

**Application Recommended for Approve with Conditions**  
Gawthorpe Ward

FUL/2020/0171

Town and Country Planning Act 1990

Proposed detached house with new access from Pennine Grove (re-submission FUL/2019/0191)

14 Higham Road Padiham Lancashire BB12 9AP

**Background:**

The proposal is to erect a detached house in part of the large rear garden of an existing dormer bungalow on Higham Road. The application follows a previous proposal for a chalet type house that was refused permission (FUL/2019/0191). This application seeks to overcome the reason for the Council's refusal.

The application site is bound by Pennine Grove to its western side and by Barrowford Road (A6068) to its rear (south side).

Rear of 14 Higham Road



Rear Garden

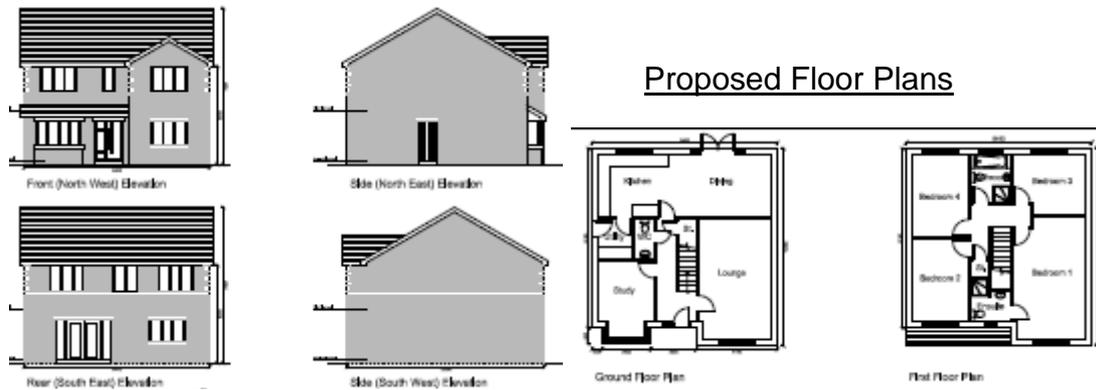


Proposed Site Layout



The proposal is for a two storey 4 bedroom house, sited approximately 18-21m from the most rear part of the existing house. This would reduce the rear garden for the existing house to between 16 and 23m. The proposed house would be accessed by a vehicular access from Pennine Grove at the westerly side of the site. The access and parking arrangements for the existing house would be unaltered. Three car parking spaces are indicated for the proposed new dwelling.

Proposed elevations



The proposed house would be constructed with brickwork to the walls and natural slate to the roof.

**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
- HS4 – Housing developments
- NE1 – Biodiversity and ecological networks
- NE4 – Trees, hedgerows and woodland
- NE5 – Environmental protection
- CC4 – Development and flood risk
- IC1 – Sustainable travel
- IC3 – Car parking standards

The National Planning Policy Framework

**Site History:**

APP/2006/0977 – Proposed kitchen extension and new roof over garage. Approved December 2006.

FUL/2019/0191 - Proposed detached house with new access from Pennine Grove. Refused on 22<sup>nd</sup> October 2019 for the following reason:-

‘The proposed development fails to comply with the minimum spacing standards between habitable rooms and a blank gable contained with Policy HS4 of Burnley's Local Plan (July 2018), the impact of which would be to adversely affect the residential amenities of the occupiers of 26 Pennine Grove`. An appeal was dismissed on 17<sup>th</sup> February 2020.

## **Consultation Responses:**

### LCC Highways

No objections. No details have been provided in respect of surface water drainage of the new drive and a condition should be imposed to ensure details are agreed to avoid surface water running onto the existing highway. Due to the constricted nature of the access to Pennine Grove some consideration should be given to the management of the construction process and additional care taken when the refuse and recycling collection is due. Conditions are recommended relating to wheel washing facilities during construction, the setting back of any gateposts, engineering, drainage and constructional details of the proposed access, and a construction method statement.

### United Utilities

No comments have been received in respect of this application but United Utilities previously commented that 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.

### Coal Authority

The application site falls within the defined Development High Risk Area where there are coal mining features and hazards which need to be considered in relation to the determination of this application. The Coal Authority records indicate likely unrecorded coal mining at shallow depth beneath the application site, indicated by an outcropping shallow coal seam. The applicant has submitted a Coal Mining Risk Assessment which contains appropriate and up to date information, including an intrusive site investigation close to this site that suggests in that case that the shallow coal seam poses a low risk to the development. The Coal Authority accepts the professional judgement of the competent author of the Coal Mining Risk Assessment that there is a negligible risk to the proposed development and concludes that it has no objection to this application. It notes, however, that further more detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent building regulations application.

### Environmental Health (land contamination)

Recommend a condition to require gas protection measures to be incorporated into the design and to require a validation report to indicate that the measures have been implemented and the site is suitable for its intended use.

### Publicity

Six letters of objection have been received from four properties at Pennine Grove/Higham Road. A tree report by GM Tree Consultants has also been received on behalf of the adjoining neighbour at 26 Pennine Grove which is referred to separately. The main points of objection are summarised below:

- Concern that the junction of Pennine Grove and Higham Road will have more parked cars during and after build, where parked vehicles already obscure visibility and have caused near misses
- More cars may lead to accidents at this junction
- Pennine Grove is only wide enough for one vehicle, especially on the blind bend near the proposed new driveway
- Insufficient parking for new dwelling
- Back garden is greenfield land
- Not in keeping with the current cul-de-sac or open planlayout

- Does not respect the existing street layout, scale and massing which is spacious plots at some distance from neighbours
- Impact on privacy
- Proposed house is higher and closer to the boundary with no. 16 Higham Road than previously and would impact on the privacy and outlook of this property
- Does not allow for good use of daylight being next to the A6068 embankment
- Impact on two oak trees at the site entrance which are protected by a Tree Preservation Order. A tree consultant concludes that the development would compromise the roots and future of the trees
- Affect on the site's drainage with greater amount of non-permeable surfacing and risk of flooding on adjoining property and road from water run-off
- Loss of trees within the site
- Insufficient room for building contractors without impacting on neighbours

GM Tree Consultant (on behalf of neighbour): In respect of T9 (protected oak tree within the more central area of the front garden at 26 Pennine Grove) – if the tree protection systems are implemented, this will mitigate the risk to this tree.

In respect of T11 (the protected oak tree at the front edge of the garden at 26 Pennine Grove), there is concern over how the rooting area will be protected during the construction process, primarily due to the change in ground levels to form the new access.

### **Planning and Environmental Considerations:**

#### Principle of proposal

The site falls within the urban boundary as defined by the Policies Map of Burnley's Local Plan. Policy SP4 identifies Padiham as a key service centre where it is expected that large scale, major and a variety of sites will deliver a comprehensive range of choice of types and tenures of housing. In addition to allocated sites, Policy SP4 states that new development will be supported within Development Boundaries where it is an appropriate type and scale and where, amongst other things, it makes efficient use of land and buildings. Residential gardens are defined by the National Planning Policy Framework as greenfield rather than brownfield which gives no advantage to their development but also does not protect sites where they fall within the urban boundary. The site is accessible to local facilities in Padiham by car, a bus service and by cycle. The proposal would in principle therefore comply with Policy SP4 subject to further considerations relating to the character of the residential area, its impact on residential amenity and, and on highway safety.

#### Impact on the character of the residential area

Policy HS4 states that new housing should be high quality in its construction and design in accordance with Policy SP5 which requires development to respect locally characteristic street layouts, scale and massing, as well as have regard to landscaping and high quality materials appropriate to the site's context.

The proposed house would be in scale with other properties on Higham Road and would be viewed at a distance from the edge of Pennine Grove. Its visual impact would therefore be limited from this perspective. The view of the site from Barrowford Road would be screened by existing trees and vegetation.

Barrowford Road



Pennine Grove



The development would be largely contained within the site and would respect the scale and massing of the surrounding properties which are individually designed.

There would be some loss of garden trees but these are unprotected and would not affect the larger trees towards the rear boundary of the site which contribute to the green corridor along the A6068.

The Burnley (26 Pennine Grove, Padiham) Tree Preservation Order protects two adjacent oak trees within the front garden of this adjacent property. The oak tree that is potentially most affected is close to the proposed new access.

The applicant has amended the plans to provide more spacing between the oak tree and the new driveway. This together with a transition ramp would protect the roots and avoid compaction of the soils.

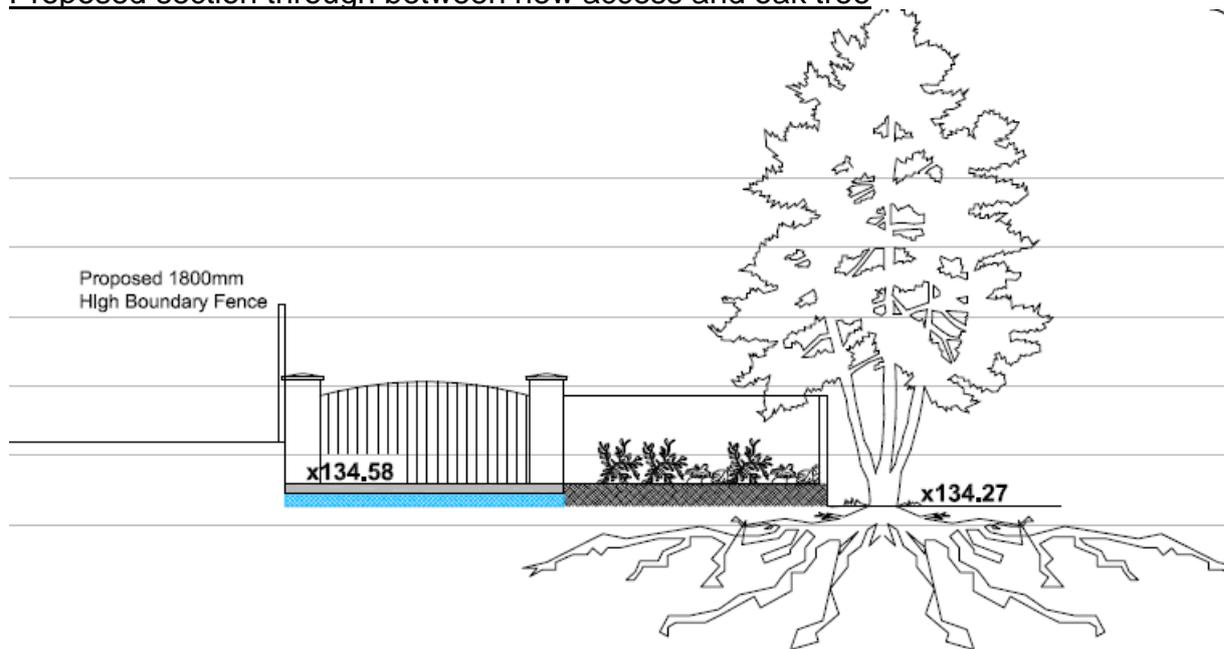
Oak tree indicated as T11



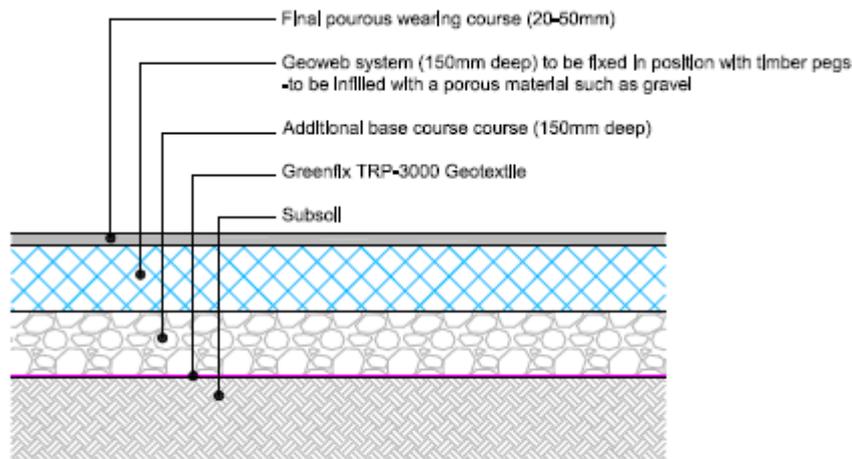
Oak tree T11



Proposed section through between new access and oak tree



The shaded blue area across the proposed access would be treated with a geoweb system which is 150mm deep under a porous wearing course and a geotextile membrane between the subsoil and a base course level.



Typical Construction Detail (1:10)

The transitional ramp would be constructed using a gradient of 1 in 8 which should avoid the roots of the oak tree which are normally located within the top 600mm. The Council's tree officer has viewed the tree and the amended proposals and considers that although the driveway encroaches slightly into the crown spread, any risks to the tree are minimal, and the Geoweb should protect the roots against any excess compaction.

A condition is recommended to ensure the proposed access is constructed in accordance with the submitted details.

The impact of the proposal on the character and appearance of this established residential area would be acceptable and would comply with Policies HS4 and SP5.

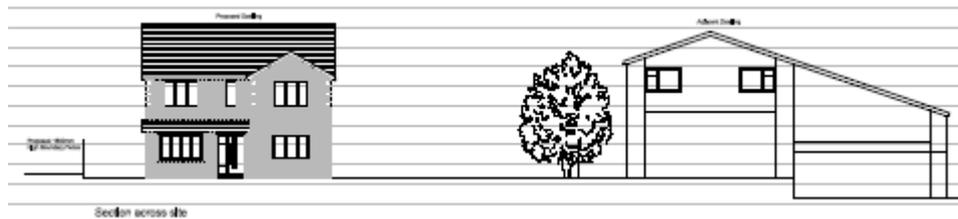
### Impact on residential amenities

Policies HS4 and SP5 seek to protect the amenities of existing occupants and future occupiers of development. Policy SP4 also states that new development will be supported within Development Boundaries where, amongst other things, it would not have an unacceptably detrimental impact on residential amenity or other existing land users.

Policy HS4 requires appropriate outlook and privacy distances between habitable rooms; this requires a minimum distance of 20m between habitable windows and 15m between a blank elevation and habitable windows.

The proposed house is a new design and siting since the previous application which was refused due to its close proximity to habitable windows in the side facing elevation of the adjacent house at 26 Pennine Grove.

### Relationship between proposed house and 26 Pennine Grove



The proposed house is sited closer to its boundary with 16 Higham Road with blank side elevations to each side. The distance between the windows in the side elevation at 26 Pennine Grove and the proposed house is 15m which is sufficient to protect the outlook from this property and complies with Policy HS4. The opposite side elevation is at an oblique angle to its boundary with the rear garden at 16 Higham Road with a gap of 3.5m at its nearest front corner which reduces to 0.9m at its back corner. Trees and vegetation screen the boundary between properties, with a distance between the proposed house and no. 16 Higham Road of approximately 26m. The spacing between the neighbouring properties and also between the new and existing house at 14 Higham Road is adequate to maintain adequate levels of privacy, outlook and daylight/sunlight.

The impact of the proposal on the residential amenities of residents is therefore acceptable and would not conflict with Policies HS4 or SP5.

### Impact on highway safety

Policy IC1 seeks to ensure that development is provided with safe and convenient access. The proposed access would have adequate visibility for drivers. Whilst Pennine Grove is narrow, there is sufficient visibility to allow cars to pass carefully, particularly where traffic speeds would be low. LCC Highways has no objections to the proposed access and recommends conditions which should be imposed. This also includes a condition to prevent surface water running from the driveway onto Pennine Grove.

Policy IC3 sets out the car parking standards for development, requiring three car parking spaces for a 4no. bedroom dwelling. Adequate off-street parking is provided to comply with this requirement. Retained parking for the existing property would also

be adequate. A condition is recommended to require a Construction Method Statement to ensure that traffic disturbance and effects on amenity and refuse collections are minimised during the construction period.

The proposal would not therefore significantly affect highway safety or parking provision and would comply with Policies IC1 and IC3.

#### Other issues

A condition is required to require a validation report following gas protection measures.

#### Conclusion

The proposal would provide a new dwelling within the urban boundary and complies with Policy SP4 and other development plan policies. Concerns raised by neighbours have been addressed by the applicant and the proposal would not significantly affect the character of the area or amenities and would protect adjacent protected trees. The proposal would comply with the development plan and there are no material considerations which outweigh this finding.

#### **Recommendation: Approve**

Conditions and reasons:

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

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

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

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

3. Prior to construction work commencing on the approved dwellings, details and representative samples of the external materials of construction to be used on the walls and roof of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved materials.

Reason: To ensure a satisfactory appearance to the development, in accordance with Policies HS4 and SP5 of Burnley's Local Plan (July 2018).

4. 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; and,
- viii) contact details for the site manager.

Reason: To ensure that the safety and amenities of other residents on Pennine Grove and Higham Road are satisfactorily and disturbance is minimised, 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.

5. During the construction phase of the development, no construction work or use of machinery or deliveries to the site shall take place on Sundays and Bank/Public Holidays or other than between 08:00 and 18:00 hours Monday to Friday and between 08:00 and 13:00 hours on Saturdays.

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

6. Prior to the commencement of built development, a scheme of landscaping which shall include indications of all existing trees and hedges on the land and details of those to be retained, as well replacement tree planting where applicable, and details of hard and soft landscaping works to include schedules of plants, species, plant sizes and proposed numbers/ densities where appropriate, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the visual amenity of the site and its surroundings, in accordance with Policies HS4 and SP5 of the Burnley's Local Plan (July 2018).

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of any dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.

Reason: In order that the landscaping works contribute to a satisfactory standard of completed development and its long term appearance harmonises with its surroundings, in accordance with Policies HS4 and SP5 of Burnley's Local Plan (July 2018).

8. The construction of the approved driveway shall only be carried out in accordance with the submitted plans and details of a transition ramp and geoweb system.

Reason: To ensure the long term health of an oak tree that is protected by a Tree Preservation Order and contributes to the quality of the residential environment at Pennine Grove, in accordance with Policies NE4 and SP5 of Burnley's Local Plan (July 2018).

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

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

10. For the full period of construction, facilities shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud and stones being carried onto the highway. The roads adjacent to the site shall be mechanically swept as required during the full construction period.

Reason: To prevent stones and mud being carried onto the public highway to the detriment of road safety, in the interests of highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

11. No development shall be commenced until full engineering, drainage and constructional details of the proposed access have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be constructed and completed in accordance with the approved details prior to the first occupation of the approved dwelling.

Reason: To ensure a satisfactory form of access and to ensure the drainage design prevents run-off over the adjoining highway (Pennine Grove), 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 provision can be made for their implementation at the appropriate stage of the development process.

12. Prior to the erection of any boundary treatment or the first occupation of the approved dwelling, boundary treatment shall be constructed in accordance with details which shall be previously submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment shall thereafter be retained at all times.

Reason: To ensure a satisfactory appearance to the edges of the development and to safeguard neighbouring residential amenities, in accordance with Policies HS4 and SP5 of Burnley's Local Plan (July 2018).

13. Prior to the commencement of development, details of gas protection measures to be incorporated into the design of the scheme in accordance with the recommendations of the submitted Coal Mining Risk Assessment (prepared by Worms Eye, dated 17 April 2019) shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall thereafter be carried out and completed during the construction of the approved dwelling and a Validation report shall be submitted to and approved in writing by the Local Planning Authority to verify that the approved measures have been implemented prior to its first occupation.

Reason: To cater for a risk from coal mining gas, as identified in the Coal Mining Risk Assessment submitted with the application, to ensure that the site is suitable for its intended use, in accordance with Policy NE5 of Burnley's Local Plan (July 2018).

14. The approved dwelling shall not be first occupied until its associated off-street parking provision has been constructed, surfaced and is available for use as indicated on the approved plans. The approved car parking spaces shall thereafter be retained at all times.

Reason: To ensure adequate off-street parking to meet the needs of the development, in accordance with Policy IC3 of Burnley's Local Plan (July 2018).

15. The approved dwelling shall not be first occupied until its associated refuse and recycling storage has been provided and is available for use in accordance with the details as indicated on the approved plans. The refuse and recycling storage facilities shall thereafter be retained as approved at all times.

Reason: To ensure adequate refuse and recycling storage for the approved dwellings in order to cater for the needs of the development and to protect the visual amenities of the area, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

16. The development shall be constructed in accordance with the recommendations of the submitted Noise Assessment (Report no. 101971, prepared by Miller Goodall, dated 19 December 2018). The approved dwelling shall not be first occupied until the recommendations have been carried out and completed.

Reason: To mitigate against the potential traffic noise from the A6068 on the residential amenities of future occupiers of the development, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).