

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

FUL/2020/0504

Town and Country Planning Act 1990
Erection of 22 no. dwellings and 12 no. apartments (Class C3), with associated
infrastructure and landscaping works
Land At Sycamore Avenue Burnley BB12 6DH
Applicant: Calico Homes

Background:

The proposal is to develop approximately 0.73ha of previously cleared land (originally the site of Woodbine Mill) to the north east corner of Sycamore Avenue and Gannow Lane/Woodbine Road. The site bounds a modern development of flats at Birchfield and Barleyfield Mews on its north side, an office building to its west side, Woodbine Road to the east side and cleared land (former Gannow Baths), car park for the Life Church and business units to the south side of Sycamore Avenue. There is evidence on site from the start of a previously commenced development (boundary walls, foundations and low walls) which has been abandoned.

Proposed Site Layout



The current proposal has been amended since first submitted (originally 41 units) and now offers a development of 22 terraced and semi-detached dwellings (13 with two bedrooms and 9 with three bedrooms) and 12 flats (7 with one bedroom and 5 with two bedrooms). All the properties are proposed for Affordable Housing through Affordable Rent.

The proposed development utilises the existing singular point of vehicular access at Sycamore Avenue. The layout is designed with houses fronting Sycamore Avenue

and Woodbine Road with the remainder of the development, including an apartment block and a terrace of `cottage` flats, fronting new internal roads. A water main easement crosses the site and cannot be built upon. No access is provided through the locked gates which currently separate the site from the neighbouring development of flats off Oak Street (Birchfield and Barleyfield Mews).

All the development would be two storey in scale and constructed in Marshalls Cromwell reconstituted stone and Marley smooth grey tiles to the roofs.

Illustrative model of proposed development with existing development in background



The proposed units are designed to be energy efficient by adopting a fabric first approach that outperforms the requirements of the Building Regulations. The applicant is also considering the use of Photovoltaic (PV) panels and indicated that these would be installed to the roofslopes of all units but subject to further viability issues. In these circumstances only the fabric first measures, including water saving measures can be taken into consideration. Electric vehicle charging points would be provided for ten of the proposed houses where the parking spaces are suitably close to the dwellings. All of the proposed three bedroom units (nine in total) would principally comply with the optional Part M4(2) technical standards in respect of adaptable homes (with minor exceptions relating to internal dimensions).

Relevant Policies:

Burnley`s Local Plan 2012-32 was adopted on the 31st July 2018.

Burnley`s Local Plan

- SP1 – Achieving sustainable development
- SP2 – Housing requirement 2012-2032
- SP4 – Development strategy
- SP5 – Development quality and sustainability
- HS1 (HS1/19) – Housing allocations (Land NE of Sycamore Avenue)
- HS2 – Affordable housing provision
- HS3 – Housing density and mix
- HS4 – Housing developments
- NE1 – Biodiversity and ecological networks
- NE4 – Trees, hedgerows and woodland
- NE5 – Environmental protection
- CC4 – Development and flood risk
- CC5 – Surface water management and sustainable drainage systems
- IC1 – Sustainable travel

- IC2 – Managing transport and travel impacts
- IC3 – Car parking standards
- IC4 – Infrastructure and planning contributions

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

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

Material Considerations

The National Planning Policy Framework (2019)

Site History:

APP/2004/0693 – Proposed erection of houses and apartments (details of landscaping reserved). Approved May 2005 subject to s106 Agreement.

APP/2006/0380 – Reserved Matters (Phase 1) – details of landscaping for 34 apartments. Approved July 2006.

APP/2007/0258 – Proposed 56 apartments (Phases 2 and 3). Approved June 2007.

APP/2007/1094 – Proposed 26 apartments (Phase 4). Refused February 2008 due to lack of mix of housing types and sizes.

APP/2011/0176 – Proposed erection of 34no. units. Approved August 2012 (commenced).

Consultation Responses:

LCC Highways

No objections. Off-site highway works comprising the re-instatement of footway at former access points, tactile paving at lowered crossing points, the relaying of a section of footway beneath trees at the corner of Sycamore Avenue and Woodbine Road and the improvement of two adjacent bus stops including raised kerbs and bus shelters. These works will require a s278 Agreement with Lancashire County Council. Conditions are recommended to require a highways condition survey prior to the start of development in order that any damage to adopted roads can be made good following the completion of the development; a Construction Management Statement, street maintenance details; and, wheel washing facilities during construction. LCC Highways has been re-consulted on amended plans which alter the internal layout and on a submitted Construction Management Plan. Any comments that are received will be conveyed in Late Correspondence prior to the meeting.

Lead Local Flood Authority – LCC

No comments have been received.

United Utilities

Comments awaited.

Coal Authority

No objection. The application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining

features and hazards which need to be considered in relation to the determination of this planning application. The Coal Authority records indicate that a thick coal outcrop crosses the application site and that the northern half of the application site falls in area of probable unrecorded coal mine workings at shallow depth.

The applicant has submitted a Coal Mining Risk Assessment Report that presents the findings of intrusive site investigations. The investigations comprised of four boreholes sunk within the application site. The report author notes that these four boreholes showed no coal seams or workings. In addition, we note the report author's assessment that there is a significant amount of competent rock cover beneath the application site and that when considering all the information "risks from future mining subsidence are considered to be very low and no further action is proposed".

On the basis of the information submitted and the professional opinion of the report author, the Coal Authority has no objection to this planning application. However, further more detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent building regulations application.

Greater Manchester Ecology Unit (GMEU)

A Preliminary Ecological Appraisal of the site was undertaken in September 2020, (E3P, October 2020, Reference 80-372-R1-1). The surveys appear to have followed best practice guidelines and been undertaken by suitably qualified ecologists.

The site does not have any nature conservation designations, nor are the proposals likely to impact upon any such site. It does lie within the Impact Risk Zone, identified by Natural England for the South Pennine Moors (SSSI) and West Pennine Moor (SSSI), however it does not meet the description of activities which are likely in impact on the protected sites.

Two electricity substations, which are outside of the site edged red were judged for their potential to support roosting bats, and have low and moderate potential. As the buildings are shown as retained on the proposed site plan no further survey work for bats is required. Two trees are indicated for removal, however no trees with potential bat roost features were identified in the ecology survey.

The trees and vegetation/scrub on the site could support potentially support breeding birds, and the nests of all wild birds are protected under the Wildlife and Countryside Act, 1981 (as amended).

No other protected species were discovered on the site, although the site is potential suitable for species such as hedgehog and badger.

Himalayan balsam was recorded on the western corner of the site. This species is listed on Schedule 9 of the Wildlife and Countryside Act, 1981, as amended, making it an offence to plant or spread this species in the wild.

The remainder of the habitat on the site is predominantly hard standing, grassland which has colonised the disturbed ground, scrub/bramble and tall ruderal vegetation.

The following recommendations are made:

The survey results are valid for 1 year. If development has not commenced by September 2021 an updated ecology report and recommendation for the site will be required.

Any proposed external lighting should be designed to minimise impact on nocturnal wildlife, in line with best practice guidelines and the advice provided in section 4.4.3 of the ecology report.

A condition should be used so that any site clearance, vegetation or tree removal should be timed to avoid the main bird nesting season (March - August inclusive) unless it can otherwise be demonstrated that no active bird nests are present (4.4.2 of the ecology report).

Any loss of trees on the site should be compensated for by adequate compensatory planting (see 4.3.1 of the ecology report for recommended species). All retained trees must be adequately protected from any adverse impacts of the development, in line with BS 5837:2012.

A method statement for clearing the site should be secured in line with recommendations made in the ecology report with reference to hedgehogs (4.4.5) and amphibians (4.4.1), and I would also advise that the measures to maintain connectivity through the site are adopted in the landscaping for the scheme (such as having hedgerow features or suitable gaps between fences).

Under the NPPF (section 170d and 175d) development should be aiming to deliver enhancements for biodiversity. Given the scale of the proposals, I would expect a development such as this to demonstrate it is achieving this objective, and in line with the upcoming Environment Bill, I would recommend that a 10% net gain for biodiversity delivered. In addition to this enhancement measures such as the provision of integrated bat and bird boxes should also be explored.

A Method Statement to prevent the spread of Himalayan balsam during the works should be secured through a pre-commencement condition.

An informative should be attached to any planning permission which is granted, to make the applicant aware of the potential for bats and other protected species to be present within the site.

Environmental Health

Raises concern that the potential impact of noise from nearby industrial and/or church activities (from Life Church) has not been assessed and construction details do not indicate any mitigation measures. Recommend a condition to require a noise assessment to be carried out prior to the commencement of any development.

Contaminated Land Officer

Due to a risk to future end users of the site, recommend the full Contaminated Land condition.

LCC Schools Planning Team

Estimate that the development will give rise to three primary school places which can be accommodated within local schools (within a two mile radius) and one secondary school place for which a contribution of £23,061.75 is requested.

East Lancashire Hospitals NHS Trust

A request has been made for a financial contribution towards an increase in healthcare demand based on an impact on non-recurrent (capital) and recurrent (service provision) infrastructure costs to address the direct impact of the development on the Trust. The Trust states that it will not be able to secure funding for additional population resulting from the development for approximately three years and requests a contribution of £49,711 (based on the original figure of 41 units).

Head of Greenspaces and Amenities

With regard to the landscape proposals, there are opportunities to plant more trees [the amended plans have addressed this]. Maintenance of landscaped areas should be considered. With regard to public open space, a contribution in lieu of provision is required, based on a rate of £350 per bedspace. The contribution would be used for improvements to the nearby Sycamore Park, specifically improvements to provision of seating, bins and entrances and/or to improve the sports pitches which are used by local junior teams.

Publicity

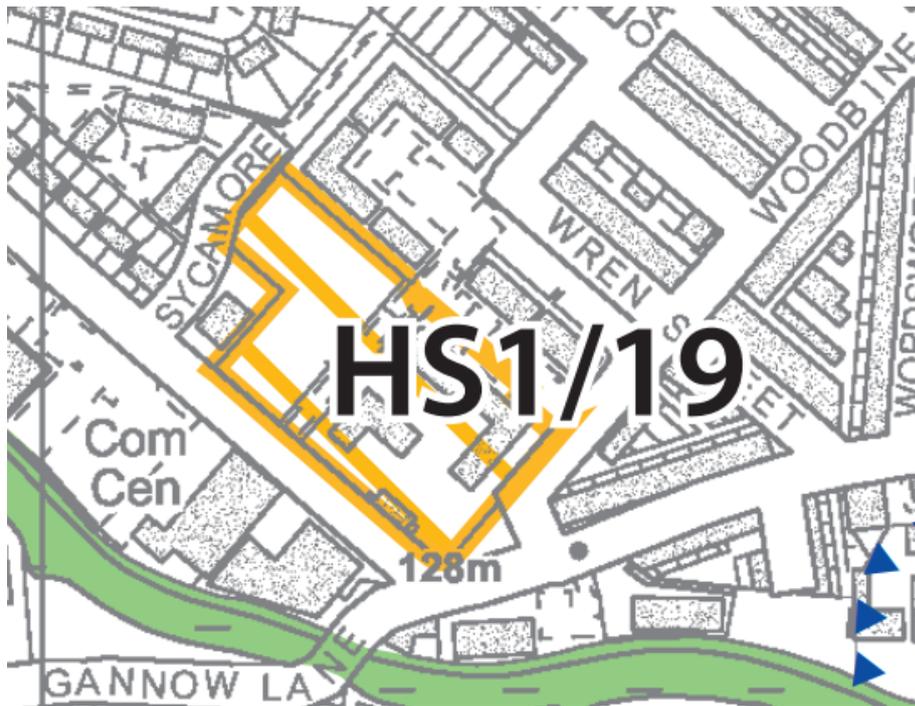
One letter of objection has been received from a neighbour to the application as first submitted. The objection referred to noise from the close proximity of a proposed scooter shed and the loss of daylight that would be caused by the proposed three storey apartment block. Amended plans which have removed both the scooter shed and three storey apartment block have been received and neighbours re-consulted. No further comments have been received.

Planning and Environmental Considerations:

Principle of Proposal

Policy SP2 identifies a housing requirement between 2012 and 2032 of 3,880 dwellings and a residual requirement of 1,798 dwellings which will be met by site allocations in line with the Council's overall development strategy which is set out at Policy SP4. Policy SP4 identifies Burnley the principal town which will be suitable for large scale, major and a variety of smaller housing sites to deliver a comprehensive range of choice of types and tenures of housing. Policy HS1 identifies a total of 32 sites within the borough that will provide the housing requirement to be found from new allocated sites. Policy HS1/19 relates to approximately 0.77ha of brownfield land to the north east of Sycamore Avenue.

Extract from Policies Map of Burnley's Local Plan



The whole of the application site is included within the site allocation. Surrounding land to the north and west of the site which also formed part of the former mill site has been developed and the application site which benefits from an extant planning permission (APP/2011/0176) for 34 dwellings is the remaining area to be completed. There is no objection in principle therefore to a residential development subject to assessing the proposal against the site specific criteria listed in Policy HS1/19 and taking into account other plan policies. The proposal should be considered in respect of the suitability of its design and layout, its impact on trees, ecology, highway and parking considerations, residential amenity, open space, ground conditions, drainage and its impact on school places and provision for Affordable Housing.

Housing allocation – Policy HS1/19

Policy HS1/19 states that the site is acceptable for around 34 dwellings. The proposal as amended now proposes a 34 units which is consistent with this figure. The proposals should be considered against the site specific requirements that are listed below:

- 1) A mix of dwelling types will be expected;
- 2) A bat survey will be required as recommended by the Council's Protected Species Survey 2017.

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 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.

The proposed layout of the development is designed to provide a formal front view of terraces and semi-detached houses onto Sycamore Avenue and Woodbine Road.
Proposed Street View to Sycamore Avenue (existing buildings shaded in grey)



Proposed Street View to Woodbine Road (existing buildings shaded in grey)



The full development would be two storey in scale which is lower than the existing flats to the north of the site but is consistent with the wider local area, including the approved frontage of houses on the opposite side of Sycamore Avenue (former Gannow Baths site – APP/2018/0020). The layout within the site has been amended by replacing a three storey block of flats with two pairs of semi-detached houses and increasing the spacing between building blocks where necessary to ensure adequate separation distances. The design of the scheme adopts traditional building forms with gable roofs with the exception of the proposed apartment block which is a larger building mass where a hipped roof is appropriate. The design creates symmetry and some variety in minor detailing. The use of reconstituted stone and a flat grey tile would be appropriate.

Policy HS3 states that as a minimum developments should seek to achieve 25 dph (gross) but that higher densities of at least 40 dph (gross) will be expected within or close to the town and district centres. This proposal would produce a housing density of approximately 46 dph (gross) which, taking account of its urban location, is consistent with this policy. The proposed mix of one and two bedroom apartments and two and three bedroom dwellings would provide a good variety of accommodation suitable for families and older people. The proposed houses have private rear gardens and the apartments have shared open space to provide adequate outdoor space for sitting out, gardening, drying washing and for refuse/recycling bin storage.

The proposed design and layout of the scheme would provide a suitable layout with a coherent design theme that respects the local area. This would provide a satisfactory appearance to the development which would satisfy Policy SP5.

Open space

Policy HS4 requires open space to be provided at a rate of 0.3ha per 50 dwellings which where not practical for schemes less than 50 houses can be catered for by a commuted sum to be used to improve open space nearby.

In this case, this would lead to a need for 0.2ha of open space. Some public areas of open space are provided within the layout, at the site entrance, corners and access roads but these are incidental areas of open space that are more suitable for landscaping to enhance the immediate residential environs of the site. In order to provide adequate formal open space and play equipment for future occupiers of the development, the Council's Head of Green Spaces and Amenities considers that a contribution is required which should be calculated in accordance with the Developer Contributions SPD which is based on bedroom numbers. In this case, the applicant has agreed to pay a contribution of £21,266 which would be used to improve existing open space and play facilities at the nearby Sycamore Park. This would fulfil the open space requirements at Policy HS4.

Adaptable Homes

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 provided a report to demonstrate the level of compliance that is achieved by the 3 bedroom unit which accounts for 26% of the total number of proposed dwellings. This demonstrates that whilst not all the criteria are met to reach the part M4(2) standard, it would comply with the majority of the requirements. The minor discrepancies in this case are not possible to remedy without a change in house designs and layout which the applicant states would adversely affect the viability of the scheme. Given the long planning history of this site and the opportunity for a scheme for affordable housing, it is acknowledged that in this instance, the viability of the scheme should not be jeopardised, as well as the applicant's timetable for implementation in the current year. It is accepted therefore that in these circumstances that the achievement of a minimum of 26% of the plots with dwellings that meet the majority of the Part M4(2) standard is satisfactory and would be beneficial to occupiers of the development.

Energy efficiency

Policy SP5 requires energy efficient developments. In respect of energy and water consumption, the submitted Design and Access Statement states that the construction design has followed a 'fabric first' approach that outperforms the requirements of the current Building Regulations to ensure that dwellings address fuel poverty and have a long lifespan of low maintenance requirements. The dwellings would achieve a water usage of 102.6 litres per person per day which outperforms the current Building Regulation requirements of 125 litres per person per day. The applicant has considered renewable sources of energy, including the installation of Photovoltaic Panels (PV) panels on each of the dwellings, cottage flats and apartment block. This is still being pursued by the applicant to ensure viability and so cannot be relied upon. However, it demonstrates that the applicant is seeking opportunities to harness renewable energies whilst at the same time the fabric first approach to building energy efficient dwellings would provide energy efficient affordable homes for future occupiers. The applicant has therefore satisfied the requirements of Policy SP5.

The layout and design of the scheme has taken into account the site specific requirements in Policy HS1/19 and the requirements of Policies SP5 and HS4. Issues relating to bats which are referred to in Policy HS1/19 will be discussed later in the report. The amount of new dwellings can be satisfactorily accommodated on the site, it respects the character of the surrounding area and provides a sensitive regeneration

of the site. The proposal also adequately provides for open space improvement. The applicant has satisfactorily addressed requirements for adaptable homes and energy efficient dwellings and there is no conflict with Policies SP5 and HS4.

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

Following changes to the layout and removal of a three storey apartment block, the interface distances of Policy HS4 are achieved between the development and the flats at Birchfield Mews and Barleyfield Mews. These are also achieved within the development with some minor exceptions. The easement for a water main crossing the site presents a constraint on development and should be taken into account. The separation distance between the fronts at Plots 28-31 and the fronts of opposing terraced properties on the opposite side of Woodbine Road would be less than the standard but would be greater than the typical distance between terraced rows on the same street. In this instance, the opportunity to have formal fronts to Woodbine Road rather than enclosed rear gardens would be an advantage whilst would still provide adequate separation to protect daylight and privacy.

The Environmental Health Officer has recommended a condition to require a noise assessment based on noise from nearby business units on Sycamore Avenue and the Life Church. The business units are however well set back from the road and have not previously raised any concerns in relation to adjoining residential development at the former Gannow Baths site. The Life Church is also well set back from the proposed residential development and operates comfortably in a residential area. In these circumstances, adequate levels of amenity in relation to background noise can be secured through normal building regulation requirements.

As such, the proposal would provide a satisfactory level of amenity to protect existing occupiers and also for new occupiers of the development which would comply with Policy SP5.

Impact on highway safety and parking

Policy IC1 seeks to promote sustainable travel and safe pedestrian, cycle and vehicular access, including adequate visibility splays. Policy IC3 requires adequate parking in line with Appendix 9. Paragraph 109 of the NPPF states that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

A Transport Statement is submitted with this application and an Addendum report has been produced following changes to the scheme. The site is within an accessible urban area with nearby bus stops. The proposed junction with Sycamore Avenue is similar to previous schemes and would provide adequate access and visibility. LCC Highways is satisfied with the proposed access arrangements. Further comments following amended plans will be reported in Late Correspondence prior to the meeting.

The Council's Car Parking Standards at Appendix 9 requires one space for single bedroom units and two spaces for both 2 and 3 bedroom houses. In this instance,

one space is provided for each flat (including two bedroom flats), one space for each two bedroom house and two spaces for each three bedroom house. Whilst this falls short of the standard in respect of the two bedroom flats and two bedroom houses, all of these properties will be affordable homes where there is a less likely demand for two spaces per dwelling. In addition, there is scope for on-street parking for visitors. LCC Highways has no objections to the level of parking provision within the development.

LCC Highways has requested a number of conditions, including an adopted road conditions survey before commencing work, and for off-site works of highway improvement to tidy up redundant access points and re-instate kerbs. Bus stop improvements are also requested to provide level access and new bus shelters at the two nearest stops either side of Sycamore Avenue. These are required to promote the use of bus services and sustainable transport which is particularly important for a site of affordable housing where there is likely to be a higher reliance on public transport. These improvements can be considered as part of a s278 Agreement with LCC and a condition is required to secure them.

The proposal would therefore provide an accessible development and safe conditions for all road and pedestrian users with adequate parking to cater for the needs of occupier which would comply with Policies IC1 and IC3 as well as the NPPF.

Impact on ecology

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

The site has no nature conservation designation and does not provide effective habitat for wildlife. However, Policy HS1/19 refers to the need for a bat survey. An Ecological Appraisal has been submitted and assessed by GMEU on behalf of the Council. GMEU affirm that there is no need for further surveys at this stage due to the electricity sub-station which is suitable for bats not being disturbed and trees to be removed not having bat roost potential. GMEU state however that a further survey should be carried out if the development has not commenced by September 2021 and a condition is therefore necessary to secure this. GMEU also state that there is potential for hedgehog and badgers to visit the site and recommend that a Method Statement for clearing the site be required to implement precautionary measures to avoid any harm to wildlife. Other measures as outlined in the Ecological Appraisal are also recommended (removal of Himalayan balsam, avoidance of excessive lighting, no clearance within bird breeding season, tree protection measures and measures for maintaining connectivity through the site for hedgehogs).

Policy NE1 also encourages net gain for biodiversity in new developments. Whilst the Government has produced an Environment Bill which may in the future make this a requirement, at this stage it is something which is encouraged. The applicant has produced a Biodiversity Enhancement statement which details the addition of bat and bird boxes and hedgehog houses in the development. This together with suitable planting would encourage wildlife and biodiversity which would comply with the requirements of Policy NE1. Further comments from GMEU to these measures will be reported in Late Correspondence.

It is accepted that these measures would be beneficial to the biodiversity of the site.

Subject to conditions to secure the measures outlined above, the proposal would adequately protect and enhance biodiversity at the site which would comply with Policy NE1. Subject to these further comments and the recommended conditions, the proposed development would adequately protect wildlife and make some significant steps to enhancing biodiversity.

Impact on trees and Landscaping proposals

Policy NE4 states that development proposals should provide for the protection and integration of existing trees and hedgerows for their wildlife, landscape and/or amenity value.

A tree survey and arboricultural impact assessment have been submitted with the application and amended since the original submission to reflect changes in the site layout. There are 15 individual trees, 7 groups of trees and 2 hedges within or adjacent to the site. In terms of individual trees, the majority of these are just outside the site with the site itself having minimal tree cover and characterised by numerous patches of small self-set trees, young birch regeneration and dense undergrowth across the site. Himalayan balsam which is an invasive species also is present amongst some of the trees. The most significant trees are the street trees on Sycamore Avenue and a smaller number of trees adjacent to Sycamore Close (north west part of the site). The 6 no. street trees along the site's frontage (four sycamores, one ash and one whitebeam) would be retained with crown reduction and lifting to three of the trees. The development would necessitate the removal of four trees; two of these are silver birch trees just within the site's frontage on Sycamore Avenue and two are ash trees of a lower quality adjacent to Sycamore Close. Groups of self-set trees of low quality close to Woodbine Road and the electricity sub-stations would also be removed, as well as part of a small group adjacent to Sycamore Close. It is accepted that the removal of these trees is necessary to allow the development to take place and their losses can be mitigated by new tree planting.

A landscaping plan makes provision for planting 21 no. new trees which includes a proportion of native species (field maple, silver birch, rowan, whitebeam) as well as a beech and holly hedge around the site boundaries in the north west corner of the site, shrubs and native hedge mix, ornamental hedges, climbers and wildflower seeding to open areas at the site entrance and at the north side of the site adjacent to Birchfield Mews.

Proposed Landscaping Scheme



The mitigation measures would be appropriate and provide a high quality of landscaping within the site that would satisfy Policy NE4.

Impact on drainage

Policy CC4 seeks to ensure that new development does not result in increased flood risk from any source or other drainage problems, either on the development site or elsewhere. A Flood Risk Assessment (FRA) and Drainage Strategy has been submitted with the application. It correctly identifies the site within Flood Zone 1 where there is the lowest risk of flooding, although acknowledges a variable risk of pluvial (surface) flooding ranging from high to very low which is likely to be due to ponding due to topographical depressions. Levelling of ground, site drainage and mitigation measures would address this issue and would be subject to a detailed scheme to be required by a condition. The FRA recommends the use of underground attenuation tanks to store surface water run-off which would then be released at a controlled flow to be calculated on the basis of greenfield run-off rates with an allowance for climate change. Comments from the Lead Local Flood Authority have been requested but not to date received. Given the extant permission to develop the site for a similar scale of development, it is considered that conditions to secure a detailed scheme of surface water drainage and a management and maintenance plan would ensure that the site is satisfactorily drained and that the development would not lead to a significant risk of flooding either on site or elsewhere.

Foul water drainage would be to public sewers; a condition is also recommended to ensure that a suitable scheme is implemented. With these provisions, the proposal would comply with Policy CC4.

Ground conditions

Policy NE5 requires applicants to carry out appropriate assessment where there is reason to suspect a risk from unstable land. In this case, there are coal mining legacies that may affect the site. A coal mining risk assessment has been submitted to identify the risks posed by the development from shallow surface works. The findings of the report which details intrusive investigations indicate that the risk is low and can be adequately dealt with through building regulation requirements. The Coal Authority has no objection. There is therefore no significant risk posed by coal mining legacies to the development and the proposal complies with Policy NE5.

Policy NE5 also states that on sites that are known to be potentially contaminated, applicants will be expected to carry out an appropriate survey. A Phase I Geoenvironmental Site Assessment has been submitted with this application that identifies potential pollutants, including a low to moderate risk from ground gas. A detailed Phase II intrusive site investigations are recommended. The Land Contaminated Officer concurs with these findings and recommends a condition to ensure that this is satisfactorily addressed.

Affordable Housing provision

Policy HS2 requires affordable housing on sites of over 10 dwellings. In this case, the applicant, Calico Homes, is a Registered Provider (RP) and intends to provide 100% Affordable Housing on the site which will be in the form of Affordable Rent.

The proposal would therefore go well beyond the requirements of Policy HS2. As such, the provision of affordable housing would be a key benefit of the development. In these circumstances, where the scheme is for 100% affordable housing by a RP, the implementation of the affordable housing can be adequately secured through a planning condition. It is recognised that the RP will have its own mechanisms for controlling the occupancy and affordability of the units and for their retention as affordable units for future occupiers and that this to some extent will also be controlled through any restrictions that are imposed by Homes England who award grants to RPs.

The provision of the whole scheme as Affordable Housing would therefore comply with Policy HS2 and a condition is recommended to ensure its implementation.

Health provision

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

A request has been received by the East Lancashire NHS Trust (The Trust) for a contribution of £49,711 towards health care provision. The contribution would be used for capital and revenue funding within the Trust area. The Trust provides services from the following hospitals:-

- Royal Blackburn Teaching Hospital

- Burnley General Teaching Hospital
- Clitheroe Community Hospital
- Accrington Victoria Hospital
- Pendle Community Hospital

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

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

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

The Trust has explained in its methodology that the need for the health care contribution for revenue funding is due to the impact from an increase in population in the Trust area due to the development on the site. The Trust seeks funding for the first year of occupancy of all the proposed dwellings based on an average household occupancy that it has calculated (67 occupants based on the initial scheme). Whilst, in principle, the provision of healthcare is a material planning consideration, it can only be material to an individual case where the impact has been clearly assessed. This request for capital and revenue funding is based on there being an increase in population from the whole of the development. Given, however, the breadth of the geographical area that the Trust covers which goes far beyond the Burnley area, it is unrealistic to assume that all new occupants of the proposed development will be new to the Trust area. The Trust also do not consider how new occupancies may result from changes in households or whether it would receive the same share of patients from the new development as it receives from the existing population. The Trust provide no reasoning or evidence to support their assumptions on these matters and in, effect, this could lead to double counting.

Without any evidence to support the assumption that the proposed development would lead to an increase in population in the Trust area from all the proposed dwellings on this site, there is no reliable reasoning or evidence to conclude that the development will have an impact on the health care services provided by the Trust.

In these circumstances, a contribution is not necessary to make the development acceptable. It would therefore fail the three tests listed above as it would not be necessary to make the development acceptable in planning terms; it would not be directly related to the development; and it would not be fairly and reasonably related in

scale and kind to the development. As such, as a matter of law and policy, the Council cannot either request or accept a contribution as sought by the Trust. Given that the requested contribution is not necessary to make the development acceptable, the concerns raised by the Trust are not reasons to object to the application.

Impact on education

Policy IC4 states that development will be required to provide or contribute towards the provision of the infrastructure needed to support it. LCC has requested a contribution towards one secondary school place which is based upon a three mile radius of schools from the site. The Developer Contributions SPD states that LCC's current methodology for calculating its 'reasonable distances' is more restrictive than that recommended by the Department for Education and that given the viability challenges for development in Burnley, the closure of a Burnley secondary school with significant capacity since the local plan was adopted and the fact that there is spare capacity at another Burnley secondary school, the Borough Council intends to take a more flexible approach to the reasonable distance calculations. In these circumstances, the applicant has not been requested to make a secondary school contribution.

Conclusion

The proposed development would be beneficial in delivering 100% affordable housing on an accessible urban site that is allocated for residential development in Burnley's Local Plan. The proposed scheme is well designed and would provide a well landscaped setting for new homes with compensatory planting for the removal of trees and enhancement of the setting for wildlife. Provision for open space and play facilities for future occupiers would be accommodated through a contribution to improve facilities at the nearby Sycamore Park. Contributions towards health provision and education have been assessed but have not been adequately justified in order to meet the necessary tests. Drainage issues and land contamination from the historic use of the site are capable of being adequately dealt with through planning conditions. Safe access can be provided from the site and the local highway authority has no objections to the development subject to various conditions that can be imposed. As such, the proposed scheme would make a positive contribution to the Council's delivery of housing. The development complies with the development plan and there are no material reasons which would outweigh this finding.

Recommendation: Approve subject to s106 Agreement to require a contribution towards public open space improvements

Conditions:

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

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

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

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

3. The external materials of construction to be used on the walls and roofs of the development shall be in accordance with the submitted schedule of materials titled 'Materials Tracker' (Job No. 3588) prepared by btp architects unless any variation is otherwise previously agreed in writing by the Local Planning Authority.

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

4. Details of surfacing materials to be used on driveways and parking spaces shall be in accordance with the details within the submitted 'Materials Tracker' (Job No. 3588) prepared by btp architects unless any variation is otherwise previously agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory bound surface to prevent loose material from being dragged onto the public highway and to ensure a satisfactory appearance to the development, in accordance with Policies IC1 and SP5 of Burnley's Local Plan (July 2018).

5. In the event that site clearance works or development have not commenced by the 1st September 2021, no works shall take place on the site until an updated ecological survey has been carried out to assess the presence and likely harm from the development to any protected species, together with recommendations for avoiding and/or mitigating against that harm. The updated ecological survey shall be submitted to and approved in writing by the Local Planning Authority before any works commence and the agreed recommendations shall be carried out in their entirety.

Reason: To take account of any change in circumstances that may potentially occur following this period of time and to ensure adequate protection for protected species, in accordance with Policy NE1 of Burnley's Local Plan (July 2018).

6. No vegetation clearance, demolition or other works shall take place until a Method Statement for site clearance in accordance with the recommendations of the submitted Preliminary Ecological Appraisal by E3P, dated October 2020, with reference to hedgehogs (4.4.5) and amphibians (4.4.1) has been submitted to and approved in writing by the Local Planning Authority. The clearance of the site shall thereafter only be carried out in accordance with the approved Method Statement.

Reason: To ensure adequate safeguards to avoid any harm to hedgehogs and amphibians, in accordance with Policy NE1 of Burnley's Local Plan (July 2018).

7. No development shall be commenced until protective fencing to protect the trees to be retained on the site has been erected in accordance with details as indicated within the amended Arboricultural Impact Assessment (Reference

846.001, dated January 2021 and prepared by The Environment Partnership). There shall be no excavation, site works, trenches or channels to be cut or laid or soil waste or other materials deposited so as to cause damage or injury to the root structure of the retained trees. The protection measures shall be implemented and remain in situ during building operations until the completion of the development.

Reason: To ensure adequate protection for the long term health of trees which should be retained in the interests of the visual amenities and biodiversity of the site and its surroundings, in accordance with Policy NE4 of Burnley's Local Plan (July 2018). The protective fencing is required to be erected prior to the commencement of development in order to give adequate protection to the trees from construction vehicles, plant, deliveries and other site activities.

8. All planting, seeding or turfing comprised in the approved details of landscaping set out on the approved Landscape Proposals plan (drawing number 6456.01RevC) shall be carried out in the first planting and seeding seasons following the first occupation of any of the dwellings within any phase of the development or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.

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

9. Details of any external lighting both temporary and permanent which shall be designed to minimise impact on nocturnal wildlife shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. No further external lighting shall thereafter be installed.

Reason: To protect bats and birds, in accordance with Policy NE1 of Burnley's Local Plan (July 2018).

10. Prior to the removal of any vegetation on the site or commencement of development, a method statement for the removal of Himalayan balsam and to prevent its spread from the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved method statement.

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

11. Prior to the commencement of built development, details of the management company, its responsibilities and its funding mechanisms for the management

and maintenance of all areas of open space within the site excluding private gardens, to cover the lifetime of the development, shall be submitted to and approved in writing by the Local Planning Authority. Any subsequent changes to the management details shall be submitted to the Local Planning Authority prior to the change taking place.

Reason: To ensure that these areas are appropriately managed and maintained, in the interests of the amenities of the site, in accordance with Policy HS4 of Burnley's Local Plan (July 2018).

12. No development shall be commenced until an Arboricultural Method Statement which shall incorporate the elements listed in section 4 of the submitted amended Arboricultural Impact Assessment (prepared by the Environment Partnership, reference 846.001, dated January 2021) has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in full accordance with the methods and measures in the approved Method Statement.

Reason: To ensure that vulnerable trees which are to be retained and have an amenity value are not harmed by the development, in accordance with Policy NE4 of Burnley's Local Plan (July 2018).

13. The development shall be constructed with the inclusion of the biodiversity enhancement measures contained with the Biodiversity Enhancements Statement prepared by E3P (reference 80-372-L1-1). All of the enhancement measures shall be installed prior to the completion of the development.

Reason: To ensure that the scheme provides adequate benefits for wildlife to enhance the biodiversity of the site and the local area, in accordance with Policy NE1 of Burnley's Local Plan (July 2018).

14. No vegetation clearance required to facilitate the scheme shall take place during the bird nesting season between March and August inclusive unless a qualified ecologist has inspected the area no more than 24 hours prior to its removal and provides written confirmation to the Local Planning Authority that no nests or breeding birds will be affected by the development.

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

15. Prior to the commencement of development, a scheme of off-site works of highway improvement to include the making good of footways, reinstatement of kerbs and improvements to the two nearest bus stops to the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented in its entirety and completed prior to any dwelling or flat being first occupied.

Reason: To ensure that satisfactory access is provided to the site and satisfactory provision is made to encourage use of public transport, having

regard to sustainable travel and all highway users and highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

16. Prior to the commencement of development, a Conditions Survey of the adopted highways surrounding the immediate site shall be submitted to and approved in writing by the Local Planning Authority. Within a period of six months from the substantial completion of the last dwelling or flat the same highways shall be re-surveyed, the findings from which shall be submitted to and approved in writing by the Local Planning Authority. Any damage that is identified to have occurred between the period of the two surveys shall thereafter be remedied in order to return the condition of the highways to their pre-construction condition by no later than three months from the date of the last of the approved surveys.

Reason: To maintain the condition and construction of public highways that may be potentially adversely affected by construction traffic and building operations, in the interests of highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

17. 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.

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

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

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

19. The development shall at all times be constructed in complete accordance with the measures and details contained within the Construction Method Statement, prepared by Ringstones Maintenance and Construction LLP and headed Sycamore Avenue, Burnley, dated January 2021.

Reason: To ensure that the safety and amenities of occupiers of neighbouring properties and users of the local highway are satisfactorily protected, in accordance with Policies NE5 and IC1 of Burnley's Local Plan (July 2018).

20. Unless otherwise approved in writing by the Local Planning Authority, all works and ancillary operations in connection with the construction of the development, including the use of any equipment or deliveries to the site, shall be carried out only between 0800 hours and 1800 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sundays, Bank

Holidays or Public Holidays. Where permission is sought for works to be carried out outside the hours stated, requests in writing must be made with at least seven days' notice to the Local Planning Authority.

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

21. 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, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented and completed in accordance with the approved scheme prior any dwelling to any dwelling within each phase of the development being first occupied. The approved drainage scheme shall be retained at all times thereafter.

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

22. 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, retained, maintained and managed at all times in accordance with the approved plan.

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

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

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

24. 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 approved Site Plan. The refuse and recyclable waste storage provision for each dwelling shall thereafter be retained at all times.

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

25. The proposed boundary treatments as indicated on drawing number SA-BTP-00-SP-DR-A-3588_106 RevB shall be carried out and completed prior to the completion of the development or occupation of the final dwelling or flat, whichever is the sooner and shall be retained at all times thereafter.

Reason: To ensure a satisfactory appearance and amenity to the development from within the site and its environs, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

26. Prior to the commencement of development, an intrusive investigation shall be carried out by a suitably competent person(s) in accordance with the submitted Phase I Geoenvironmental Site Assessment Report (prepared by E3P reference 14-281-R1, dated October 2020) to assess the extent and nature of contamination likely to affect all receptors at end-use and a written report, detailing the findings of the investigation, assessing the risk posed to receptors by contamination and proposing a remediation scheme, including a programme for implementation, and shall be submitted to and approved in writing by the Local Planning Authority. Remediation work shall thereafter be carried out and completed in accordance with the approved scheme. In the event that previously unidentified contamination is discovered during any part of the works then further investigation and risk assessment shall be undertaken which shall together with an additional remediation scheme be submitted to and approved in writing by the Local Planning Authority before works continue. A Validation and Verification report to evidence that all remediation works have been carried out in accordance with the approved scheme shall be submitted to and approved in writing by the Local Planning Authority before any of the approved dwellings or flats are first occupied.

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

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

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

28. No built development shall be commenced until the engineering, drainage, street lighting and constructional details of the proposed estate roads and

details of the maintenance of all streets, access roads and drives have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

Reason: To ensure these details are adequate to provide satisfactory access and amenity for the occupiers of the development, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

29. The development shall not be carried out otherwise than in accordance with the measures for water and energy efficiency contained within the amended Design and Access Statement, dated January 2021 and shall be completed in their entirety prior to the completion of the development.

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

29. Electric vehicle charging points shall be installed externally in accordance with the approved plans (drawing number SA-BTP-00-SP-DR-A-3588_108RevA) prior to the completion of the development.

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

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

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

JF
12th January 2021