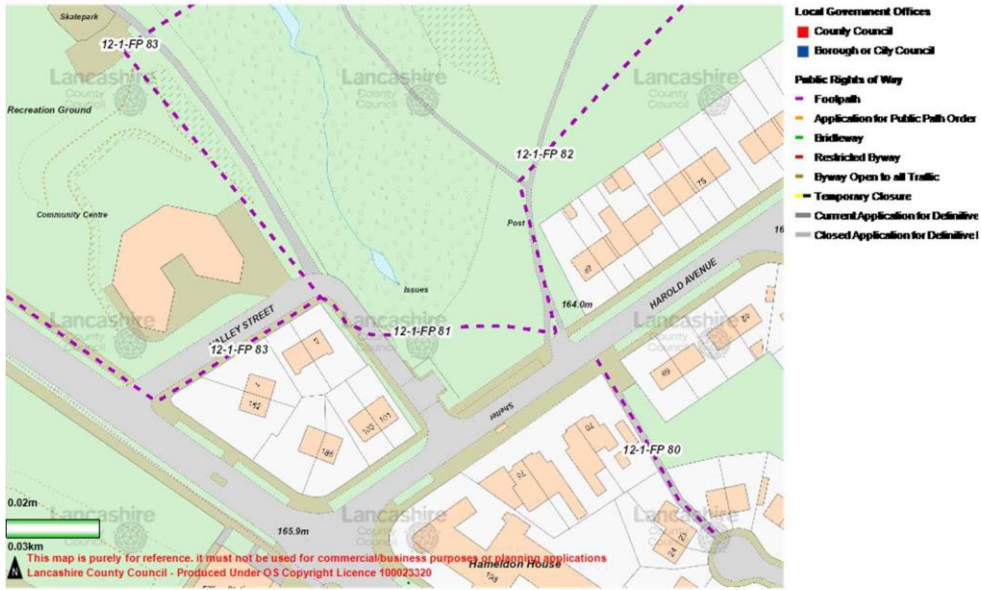
Photo 3: view from Valley Street

Public Right Of Way

There are 2 public rights of way which are relevant to the site. Footpath No. 81 cuts diagonally through the site east to west meeting up with Footpath No. 82 which goes along a section of Valley Street and beyond across the open space to the west. Footpath No. 81 will need to be formally diverted.

Footpath No. 82 runs close to the boundary with No. 87 Harold Avenue and takes users over Barclays Hills to the north. It is not considered that this footpath will be affected as part of the proposals.

Footpath No. 81 will need to be formally diverted and initial discussions have been made with LCC PROW. An alternative route has been suggested which will come along Valley Street onto Harold Avenue.



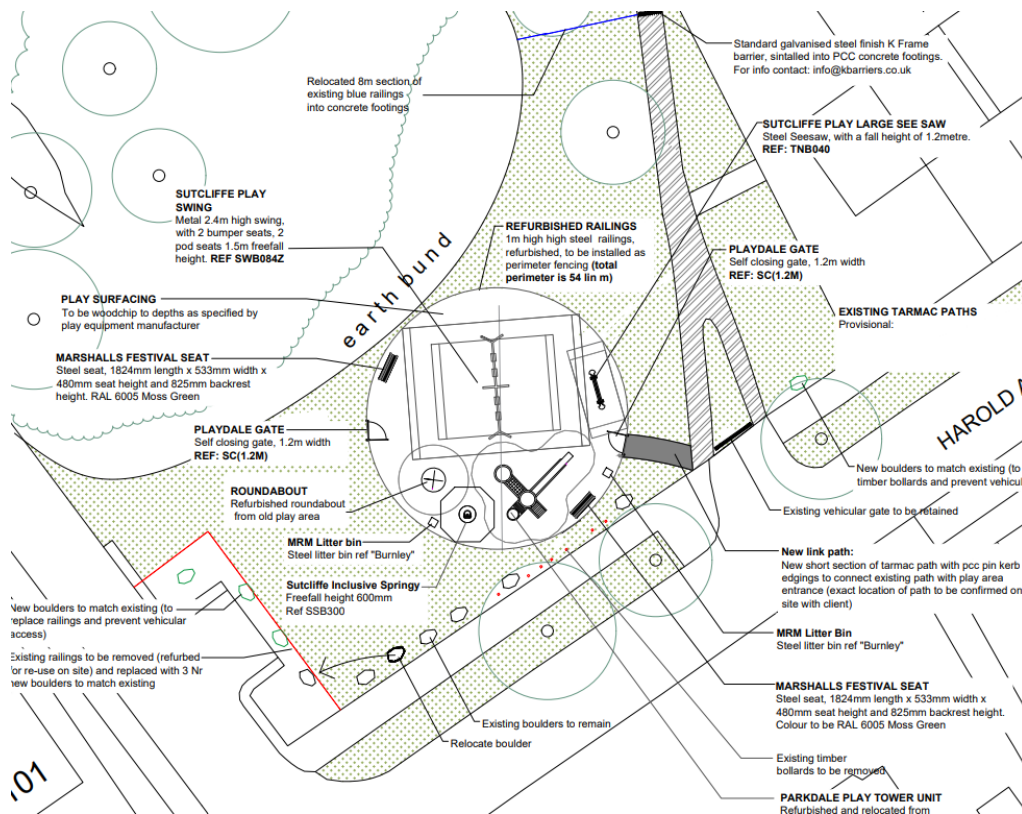
The alternative route



Proposal

The application is for a change of use of the existing amenity space to create a formal equipped children's play area. The space will have an enclosed circular metal fencing with a main 1.2m gate to access. There will be various play equipment including 2 benches and 2 little bins. The area around the site will be grassed and existing boulders will be retained, and some relocated to the edge of the site with Valley Road.

A number of new trees (approximately 7) will be planted on the slightly raised area (earth bund) above where the play area will be located providing an attractive outlook from the flat grassed area below.



Extract Plan: proposed layout of the play area

Relevant Policies

Burnley Local Plan

- SP1 – Achieving Sustainable Development
- SP4 – Development Strategy
- SP5 – Development Quality and Sustainability
- NE2 – Protected Open Space

National Planning Policy Framework 2021

Site History: N/A

Consultation Responses:

LCC Highways – no objections in principle, note contact to be made with PROW.

1. The grant of planning permission does not entitle a developer to obstruct a right of way and any proposed stopping-up or diversion of a right of way should be the subject of an Order under the appropriate Act. The applicant should be advised to contact Lancashire County Council's Public Rights of Way section by email on PROW@lancashire.gov.uk, quoting the location, district and planning application number, to discuss their proposal before any development works begin.

Burnley and Pendle Ramblers

Footpath 81 needs formally diverting and suggest that this is done by continuing it along Valley Street and round to meet with Footpath No.82

The blue metal fencing along Valley Street is currently blocking the PROW.

Publicity

No public comments received

Planning and Environmental Considerations:

Main issues

The main issues in the consideration of this application are;

- The principle of development
- design and appearance
- the impact of the development on residential amenity
- Public Right of Way

The principle of development

Policy NE2 of the adopted Local Plan states that;

1) development will not be permitted within the Protected Open Spaces shown on the policies map except here the proposals are for appropriate recreational, community and nature conservation uses and where any building and structures would not undermine the fundamental purpose and nature of the open space.

2) POS should be maintained and enhanced for the recreational, amenity, biodiversity or other benefits they provide and as an important component of Burnley's green infrastructure network.

The proposal is for a children's equipped play space which is considered to be 'appropriate recreational' use, as such the change of use of land is considered to be acceptable in principle.

Design and Appearance

Paragraph 126 of the NPPF states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

The existing space is open, aside from some boulders around the edge, is free from any permanent structures. There are 2 mature street trees to the frontage with Harold Avenue which will not be affected as part of the proposal and there are a series of further street trees along Harold Avenue which contribute to the overall character of the area.

It is considered that the creation of the park will be a positive contribution to the area and will help support the aims of the national (NPPF para 98) and local planning policy on the promotion of health and wellbeing and access to high quality open space.

Residential Amenity

Policy SP5 of the adopted Local Plan seeks to ensure that there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, including by reason of overlooking.

The site is located on a residential street with the nearest property being No. 87 Harold Ave, approximately 14m from the site and 101 Harold Avenue which is 22m to the west. As this is an existing open space where children could play then the use is not considered to have a detrimental impact on neighbour amenity. There may be an increase in noise and general activity, but it is a relatively small area and the relationship with the surrounding properties will create some natural surveillance for the park.

Public Right of Way

As stated above, a formal footpath diversion will be necessary for footpath No. 81 which cuts through the site. Early discussions with LCC PROW team are positive and that an alternative route along a section of Valley Street would appear to be appropriate and in terms of the assessment of the planning application, it is not considered that the diversion will have any detrimental impact. It is considered that the alternative route would be an improvement and will link better with footpath 83 to the west.

A formal footpath diversion will need to be made under Section 257 of the Town and Country Planning Act 1990.

Recommendation

The creation of the equipped play area is to be sited on an area of existing under utilised open space. Whilst the proposals will involve the formal diversion of a PROW, an alternative route has been presented which will link into an existing PROW. The proposal complies with policy NE2 of Burnley's adopted Local Plan and the relevant sections of the NPPF (para 98-99)

Approve subject to the following conditions:

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: Required to be imposed pursuant to 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 shall be carried out in accordance with the approved plans listed on this notice below.

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

This page is intentionally left blank

BURNLEY BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE

REPORTS ON
PLANNING APPLICATIONS



Photograph McCoy Wynne

Part II: Decisions taken under the scheme of delegation.
For Information

7th April 2022

Housing and Development

This page is intentionally left blank

List of Delegated Decisions

Application Number	Applicant	Location	Proposal	Decision	Decision Date
APP/2017/0317	Mr Kiely	Holme Hall Burnley Road Burnley Lancashire BB11 4SU	Retrospective application for Consent for "as built" works (excluding works for construction of a dormer roof apartment 3).	Final Disposal	10th March 2022
FUL/2020/0153		Former Woodtop Primary School Accrington Road Burnley BB11 5AL	Change of Use from a School (Class D1) to a Community Centre (Class D1 / D2) and the Erection of 24 no. Affordable Apartments (Class C3), with associated Infrastructure and Landscaping.	Approve with Conditions	24th February 2022
LBG/2020/0187		Wood Top C Of E School Cambridge Street Burnley Lancashire BB11 5BE	Restoration and refurbishment of the existing listed building with minor demolition at the rear (north); construction of glazed link extension; and internal alterations in connection with a proposed change of use to a community centre (Use Class D1/D2)	Approve with Conditions	24th February 2022
FUL/2020/0521	Mr Gardiner	Holme Hall Burnley Road Cliviger Lancashire BB11 4SY	Retrospective planning and listed building consent for the conversion to form 10 apartments and associated works, including proposed works to the dormer roof.	Approve with Conditions	1st March 2022

Application Number	Applicant	Location	Proposal	Decision	Decision Date
LBC/2020/0522	Mr Gardiner	Holme Hall Burnley Road Cliviger Lancashire BB11 4SY	Retrospective planning and listed building consent for the conversion to form 10 apartments and associated works, including proposed works to the dormer roof.	Approve with Conditions	1st March 2022
VAR/2021/0140	Chris Astley	Land West Of Kiddrow Lane , BURNLEY,	Variation of Condition 2 (Approved Plans) to amend house types and layout of Plots 188-190 and 202 pursuant to planning permission APP/2018/0003 (Material Minor Amendment)	Approve with Conditions	4th March 2022
FUL/2021/0304	Mr Gerard Vinton	Burnley Mechanics Manchester Road Burnley Lancashire BB11 1BH	Construction of bin compound to car park area rear of Mechanics Centre	Approve with Conditions	11th February 2022
HOU/2021/0508	Mr Gary McFadden	9 Arbory Drive Padiham Lancashire BB12 8JS	Single storey extension to rear and the demolition of the two gate-piers at the front of the dwelling in order to widen the entrance to the driveway.	Approve with Conditions	22nd March 2022
FUL/2021/0426	Mr R and H Ali and Zaman	Former Springfield Community Primary School Todmorden Road Burnley BB10 4EA	Use of vacant site for car sales and associated boundary fence, car sales office, car valeting building, form new access from Todmorden Road and associated works	Approve with Conditions	10th March 2022
FUL/2021/0611	Newground CIC	Natural History Centre Towneley Park Burnley BB11 3RQ	Refurbishment of existing education resource centre including new glazed wall and new roof to part of existing building	Approve with Conditions	4th March 2022

Application Number	Applicant	Location	Proposal	Decision	Decision Date
HOU/2021/0620	Mr Farhad Ahmed	20 Basnett Street Burnley Lancashire BB10 3ET	Proposed 2 storey side and single storey rear extensions and driveway	Approve with Conditions	10th February 2022
COU/2021/0529	Imran Ali	157A Accrington Road Burnley Lancashire BB11 5AL	Change of use of premises to ground floor taxi booking office (only) and change of use of first and second floor residential accommodation to maisonnette with new external stair access	Approve with Conditions	14th March 2022
HOU/2021/0631	Mr Andy Green	75 Ightenhill Park Lane Burnley Lancashire BB12 0LL	Single storey extension to side incorporating existing detached garage	Approve with Conditions	29th March 2022
FUL/2021/0511	Mr and Mrs Saggars	High Ridehalgh Farm Ridehalgh Lane Briercliffe Lancashire BB10 3RA	Proposed partial demolition of existing dwelling house and rebuild including 2 storey extensions to the south and eastern elevations and associated landscaping works	Approve with Conditions	3rd March 2022
ADV/2021/0670	Chicken Cabins Limited	20 Trafalgar Street Burnley Lancashire BB11 1TQ	14 illuminated and non illuminated signs	Approve with Conditions	2nd February 2022

Application Number	Applicant	Location	Proposal	Decision	Decision Date
COU/2021/0421	Mrs Susan Wiaczek	Roggerham Gate Inn Todmorden Road Briercliffe Lancashire BB10 3PQ	Change of use from licensed premises/public house to private dwelling, both existing upstairs accommoation and conversion of pub area	Approve with Conditions	11th February 2022
VAR/2021/0709	C Winstanley	Life Church Sycamore Avenue Burnley Lancashire BB12 6QP	Variation of Condition 2 of APP/2018/0020 (House types)	Approve with Conditions	4th March 2022
PASP/2021/0726		Burnley College Princess Way Burnley Lancashire BB12 0AN	Installation of solar PV arrays to pitched and flat roof areas of existing college building	Prior Approval not required accept	11th February 2022
HOU/2021/0707	Faisal Iqbal	29 Bentham Avenue Burnley Lancashire BB10 1XZ	Conversion of garage to living room and new flat roof link to attached garage to bungalow.	Approve with Conditions	2nd February 2022
VAR/2021/0730	Mr Darren Mercer	18 Easedale Close Burnley Ightenhill Lancashire BB12 8TR	Variation of Condition 2 of HOU/2021/0206 (Materials)	Approve with Conditions	2nd February 2022

Application Number	Applicant	Location	Proposal	Decision	Decision Date
FUL/2021/0734	Mr & Mrs Frankland	Land To The South Of Granville Street, Burnley	Change of Use from Agricultural Land to a Dog Walking Meadow including 1.8m perimeter fencing, car parking area, dog play equipment and shelter.	Refuse	1st February 2022
FUL/2021/0745	Mr Steve Starkie	Springwood Nurseries And Garden Centtre Springwood Road Burnley BB10 4HR Lancashire	Multi-span polytunnel canopy.	Approve with Conditions	22nd February 2022
HOU/2021/0741	Mr Jason Teal	79 Ightenhill Park Lane Burnley Lancashire BB12 0LL	Single storey extension to rear. Balcony to existing rear dormer.	Approve with Conditions	21st February 2022
HOU/2021/0747	Mr D George	33 Wilkie Avenue Burnley Habergham Eaves Lancashire BB11 3QE	Ground floor pitched roof rear extension and first floor side extension.	Approve with Conditions	28th February 2022
HOU/2021/0768	Mrs Nicole Ashall	4 South Drive Padiham Lancashire BB12 8SH	Proposed 2 storey extension, porch and alterations to front area to form additional parking spaces.(Resubmission of HOU/2021/0519)	Approve with Conditions	17th February 2022

Application Number	Applicant	Location	Proposal	Decision	Decision Date
TIC/2021/0757	Jess Horton	Straight Mile Court Burnley Lancashire BB11 3DU	Works to 6 trees within the Canalside Conservation Area	No Objection	2nd February 2022
HOU/2021/0740	Mrs Amy Eaton	Saxifield House Briercliffe Road Burnley Lancashire BB10 2DH	Raising of roof height and construction of new dormer to rear	Refuse	21st February 2022
HOU/2021/0761	Mr Jordan Shrieve	17 Red Lees Avenue Cliviger Lancashire BB10 4JE	Single storey side & rear extension	Approve with Conditions	28th February 2022
HOU/2021/0704	Mr Matthew Horsfall	2 Manor Road Burnley Lancashire BB12 8AN	Two storeyside extension, single storey rear extension, conversion of garage and front porch	Approve with Conditions	28th February 2022
PNRD/2021/0773	Mr & Ms Ali & Neild	Higher Fenny Fold Farm St Johns Road Padiham Lancashire BB12 7LP	Application to determine if Prior Approval is required for the upgrading of existing track including new access into the front yard	Prior Approval Granted	10th February 2022

Application Number	Applicant	Location	Proposal	Decision	Decision Date
FUL/2021/0776	Mrs Khan	21 Briercliffe Road Burnley Lancashire BB10 1XH	Conversion of 1st floor to self contained flat with access via rear yard (retrospective application - Section 73a)	Approve with Conditions	2nd March 2022
HOU/2022/0003	Mr C Fuller	4 Maple Bank Burnley Lancashire BB10 3FD	Proposed demolition of rear conservatory and erection of single storey rear extension, proposed first floor side extension over garage / utility room, conversion of garage into study & store, proposed extension of front porch	Approve with Conditions	9th March 2022
FUL/2021/0759	KHALEEL ADAM	16 Trafalgar Street Unit 2 Burnley Lancashire BB11 1TQ	Change of use from hot food takeaway to hot food takeaway with eat in facility.	Approve with Conditions	10th March 2022
HOU/2021/0769	Mr Steven Harrison	12 Chiltern Avenue Burnley Lancashire BB10 4NE	Proposed single storey, rear extension.	Approve with Conditions	2nd March 2022
FUL/2022/0013	School Governors	Holy Trinity Church Of England Primary School Raglan Road Burnley Lancashire BB11 4LB	Erection of 5m Hexagonal gazebo for teaching purposes.	Approve with Conditions	21st March 2022

Application Number	Applicant	Location	Proposal	Decision	Decision Date
ADV/2022/0015	Mrs Louise Roberts	Bus Shelter Westway Junction St Burnley Nr Burnley Barracks Station BB12 0LX	Replace existing double-sided internally illuminated 6-sheet Bus Shelter advertising displays with double-sided digital advertising displays.	Approve with Conditions	17th March 2022
HOU/2021/0640	Michelle Sowden	6 Ladbrooke Grove Burnley Lancashire BB11 2QF	Retrospective application for a single-storey extension to rear of property.	Approve with Conditions	18th March 2022
PAH/2022/0025	Mr James Hargreaves	513 Brunshaw Road Burnley Lancashire BB10 3JB	Single storey utility room with render/dash to walls & dark grey tiled roof, extending 4.0 metres beyond rear wall, 3.7 metres to ridge and 2.5 metres to eaves.	Prior Approval not required accept	28th February 2022
ADV/2021/0767		Pets At Home Unit 2 Anchor Retail Park Active Way Burnley Lancashire BB11 1BS	10 No. replacement & new illuminated & non illuminated signs	Approve with Conditions	8th March 2022
NMA/2021/0760	Curtis McGrail	Land Former Wm Blythe Chemicals Manchester Road Hapton Lancashire BB12 7LF	Minor amendments to plots 60-61 (handing of approved plan -Condition 2) and to alter external facing materials from brick to reconstituted stone at plots 73-107 and 115-127 (Condition 5) of planning permission APP/2016/0021 (Non-material Minor Amendment)	Non-Material Minor Amendment Granted	16th March 2022

Application Number	Applicant	Location	Proposal	Decision	Decision Date
CEA/2022/0027	Mr S Choudrey	66 -68 Briercliffe Road Burnley Lancashire BB10 1UX	Change of use from retail shop to dessert bar (Class E)	Permitted Development	9th March 2022
CND/2022/0031	Ms L Cottam	12 Hargreaves Street Burnley Lancashire BB11 1DZ	Discharge of Condition 4 (Joinery Details) on planning permission FUL/2021/0136	Conditions discharged	9th March 2022
PAH/2022/0037	Mr Andy Geohan	7 Glendor Road Worsthorne-with-hurstwood Lancashire BB10 4HL	To extend 5.00m externally beyond the rear wall, height of the extension to eaves 2.45m and maximum overall height 3.75m	Prior Approval not required accept	18th March 2022

This page is intentionally left blank



Planning Support
Burnley Borough Council
Housing & Development Control
19 Parker Lane
Burnley
BB11 2BY

Your Ref: FUL/2021/0264

Our Ref: APP/Z2315/W/21/3286494

07 March 2022

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by McDermott Developments Ltd and Lancashire County Council
Site Address: The Isaac Centre Harrogate Crescent, BURNLEY, BB10 2NX

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

If you wish to learn more about how an appeal decision or related cost decision may be challenged, or to give feedback or raise complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access you may write to the Customer Quality Unit at the address above. Alternatively, if you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

The Planning Inspectorate is not the administering body for High Court challenges and cannot change or revoke the outcome of an appeal decision. If you feel there are grounds for challenging the decision you may consider obtaining legal advice as only the High Court can quash the decision. If you would like more information on the strictly enforced deadlines and grounds for challenge, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Guidance on Awards of costs, including how the amount of costs can be settled, can be located following the Planning Practice Guidance.

<http://planningguidance.communities.gov.uk/blog/guidance/appeals/how-to-make-an-application-for-an-award-of-costs/>

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our

service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Tina Gozra

Tina Gozra

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>



Appeal Decision

Site visit made on 22 February 2022

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 March 2022

Appeal Ref: APP/Z2315/W/21/3286494

Land off Harrogate Crescent, former Isaac Centre BB10 2NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by McDermott Developments Ltd and Lancashire County Council against the decision of Burnley Borough Council.
 - The application Ref FUL/2021/0264, dated 5 May 2021, was refused by notice dated 13 September 2021.
 - The development proposed is the erection of forty four two storey three and four bed houses.
-

Decision

1. The appeal is allowed and planning permission is granted to demolish former school buildings and erect 44 houses with new access at land off Harrogate Crescent, former Isaac Centre BB10 2NX in accordance with the terms of the application, Ref FUL/2021/0264, dated 5 May 2021, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by McDermott Developments Ltd and Lancashire County Council against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. The description of development used in the banner heading is taken from the application form. The description used by the Council on its decision notice and on the appeal form is 'demolish former school buildings and erect 44 houses with new access'. This more accurately describes the proposed development, and it is the description that I have used in my decision.

Main Issue

4. The main issue is the effects of the proposed development on local community infrastructure, in particular education and healthcare facilities.

Reasons

5. The appeal site is a former school complex which closed in 2012. The former school buildings are located in the northern part of the site. The remainder of the site comprises a car parking area, a hard surfaced area and grassed grounds with occasional trees within the site and on its boundaries. The proposed development would comprise the demolition of the buildings and

structures and the erection of 44 houses with associated car parking and landscaping, with access taken from Harrogate Crescent.

Education Facilities

6. The Council has confirmed that its concern relates to the impact of the proposed development on primary school places. This is also a concern that has been expressed in objections to the planning application and by a number of the interested parties.
7. Lancashire County Council (LCC) is the local education authority for the area. The LCC Education Contribution Methodology Infrastructure and Planning Annex 2, September 2020 (the Education Contribution Methodology) sets out the approach that LCC uses for assessing the potential impact of proposed housing developments on education provision within the local area of the development. The Education Contribution Methodology confirms that the assessment will measure the projected impact of a development on surrounding primary schools within a two mile radius. The assessment is based on five year pupil projections, which incorporates a number of factors including ONS birth data, inward and outward migration of pupils and data from local planning authorities' Housing Land Supply, Annual Monitoring Reports and Strategic Housing Land Availability Assessments.
8. The site is not allocated in Burnley's Local Plan adopted 2018 (the Local Plan). It is larger than the allowance for brownfield windfalls in Policy SP2 of the Local Plan, which references sites of under 0.4ha. Although the education infrastructure needed to support the proposed development may not have been specifically considered as part of the Local Plan process, the Education Contribution Methodology provides a mechanism for assessing the demand for and supply of school places which is not solely dependent on the Local Plan context.
9. Using the figures on pupil yield in the Education Contribution Methodology, the main parties identify that the proposed development would generate a need for 13 primary school places. Extracts from the primary school table and the calculator that LCC used in its assessment of the proposed development¹ show that there are 23 primary schools within two miles of the site. At January 2026, there are expected to be 350 surplus places available, which reduces to 311 surplus places when the yields from committed development, planning applications in the area and the proposed development are taken into account.
10. Based on these figures, there would be sufficient capacity in primary schools within a two mile radius of the site to accommodate the demand generated by the proposed development. This would include Briercliffe Primary School which has been recently expanded. Whilst this expansion would not have taken account of the proposed development, this would not, however, prevent children from the proposed development attending that school.
11. The Council considers that, as the distances provided by LCC in the primary school table are based on 'as the crow flies', actual walking distances might be greater, and in some cases may be too far to walk, thus generating car trips. Furthermore, reasonable walking distances for primary school children relate to distances of around half a mile. The Council therefore has concerns that the

¹ Statement of Case on behalf of the Appellants, appendix 3

- proposed development would result in existing residents and future occupiers of the proposal being faced with less choice and a distance to travel that would make walking to school impractical.
12. The Education Contribution Methodology sets out that the two mile radius for primary schools is based on Department for Education guidance and is considered to be a reasonable walking distance for pupils. The Draft Burnley Infrastructure Delivery Plan July 2017 Version 2 (the Draft IDP) reiterates that LCC works on the basis that pupils are able to access primary school places within two miles.
 13. The Council identifies a Department of Education and Employment publication dating from 2000 relating to school travel plans in support of its contention that half a mile is a more reasonable walking distance for primary school children. However, no information is provided on the guide, including its status or the context for the half mile distance. There is no substantive evidence before me that would justify a departure from the approach in the Education Contribution Methodology.
 14. LCC's School Places Provision Strategy 2022 - 2025 (the Strategy) sets out that the aim is to commission sufficient high-quality accessible places to maximise the number of place preferences secured. It highlights that Lancashire was able to achieve a slightly higher than the national average of first preference choice in September 2021. The Strategy also notes that meeting parental preference comes at a significant cost therefore, where pupils are able to access a reasonable alternative, it may not always be seen necessary to provide additional places in a more popular school.
 15. Based on the figures provided by LCC in the primary school table, St James' Lanehead C of E Primary School, which is the nearest primary school to the site, is forecast to be at capacity in 2026. Whilst the additional demand for places generated by the proposed development may not therefore be accommodated within the nearest school, the Education Contribution Methodology and the Strategy acknowledge that this is not a requirement of the approach for assessing the demand for and supply of school places.
 16. The submitted information shows that there is a high take up of primary school places within Burnley Borough² and an understandable concern of residents is the effect that further housing developments would have on the ability to access local primary school places. Nevertheless, LCC has a methodology to identify and secure education contributions against housing developments which are expected to create a shortfall of school places within a reasonable walking distance of that development. The Education Contribution Methodology confirms that an education contribution will only be sought where there is a projected shortfall of places at schools within the local area of a development. No such contribution was required for the proposal.
 17. Consequently, I am satisfied that there would be sufficient education facilities to support the proposed development, and that the additional demand generated would not be to the detriment of existing local residents.

² Draft Burnley Infrastructure Delivery Plan July 2017 Version 2, paragraph 3.7

Healthcare Facilities

18. The Council's concern regarding health provision relates to primary health care services which includes general practitioner (GP) services and dentists. I also note the concerns that local residents have about pressure on local GP and dentist surgeries in the area, which is apparent in a number of objections to the proposed development.
19. The East Lancashire Clinical Commissioning Group (CCG) is responsible for commissioning most community health services in the Burnley area. The Draft IDP states that the CCG estimates that the growth proposed in the Local Plan may require an additional requirement of four whole time equivalent GPs, with associated nursing and administrative staff over the plan period. It is anticipated that these additional requirements would be needed in the later part of the plan period.
20. The proposed development has not been progressed through the Local Plan process, and therefore may not have been taken account of in the additional capacity requirements identified in the Draft IDP. However, there would be scope for the CCG to advise on additional healthcare requirements arising from new proposals outside of the Local Plan process. I also note the evidence provided on the Briercliffe GP Surgery, including that it is open for new patient registrations.
21. Whilst noting the concerns about pressures on primary healthcare providers, there is no substantive evidence before me to suggest that there is a shortage of capacity such that they would be unable to respond to the additional demand generated by the proposed development, or that the additional demand would reduce the services for existing residents.

Conclusion

22. Although the proposed development represents a reasonably large windfall site which may not have been considered as part of the Local Plan process, there is no evidence to suggest that there would be insufficient education or healthcare facilities to support the demands generated by it. Consequently, the proposed development would accord with Policy SP1 of the Local Plan, which seeks to achieve sustainable development.

Other Matters

23. The proposed dwellings would be two storey. A number would back onto the bungalows on Minehead Avenue. The separation distances proposed between the existing dwellings surrounding the site, including the bungalows, and the proposed dwellings would comply with the distances set out in the Local Plan. These separation distances are aimed at ensuring appropriate levels of privacy and outlook are provided. The privacy and outlook for existing residents would therefore be safeguarded, even taking account of the difference in ground levels between a number of the proposed dwellings and existing properties.
24. The appellants' Transport Statement concludes that the additional traffic generated by the proposed development would not significantly affect traffic rates on the local roads. I note that the Highway Authority does not object to the proposed development subject to a number of conditions. Accordingly, I am satisfied that there would not be an unacceptable impact on the road network, even taking account of other development in the area, subject to appropriate

- conditions. No substantive evidence has been submitted to demonstrate that the additional traffic would give rise to unacceptable levels of pollution.
25. Several of the trees and tree groups within the site would need to be removed to accommodate the proposed development. However, this could be adequately compensated for through a landscaping scheme for the site which would make provision for new tree planting including native species. This could be secured through a condition.
 26. The appellants' Preliminary Ecological Appraisal indicates that the site is largely low value grassland and overall, the habitats are of 'site' ecological value. Biodiversity enhancement measures could be secured through a condition. The appellants' bat survey recommends mitigation measures, which could be secured through conditions, and subject to these measures, the proposed development would not affect the favourable conservation status of the species in the local area.
 27. The site, although not publicly accessible, would change in character from open green space associated with the former school grounds to one of a residential development. Given the size of the proposal, the Local Plan requires an open space provision. The Local Plan allows for a commuted sum to be used to improve open space nearby, which is what is proposed here.
 28. I note the housing targets set out in the Local Plan and that the site is not an allocated Local Plan site. However, significantly boosting the supply of housing is an objective of the government. Furthermore, the housing requirement in the Local Plan is identified as a minimum figure rather than a maximum.
 29. Other potential uses for the site have been suggested. However, I am not aware of any such proposals, and they are therefore no more than a theoretical possibility. I have assessed the proposed development on its own merits.
 30. I note that these issues did not form part of the Council's case at appeal. Therefore, whilst I acknowledge those points, they are nevertheless insufficient to outweigh or alter my reasoning regarding the overall acceptability of the scheme.
 31. I have received a copy of a unilateral undertaking (UU) under Section 106 of the Town and Country Planning Act 1990. This was completed following the Council's decision on the application. The Council has not disputed its content. It includes a number of obligations to come into effect if planning permission is granted. I have considered these in the light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL Regulations), which are restated in paragraph 57 of the National Planning Policy Framework (the Framework).
 32. Local Plan Policy HS2 requires affordable housing on sites of over 10 units and that this should normally be provided onsite. Taking account of the Vacant Building Credit, the UU provides for three such units onsite. In these circumstances this obligation would be fairly and reasonably related to the development proposed and it would pass the statutory tests.
 33. Local Plan Policy HS4 requires new housing developments to provide or contribute to public open space provision. Where this cannot be provided on site a payment may be made for the benefit of a nearby public open space. The Developer Contributions Supplementary Planning Document, 2020, sets out the

open space requirements, which, for offsite provision is based on bedroom numbers. The submitted information sets out that a contribution of £55,300 would be required. The UU includes a contribution of this amount for improving specified open space in the vicinity of the site. Given the size of the proposed development, the number of units involved and the lack of space onsite for this type of amenity, this obligation would pass the statutory tests.

34. The East Lancashire Hospitals NHS Trust (the Trust) has requested a contribution of £75,086 towards capital and revenue funding within the Trust area. The Trust seeks funding for the first year of occupancy of all the proposed dwellings based on an average household occupancy (2.3 persons per household) at a calculated contribution rate of £1,707 per dwelling. However, it is unrealistic to assume that all future occupiers of the proposed development would be new to the Trust's area, given its geographical coverage and the fact that some future occupiers may result from changes to existing household compositions. In addition, a number of future occupiers may choose alternative providers. Without any evidence to support the assumption that the proposed development would lead to an increase in population in the Trust area from all the proposed dwellings, there is no reliable reasoning or evidence to conclude that it would have an impact on the health care services provided by the Trust. This contribution would therefore fail the CIL Regulations tests.
35. The terms relating to affordable housing and open space are fairly and reasonably related in scale and kind to the proposed development. The obligation requested by the Trust is not substantiated in evidence to demonstrate compliance with the CIL Regulations. The appellants are not therefore required to make this contribution.

Conditions

36. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework, and have amended the wording of certain conditions in that light (without altering their fundamental aims).
37. As well as the standard time condition, and for certainty, one is required to ensure that the development is carried out in accordance with the approved plans.
38. A number of conditions are required prior to commencement of development to ensure that the relevant details are acceptable and compliance with their requirements at a later time could result in unacceptable harm. These are summarised in the following paragraph.
39. To ensure that no harm is caused to bats, details of lighting is necessary. A scheme for the provision and implementation of biodiversity enhancement measures is necessary to maintain and enhance biodiversity on the site. In the interests of biodiversity and the character and appearance of the area, landscaping details are necessary. To ensure that trees are protected during the construction phase, details of mitigation measures including protective fencing are necessary. In the interests of highway safety and satisfactory site access, a scheme for the detailed design of the site access, footpath link and offsite highway improvement works, and details of the estate roads and the maintenance of all streets, access roads and drives are necessary. Details of the construction phase is necessary to ensure that the impacts of construction on the living conditions of neighbouring occupiers and highway safety are

minimised. A conditions survey is necessary to ensure that any damage caused by the construction of the development can be identified and remedied. Drainage details are necessary to make sure that there is no increased risk of flooding. In the interest of public health and safety, a scheme to address land contamination risks is necessary.

40. A condition requiring that the development takes place in accordance with the identified bat mitigation measures is necessary to ensure no harm is caused to bats and in line with Policy NE1 of the Local Plan. It is necessary to restrict when certain works take place in the interests of protecting nesting birds and in line with Policy NE1 of the Local Plan.
41. In the interests of the character and appearance of the area and in line with Policy SP5 of the Local Plan, it is necessary to require samples of the external materials to be used on the walls and roofs of the development. For the same reason and in line with Local Plan Policies SP5 and NE1, a condition is necessary to require the implementation of the boundary treatments.
42. During the construction phase, it is necessary to restrict the time period during which delivery vehicles can enter and leave the site, and to ensure that wheel cleaning facilities are provided and used, in the interests of highway safety and in line with Policy IC1 of the Local Plan. It is also necessary to restrict hours of operation during the construction phase in the interests of the living conditions of neighbouring occupiers and in line with Local Plan Policy NE5.
43. To ensure that satisfactory access is provided before the development becomes operative and in line with Policy IC1 of the Local Plan, it is necessary to require that the access junction and estate road is constructed in accordance with the relevant specification to at least base course level.
44. In the interests of highway safety and amenity and in line with Policy IC3 of the Local Plan, a condition is necessary to require that all associated car parking is constructed, drained, surfaced and is available for use, and retained as such.
45. In the interest of the living conditions of neighbouring occupiers and in line with Local Plan Policies SP5 and HS4, it is necessary to remove rights for works permitted to take place without the need for express planning permission on a selective basis for plots 31-37 inclusive, referring to classes of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) concerned with the enlargement, improvement or other alteration to a dwellinghouse and additions etc to the roof of a dwellinghouse.
46. To ensure the continued compliance with the Council's parking standards, avoid reliance on on-street parking, and in line with Local Plan Policy IC3, a condition is necessary to require that the garages are not altered to provide habitable space.
47. To help reduce emissions and protect local air quality in line with Policy IC3 of the Local Plan, a requirement for the installation of electric vehicle charging points for each dwelling is necessary.
48. To ensure the provision of satisfactory drainage and in line with Local Plan Policies CC4 and CC5, conditions requiring implementation of the measures set out in the appellants' Flood Risk and Drainage Assessment, a scheme for the disposal of foul water and that foul and surface water are drained on separate systems are necessary. To ensure that the implemented drainage scheme fully

accords with what has been approved and to ensure that adequate and appropriate funding, responsibility and maintenance mechanisms are in place for the lifetime of the development, a Verification Report and an Operation and Maintenance Plan pertaining to the surface water drainage system is necessary.

49. In the interest of residential amenity and in line with Policy SP5 of the Local Plan, a condition is necessary to ensure that refuse bins and recyclable waste containers for each dwelling is provided within a concealed area of the curtilages.
50. A requirement for the development to be carried out in accordance with the measures for water and energy efficiency contained within the appellant's Energy Statement is necessary in the interests of sustainable design in line with Policy SP5 of the Local Plan.
51. In the interests of providing adaptable homes in accordance with Policy HS4 of the Local Plan, a condition is necessary to require that certain plots comply with the optional technical standards of Part M4(2) of the Building Regulations 2010.
52. The Council has recommended a condition requiring confirmation, prior to the commencement of development, that a licence has been issued by Natural England that authorises the development to proceed or that a licence is not required. Decisions about whether a licence is granted are the responsibility of Natural England and are separate from the decision on whether or not to grant planning permission. Such a condition is not necessary as it relates to compliance with other regulatory requirements.

Conclusion

53. For the reasons given above, having considered the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should succeed.

F Wilkinson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan v1.4p;
 - Site Layout SL-06B;
 - Materials Plan ML-01B;
 - Boundary Treatments Plan BT-01C;
 - Site Sections SEC-01;
 - Applebury house type (brick) floor plans and elevations APP 1.7;
 - Arnside house type (brick) floor plans and elevations ARN 1.7;
 - Arnside house type (brick and render) floor plans and elevations ARN 1.7;
 - Ashdown house type (brick) floor plans and elevations ASH 1.7;
 - Ashdown house type (brick and render) floor plans and elevations ASH 1.7;
 - Bowfell house type (brick) floor plans and elevations BOW 1.7;
 - Cleveland house type (brick and render) floor plans and elevations CLE 1.7;
 - Millrigg house type (brick) floor plans and elevations MIL 1.7;
 - Millrigg house type (Plot 30) floor plans and elevations MIL 1.71;
 - Moulton house type (brick) floor plans and elevations MOU 1.7;
 - Moulton house type (brick and render) floor plans and elevations MOU 1.7;
 - Oakhurst house type (brick) floor plans and elevations OAK 1.7;
 - Oakhurst house type (brick and render) floor plans and elevations OAK 1.7.
- 3) Prior to the commencement of development, a Lighting Design Strategy for Biodiversity which shall protect replacement bat roost sites from external lighting shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall:
 - a) identify those areas/features on site that are sensitive for bats and that are likely to cause disturbance in and around their breeding sites and resting places or along important routes used to access key areas of their territory; and,
 - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, technical specifications and explanation) to demonstrate that areas to be lit will not disturb bats or prevent bats from using their territory or having access to their breeding sites and resting places.All external lighting shall only be installed, prior to the completion of the development, and thereafter maintained in accordance with the specifications and locations of lighting set out in the approved Lighting Design Strategy for Biodiversity. Under no circumstances shall any other external lighting be installed within the sensitive areas identified in a) above.
- 4) Prior to the commencement of development, a scheme for the provision and implementation of Biodiversity Enhancement Measures on the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be carried out and completed prior to any dwelling being first occupied (or in accordance with a phasing plan where approved as part of the Biodiversity Enhancement Measures) and shall be retained thereafter.

- 5) Prior to the commencement of development, a scheme of landscaping, including details of trees and hedges to be retained and details of new tree, hedge and shrub planting and seeding together with details of species, heights and numbers on planting and details of their cultivation, shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall incorporate compensatory planting for trees to be removed and the use of extra heavy standard and heavy standard trees as indicated on the Landscape Proposal plan in the Arboricultural Impact Assessment (prepared by Bowland Tree Consultancy Ltd, dated March 2021).

All planting, seeding or turfing comprised in the approved scheme of landscaping 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.

- 6) Prior to the commencement of development, including any site clearance, the following shall be submitted to and approved in writing by the Local Planning Authority:
- a) an Arboricultural Method Statement and Tree Protection Plan to provide details for mitigation construction measures in relation to the retained trees within, on, or adjacent to the boundaries of the development site; and,
 - b) a service plan to demonstrate that all service runs and drainage are routed outside of the Root Protection Areas of retained trees.

Development shall be carried out in accordance with the approved measures and details.

- 7) Prior to the commencement of development, protective fencing to protect the trees to be retained on the site shall be erected in accordance with details as indicated within the Arboricultural Impact Assessment (prepared by Bowland Tree Consultancy Ltd, dated March 2021). There shall be no excavation, site works, trenches or channels 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.

- 8) No development shall commence until a scheme for the detailed design of the proposed site access and separate footpath link and off-site works of highway improvement to include the following has been submitted to and approved in writing by the Local Planning Authority:
- i. the provision of two new quality bus stops on Briercliffe Road Stops in the locality (Nos 2500IMG2652 and 250010774);
 - ii. the provision of tactile pavements and lowered kerb across Ramsey Grove, Minehead Avenue and Lytham Road; and,
 - iii. facilitating a Traffic Regulation Order to revoke and remove the existing school markings on Harrogate Crescent.

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

- 9) Prior to the commencement of development, including any works of demolition or site clearance, a Construction Management Plan or Construction Method Statement shall be submitted to, and approved in writing by the Local Planning Authority. The approved plan / statement shall provide:
- i. 24 Hour emergency contact number.
 - ii. Details of the parking of vehicles of site operatives and visitors.
 - iii. Details of loading and unloading of plant and materials.
 - iv. Arrangements for turning of vehicles within the site.
 - v. 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.
 - vi. Measures to protect vulnerable road users (pedestrians and cyclists).
 - vii. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
 - viii. Wheel washing facilities.
 - ix. Measures to deal with dirt, debris, mud, or loose material deposited on the highway because of construction.
 - x. Measures to control the emission of dust and dirt during construction.
 - xi. Details of a scheme for recycling/disposing of waste resulting from demolition and construction works.
 - xii. Construction vehicle routing.
 - xiii. Delivery, demolition, and construction working hours.

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

- 10) Prior to the commencement of development, a Conditions Survey of the adopted highways immediately surrounding site shall be submitted to and approved in writing by the Local Planning Authority. Within a period of six months from the substantial completion of the last dwelling the same highways shall be re-surveyed, the findings from which shall be submitted to and approved in writing by the Local Planning Authority. Any damage that is identified to have occurred between the period of the two surveys shall thereafter be remedied in order to return the condition of the highways to their pre-construction condition by no later than three months from the date of the last of the approved surveys.
- 11) Prior to the commencement of development, the engineering, drainage, street lighting and constructional details of the estate roads and details of the maintenance of all streets, access roads and drives shall be submitted to and approved in writing by the Local Planning Authority. Development shall be constructed and maintained in accordance with the approved details.
- 12) Prior to the commencement of development, a detailed surface water sustainable drainage strategy for the site, based on sustainable drainage principles and the Flood Risk & Drainage Assessment (prepared by Ironside Farrar Limited reference 30491/SRG – Rev 1.1, April 2021), shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented and completed in accordance with the approved details prior to any dwelling being first occupied. The approved drainage scheme shall be retained thereafter.

- 13) Prior to the commencement of development, a scheme to deal with contamination shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall conform to current guidance and best practice as set out in BS10175:2011 Investigation of potentially contaminated sites - code of practice; CLR 11 - Model procedures for the management of land contaminations; or other supplementary guidance and include the following phases, unless identified as unnecessary by the preceding stage and agreed in writing by the Local Planning Authority:
- a) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study; and
 - b) A remedial strategy detailing the measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. The remedial strategy shall include nomination of a suitably qualified person to oversee the implementation of the works.

Prior to any dwelling being first occupied, a Verification Report (produced by the suitably qualified person) to evidence that all remediation works, as applicable, have been carried out in accordance with the approved remedial strategy, shall be submitted to and approved in writing by the Local Planning Authority.

- 14) Foul and surface water shall be drained on separate systems and a scheme for the disposal of foul water shall be submitted to and approved 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 be retained thereafter.
- 15) Notwithstanding the materials shown on the plans hereby approved, representative samples of the external materials of construction to be used on the walls and roofs of the development shall be submitted to and approved in writing by the Local Planning Authority prior to any development above ground level. Development shall be carried out in accordance with the approved materials.
- 16) Prior to any dwelling being first occupied, a Verification Report and an Operation and Maintenance Plan for the lifetime of the development, pertaining to the surface water drainage system (which shall be prepared by a suitably competent person) shall be submitted to and approved in writing by the Local Planning Authority. The Verification Report must demonstrate that the sustainable drainage system has been constructed in accordance with the scheme approved under condition 12. The Operation and Maintenance Plan must provide details of appropriate operational, maintenance and access requirements for each sustainable drainage component for the lifetime of the development as constructed and shall include arrangements for adoption by an appropriate public body or statutory undertaker, and/or management and maintenance by a Management Company and any means of access for maintenance and easements where applicable. The approved surface water drainage system shall be retained, maintained and managed at all times in accordance with the approved Operation and Maintenance Plan.
- 17) Car parking for each dwelling shall be constructed, drained, surfaced (in black bitumen macadam as stated on the application form) and be available for use in

accordance with the plans hereby approved prior to its first occupation. The car parking spaces associated with each dwelling shall thereafter be retained for the purposes of car parking at all times.

- 18) Refuse bins and recyclable waste containers for each dwelling shall be provided within a concealed area of the curtilage in accordance with details on the approved Site Layout plan (plan number SL-06-B) prior to its first occupation. The refuse and recyclable waste storage provision for each dwelling shall thereafter be retained at all times.
- 19) The demolition of the existing building and the development shall not be carried out other than in full accordance with the bat mitigation measures set out in the Dusk Bat Survey Results report (prepared by Pennine Ecological, dated July 2021). Permanent replacement provision for bats as set out in the approved mitigation measures shall be retained thereafter.
- 20) No removal of or any works to hedgerows, trees and shrubs or works to or demolition of buildings or structures shall take place between the 1st March and 31st August inclusive unless a competent ecologist has inspected the area 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.
- 21) The boundary treatment indicated on the Boundary Treatments Plan (plan number BT-01C) 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 stone screen walls which shall be first submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, no boundary treatment other than soft landscaping has been proposed for the entire length of the site's frontage on Harrogate Crescent and no fences or walls shall therefore be erected on this boundary.
- 22) The applicant or developer shall only permit delivery vehicles to arrive at or enter or exit the site between the hours of 09:30 and 14:30 Monday to Friday inclusive during the construction period.
- 23) 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 and stones being carried onto the highway. The roads adjacent to the site shall be mechanically swept as required during the full construction period.
- 24) 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 08:00 to 18:00 hours on Mondays to Fridays and between 08:00 and 13:00 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.
- 25) 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.

- 26) 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 (including integral/attached/detached garages) shall remain available at all times for the parking of a motor vehicle and shall not be altered to provide habitable space.
- 27) 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 Classes A and B of Part 1 of Schedule 2 of that Order shall be carried out at plots 31 – 37 inclusive.
- 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.
- 29) The development shall be carried out in accordance with the principles set out within the Flood Risk & Drainage Assessment (prepared by Ironside Farrar Limited reference 30491/SRG – Rev 1.1, April 2021) and shall be fully implemented prior to any dwelling being first occupied or, where appropriate, of any previously agreed phase of the development.
- 30) The development shall not be carried out otherwise than in accordance with the measures for water and energy efficiency contained within the Energy Statement (prepared by FES Group, reference 008076, dated April 2021) and shall be completed in their entirety prior to the completion of the development.
- 31) Plots 1, 2, 14, 22, 23, 27, 28, 31, 32 and 39 shall be constructed to comply with the optional technical standards of Part M4(2) of the Building Regulations 2010 to provide adaptable homes.



Costs Decision

Site visit made on 22 February 2022

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 March 2022

Costs application in relation to Appeal Ref: APP/Z2315/W/21/3286494 Land off Harrogate Crescent, former Isaac Centre BB10 2NX

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by McDermott Developments Ltd and Lancashire County Council for a full award of costs against Burnley Borough Council.
 - The appeal was against the refusal of planning permission for the erection of forty four two storey three and four bed houses.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour may be procedural and/or substantive.
3. The applicants submit that the Council has acted unreasonably by issuing an imprecise reason for refusal which resulted in the carrying out of unnecessary work for the purposes of making the appeal. Furthermore, the Council has gone against the advice of its professional officers without good reason and failed to substantiate the reason for refusal, relying on alleged and unfounded claims. The applicants also consider that the Council has not determined the proposed development consistently with similar proposals. The applicants contend that the proposed development complied with the development plan and should have been permitted and the necessary appeal has caused the appellants unnecessary and wasted expense. The Council disputes these claims.
4. The reason for refusal refers to insufficient medical facilities. The minutes of the planning committee meeting do not provide further clarification. I note the Council's point that it was made clear at the outset that its concerns relate to local health care services (GP practices and dentists) and that this was the focus of many of the objections to the application. However, the East Lancashire Hospitals NHS Trust (the Trust), which provides acute, emergency and secondary healthcare services, objected and reference is also made to a lack of capacity at the hospital in the comments from local ward councillors to the application.
5. Given this context, it is understandable that the applicants considered it necessary to address both primary and secondary health care provision in their statement. It was not until the Council's statement of case that clarification

- was given that primary healthcare provision was the concern. The lack of precision in the reason for refusal has therefore led the applicants to unnecessary expense in addressing this part of the reason for refusal.
6. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached, the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
 7. Much of the Council's case is based on the everyday experiences of those who live in the local area. Local knowledge can be an important consideration, but alleged harm still requires to be substantiated by clear evidence.
 8. Lancashire County Council (LCC), the local education authority, did not raise concerns about the proposed development nor did it require an education contribution to provide education places to cater for the requirement generated by the proposed development. Little evidence was put forward by the Council to support its contention that there are insufficient education facilities in the local area to support the proposed development. Assertions were made about its impacts and that a more appropriate reasonable walking distance is half a mile rather than the two mile radius used by LCC in its Education Contribution Methodology¹. To support this latter point, the Council refers to a document but full details of this have not been provided. Furthermore, information has been submitted on a nearby proposal where the Education Contribution Methodology was taken by the Council as an acceptable means of establishing the required contributions, including the two mile radius. It has not been sufficiently substantiated why a different approach was warranted in this case.
 9. I note that the list of schools within a two mile radius of the appeal site was sent to the Council just in advance of the planning committee meeting with the caveat that it was not for public use. However, the consultation response from the LCC School Planning Team was submitted in advance of the planning committee. This clearly sets out the circumstances under which an education contribution would be requested, and that it was not required for the proposed development.
 10. There is a similar lack of clear and substantiated evidence to support the alleged harm caused by the proposed development due to a lack of health care facilities in the local area.
 11. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. I find this to be the case here.
 12. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the guidance in the PPG and the applicants have been faced with the unnecessary expense of lodging the appeal.

¹ Education Contribution Methodology Infrastructure and Planning Annex 2, September 2020

Costs Order

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Burnley Borough Council shall pay to McDermott Developments Ltd and Lancashire County Council, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
14. The applicants are now invited to submit to Burnley Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

F Wilkinson

INSPECTOR

This page is intentionally left blank