

## **Application recommended for Delegation**

**APP/2019/0155**

Cliviger with Worsthorne Ward

Residential development for the erection 125 dwellings including means of access, areas of public open space and all associated works. The proposal affects Public Footpath Nos. 88, 89 and 90 and involves the diversion of Public Footpath Nos. 89 and 90

Land to the west of Red Lees Road, Cliviger

### **Background:**

The Officer report which was first considered by the DC Committee on the 21<sup>st</sup> August 2019 is set out below in an updated form to take account of amendments to the scheme, previously reported late correspondence and further consultation responses. The key changes to the application that have been made to the scheme since the date of the Full Council meeting are:-

- A reduction in the number of houses from 129 to 125 (a pair of semi-detached houses removed at the south end of the frontage onto Red Lees Road, one house removed near to the site entrance and one house removed by reducing a row of three houses to a pair of semi-detached houses at the westerly side of the site);
- The introduction of 5no. affordable houses on the site. The tenure of these will be discount to market sale at 80% of open market value with the remainder of the affordable housing offer being met off-site by way of a contribution of £396,355 (the Council would use this sum to re-use empty homes for affordable housing);
- Agreement to pay the full contribution of £980,832.54 towards education provision;
- An additional 63 semi-mature trees to be planted along the three most exposed boundaries (these being Red Lees Road, the South East boundary and the South West corner);
- A revised Energy Statement and the use of 10 No. Photovoltaic (PV) panels, to be distributed across five properties (Plots 63 to 67 - two panels per plot).

These changes are referred to further in the main body of the report below.

### **Proposal:**

The submitted application sought full planning permission for a residential development of 129 two storey dwellings on approximately 5.4ha of land on the easterly urban edge of Burnley. The applicant has now amended the scheme to reduce the number of proposed dwellings to 125. The site is under grass, undulating and used for grazing. It is bound by properties on Richmond Avenue to its north side and by open fields to its other sides which includes farm buildings and Cliviger Laithe Farm to the south west. The site's boundary on Red Lees Road is defined by an historic drystone wall. Beyond the open fields to the west of the site is playing fields and grounds of Towneley Park. Approximately 180m to the south of the south east tip of the application site is Higher Red Lees Farmhouse which is a Grade II listed building.

The site is crossed by three public footpaths, two of which are directly affected by the proposed development. These paths are part of a network of paths to the west, east and south of the site. Public Footpath Nos. 89 and 90 cross from the southern tip of the site and from the south easterly edge of the site and join at a footstile on Red Lees Road (approximately 65m south of the end property at 113 Red Lees Road). Public Footpath No. 88 is also within the application site, passing from east to west along the south side of the site. The applicant has made a separate application for the diversion of Public Footpaths 89 and 90 which is necessary to accommodate the layout of a new development. Public Footpath No. 88 would remain on its designated route.

### Proposed Site Layout



The proposed scheme provides for a total of 125 two storey dwellings, consisting of a high proportion of detached houses (95no.) and lower proportions of semi-detached (24no.) and houses in a row of three (6no.). Approximately 60% of the proposed houses are 4 bedroom properties and 40% are 3 bedroom properties. The proposed layout provides a single point of vehicular access from Red Lees Road and a ramped

access for pedestrians at the position of a current stile within the stone frontage wall and a further pedestrian access at the northerly end of the site onto Red Lees Road close to the existing end property at 113 Red Lees Road.

The layout comprises a modern residential estate layout with a spine road and a series of cul-de-sacs. The layout is designed to have a frontage of houses facing Red Lees Road, set back by an access road/driveways and a green buffer of approximately 5m depth up to the stone boundary wall which would be retained. The layout provides for greenspace in three main areas, firstly within the main body of the site in a regular shape and sufficient size to provide for a play area; secondly, to the south west corner of the site where a pond or underground surface water tanks as well as a foul pumping station would also be sited; and, thirdly, in a triangular shape along the southern flank of the development site where Public Footpath 88 crosses the site. An electricity sub-station would be constructed on the edge of this area close to Red Lees Road. The total area of public open space that would be provided amounts to approximately 1.13ha.

A 12 inch watermain crosses the site in an east to west direction; the layout has been set out to accommodate the main and so would not be affected by the development. Towards the north of the site, the layout also allows for the retention of two private septic tanks that serve a small number of houses on Red Lees Road.

The proposal consists of eight different house types with a generally consistent theme and style of conventional housing with mainly gabled roofs, stone heads and cills, stone detailing such as kneelers at the eaves, ground floor bay windows and some chimneys to the frontage properties. The houses would be constructed in Marshalls Cromwell weathered pitched face walling and anthracite grey Russell Galloway concrete roof tiles.

Street view elevation fronting Red Lees Road  
(viewed left to right/south to north)

**Relevant Policies:**

Burnley's Local Plan (July 2018)

SP1 – Achieving sustainable development

SP2 – Housing requirement 2012-2032

SP4 – Development strategy

SP5 – Development quality and sustainability

SP6 - Green infrastructure

HS1 (HS1/8) – Housing allocations (Red Lees Road, Cliviger)

HS2 – Affordable housing provision

HS3 – Housing density and mix

HS4 – Housing developments

HE2 – Designated heritage assets

HE3 – Non-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

The National Planning Policy Framework (2019)

**Site History:**

None.

**Consultation Responses:**

**LCC Highways**

We would not wish to raise any objections. There are however a number of concerns regarding the access and other plans that have been provided.

It is felt that from the commencement of this development that there has been some opposition from the developer regarding the provision of a right turn lane for the access to this development and other of site highway works including the provision of some additional footways to enhance the pedestrian access facilities.

Whilst it is noted that the applicant has provided a safety audit for the site it is also noted that this is based on a site visit made on a Monday afternoon between 14:10 hrs and 14:35 hrs and that the weather and road conditions were dry and the traffic was fairly light. It is not felt that this is indicative of the generally prevailing traffic conditions.

From the outset of this proposed development site Lancashire County Council has requested that a dedicated right turn lane be provided, this was also requested at the pre-application meeting.

It is known locally that the stretch of road in question whilst having a 30 mph speed limit for much of its length that this is not generally adhered to and it was felt that significant measures would be required to act as a traffic calming measure.

A one day traffic survey was carried out by applicant approximately 30m outside of the 30mph speed limit change which produced an 85th percentile speed of 43 mph north bound and 44 mph southbound. It is not felt vehicles travelling in either direction would be or would have been travelling at 30 mph at the point at which the speed limit changes.

Our points upon which we would base our requirements for a dedicated right turn lane with associated traffic islands are based on the following points:

- To act as a traffic calming feature
- To protect vehicles waiting to turn right into the new development
- To prevent vehicles overtaking in a southbound direction
- To protect left turning vehicles leaving the new site from potential danger of southbound overtaking manoeuvres
- To provide a visual indication of presents of the new site entrance and extension to the urban environment

- To ensure that the site is future proofed, if a number of smaller scale developments come forward they will add to the overall vehicle count whilst resisting the request for additional off site highway costs.

There appears to be a ramp provided in association with the plan numbered 181321010G PROW Diversion it was understood that this ramp, previously requested, was not able to be delivered, an indication of its profile would be required. Assuming that its gradient is reasonable this could then be used as an alternative pedestrian access to the development. Negating the provision of the access at the gable of plot 82. However the footway on the north east side of the Red Lees Road would need to be extended to meet this opening and a suitable pedestrian refuge would need to be provided.

There are still a number of differing opinions regarding the off-road parking availability for the proposed dwellings many of which whilst having sufficient space to allow 2 cars to park still leave no access for pedestrian access. Guidance from Residential Roads and Footpath Design Bulletin 32 states that this width should preferably be no less than 3.2m; narrower driveways may be acceptable where no pedestrian access is required. There are a number of plots where there is no pedestrian access provided.

There are some discrepancies between some of the plans and assumptions made by the developer. This includes the availability of off-street parking for the existing dwellings at 107 to 113 Red Lees Road all have off street parking, this is refuted by one of the local objectors. There is a concern that if all the residents do not have off street parking then they will simply park on the proposed footway and narrowed carriageway. It would appear that little thought has been given to the provision of any additional off-street parking for any of the existing dwellings. It could be achieved by providing an additional access to Red Lees Road at the gable of Plot 82 to accommodate some limited additional off-street parking.

These concerns have been previously expressed to the developer by way of the Pre Application Advice process they include the following points:

- A traffic island will be necessary to provide a safe crossing point and protect right turning traffic into the new estate with additional road width created from the removal or narrowing of the existing grass verges, the running lanes and right turn lanes should be 2 x 3.4m and 3m respectively. There will also be a requirement for some additional road markings.
- Red Lees Road is known to be used by abnormal loads servicing the nearby Wind Farm any street furniture mounted on the traffic island will need to be demountable
- An assessment of the existing street lighting provision will be required to cover the newly formed conflict zone and the re-siting of the lit speed limit signs.
- The footway opposite Hill Crest Avenue should be extended in a northerly direction from the existing outbound bus stop to a suitable crossing point away from the junction.
- A footway from the same bus stop shall be provided southerly direction to a new traffic island.

- The proposed new footway in front of Nos 107-113 Red Lees Road and the new footway opposite shall not narrow the carriageway to less than 7.0m, some localised carriageway widening will be required.

In addition to these point a 30m.p.h. Vehicle activated sign is expected to be provided to reinforce the extended 30mph speed limit.

Should you wish to support the application we would wish for the following conditions to be added to your decision notice.

1. The new estate 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 to the entrance of the site compound 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.

2. No part of the development shall be commenced until all the highway works within the adopted highway have been constructed in accordance with a scheme that shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority as part of a section 278 agreement, under the Highways Act 1980. Reasons: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site and to enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users.

3. No development shall be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption 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, unless otherwise agreed in writing with the local planning authority. Reason: - In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway.

4. For the full period of construction facilities shall be provided within the site by which means the wheels of vehicles may be cleaned before leaving the site. There should also be provision to sweep the surrounding highway network by mechanical means if needed. Reason: To avoid the possibility of the public highway being affected by the deposit of mud and/or loose materials thus creating a potential hazard to road users. 5. No development shall take place, including any works of demolition, until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. It shall provide for:

i) The parking of vehicles of site operatives and visitors ii) The loading and unloading of plant and materials iii) The storage of plant and materials used in constructing the development iv) The erection and maintenance of security hoarding v) Measures to control the emission of dust and dirt during construction vi) A scheme for recycling/disposing of waste resulting from demolition and construction works vii) Details of working hours viii) Routing of delivery vehicles to/from site.

## **LCC Schools Planning Team**

An updated assessment has been provided based upon the reduced scheme of 125 dwellings:-

### **Education Assessment 15<sup>th</sup> November 2019**

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

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

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

This assessment shows the level of impact relevant to the following development:

### **Land to the West Red Lees Road**

#### **Pupil Yield**

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

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

LCC will seek to apply these pupil yields to our assessment, however, if bedroom information has not been provided by the developer LCC will apply the 4 bedroom yield, to provide a medium to worst case scenario. Once bedroom information is available the impact of this development will be reassessed using the yield information provided in the 'Development details' section below.

#### **Local primary schools within 2 miles of development**

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

<b>School Name</b>	<b>Latest Number on Roll *</b>	<b>Future Planned Net Capacity (Jan 2024) **</b>	<b>Projected Pupils by Jan 2024 ***</b>

Worsthorne Primary School	213	210	210
Burnley Brunshaw Primary School	420	420	432
Burnley St Stephen's Church Of England Voluntary Aided Primary School	209	210	222
Burnley Springfield Community Primary School	206	251	217
St Mary's Roman Catholic Primary School Burnley	210	210	221
St John's Church Of England Primary School Cliviger	201	210	200
Burnley St Peter's Church Of England Primary School	209	210	222
Burnley Heasandford Primary School	631	630	636
<b>Total</b>	<b>2299</b>	<b>2351</b>	<b>2360</b>

*\* Latest Number on Roll (NOR) reflects the most up-to-date pupil numbers at the school. Assessments between 1<sup>st</sup> December and 31<sup>st</sup> March will use October NOR, assessments between 1<sup>st</sup> April and 31<sup>st</sup> July will use January NOR and assessments between 1<sup>st</sup> August and 30<sup>th</sup> November will use May NOR.*

*\*\* The net capacity figure is agreed via consultation with the schools, during September each year. The future net capacity includes any agreed capacity changes, which LCC have been informed about.*

*\*\*\* Based on the latest projections at the time of the assessment. Please note that the figures provided are based upon current circumstances and this position is subject to change in response to a number of factors that can affect parental preference. The figures take into account the latest available birth information, evidence of migration and also the projected pupil place demand in 5 years.*

Projected places in 5 years: -9

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

<b>JAN 2020</b>	<b>JAN 2021</b>	<b>JAN 2022</b>	<b>JAN 2023</b>	<b>JAN 2024</b>
2275	2286	2288	2294	2296

The figures above show the forecast number on roll before housing and migration is applied. Using the appropriate district's 5 year Housing Land Supply documents (or equivalent) and migration figures in 5 years' time we forecast there will be **2360** pupils in these schools.

#### **Development details**

<b>Number of bedrooms</b>	<b>Yield applied per dwelling</b>	<b>Number of dwellings</b>	<b>Primary yield for this development</b>
1	0.01		

2	0.07		
3	0.16	48	7.68
4	0.38	77	29.26
5	0.44		
<b>Totals</b>		<b>125</b>	<b>(36.9) 37 Places</b>

### Education requirement

Latest projections for the local primary schools show there to be a shortfall of 9 places in 5 years' time. These projections take into account the current numbers of pupils in the schools, the expected take up of pupils in future years based on the local births, the expected levels of inward and outward migration based upon what is already occurring in the schools and the housing development within the local 5 year Housing Land Supply document (or equivalent), which already have planning permission.

With an expected yield of 37 places from this development the shortfall would increase to 46.

Therefore, we would be seeking a contribution from the developer in respect of the full pupil yield **of this development**, i.e. 37 places.

### Local Secondary schools within 3 miles of the development

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

School Name	Latest Number on Roll *	Future Planned Net Capacity (Jan 2024) **	Projected Pupils by Jan 2024 ***
Burnley Unity College	1143	1200	1305
Blessed Trinity Rc College	1277	1290	1460
Sir John Thursby Community College	1101	1125	1257
<b>Total</b>	<b>3521</b>	<b>3615</b>	<b>4022</b>

\* Latest Number on Roll (NOR) reflects the most up-to-date pupil numbers at the school. Assessments between 1<sup>st</sup> December and 31<sup>st</sup> March will use October NOR, assessments between 1<sup>st</sup> April and 31<sup>st</sup> July will use January NOR and assessments between 1<sup>st</sup> August and 30<sup>th</sup> November will use May NOR.

\*\* The net capacity figure is agreed via consultation with the schools, during September each year. The future net capacity includes any agreed capacity changes, which LCC have been informed about.

\*\*\* Based on the latest projections at the time of the assessment. Please note that the figures provided are based upon current circumstances and this position is subject to change in response to a number of factors that can affect parental preference. The figures take into account the latest available birth information, evidence of migration and planned housing development, to provide a 5 year projection.

Projected places in 5 years: -407

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

JAN 2020	JAN 2021	JAN 2022	JAN 2023	JAN 2024
3688	3821	3906	3985	4073

The figures above show the forecast number on roll before housing and migration is applied. Using the appropriate districts 5 year Housing Land Supply documents (or equivalent) and migration figures in 5 years' time we forecast there will be **4022** pupils in these schools.

### Development details

Number of bedrooms	Yield applied per dwelling	Number of dwellings	Secondary yield for this development
1	0.00		
2	0.03		
3	0.09	48	4.32
4	0.15	77	11.55
5	0.23		
<b>Totals</b>		<b>125</b>	<b>(15.9) 16 Places</b>

### Education Requirement

Latest projections for the local secondary schools show there to be a shortfall of 407 places in 5 years' time. These projections take into account the current numbers of pupils in the schools, the expected take up of pupils in future years based on the local births, the expected levels of inward and outward migration based upon what is already occurring in the schools and the housing development within the local 5 year Housing Land Supply document, which already have planning permission. With an expected yield of 16 places from this development the shortfall would increase to 423.

Therefore, we would be seeking a contribution from the developer in respect of the full pupil yield **of this development**, i.e. 16 places.

### Summary and Final Calculations

The latest information available at this time was based upon the 2019 School Census and resulting projections.

Based upon the latest assessment, taking into account all approved applications, LCC will be seeking a contribution for 37 primary and 16 secondary school places.

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

Primary places:

$(£12,257 \times 0.97) \times \text{BCIS All-in Tender Price (324 / 240) (Q1-2019/Q4-2008)}$

= £16,050.54 per place

$£16,050.54 \times 37 \text{ places} = \mathbf{£593,869.98}$

Secondary places:

$(£18,469 \times 0.97) \times \text{BCIS All-in Tender Price (324 / 240) (Q1-2019/Q4-2008)}$

= £24,185.16 per place

$£24,185.16 \times 16 \text{ places} = \mathbf{£386,962.56}$

*This assessment represents the current position on 15<sup>th</sup> November 2019. LCC reserve the right to reassess the education requirements taking into account the latest information available.*

### **Expenditure Project**

Following an initial scoping exercise of the local schools it has been determined that Lancashire County Council intend to use the primary education contribution to provide additional primary places at Burnley Springfield Community Primary School. This is the closest primary school to the development that has space to accommodate an expansion.

It has also been determined that Lancashire County Council intend to use the secondary education contribution to provide additional secondary places at Burnley Unity College. This is the closest secondary school to the development that has space to accommodate an expansion.

Whilst the County Council have confirmed its intention to deliver projects at Burnley Springfield Community Primary School and Burnley Unity College it should be noted that this would be subject to the following:

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

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

### Please Note

- The cost per place used in this assessment is in line with the Education Methodology at the point of assessment. However, the cost per place to be used within the s106 agreement, if this is the district's chosen method of

mitigation of the development impact on school places, will be that within the Education Methodology at the point of sealing.

- This is the final position at: 15/11/19. If the decision is deferred at committee a reassessment will be required.

#### **Further Information**

If the education contribution assessment identifies the need for a contribution to be provided Lancashire County Council is, in effect, objecting to the application. A developer contribution, including indexation will, in most cases, overcome the objection. If a developer does not agree to payment of the requested education contribution or the local planning authority does not pursue Lancashire County Council's request on its behalf, Lancashire County Council cannot guarantee that children yielded by the development will be able to access a school place within reasonable distance from their home, so the development could be considered to be unsustainable. Furthermore, if the planning application is approved without the required education contribution LCC would request that the local planning authority confirm how the shortfall of school places, resulting from the development, will be addressed. (Please see page 10 of the Education Contribution Methodology).

#### **Lead Local Flood Authority (LLFA)**

No objection subject to the inclusion of a condition to require details of the design of scheme of drainage, based on sustainable drainage principles to be agreed prior to the commencement of development and to be implemented prior to the occupation of any dwellings.

#### **United Utilities**

The site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way. In principle the proposals are acceptable; however, the LLFA may wish to comment further on the proposed approach and whether the surface water hierarchy in National Planning Practice Guidance has been fully investigated. We are disappointed to see the use of underground attenuation systems rather than sustainable drainage systems. Conditions are recommended to ensure that no surface water connects with the public sewer in accordance with the submitted Flood Risk Assessment; to require no development to be commenced until a sustainable surface water drainage scheme and a foul water drainage scheme have been approved; and to require a sustainable drainage management and maintenance plan for the lifetime of the development.

#### **LCC Archaeology**

The application is accompanied by a suite of documents including an archaeological desk-based and walkover assessment report, a geophysical survey report, a Heritage Statement and a Written Scheme of Investigation for a programme of trial trenching, all prepared by Wardell Armstrong Archaeology. The works undertaken and reports provided appear to have been done to the appropriate standards.

A number of heritage assets have been identified in or close to the proposed development site which will be impacted, and the potential for as-yet unidentified buried remains has also been established. Of particular note are the curved

features and potential soil cuts identified in the geophysical survey, which could relate to the prehistoric activity discussed in the desk-based assessment.

Also of note is the larger size of the boundary wall to the northwest side of the proposed development area, which is highlighted in the Heritage Statement. This boundary is noted there as possibly representing the medieval park pale, described there as a large ditch or banked boundary with a wooden fence. Such deer park pales were commonly formed by a ditch, with a bank formed from the spoil being built up outside the ditch, topped by a hedge, wall or fence; they were generally equipped with a number of lower sections, termed 'deer leaps' or 'salters' so arranged that deer from outside the park could get in, but once inside could not get out. Such park pales sometimes survive intact in the landscape, but more commonly their original features have been lost but their line may well still be in use and can be traced. As such it would seem important for this boundary to be inspected in some detail and included in the scheme of trial trenching set out in the supplied Written Scheme of Investigation. This could be achieved by a small alteration to the location and orientation of the three trenches proposed along the boundary by (i) placing them at an angle to the boundary rather than parallel to it; and (ii) moving them as close to the extant boundary as is practicable.

With the above amendment the Written Scheme of Investigation (WSI) would appear to be an appropriate programme of initial investigation [this has now been amended and accepted by LCC]. A condition is recommended to require an archaeological investigation in accordance with the amended WSI of any planning consent granted to the application and any subsequent applications.

Condition: Prior to the commencement of the development hereby approved the archaeological field investigations detailed in the submitted and approved Written Scheme of Investigation (WSI) for an Archaeological Evaluation shall be carried out in accordance with the methodology set out in the WSI. The aim of the investigation is to establish the presence or absence of archaeological remains and their nature, date, extent and significance. A report on the work undertaken, the results of that work and the conclusions drawn from them shall be prepared and submitted to the Council. If archaeological remains are encountered then a subsequent phase of impact mitigation and a phase of appropriate analysis, reporting and publication shall be developed and a further Written Scheme of Investigation submitted to and agreed with the local planning authority and implemented before development commences. All archaeological works shall be undertaken by an appropriately qualified and experienced professional archaeological contractor bound by the standards and guidance set out by the Chartered Institute for Archaeologists. The development shall be carried out in accordance with the agreed details.

Reason: To ensure and safeguard the investigation and recording of matters of potential archaeological/historical importance associated with the development.

**Greater Manchester Ecology Unit (GMEU)**

The development is just under 2km from the South Pennines Moors SPA and SSSI and triggers the need to consult Natural England. The Habitat Regulation

Assessment (HRA) carried out as part of the Local Plan process ruled out significant adverse effects on the SPA resulting from noise, light and vibration as well as increased recreation pressure if a visitor management plan was produced. Functionally, the site was also considered unsuitable and too disturbed (public footpaths). Further surveys for golden plover were however recommended and agreed by Natural England prior to any development. As such, GMEU recommended that a new HRA be required [this has now been carried out and completed].

No evidence of protected species was identified or suspected on the site (from the ecological report submitted) and there are no reasons to doubt these conclusions. It has been noted that there may be bat foraging/commuting routes for bats along field boundaries. Recommend a condition to require a lighting plan that demonstrates no negative impacts to any features of value to bats (and other wildlife).

The site has been assessed as low risk for ground nesting birds owing to the level of disturbance. Additional bird surveys have also now been carried out. There is little in the way of nesting habitat such as trees and scrub on the site, though the consultants note that the drystone walls will also provide bird nesting opportunities and recommend clearance outside of the bird nesting season. All British birds nests and eggs (with certain exceptions) are protected. A condition is recommended restrict clearance works to outside the nesting season unless a detailed bird survey carried out immediately before the works shows that there are no active bird nests present.

Additional bird surveys occurred through the Spring migration period and early part of the breeding season. No evidence of any ground nesting birds and no foraging by qualifying species for the South Pennine Moors SPA were found to be present on the development site and whilst no explicit mention is made for adjacent fields, the consultant have confirmed verbally that their vantage point gave them views of the field to the north of Red Lees Rd and no qualifying species recorded flying over.

Whilst it would have been better if surveys had carried on further in to the breeding season and explicitly covered the adjacent fields, the lack of any evidence of ground nesting birds or foraging by qualifying species such as golden plover, combined with previous surveys late in the season last year and assessments made that the site was of low suitability indicates that the risk is very low.

In addition qualifying species such as golden plover are believed to forage closer to the nest once the young have hatched primarily on the moors and given the scale of the development, the theoretical large area of available alternative habitat for foraging and the relative low number of actual breeding pairs in the Burnley section of the SPA, combines further for us to conclude that there is no significant impact on ground nesting birds or foraging by qualifying species for the South Pennine Moors SPA.

We therefore believe it would be unreasonable to recommend additional surveys at this time.

To cover any residual risk and changes in circumstances to the fields potential for ground nesting birds if development is delayed and potential changes in golden plover foraging habits (as I have received conflicting advice on whether golden

plover forage on the same sites each year or vary their foraging sites). I recommend an informative along the following lines is applied to any permission.

“Whilst the risk of qualifying species for the South Pennine Moors SPA utilising the site and adjacent land is low, should species such as golden plover be recorded on the site or adjacent land during construction work should cease and advice sort from a suitably qualified ecological consultant “.

And a condition along the following lines:-

“If development is delayed beyond 31st March 2020 updated bird surveys for ground nesting birds and foraging by qualifying species for the South Pennines SPA will be carried out for the site and adjacent accessible land and will be supplied to and agreed in writing by the LPA.”

Section 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by minimizing impacts on and providing net gains for biodiversity. Whilst accept that the habitats to be lost are generally of low ecological value, am concerned that the scale of the habitat loss has not been fully taken into account and adequate land set aside for habitat mitigation. In this instance, given the generally low habitat value of what is to be lost, if mitigation is maximised within gardens, through nest boxing strategies, on-street planting etc, details could be conditioned as mitigation. [A condition is recommended to require details of habitat mitigation across the areas of proposed public open space and gardens].

### **Burnley Conservation Forum**

The site is a large, approximately 5ha field, within the 2.5km buffer zone of the South Pennine Moors Special Protection Area (SPA) which classes as “functionally connected land” which is vitally needed by some of the SPA qualifying bird species to forage for food during their breeding season. The loss of any fields within the SPA buffer zone which are in a suitable condition for foraging for food by germane qualifying bird species would have an adverse effect on the integrity of the South Pennine SPA by way of increasing the vulnerability of these bird species. The Council must carry out an ‘Appropriate Assessment’ and as part of this, a Habitats Regulation Assessment (HRA) which is subject to consultation with Natural England and other appropriate consultees, to ascertain whether the proposal will result in any adverse impact on the SPA. The Local Plan HRA was incomplete and inadequate as it concerned only one of the SPA’s qualifying bird species, Golden Plover, and was undertaken on 21/8/2017, far too late for the April to June breeding season for these 13 upland breeding birds. This was acknowledged in the Planning Inspectorate’s report which refers to a requirement for further surveys and assessments at the planning application stage.

The Ecological Appraisal accompanying this application (by Ascerta) is based solely on a single ‘walkover’ survey undertaken on the 7<sup>th</sup> August 2018, far too late for the April to June breeding season. Comprehensive bird surveys are needed and incorporated into a HRA, considering not only Golden Plover but also three other field foraging wading birds - Lapwing, Curlew, Redshank and Twite. The Ascerta Appraisal refers to surveys for only Golden Plover, commencing in February which is outside the breeding season; it is also important that night-time surveys are also

undertaken. It is a concern to the Forum that Common Sorrel which is an important food resource for breeding Twite, which we found distributed throughout the application field, was not included in the 'walkover' survey list of plant species. Before the application is determined, a more comprehensive Phase 1 Habitat Survey needs to be undertaken by the applicant.

The Forum's most recent site assessment and vegetation survey in May 2019 that that the small and narrow part of the application field to the north-west of an electrified fence was subject to low intensity grazing by a small number of cattle whilst the majority of the field to the south-east of the electrified fence, had not been recently grazed and comprised a varied spring sward of young short growth with dryer areas interspersed with more marshy areas and including a wide range of wildflower, sedge and grass species in a good quality semi-natural state which was in a suitable condition for foraging in the April to June period by four of the qualifying SPA bird species (Golden Plover, Lapwing, Curlew and Redshank) and suitable in the June to July period for Twite.

In summary, the field is in a suitable condition for foraging for food in the breeding season by five of the qualifying SPA bird species. The application leaves very little space for on-site habitat mitigation and would be a significant unacceptable net loss of biodiversity habitat. The 'precautionary principle' applies to the adverse effect this would have on the integrity of the South Pennines SPA, by way of the total loss of this large foraging field. The Forum formally object to this development proposal on these grounds.

Following a further bird survey (carried out by Ascerta on behalf of the applicant) carried out in June this year, the Forum have made the following points:-

- Concerns in respect of its content, stating that their use of the 'LERN' database and a 2016 Lancashire Bird Report is incorrect, as there are sightings by the writer/Forum of Golden Plover within two localities of the breeding sector of the SPA. The application site is close to where there have been these sightings and to other sites breeding sites. Studies have shown that female Golden Plovers travel on average up to 7.4km and up to 10.7km to forage for food. There are also other Golden Plover breeding localities close to the application site in areas that are not observable from public footpaths and are kept confidential in order to protect them from disturbance. The Ascerta report gives the impression that Golden Plovers are not currently present at all in the east Lancashire sector of the South Pennines SPA. They are present and breed in localities close to the application site, as do other SPA breeding bird species and it is important that the Ascerta report is corrected.
- The 6 survey visits were undertaken during the late February to late April period. The SPA wading bird species, including Golden Plover, are nesting during the period from late March/early April to late June/early July. The first three surveys were undertaken too early and there were no visits after the 29 April (none in May and June), rendering the survey inadequate and misleading. The surveys were also carried out outside the optimal hours and in some cases on dates too close together to obtain more useful and contrasting data.

- Conclude that the Ascerta June 2019 breeding bird survey contains inappropriate and misleading data and information and therefore inadequately informs the Habitats Regulations Assessment (HRA) process.

### **Natural England**

This proposal is approximately 1.9km from the South Pennine Moors Site of Special Scientific Interest (SSSI), South Pennine Moors Special Area of Conservation (SAC), and South Pennine Moors Phase 2 Special Protection Area (SPA).

In considering the European site interest, Natural England advises that Burnley Borough Council, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 63 and 64 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment. Therefore it is requested that one is produced.

We recommend that a comprehensive desktop study is undertaken to provide an evidence base for your HRA. We would expect to see a robust data search with information from records centre, local bird groups and the wildlife trust and appropriate survey effort as appropriate for the site and surrounding fields. The desk study should set out the data clearly, stating whether the records cover winter, and spring and autumn passage. If there is an absence of records, it must be explained whether this is due to an absence of birds, or an absence of recording of this area. The study should also assess the suitability of the site for SPA Birds. This study will inform the need for further survey work of the area.

Our concerns regarding the potential impacts upon the South Pennine Moors SSSI coincide with our concerns regarding the potential impacts upon the European designated site.

If your Authority is minded to grant consent for this application contrary to the advice relating to the SSSI contained in this letter, we refer you to Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended), specifically the duty placed upon your Authority, requiring that your Authority:

- Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England's advice, and
- Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.

The Council has commissioned a Habitats Regulation Assessment (HRA) in accordance with the regulatory requirements that has been completed. Natural England was reconsulted on the HRA and has commented as follows:-

Natural England notes that GMEU on behalf of your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

The appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given. [A suitable condition as referred to above is included in the recommended conditions below].

### **Campaign to Protect Rural England (CPRE)**

Object to the proposal. It was recommended following the Local Plan examination that a proper planning exercise be undertaken to ensure that the benefits of the development outweigh economic, social and environmental harms.

The design of the scheme must therefore be given due consideration. The mix of housing types should reflect what is evidenced as needed locally. Proper attention to the detail of the scheme must be given in taking a decision with regards to the density, style and materials to reflect local distinctiveness. Importantly, adequate affordable housing contributions and community infrastructure should be sought.

I am aware that locally the development of the site is opposed by residents and the Parish Council and local opinion must be given weight. Trust in the planning system would be eroded if 'pattern book houses' are merely 'copied and pasted' into the site, without thorough understanding of local concerns. For example, I am aware that the site is accessible from Public Rights of Way and we strongly recommend these are woven into the development along with cycle infrastructure. It is so important to encourage sustainable travel modes so the development is properly knitted into the existing built environment. Highway safety concerns must be addressed to remove the risk of future accidents when accessing from the development onto the highway, which currently has a 50 mph speed limit.

The climate change consequence of promoting rural development ought to be weighed in to this decision. Promoting road based residential schemes will exacerbate the problems associated with climate change from increased greenhouse gases, along with more local problems of noise, loss of tranquility and air pollution. We strongly urge for electric charging points to enable people to move to electric cars to combat these problems.

### **Burnley Civic Trust**

Object for the following reasons:-

1. The whole development is uninspiring and looks just the same as any development in any part of the country.
2. Insufficient provision for public open space.
3. There is no infrastructure - sewage, water and other services; no doctors/dentists and schools are completely full.

4. Red Lees Road is already heavily used as access to the town centre with constant streams of traffic. This will lead to over 350 new cars which will worsen this situation on Red Lees Road and Brunshaw Road and make it difficult for pedestrians to cross safely.
5. Object to the diversion of the public rights of way across the site. These are used extensively by the public and nearby residents.
6. The site is a Special Protection Area (SPA) of the South Pennines, used by moorland birds such as the curlew for foraging and feeding. Full ecological survey is required when birds are hatched and feeding/foraging.
7. There are sufficient areas in Burnley that are suitable for building without extending beyond what was the gateway from the urban area and damaging the rural area of the town by becoming an urban sprawl.

### **Cliviger Parish Council**

Strongly object; were disappointed that the land was put into the Local Plan in 2017, particularly in light of strong opposition. It is prime land which still has livestock on it and grass for silage. Their objections are summarised as below:-

- Too many houses; inadequate thought into the design
- Lack of open space
- Devastating visual affects on the listed buildings of Towneley and Cliviger Laithe.
- Burnley has an excess of building land; lack of need for this development
- Affordable housing will be placed at a different part of the town
- Impact on local infrastructure with more than 400 vehicles expected to use the development; the development may attract commuters which will put more pressure on local infrastructure and have damaging effects in terms of the use of fuel and air pollution. Bottleneck of traffic at Pike Hill where there will be a clash with traffic from Worsthorne
- The site has special significance in terms of wild and bird life. The diversion of the rights of way will be detrimental to the landscape, health and well-being of users and devastating to wild and bird life
- Utilities in Cliviger are already overstretched.
- Lack of sustainable elements
- Impact on the area's sewage system
- Local primary and secondary schools in this area are full. If schools in the town are used, then this would add to the transport impacts and also question how this cost would be met
- Object to the diversion of footpaths 89 and 90 which does not benefit anyone; they are in an area of special landscape for wild and bird life; are well used by local people and link up with walks to the historic Towneley Hall; and, could be interlaced into the development with a robust cycle infrastructure.

The Parish Council are meeting on the 6<sup>th</sup> December 2019 and may have further comments to make following the changes that have been made to the scheme which they wish to be taken into account.

### **Environmental Health**

No objections, subject to the inclusion of conditions to require a Construction Method Statement, to restrict construction hours and to require the implementation of the

measures contained within the noise impact assessment (relating to glazing and ventilation specifications).

#### **British Horse Society**

The 200+ horse riders in the area use the grass verge when riding along this stretch of road. This is the only route from Towneley Park and Rowley Park to access one of the few bridleways in the area at Foxstones Lane. The added traffic and possible loss of verge is a serious safety concern. Request that the grass verge is not disturbed without alternative safety measures put in place for horses and cyclists. Also request a safe off-road link (multi-user path) be created within the development (i.e a separate path).

#### **Ramblers Association**

Do not object to the application. The diversion of paths 89 and 90 start and finish at roughly the same points and are not of any greater length. Footpath 88 should be maintained with the surface upgraded and all routes should have a 'green' aspect to them – trees and grass. All three footpaths should be well sign posted both at the edges of the development and within when necessary, where a change in direction occurs.

### **Publicity**

#### **Ward Councillor response (Councillor Andrew Newhouse)**

A summary of the points raised is provided below:-

- 129 houses on this site is excessive - a figure of 40 mixed properties integrated into the landscape and of superior design would be more acceptable
- An unimaginative layout of cramped housing of no architectural merit; this is a greenfield site and deserves to be treated with proper appreciation.
- Census data shows a marked decrease in owner occupation and an increase in private rented accommodation. This would suggest there is no need for a development of such size or in such a place within the Borough.
- Burnley has is experiencing a decline in numbers and that this is not the type of housing required by those within the Borough in such numbers.
- No benefits of offering affordable housing to families with ties to the area.
- The development is likely to attract out-commuters and create dormitory settlements which add no value to the local community.
- The development extends the urban boundary unnecessarily
- The proposed development is sited on the hillside above a significant listed Heritage Asset and will constitute a substantial intrusion on the landscape.
- The development will cause the removal /relocation of 3 well used footpaths leading to and from a major visitor attraction in Burnley, Towneley Hall, and possibly break the link between the urban and rural Rights of Way network.
- The design does resemble the committed aims of the Local Plan policy SP5. Simulated design looks cheap, unimaginative, cramped, both in floor area and layout and appears to be taken from a text book
- Expect inbuilt sustainable elements covering energy production

(photovoltaic/ground source/wind), as well as a financial supplement to enhance and extend the urban greenway for horse, cycle and walker into the wider national rights of way network to mitigate the loss of environmental and visual loss of landscape.

- Schools in Burnley, especially the ones situated close to the proposed development, are already operating at full capacity at both primary and secondary level.
- Whilst United Utilities are statutorily obliged to connect a development to the public infrastructure it is a fact that the utilities in the Parish of Cliviger are already over capacitated. A further 129 houses offer an unacceptable addition to an overburdened system.
- The development does not have the required open areas requisite for the 129 houses.
- The proposal is a ribbon development and increases the negative factors of light pollution traffic congestion and air quality of the urban area into the open landscape without any positive mitigation.

#### Ward Councillor response (Councillor Cosima Towneley)

A summary of the points raised is provided below:-

- 129 is an excessive number of dwellings on greenfield site.
- Unimaginative layout and design would be at odds with the aspirations of the Local Plan.
- Design does not differentiate between the rural and urban setting.
- Schools closest to the site are already at over capacity.
- Lack of on-site affordable housing offers no benefits to families with ties to the area.
- Burnley is experiencing a decline in numbers and this is not the type of housing that is required in the Borough in such numbers.
- There is enough building land without extending the urban boundary.
- Would be a commuter belt dormitory settlement which adds no value to the local community.
- Site's hillside location above a significant listed Heritage Asset – will constitute a substantial intrusion on the landscape.
- The development will necessitate the removal/relocation of two well used footpaths leading to and from a major attraction in Burnley, Towneley Hall. This would be detrimental to the landscape and health and wellbeing of the surrounding and wider community.
- Lack of sustainability measures – such as, photovoltaic/ground source/wind) energy and a financial supplement to enhance and extend the urban greenway for horse, cycle and walker.
- The utilities in the parish of Cliviger are already over capacitated (sewerage).
- Red Lees Road is the arterial route between two public parks. No consideration given to the safe passage of the equestrian community or cyclists who have to use Red Lees Road verges to access the wider rights of way network. Riders will be forced into the fast traffic; the green verge should be retained.

#### Neighbour responses

The Council has received 81 letters from 53 addresses, principally from residents on Richmond Avenue, Red Lees Road, Hill Crest Avenue, neighbouring farms and the surrounding area. These letters object to the proposed development. One letter was

signed by 10 occupiers of Richmond Avenue. A summary of the points of objection is provided below:-

- Object to the amount of additional traffic (an extra 200-258 cars) on a road that is already dangerous with speeding traffic
- Extra pressure on roads will lead to accidents; traffic speeds down the hill; junction is on double bend
- Impact on vulnerable road users, namely, horse riders and cyclists
- Request provision for off-road for horse riders and cyclists
- Impact from construction traffic
- Request speed limit is reduced to 30mph and to 40mph beyond the residential area
- Request a solid line in the road to prevent overtaking on the bend on the approach to Salterford Lane
- Concerned that traffic islands on the road would result in traffic bunching
- Concern that it will increase the use of Mount Lane which is not designed as a main road
- The junction of Red Lees Road and Dyneley avenue is already difficult to pull out of with the current flow of traffic
- The surrounding streets would become a rat-run
- Request that the design of the scheme encourages people to use the area on foot and on bicycles
- A path should be provided to Towneley Park
- Properties at 107 and 109 Red Lees Road have no off-street parking and provision should be made for this
- There is a 17m length on Red Lees Road between the site and the bus stop with no footway
- The entire stretch fronting properties 107-113 Red Lees Road would not meet current design standards
- The route to Worsthorne primary school over 350m has no footpath at all and numerous blind corners
- Concern over safety from an increase in the use of track to Cliviger Laithe which is used by farm machinery and vehicles
- Current bus service would not be able to cope with the extra passengers
- Adverse visual impact on the landscape and character of the local area
- Will destroy the openness between Burnley and Cliviger and the views down the Cliviger Gorge, making Cliviger a suburb
- Should not be giving up beautiful countryside when there is so much brownfield opportunity
- The open aspect when approaching the town will be lost
- The land is used for grazing sheep/cows and is good land for this purpose
- There is no need or demand for new houses and an excessive number are proposed. There is a decline in population and owner occupation
- Will create dormitory settlements
- Open access road in the layout suggests that future development will be applied for
- The development increases the negative factors of light pollution, traffic congestion and air quality of the urban area into the open landscape without any positive mitigation
- Insufficient trees, screen planting and open spaces

- Request extensive tree planting to screen the new homes from Red Lees Road
- Unimaginative layout of cramped housing, unattractive and of no architectural merit
- The development looks almost the same as various developments in the town
- The design does not resemble the committed aims of Policy SP5
- The simulated design looks cheap, both in floor area and layout with no knowledge of the area, landscape or architectural history
- Expect in-built sustainable elements for energy production (photovoltaic/ground source/wind)
- Need homes to support retirement living, should be a proportion of bungalows on the site
- There is no benefit to the local area if the affordable housing provided by the development is in another part of the town. It makes a sacrifice of local landscape and does not offer affordable housing to families with ties to the area
- There are no starter homes
- Impact on the setting of listed buildings. The development is on a hillside above a significant heritage asset, Towneley Hall (Grade I listed) and adjacent to cottages over 450 years old at Cliviger Laith Farm (Grade II).
- There are potential remains of a Roman/medieval road through the site
- Concern over the condition of the very old drystone wall and request that it is strengthened or fenced off to avoid damage to a piece of rural history
- Impact on the health and mental well-being of neighbours
- The area is occupied by retired people who have chosen to live here for the peace and quiet. The development is family orientated, will lead to increased noise and will have a detrimental impact on peoples' retirement.
- The size and scale of the development is excessive in close proximity to neighbours
- Will cause overlooking and affect the privacy of existing residents
- Concern that site levels would need to be increased due to the affect of past mining activity on foundations which would increase overlooking
- Loss of direct sunlight
- Request bungalows to back onto Richmond Avenue instead of houses
- Concern that new residents may plant trees in rear gardens that would block light
- Concern over the maintenance of the wall between the new houses and Richmond Avenue
- The primary and secondary schools in the area are full and have no capacity
- The utilities – water, gas and electricity in Cliviger are already over capacitated
- The water pressure in Cliviger is already very low
- No capacity at doctors/dentists
- The development will put more strain on services
- There is no police presence in this area
- Concern over the risk of flooding
- The stormwater attenuation tanks are insufficient is size to cope with the rainfall and surplus will discharge to the River Calder with a catastrophic impact
- Storm water will flow down the hill and flood land and properties at Cliviger Laithe
- There is a very high water table in the area, houses have nearly experienced

flooding

- There are culverts present which will contribute to potential flood risk
- There are two streams in the field that run down into a ravine and are visible in winter
- Sewage in the area is poor and at capacity. Any further development would impact on the existing houses
- The proposed pumping station would link to sewers at Richmond Avenue where the pipework is already at capacity and blockages do occur. It is aged and the whole system needs replacing.
- Will lead to pollution of the river
- Concern over possible smells that can occur, particularly when the pumping station is not emptied daily. Request a condition to require mitigation measures against smells
- The field contains septic tanks for houses on Red Lees Road
- The site is affected by mineshafts
- There are badgers, deer, grouse, stoats, geese, rabbits, hares, ducks, toads, frogs, great crested newts and curlews, heron, eagles, cranes, woodpeckers, blackbirds, robins, tit, wren, thrush, tawny and barn owls and wildflowers seen on the site
- The site is on the flight path to the Pennine Moors Special Protection Area and species depend on the large hunt area for survival
- The ponds in the fields nearby have rare species and have not been checked
- Ineffective and poorly timed bird survey has been undertaken that should be conducted over a year
- The loss of birds and mammals will be significant
- There should be areas set aside and planted with trees, large grassland verges for insects, mice and voles and food/shelter for barn owls and birds. Hedgehog holes should be fitted in garden fences
- The development provides insufficient habitat
- Need to maintain greenspaces and provide wildlife corridors
- Object to the proposed closure or diversion of public rights of way nos. 89 and 90.
- The public footpaths are used regularly by people for exercise and pleasure and encourage a healthy lifestyle
- The footpaths also provide an area for grasses, insects including pollinators, birds and other species in decline, including barn owls and hedgehogs
- Public footpaths should retain their open and natural feel and be a pleasure to use
- Should not move footpaths that have been in existence a long time – they are part of the environmental heritage value of the landscape
- The footpaths lead to and from a major visitor attraction in Burnley – Towneley Hall and are used as a circular route for the elderly and a circuit to Hurstwood
- It will break the link between the urban and rural rights of way network
- Walking through a housing estate on roads and pavements is of no comparison.

Further comments following re-consultation on the changes to the proposed scheme (4 letters) making the following points:-

- The new proposals are mainly just cosmetic
- A small development would help to weave the footpaths into the development

- All the wild and bird life will be disturbed at once and a building site for four years
- Question why all the affordable housing is not on site so relatives of people who live in Cliviger can afford to buy
- Question how much of the education contribution will be used to provide a safe and healthy access for children to school
- The landscaping/wildflowers and pond will not replace what has been there naturally for years and will be lost
- 10 PV panels will not save much real energy
- Tree planting should also be planted to protect the site against the weather from the south west.

In addition two letters in support of the application have been received. The following points are made:-

- The development would provide much needed housing in a semi-rural location; that it would be sympathetic; and that St John's primary school is a good school that is undersubscribed.

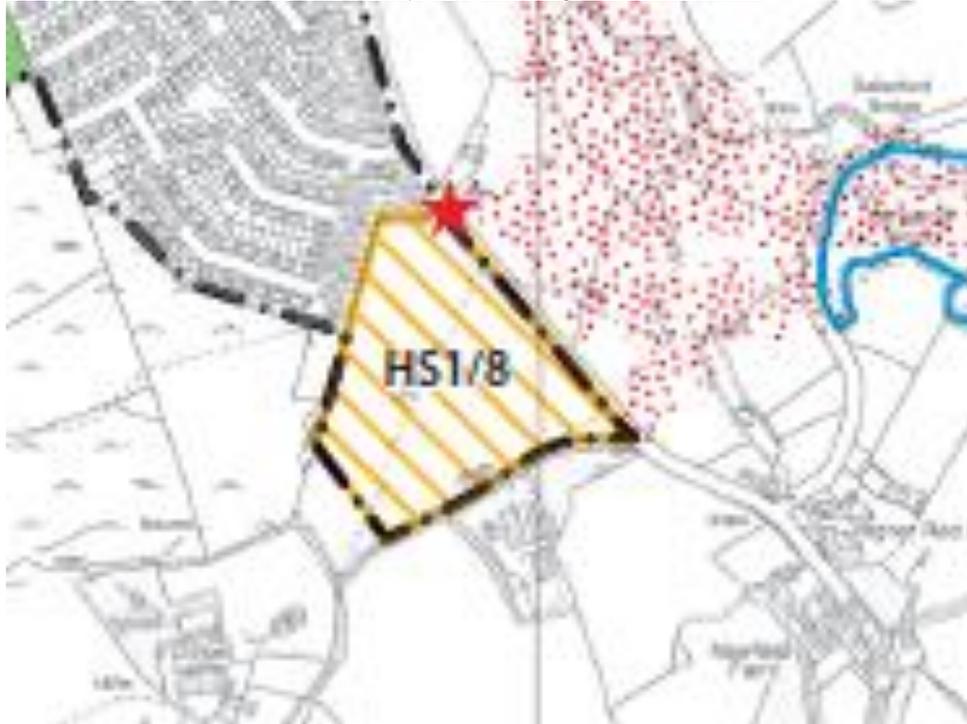
## **Planning and Environmental Considerations:**

### 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. Of the 32 sites listed under Policy HS1, the site allocation at Red Lees Road (HS1/8) with an area of 5.0ha is one of the larger allocations. The allocation is displayed on the Policies Map below:-

### Extract from the Policies Map of Burnley's Local Plan



The site allocation covers the whole of the current application site and also includes approximately 0.4ha of additional land at the southerly end of the site where it is proposed to use the land for drainage and a foul water pumping station. This small piece of land would support the development of the housing allocation whilst would be retained as a green area and as such would not conflict with Policy SP4 which sets out the development strategy and seeks to restrict development in the open countryside. The star at the north tip of the site allocation identifies the site as a Key Gateway as a transition point between the urban and rural area. To the north east of the site is an area identified as an ecological network.

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 HS1/8] together with the requirements of other relevant policies elsewhere in the Plan.

Policy HS1/8 states that the site is acceptable for around 125 dwellings. The proposal, as amended, is for 125 dwellings which is entirely consistent with the local plan allocation. The proposal is acceptable in principle subject to the remaining site specific requirements and consideration of other plan policies.

#### Site Specific requirements in Policy HS1/8

The following list applies:-

- 1) A mix of dwelling types, including a minimum of 40% 4+ bedroomed detached and 30% 3+ bedroomed detached or semi-detached houses will be expected;
- 2) Protected Species have been recorded on the site. An ecological survey (including a breeding bird survey and survey of any South Pennines SPA qualifying species present) will be required to accompany any planning application which identifies and addresses these issues in accordance with the recommendation of the Council's Protected Species Survey and Policy NE1;

- 3) Appropriate landscaping and boundary treatment should include screening to the southern boundary to reduce the impact on the wider landscape. New planting on the site should be in accordance with Policy NE3;
- 4) Vehicular access should be from a single point onto Red Lees Road; and  
The presence of reported prehistoric finds and earthworks within close proximity of the site would suggest the site has significant potential for buried remains of local-regional significance to exist. Suitable provision will need to be made for archaeological assessment and evaluation of the site; and any further investigation or recording works that may be necessary as a consequence of development consistent with Policy HE4.

The above requirements and other material considerations relating to plan policy requirements, including the issues raised by the response from neighbours, are considered below.

#### Design and Layout of the development

The NPPF also states that good design is a key aspect of sustainable development and that plans should set out a clear vision and expectations. 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. It also requires a carefully designed gentle transition from countryside to town at the key gateway position of the site and the use of a palette of materials which are appropriate to the local context in all respects.

The application site is bound on its north side by traditional stone cottages which display features of local vernacular architecture that provides a distinctive character to the local area. Part of the site's north easterly boundary adjoins the rear gardens of more modern bungalow properties. The amount of development, in terms of the density of development (approximately 25 dwellings per hectare) reflects the edge of urban location and also complies with Policy HS3 which states that developments should seek to achieve a minimum of 25 dwellings per hectare. Notwithstanding the presence of bungalows close to the site, the scale of two storey development that is proposed reflects the general scale of development in the local area and would be suitable for the site. The proposal provides for the range of three and four bedroom detached and semi-detached houses required by Policy HS1/8. Some objections from residents have requested bungalows be built on the site but there is no site specific requirement for this and Policy HS3 which refers to a requirement for 20% bungalows refers to development across the borough in order to provide a good range of quality and choice within the wider area. There is therefore no absolute requirement for the developer to erect bungalows on this site.

The proposed layout has been designed to create a transition from the rural into the urban townscape in a number of ways. These include, setting the frontage of houses back from Red Lees Road, allowing for a narrow swathe of greenspace with tree planting; providing a green buffer on the southerly approach to the site with planting; using good quality reconstituted stone in general forms and detailing that reflect local

building styles; and tree, hedge and shrub planting along internal roads which along with open space would provide a spacious and landscaped development. This has been enhanced further by the addition of a further 63 semi-mature trees which will provide landmark tree planting on the site's frontage and along its southern side. The reduction in two plots on the site frontage and four plots overall also provide a softer edge to the transition from the rural into the urban area. The use of chimneys to some of the frontage properties as well as minor changes to one of the frontage house types were carried out to improve the site's gateway appearance.

### Planting on site frontage and approach from rural area



The site has been designed with the principal area of open space at a central position with house plots orientated with overlooking fronts to provide a good level of natural surveillance. The amount of open space being provided is adequate and complies with the open space requirements in Policy HS4. The layout provides a coherent design theme that reflects local materials, is respectful of the general form and character of building styles and provides a variety of house designs within the street scene. The applicant has made some adjustments to the layout and parking of some plots to ensure that parking provision relates well to each individual property. The

Proposed site layout showing areas of Public Open Space



design and appearance of the scheme would provide a satisfactory appearance to the development which would satisfy Policy SP5.

Policy HS4 requires schemes over 10 dwellings to design 20% of the proposed dwellings to be adaptable to support the changing needs of occupiers over their lifetime, including people with disabilities, complying with the optional technical standards of part M4(2) of the Building Regulations 2010. The applicant has adapted house types to ensure that this policy requirement is met. The proposal would provide 26 adaptable homes which would be a positive attribute of the development.

Improvements have also been made to the development by an increase in electric car charging units such that each property will have a charger. This complies with Policy IC3.

In terms of the energy efficiency of new dwellings, the applicant states that the proposals can achieve a reduction of 10.26% in energy compared to building regulations compliance across the site. Amendments to the applicant's Energy Statement include the provision of renewable energy to five of the proposed dwellings (10 photovoltaic panels in total). The proposals would provide energy efficient dwellings which would meet the expectations of the Policy SP5.

The layout and design of the scheme has taken into account the site specific requirements in Policy HS1/8 and the criteria within Policies SP5, HS3 and HS4 and complies with these policies.

#### Impact on residential amenities

Policy SP5 requires development to safeguard the residential amenities of existing development as well as provide satisfactory amenity for new occupiers. Policy HS4 sets out the minimum interface distances between properties, requiring 20m between habitable rooms or 15m between a blank gable and habitable room windows.

The rear elevations of proposed houses would back onto the rear boundary of existing bungalows at Richmond Avenue with a general separation distance between the principal rear elevations of between 22 and 25m. The gable elevation of 113 Red Lees Road which contains some glazing would face the blank side wall of plot 82 that fronts Red Lees Road. The separation distance in this case is approximately 14-15m which would be sufficient to protect the immediate outlook from this property. A pedestrian path would also straddle the boundary to this property which would increase activity from passers by but is unlikely to cause significant disturbance or impact on privacy. The separation distances between the existing and proposed development comply with Policy HS4 and would adequately safeguard the outlook, privacy and daylight/sunlight of existing and new residents.

Concerns have been raised by a neighbour in respect of odours from a connection to the foul sewer at the end of Richmond Avenue. These can occur if foul water is not pumped on a daily basis from the pumping station which can occur at the early stages of development before occupancy rates on the site become more substantial. The applicant has agreed to mitigation measures to prevent any odour issues and this can be suitably conditioned.

Concerns are also raised from neighbouring properties that there will be an increase in general noise and disturbance within this tranquil area. The specific requirements of Policy HS1/8 in terms of 3 and 4 bedroom houses are conducive to family housing which will increase levels of activity but would not be expected to lead to unacceptable noise levels.

Traffic noise may affect some properties on the site and the Council's Environmental Health Officer recommends a condition to require the implementation of noise attenuation measures (such as window/ventilation). With this provision, the proposal would provide a satisfactory level of amenity for new occupiers.

### Accessibility and Impact on traffic

Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are 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.

Part of the process for the selection of sites for new housing has appraised the sustainability of the location for development, taking into account access to public transport, schools, services etc. Whilst the site is not in the urban area, it benefits from a bus service and nearby bus stops and is in a reasonably accessible location. A Transport Assessment and Travel Plan have been submitted with this application. The former has examined the impact of additional vehicular movements on the existing highway network. LCC Highways has reviewed the assessment and are satisfied that the additional traffic movements can be absorbed into the highway network subject to some off-site works to Red Lees Road to provide for a right turn into the site, footways to connect with bus stops and new traffic islands and to provide a footway outside nos 107-113 Red Lees Road. The applicant has supplied a plan showing the main elements of these off-site works which also include reducing the speed limit across the full site frontage from 50mph to 30mph with new gateway signs at the southerly end of the site's frontage. The comments from LCC Highways indicate that the applicant considered the right turn facility to be unnecessary for a development of this size and would lead to additional works within the highway to carry out localised widening that would not otherwise be required. LCC Highways challenge the outcome of a safety audit on the basis that the road experiences higher speeds of traffic. It is reasonable to mitigate against higher speeds of traffic that occur as vehicles leave the main built-up area. This situation will to some extent continue as the development which is set back from the main road and is completely open to the other side, will provide an open setting that contrasts with the main urban area. The applicant has accepted the position that LCC has outlined and has agreed to this provision. The details of the off-site works have not been finalised or agreed and a pre-commencement condition is recommended to achieve this.

LCC Highways suggest that off-road parking should be provided within the scheme for up to two properties on Red Lees Road that do not have dedicated off-street parking. The reason for this suggestion is that the introduction of a footway on this same side of the road which is necessary to provide a continuous path from the site to the existing bus stop will lead to some narrowing of the road. However, the narrowing can be controlled by the specification for the new footway and some widening to the opposite side of the road in order to retain a width of carriageway that is sufficient for parked cars. LCC Highways are not looking to make a Traffic Regulation Order to prevent cars parking outside the properties on Red Lees Road and as such there is no reason to suggest that this will not continue. As such, it would be unreasonable to require the developer to lose a plot from the development to provide off-road parking for existing occupiers.

The proposed access would provide adequate visibility. Internal improvements to the estate roads, paths and parking have also been achieved. Adequate off-street parking is provided for all properties (2 spaces for 3 bed houses and 3 spaces for 4 bed houses). The site will provide a ramped access suitable for pedestrians,

pushchairs etc onto Red Lees Road at the position of an existing stile and also a separate pedestrian access to the north of the site. The estate roads will be designed for slow moving traffic that is conducive to cyclists. Requests have been made for a separate route for horse riders but this is not possible within the limits of the highway or the nature of the site which slopes markedly down from the boundary drystone wall. The applicant has no control over surrounding fields to provide a footpath link to Towneley Hall. The applicant has however agreed to re-dedicate Public Footpath No. 88 to a Public Bridleway which would be a significant benefit to horse riders/cyclists.

In conclusion, there is capacity within the road network to cater for the additional traffic that will be generated by 125 dwellings subject to off-site works that can be subject to a condition. Adequate connectivity would be provided between the development and its surroundings and the proposed layout would provide a safe and satisfactory environment.

#### Impact on ecological interests

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. It explains that development proposals which are likely to have a significant effect on a European site – Special Area of Conservation (SAC) and Special Protection Area (SPA) should be subject to an Appropriate Assessment and that development that is considered to adversely affect the integrity of a European site will not be permitted.

The site is within 2.5km of the South Pennines Special Protection Area (SPA) which is a nationally important site. A level of assessment as already been carried out as part of the local plan process but a further Habitat Regulation Assessment is necessary to take account of the details of the scheme. This has now been carried out on behalf of the Council and forwarded to Natural England and the Burnley Conservation Forum. The Assessment concludes that there is no evidence that the application site is used as feeding ground for any of the protected species, including the Golden Plover, that are species that occupy the SPA. There are some precautionary measures that are required consisting of visitor packs to new occupiers to provide information for visitors to the SPA which is recommended as a condition.

The proposal will also lead to the loss of a large field which is potential habitat for wildlife. The ecology report submitted with the application has identified no protected species that would be directly affected by the development. Some objections have asserted that bird surveys were carried out at the wrong time of year. The comments from GMEU advise that sufficient surveys were carried out and that the field is generally of poor biodiversity status. Conditions are however recommended to ensure that no nesting birds are harmed. The NPPF encourages developments to provide a net gain in biodiversity. Mitigation should be sought through sensitive and appropriate planting and the use of nesting boxes within open areas and gardens. A condition is recommended to achieve this. Any further comments from Natural England will be reported at the meeting.

#### Impact on education provision

The education authority has re-calculated the need for a contribution to education improvements based on changes to the scheme. Their assessment concludes a need for an additional 37 primary school places (£593,869.98) and 16 secondary school places (£386,962.56). The applicant agrees to this contribution in full. The making of

a full contribution to child places in local schools in the area fulfils what can be expected from the developer and accords with Policy IC4. Whilst objections have been made by local residents on the lack of school places, this contribution would enable Lancashire County Council to make adequate provision to cater for the needs of the development which will be secured through a section 106 Agreement.

#### Affordable Housing

Policy HS2 requires affordable housing on sites of over 10 dwellings. This will normally be an on-site requirement but there are some circumstances where an off-site contribution may be appropriate. In this instance, it is accepted that an off-site provision would be suitable to meet the site specific requirements of the housing allocation. The former proposal was for a full off-site contribution, amounting £644,077. The applicant has revised this since the date of the Full Council Committee on the 16<sup>th</sup> October 2019 to provide five affordable houses on site and the remainder of the provision off-site. The full provision equates to a 10% proportion of the development for affordable housing. The on-site affordable housing would be in the form of discounted homes for sale (20% less than market value) and the off-site contribution would be £396,355 which the Council would use to re-use empty homes for affordable housing.

The proposed affordable housing both on and off site would be a key benefit of the proposal and would be secured through a s106 Agreement. This provision would comply with Policy HS2.

#### Other issues

The site is some distance from the nearest listed building at Higher Red Lees Farmhouse and its setting would not be significantly affected by the development. A condition is recommended to protect any potential archaeological interest on the site.

The site is in flood zone 1 where there is the lowest risk of flooding. The site will be attenuated to greenfield rates and therefore would not increase the risk of flooding on site or elsewhere. United Utilities and the LLFA have no objections subject to conditions which are recommended.

Ground condition and contamination assessments have been carried out and do not indicate that the site is unsuitable for development.

#### Conclusion

The proposal seeks to develop a site that is allocated for housing purposes. A suitable scheme has come forward that complies with the site specific requirements of the local plan and plan policies. Issues relating to the impact of the development on the ecology, on traffic, residential amenities, footpaths and ground conditions have been assessed and can be adequately addressed by conditions and a legal agreement to provide for an education contribution and affordable housing provision. The changes to the scheme represent further improvements which reinforce its compliance with Burnley's Local Plan. The proposal therefore complies with the development plan and there are no material reasons to outweigh this finding.

**Recommendation: Delegate authority to the Head of Housing and Development Control to approve the development subject to notification from the Secretary of State that they will not intervene in the decision and the completion of a s106 Agreement to secure contributions towards education provision and affordable housing and to the following conditions.**

Conditions:

1. The development must be begun within three years of the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans listed on this notice below.
3. The external materials of construction to be used on the walls and roofs of the development shall be in accordance with the Materials Layout on drawing no. 18132/1002RevL unless any variation is otherwise previously agreed in writing by the Local Planning Authority.
4. Details of surfacing materials to be used on the estate roads, driveways and parking spaces shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of built development. The development shall thereafter only be carried out in accordance with the approved details.
5. All planting, seeding or turfing comprised in the approved details of landscaping set out on the approved Landscape Masterplan (drawing number P.1064.18.13RevA) and planting plans on sheets 1-5 (drawing number P.1064.18.11 RevA) together with any variations to this agreed in association with condition 6 below, shall be carried out in the first planting and seeding seasons following the first occupation of any of the dwellings 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.
6. Prior to the commencement of built development, a Biodiversity Mitigation Plan to provide further measures for mitigating against the loss of biodiversity, including details of nesting boxes across the site and in domestic gardens and details of how these will be maintained and managed in the future to secure long term benefits for biodiversity, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be carried out within the first planting season following the completion of the development or following the first occupancy of any dwelling, whichever is the sooner; or, in respect of bird boxes in domestic curtilages, prior to the first occupation of each dwelling to which that relates. The whole of the site shall be maintained and managed in accordance with the approved Biodiversity Mitigation Plan at all times.
7. Prior to the first occupation of any dwelling, a landscape and open space management plan, including long term design objectives, management responsibilities, maintenance schedules (including replacement of equipment and replacement planting) and a programme of implementation, for all landscape areas, play areas and public open space, other than small, privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning

Authority. The landscape and open space management plan shall be carried out and adhered to as approved in perpetuity.

8. The new estate road and access between the site and Red Lees 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, other than demolition and site clearance, takes place and shall thereafter be constructed to at least base course level within that each successive phase prior to development being commenced in that phase in accordance with the approved Route of Build Plan (drawing number RLRC/ROB/01RevC) unless any variation to this is first approved in writing by the Local Planning Authority.

9. Prior to the commencement of development, a scheme for the construction of the site access and associated off-site works of highway improvement broadly in accordance with the General Arrangement Plan (drawing number 2661-F01RevD) prepared on behalf of the applicant by Croft Transport Planning and Design, shall be submitted to and approved in writing by the Local Planning Authority.

10. No dwelling shall be first occupied until the approved scheme referred to in condition 9 above has been constructed and completed in accordance with the scheme details.

11. No dwelling shall be first occupied unless and until its associated car parking has been constructed, drained, surfaced and is available for use in accordance with the approved plans. The car parking spaces associated with each dwelling shall thereafter be retained for the purposes of car parking at all times.

12. The pedestrian links between the development and Red Lees Road as indicated on the approved plans, shall be constructed and available for use prior to any dwelling being occupied within the phase to where each pedestrian link relates, in accordance with detailed specifications that shall include sections, gradients, surfacing materials and details of lighting (the latter relates to the pedestrian path at the north end of the site) which shall be previously submitted to and approved in writing by the Local Planning Authority. The pedestrian links shall remain open and available for use at all times thereafter.

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

14. 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.

15. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;

- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding;
- v) measures to control the emission of dust and dirt during construction;
- vi) wheel washing facilities;
- vii) details of working hour;
- viii) contact details for the site manager; and,
- ix) routing of delivery vehicles to/from the site.

16. 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, applications in writing must be made with at least seven days' notice to the Local Planning Authority.

17. No dwelling shall be first occupied until it has been provided with an electric car charging point which uses a three-pin 13-amp electrical socket in a suitable position to enable the recharging of an electric vehicle using a 3m length cable, in accordance with drawing number RLR/VCP/01RevA.

18. Prior to the commencement of the development the archaeological field investigations detailed in the submitted and approved Written Scheme of Investigation (WSI) for an Archaeological Evaluation (prepared by Wardell Armstrong, reference GM10245, RPT-0003 Version (0.1), dated October 2018) shall be carried out in accordance with the methodology set out in the WSI. The aim of the investigation is to establish the presence or absence of archaeological remains and their nature, date, extent and significance. A report on the work undertaken, the results of that work and the conclusions drawn from them shall be prepared and submitted to the Local Planning Authority. If archaeological remains are encountered then a subsequent phase of impact mitigation and a phase of appropriate analysis, reporting and publication shall be developed and a further Written Scheme of Investigation submitted to and agreed with the Local Planning Authority and implemented before development commences. All archaeological works shall be undertaken by an appropriately qualified and experienced professional archaeological contractor bound by the standards and guidance set out by the Chartered Institute for Archaeologists. The development shall be carried out in accordance with the agreed details.

19. Prior to the commencement of built development, details of the design and implementation of a surface water sustainable drainage scheme, based on sustainable drainage principles, and including a restricted rate of discharge of surface water and a timetable for implementation, 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 being first occupied. The approved drainage scheme shall be retained at all times thereafter.

20. No dwelling shall be first occupied until details of a sustainable drainage management and maintenance plan for the lifetime of the development has been submitted to and approved in writing by the Local Planning Authority. The

development shall be completed, maintained and managed at all times in accordance with the approved plan.

21. Prior to the commencement of built development, a foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:

- a. The location of the point of connection for foul water to the existing public sewer;
- b. The details for foul water pumping;
- c. Separate systems for foul and surface water; and,
- d. Design of foul drainage to provide odour mitigation measures on Richmond Avenue that include sealed lids on the rising main demarcation chamber and the receiving manhole.

There shall be no connection to the foul sewer other than in accordance with the approved details and the approved scheme shall be carried out and completed in accordance with the approved details prior to the first occupation of any dwelling.

22. The development hereby approved shall not be carried out otherwise than in accordance with the noise mitigation measures contained within sections 5 and 6 of the Noise Impact Assessment submitted with this application (reference REC: AC106059-1R1, dated 18 March 2019).

23. Prior to the commencement of built development a lighting plan for the street and any other non-domestic external lighting shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- a) Identify areas/features on site that are potentially sensitive to lighting for bats; and,
- b) show how and where street lighting and other lighting will be installed and through appropriate lighting contour plans demonstrate clearly that any impacts on bats is negligible.

All external lighting shall be installed in accordance with the approved lighting plan.

24. No works to trees or shrubs shall occur or any part removal of drystone walls commence between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has first been submitted to and agreed in writing by the Local Planning Authority.

25. A visitor pack for new homeowners detailing the location of the European designated South Pennines Special Protection Area and including the reason for the designation, the importance of functionally linked land and the sensitivity of both to recreational impacts and the risk of fire, shall be provided to the first occupiers of each property within the approved development.

26. The stone wall to the site's frontage shall be retained at its current height and appearance in accordance with the details indicated on the approved plans. Prior to any dwelling being first occupied the wall shall be repaired as necessary in accordance with details of a conditions survey that shall be first submitted to and approved in writing by the Local Planning Authority.

27. 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 details on the waste Management Layout (drawing number 18132/1004RevG). The refuse and recyclable waste storage provision for each dwelling shall thereafter be retained at all times.

28. Notwithstanding the provisions of the Town and Country Planning General Permitted Development (England) Order 2015 (as amended), 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.

29. Notwithstanding the provisions of Article 3 and Part 1 of the second schedule of the Town and Country Planning General Permitted Development (England) Order 2015 (as amended) (or any Order revoking or re-enacting that Order with or without modification), no development as specified in Class B of Part 1 of Schedule 2 of that Order shall be carried out at plots 59-71 inclusive without express planning permission first being obtained from the Local Planning Authority.

30. The proposed boundary treatments as indicated on drawing number 18121/1002RevL shall be carried out and completed within each phase of the development and shall be wholly completed prior to the occupation of any dwelling within the final phase of the development.

31. Prior to the commencement of development, a phasing plan and strategy, which shall include the timing for the provision of open space and an equipped childrens play area, shall be submitted to and approved in writing by the Local Planning Authority. The approved phasing plan and strategy shall thereafter be adhered to unless any variation is otherwise approved in writing by the Local Planning Authority.

32. Prior to the commencement of built development, details of a locally equipped area for play to be sited within the open space as indicated on the approved plans, shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the specifications of equipment, layout, surfacing materials, seating and perimeter fencing. The play area shall be constructed, completed and made available for use in accordance with the approved details at a timescale to be agreed as part of the phasing plan and strategy required by condition 31.

33. The development shall be constructed in accordance with the provisions for adaptable homes as set out on the submitted M4(2) Compliant Site Layout (drawing number 18132/2000Rev A), received on 2 September 2019.

34. No development shall take place that obstructs or removes any part of the Public Footpath Nos 89 and 90 on the site unless a public footpath diversion order has first been obtained to do this.

35. Prior to the commencement of built development, the following shall be carried out, submitted and approved in writing by the Local Planning Authority:-

1. An intrusive ground investigation with gas monitoring report in accordance with the recommendations of the Desk study and Ground Investigation report (Report no. 18MIL028/GI, dated November 2018) to further investigate contaminants affecting the site; and,
2. a Remediation and Enabling Works Strategy, detailing the findings of the investigation, assessing the risk posed to receptors by contamination and proposing a remediation scheme, including a programme for implementation.

Remediation work shall be carried out in accordance with the approved remediation scheme and programme. Remediation work on contamination not identified on the initial investigation but found during construction work shall be carried out in accordance with details approved in writing by the Local Planning Authority subsequent to its discovery. Evidence verifying that all remediation work has been carried out in accordance with the approved scheme as a whole or within the approved phases of the development shall be submitted to and approved in writing by the Local Planning Authority before any dwelling within that phase of the development is first occupied.

#### Reasons for the Conditions:

1. 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. To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.
3. 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).
4. To ensure a high quality appearance to the development, in accordance and access/parking facilities, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).
5. In order that the landscaping works contribute to a satisfactory standard of completed development and its long term appearance harmonises with its surroundings, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).
6. To ensure that the overall scheme provides adequate mitigation to off set the loss of habitat for wildlife, in the interests of the biodiversity of the site and of the wider area, in accordance with Policy NE1 of Burnley's Local Plan (July 2018) and the National Planning Policy Framework.
7. 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).
8. To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative, in the interest of highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

9. To ensure a satisfactory means of access to and from the site to serve the needs of the development, in the interests of 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.
10. To ensure that new occupiers have a safe means of access to and from the site, in the interests of highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).
11. 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).
12. To ensure the site is accessible within its surroundings, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).
13. To ensure these details are adequate to provide satisfactory access and amenity for the occupiers of the development, in accordance with Policy IC3 of Burnley's Local Plan (July 2018).
14. 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).
15. 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.
16. To safeguard the residential amenities of the local area, in accordance with Policy NE5 of Burnley's Local Plan (July 2018).
17. 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).
18. To ensure and safeguard the investigation and recording of matters of potential archaeological/historical importance associated with the development, in accordance with Policy HE4 of Burnley's Local Plan (July 2018). The investigation is required prior to the commencement of development to ensure that any archaeological interest can be identified and recorded prior to any work which may remove, harm or destroy any such finds.
19. 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. 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. To ensure that the foul drainage from the site is adequate and in order to manage the risk of flooding and pollution from the public sewerage system and to ensure that there are no odours resulting from a connection to the foul sewer that would have an adverse impact on the amenity of neighbouring properties, in accordance with Policies NE5 and SP5 of Burnley's Local Plan (July 2018).
22. To ensure a satisfactory level of amenity for future occupiers of the development, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).
23. To ensure that the external lighting that will result from the development has no negative impacts on any features of value to bats and other wildlife, in accordance with Policy NE1 of Burnley's Local Plan (July 2018).
24. To protect any potential nesting birds, in accordance with Section 1 of the Wildlife and Countryside Act 1981 (as amended) and Policy NE1 of Burnley's Local Plan (July 2018).
25. To mitigate against harm from increased visitor numbers to the designated site, in accordance with Policy NE1 of Burnley's Local Plan (July 2018) and the National Planning Policy Framework.
26. The stone wall is an historic boundary feature that should be retained and preserved in the interests of the character and appearance of the rural area, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).
27. 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).
28. To ensure that car parking levels for each property are preserved to ensure the continued compliance with the Council's parking standards, in accordance with Policy IC3 of Burnley's Local Plan (July 2018).
29. To allow the Local Planning Authority to assess the impact of any future changes relating to the enlargement within the roof at plots 59-71 inclusive having regard to their relationship with bungalows on Richmond Avenue, in accordance with Policies SP5 and HS4 of Burnley's Local Plan.
30. To ensure a satisfactory appearance to the development from within the site and its environs, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).
31. To ensure the satisfactory implementation of the proposal and the provision of amenities within the development at appropriate stages in the development, in accordance with Policy HS4 of Burnley's Local Plan (July 2018).

32. To ensure that the details of the play area to be provided to cater for the needs of the development are satisfactory, in accordance with Policy HS4 of Burnley's Local Plan (July 2018).
33. To ensure that the development provides benefits to new occupiers by the provision of adaptable homes to meet lifetime needs, in accordance with Policy HS4 of Burnley's Local Plan (July 2018).
34. To ensure that the existing public rights of way are not affected prior to the applicant gaining authority to do so through the requisite process for doing so, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).
35. To ensure a safe form of development that poses no unacceptable risk of pollution to water resources or to human health, in accordance with Policy NE5 of Burnley's Local Plan (July 2018).

JF  
6/12/2019