

Briercliffe Ward

TOWN AND COUNTRY PLANNING ACT 1990

Demolition of existing mill and redevelopment for residential purposes including details of access (all other matters reserved).

WALSHAW MILL TALBOT STREET BRIERCLIFFE LANCASHIRE BB10 2HW

**Agent:** Steven Hartley HPDA

**Applicant:** Mr M Payne, Walshaw Mill Ltd

This application is brought before Development Control Committee as a Member referral under the scheme of delegation.

**Background:**

This application is a resubmission of a proposal that was refused by the Council under delegated authority in May 2020 (APP/2018/0454). The previous application was refused for the following reasons:

*1. The proposal will result in less than substantial harm to the significance of the conservation area. The applicant has not demonstrated that public benefits to outweigh this harm and as such has failed to provide a clear and convincing justification for the harm to the significance of the conservation area. Approval of the application would therefore be contrary Local Plan Policies HE1 and HE2, the NPPF and the relevant statutory duty.*

*2. The proposal would result in the loss of an existing employment site which has not been robustly justified by way of appropriate evidence of marketing to demonstrate that the site is not viable for employment purposes. Approval of the application would therefore be contrary to Local Plan Policy EMP3.*

The Member referral request is on the grounds that the long term vacant mill is likely to fall into disrepair and attract vandalism and arson; the building has no special interest; and the area already has a mill with protected status.

**Site Description and Surrounding Area:**

The application site relates to an almost rectangular plot measuring around 1.5ha located to the south-west of Talbot Street. The site comprises a former cotton mill set back from the street with service areas/parking to the east and south and area of grassland/scrub to the west. The mill complex dates from 1905 and is reasonably well preserved. It includes a substantial stone built north light weaving shed with engine and boiler houses, preparation block and other ancillary buildings joined at its southern end. The grassed area to the west includes potential below ground remains of Coal Pit House (pre-1848 farmhouse) and former allotment gardens.



Preparation Block, Engine and Boiler House (south elevations)    Weaving Shed (east elevation)

The site is bounded to the east by Talbot Street, to the south and west by modern residential development and to the north by a mixture of modern and nineteenth century housing with Burnley Road beyond. There is a gentle slope down to the south-west. Access is gained directly off Talbot Street, which otherwise gives access to residential property, with the vehicular entrance located at the south east corner adjacent an electricity sub-station. The boundary with Talbot Street is formed by a continuous stone built wall with a line of poplar trees to the north covered by the Burnley (Walshaw Mill, Talbot Street, Briercliffe) TPO 2011.



Satellite View (Google Maps)



View north west along Talbot Street (Google Streetview)



View south alongside the western boundary



View south east across the site

The site is located within the development boundary for the settlement of Burnley as defined in Burnley's Local Plan with all but the grassed area to the west falling within the Harle Syke Conservation Area, designated as a remarkably authentic example of a typical Lancashire textile settlement. The special character and appearance of which is described within the Harle Syke Conservation Area Appraisal (April 2018).

The Grade II listed Tattersall Farmhouse and Barn lies approximately 30.0m east of the site.

The mill was last used for packaging and distribution in connection with the pharmaceutical industry and amounts to some 7,340sqm gross internal floor area. The business relocated outside of the borough in 2018 and since that time the site has been vacant.

**Proposed Development:**

The application seeks outline consent for residential development which will involve clearance of all the built structures on the site. All matters, with the exception of access, are reserved for future approval. The site will be accessed via Talbot Street with the current vehicular entrance proposed to be stopped up and a new access created approximately 40.0m north, at around the mid-point of the frontage to Talbot Street.

Although the proposal is in outline, submitted drawings show the proposed site plan, floor plans and elevations for the dwellings. Given that the application is for outline consent with all matters reserved except for access, the submitted drawings are to be treated as indicative details only. The indicative drawings show that the development would consist of 52 houses comprising 36 three bedroom townhouses, 14 three bedroom semi-detached houses and 2 four bedroom detached houses all with gardens. The dwellings are proposed to be no more than three storey in height with pitched roofs and proposed materials are shown as artificial stone and concrete roof tiles. The units are proposed to be arranged around four cul-de-sacs leading off a central road and around a landscape feature on a central roundabout. Each unit will have a private garden and a public open space is proposed along the eastern boundary with Talbot Street.



Indicative Proposed Site Layout showing the proposed new site access

The application has been supported with the following documents: Flood Risk Assessment; Transport Assessment; Heritage Statement; Ecology Appraisal and Bat Survey; Coal Mining Risk Assessment; and Preliminary Risk Assessment (contamination, landfill gas and geotechnical issues)

### **Pre-application advice:**

The submitted Design and Access Statement states that *pre-application advice has been obtained with regards to this proposal and which indicates that such a proposal confirms with Council Policy*. As a matter of clarification, pre-application advice was initially sought in 2016. It was advised that, although the employment site does not appear to be well located for business purposes and the village appears capable of beneficial expansion to meet aspirational housing needs, any future planning application would have to satisfactorily address (amongst other matters) the loss of employment use and any harm to the significance of heritage assets. It is to be noted that there has been significant change to the planning policy context since the pre-application advice in 2016, with the adoption of the current Local Plan in July 2018.

Following the submission of the previous outline planning application (APP/2018/0454) in 2018 there was a prolonged period of engagement with the applicant. During the course of negotiation, it was advised that the applicant explore options for retaining and converting those elements of the complex judged necessary to preserve the heritage value of the Mill and the Conservation Area. There followed the submission of a revised Heritage Assessment (September 2020) and an illustrative scheme that showed the retention of the engine shed, boiler house and preparation block and conversion to residential, based on the findings of the Heritage Assessment. However as the application was in outline, a scheme that partially retained buildings could not be dealt with as an amendment. Accordingly, the revised scheme did not progress to application. Additionally, the need to provide a clear and convincing justification both for any harm to heritage significance and the loss of employment floorspace has been brought to the applicant's attention through pre-

application engagement and through the subsequent refusal of APP/2018/0454 which is considered a benchmark in terms of pre-application advice.

### **Relevant Policies:**

#### Burnley's Local Plan (July 2018)

SP1: Achieving Sustainable Development  
SP2: Housing Requirement 2012-2032  
SP3: Employment Land Requirement 2012-2032  
SP4: Development Strategy  
SP5: Development Quality and Sustainability  
HS4: Housing Developments  
EMP3: Supporting Employment Development  
HE1: Identifying and Protecting Burnley's Historic Environment  
HE2: Designated Heritage Assets  
HE3: Non- Designated Heritage Assets  
HE4: Scheduled Monuments and Archaeological Assets  
NE1: Biodiversity and Ecological Networks  
NE4: Trees, Hedgerows and Woodland  
NE5: Environmental Protection  
IC1: Sustainable travel  
IC3: Car parking standards

Developer Contributions SPD (December 2020)  
National Planning Policy Framework (2019)  
Planning (Listed Buildings and Conservation Areas) Act 1990

### **Relevant Recent Site History:**

APP/2018/0454: Demolition of existing mill and redevelopment for residential purposes including details of access (all other matters reserved) – Refused 20 May 2020  
APP/2012/0012: Proposed security fencing to north and eastern edge of site - Granted  
APP/2011/0342: Felling of 5 poplar trees covered by TPO - Granted  
APP/2006/1033: Retention of existing and further replacement of palisade fencing - Granted  
APP/2004/0915: Demolition of mill chimney – Granted

### **Consultation:**

LCC Highways: Consider that the indicative site layout would not be acceptable, should it be the developer's intention to submit the internal estate roads for adoption, but raise no objection in principle to the proposed development subject to a number of planning conditions as follows:

1. No building or use hereby permitted shall be occupied or use commenced until the footway (and/or verge) has been reinstated to full kerb height, where any vehicle crossover(s) are redundant, in accordance with the approved plans and the Lancashire County Council Specification for Construction of Estate Roads, to be retained in that form thereafter for the lifetime of the development.  
Reason: To maintain the proper construction of the highway and in the interest of pedestrian safety
2. 2 A full CCTV survey of any culvert which cross below proposed highway on the site shall be undertaken within 6 months of the completion of all construction works. Any identified defects resulting from the survey shall be rectified within 6 months of the survey.  
Reason: to protect the public purse from unnecessary maintenance liability prior to adopting the highway network.

3. No part of the development hereby approved shall commence until a scheme for the construction of the site access has been submitted to, and approved by, the Local Planning Authority in consultation with the Highway Authority.

Reason: 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.

4. No part of the development hereby approved shall be commenced until all the highway works have been constructed and completed in accordance with a scheme that shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.

Reason: To enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users.

5. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure; and to safeguard the users of the highway and visual amenities of the locality.

LCC School Planning Team: Provides an up-to-date education contribution assessment seeking a contribution for 8 secondary school places. Calculated at the current rates, this would result in a claim of £184,494.00. No contribution for primary school places is requested.

Environmental Health (contaminated land): A Phase One assessment of the site has been submitted. This has identified the potential for both land contamination and landfill gas. No objection subject to the imposition of conditions in relation to contaminated land requiring a Phase Two investigation, a remediation report and a validation report.

BBC Heritage: Despite the loss of parts of the mill complex, Walshaw Mill largely retains its historic industrial character. It contributes positively to the character of the conservation area and has a high group value with other former industrial buildings in the settlement which collectively impart a strong sense of place and an enhanced appreciation of the historical interest of the conservation area. The Harle Syke Conservation Area Appraisal (para 4.11) states that it is vital that the remaining mill complexes are retained as these are essential to its character and appearance.

The submitted heritage assessment (September 2019) provides a well-considered analysis of significance of ten heritage assets most likely to be affected by the proposed development; followed by a robust impact assessment and a discussion of possible mitigation measures that include the retention of priority structures. The assessment finds that Walshaw Mill is a building of local heritage significance (Non Designated Heritage Asset); and is part of a group of weaving mills that collectively make an important contribution to the significance of the conservation area and its setting. The assessment finds the loss of the Mill would appreciably erode the character, historic context and setting of the conservation area to the extent that the relative level of harm would be at moderate/large (ie at the higher end of the spectrum of 'less than substantial'). I would support this view. Indeed, the loss of Walshaw Mill would adversely affect the whole of the Harle Syke Conservation Area to the extent that its boundary would need to be re-drawn to remove the site as it would no longer have any meaningful relationship with the conservation area. This further demonstrates that the loss would give result in harm to the significance of the conservation area at the upper end of the scale of 'less than substantial'. In these circumstances it is necessary to weigh the harm against the public benefits of the proposal. The stated benefits are largely unsubstantiated and fundamentally the application fails to demonstrate that the harm is necessary to deliver the benefits. The Courts have ruled that for harm to be necessary there will be no reasonable means of delivering similar public benefits for example through an alternative, less harmful scheme. The submitted heritage assessment advocates preservation of Walshaw Mill and provides options for balancing the loss against the retention and re-use of the most significant

parts of the complex. The applicant has not demonstrated that these options have been considered and ruled out on viability or other grounds. Approval of the application would therefore be contrary Local Plan Policies HE1 and HE2, the NPPF and the relevant statutory duty. In balancing the merits of the proposal, the LPA must be mindful of recent High Court judgments that in the case of harm to the character or appearance of a conservation area, there is a 'strong presumption' against the grant of planning permission which places considerable weight and importance in the planning balance.

Lancashire Archaeology Advisory Service: The submitted Heritage Assessment describes Walshaw Mill and the impact of the proposal. It contains an assessment of its significance and recommends that some or all of the mill should be retained, but concludes that should planning permission be granted for the demolition of part or all of the mill complex then it is recommended that a full historic building survey should be completed to provide a mitigative record of the buildings prior to their loss. It also recommends a program of archaeological works to determine the extent, character and date of any below ground remains associated with Coal Pit House.

The submitted plans show that it is intended to demolish the whole of the mill and that no element will be preserved as recommended in the Heritage Assessment. Whilst we would support the recommendations for preservation, we understand that this may not be possible, although consideration should be given to the options set out and the potential for conversion of the retained elements to dwellings. In any case the other recommendations for mitigation as set out above should be followed. This can be made a condition of any consent granted and the following wording is suggested: *No development, site clearance/preparation, or demolitions shall take place on the site until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological works. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and agreed in writing by the Local Planning Authority. The programme of works should comprise: (i) The creation of a record of the building to Level 3 as set out in 'Understanding Historic Buildings' (Historic England 2016). It should include a full description of the building, inside and out, a drawn plan, elevations and at least one section (which may be derived from checked and corrected architect's drawings), and a full photographic coverage, inside and out. The record should also include a rapid desk-based assessment, putting the building and its features into context. And (ii) A scheme of archaeological evaluation and, if significant remains are encountered, a formal record of any buried remains of Coal Pit House. This work should be undertaken by an appropriately qualified and experienced professional contractor to the standards and guidance of the Chartered Institute for Archaeologists ([www.archaeologists.net](http://www.archaeologists.net)). A digital copy of the report and the photographs shall be placed in the Lancashire Historic Environment Record prior to the dwelling consented being first occupied. Reason: To ensure and safeguard the recording and inspection of matters of archaeological/historical importance associated with the buildings/site.*

Coal Authority: Confirm that the application site falls within the defined Development High Risk Area and that records indicate that the site is within an area of probable shallow coal mining that could be attributed to the thick coal seam (Rushy Park) which outcrops within the site. In addition, the zone of influence of 4 four off-site mine entries extends into the southern part of the site. The Coal Authority considers that that an adequate assessment of the coal mining risks associated with this site has been carried out. The Coal Authority therefore has no objection subject to the imposition of conditions to ensure that a scheme of intrusive site investigations is undertaken prior to submission of reserved matters in order to assess the ground conditions on the site and establish the risks posed to the development by past coal mining activity (shallow mining / mine entries). At reserved matters stage it is advised that a report of findings arising from the intrusive site investigations is submitted alongside any remedial measures necessary, including the submission of a layout plan which identifies appropriate zones of influence for the mine entries and a 'no-build' zone as appropriate. Prior to the commencement of development, the necessary remedial works are implemented.

Environment Agency: Raises no objection subject to the imposition of a planning condition to ensure that the development does not contribute to, or is not put at unacceptable risk from, or

adversely affected by, unacceptable levels of water pollution in line with the NPPF Para 109 as follows:

*No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:*

- 1. A preliminary risk assessment which has identified all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site.*
- 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.*
- 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.*
- 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.*

*Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.*

Greater Manchester Ecology Unit: Advise that no significant ecological issues were identified in the submitted Ecology Appraisal and Bat Survey and make the following recommendations:

**Bats:** The bat surveys conclude that features on the buildings may support roosts of small numbers or single crevice roosting bats, particularly transitory individuals and recommend an additional survey in late May or June. Given that this is an outline application it is our view that the proposals are unlikely to affect the favourable conservation status of bats at the site provided that adequate mitigation measures are included. We would recommend adequate mitigation measures are included with any reserved matters application, including the additional survey, and a condition to this effect should be attached to any permission.

**Biodiversity Enhancement:** The ecology report makes recommendations to enhance biodiversity and we would advise the following condition: A scheme for the Biodiversity Enhancement Measures, as set out in section 9 of the Ecological Appraisal and Bat Survey Report dated September 2018, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation of the development (or in accordance with a phasing plan which shall first be agreed in writing with the local planning authority) and shall be retained thereafter.

Lancashire Constabulary: Advice that it is beneficial to address crime and security issues early in the design process through design and layout. Recommend that the development is built in accordance with Secured by Design principles and security rated products.

Burnley Wildlife Conservation Forum: Comment that the Ecological Appraisal concludes that the site has potential to support nesting birds and roosting bats. This survey is now 2 years out of date and it is expected that the prolonged period of vacancy will have made the buildings even more suitable for breeding birds and roosting bats. It is strongly advised that this application requires an up-to-date breeding bird and bat survey, carried out during the optimal months, and the findings and recommendations of the reports be secured through condition.

Briercliffe Parish Council: Object to the application for the following reasons:

- Trees: Potential loss of trees on Talbot Street
- Highways: Note the comments of LCC Highways but feel there would be an unacceptable increase in traffic. Talbot Street is already heavily used. It is a late Victorian Street which now

serves a substantial amount of modern housing and is not capable of meeting the needs of existing traffic especially at its junction with Burnley Road.

- Loss of Employment Site: Walshaw Mill is a viable employment site and would support appropriate development for employment purposes
- Heritage: Unlike Queen Street Mill this Mill is architecturally complete with some structures and features that should be preserved. There are examples of other schemes locally that retain important features and buildings as part of redevelopment. This should be achieved on this site wherever possible.
- Over Development: Too many houses are proposed. Generally gardens are small and could put additional demand on the Council for allotments
- Lack of green/open space: The scheme involves development of the former allotment site behind the mill which is a green space. The scheme should provide on-site public open space given the demand it would place on the existing facilities at the King George VI Playing Fields.
- Impact on school places: Would the local schools be able meet the demands from additional family housing, particularly taking account of the Higher Saxifield scheme.

Publicity: Eight letters of objection have been received with the following points summarised:

- No infrastructure to accommodate the houses
- Increase of traffic on already congested roads
- Anti-social behaviour
- Unacceptable detrimental impact on neighbouring amenity for the residents at The Conifers
- Pressure on already oversubscribed local schools and services

## **Planning and Environmental Considerations:**

### **Main issues:**

The main issues in consideration of this application are the effects of the proposal on the significance of heritage assets; the loss of employment sites/premises; and highway safety. Matters regarding environmental protection and ecology have also been given some consideration.

### **Impact on the significance of Heritage Assets: Harle Syke Conservation Area:**

The application site is located within the Harle Syke Conservation Area. In considering proposed development affecting a conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty on the LPA to pay special attention to the desirability of preserving or enhancing the area's character or appearance. Preservation in this context means protecting the character and appearance (significance) from harm as opposed to keeping it unchanged and considerable weight should be given to any harm found to arise. Recent High Court judgments have reaffirmed the importance of this duty. In the circumstances of harm to the character or appearance of a conservation area, Section 72 applies a 'strong presumption' against the grant of planning permission in the any balancing of the merits of a particular proposal.

NPPF section 16 and Local Plan Policy HE2 confirms the great weight in favour of the conservation of 'designated heritage assets', including conservation areas. This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance.

The NPPF and Local Plan Policy HE2 require that the significance of any designated heritage assets likely to be affected by a development proposal should be identified and assessed and encourage solutions which minimise harm or avoid it altogether. Any harm to significance should require clear and convincing justification, including whether there are any suitable alternative solutions which cause less or no harm. In cases where the level of harm is less than substantial, the harm should be weighed against the public benefits of the proposal. In applying the public



benefit test, the Courts have ruled that for harm to be necessary there will be no reasonable means of delivering similar public benefits through an alternative, less harmful scheme.

Having regard to the above, in assessing the impact of the proposal on the conservation area consideration must be given to the contribution that the application site makes to the character and appearance (significance) of the Harle Syke Conservation Area.

The character and appearance of the Harle Syke Conservation Area is set out in the Council's Conservation Area Appraisal published in April 2018, since when there has been very limited change. The Harle Syke Conservation Area is designated as an authentic example of a typical Lancashire weaving settlement with a strong historic townscape derived from the largely unaltered mix and layout of terraced houses and mill complexes, with all but one of the original six mill complexes surviving albeit in varying states of alteration. The conservation area boundary was extended in 1985 to incorporate Walshaw Mill, amongst others, in recognition of the contribution of the site to the significance of the conservation area. The Harle Syke Conservation Area Appraisal (para 4.11) states that it is vital that the remaining mill complexes [*including Walshaw Mill*] are retained as these are essential to its character and appearance.

The submitted Heritage Assessment (dated September 2019) finds that Walshaw Mill is a reasonably well-preserved example of an early C20 weaving mill that retains all its essential component parts, with the exception of the chimney, such that it has sufficient interest as to be considered a building of local heritage significance (non-designated heritage asset). The weaving shed, engine house, boiler house and preparation block are of greatest value to its overall significance. The assessment also finds that Walshaw Mill has value as part of a group of weaving mills that collectively make an important contribution to the significance of the conservation area and its setting. This supports the view of the Council's heritage advisor that Walshaw Mill contributes positively to the character of the conservation area and has a high group value with other former industrial buildings in the settlement which collectively impart a strong sense of place and an enhanced appreciation of the historical interest of the conservation area.

For the reasons set out above, Walshaw Mill has been found to make a positive contribution to the significance of the conservation area and the preservation of this contribution would be desirable. Furthermore, it is considered that residential redevelopment, regardless of the design, would not replace the heritage value that would be lost.

Paragraph 201 of the NPPF states that loss of a building (or other element) which makes a positive contribution to the significance of the conservation area should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate. This is supported by Burnley's Local Plan paragraphs 5.4.34 and 5.4.45.

The applicant contends that as the mill is not listed and is of a lesser importance than the nearby Queens Mill, any harm is therefore at the lower end of the spectrum of 'less than substantial'. This view is not supported by the submitted heritage statement which finds that the loss of the Mill would appreciably erode the character, historic context and setting of the conservation area to the extent that the relative level of harm would be at moderate/large (ie at the higher end of the spectrum of 'less than substantial'). This view is supported by the Council's heritage advisor who states that the loss of Walshaw Mill would adversely affect the whole of the Harle Syke Conservation Area to the extent that its boundary would need to be re-drawn to remove the site as it would no longer have any meaningful relationship with the conservation area. This further demonstrates that the loss would give result in harm to the significance of the conservation area at the upper end of the scale of 'less than substantial'. In these circumstances it is necessary to weigh the harm against the public benefits of the proposal.

The applicant contends that the removal of the Mill and its replacement with housing offers public benefits as follows:

- i) Removal of HGVs which are not compatible with the area especially Talbot Street where parked cars have been damaged.
- ii) The redevelopment would provide an area of open space at the front that could be used by the public and would enhance the streetscene
- iii) The scheme would include the required element of affordable housing
- iv) It is likely that if the mill is to remain in employment use, it will be split into smaller units which would result in more vehicular movements and a likely deterioration in the quality and appearance of the premises amongst the various tenancies.
- v) Removal of a somewhat incompatible use within the wider residential area.

With regards to i) no evidence has been provided to demonstrate that this is an issue and that a use could not come forward that had a lesser impact in this respect; and for ii) that the public open space is of the type and quality is needed in the area. With regards to affordable housing in iii) there is no identified need for affordable housing in the area and neither does the application provide evidence to demonstrate that the affordable housing will be delivered. It is noted that the Affordable Housing Statement does not commit to providing any affordable housing stating that this element of the scheme will be subject to viability. Furthermore, the Developer Contributions SPD (December 2020) and its viability evidence would indicate that the site would have insufficient viability to deliver affordable housing. The provision of affordable housing cannot there be weighed in favour of the scheme. With regards iv) there is no substantive evidence, ie through active marketing, to demonstrate that there is a realistic prospect of the site being sub-divided into smaller units.

With regards to v) this can be considered a benefit. However, the applicant has failed to demonstrate that there are no reasonable means of delivering this same public benefit through an alternative, less harmful scheme. Moreover, without active marketing there is no evidence to show that another scheme or use for the site could not come forward that would strike a better balance between its effects on heritage assets and this public benefit as compared to the proposed development.

Having regard to the above, the replacement of the mill with a housing development of the type illustrated in the indicative drawings would not in itself remove the harm caused by the loss of the mill and no information has been provided with the application to demonstrate that the degree of harm to significance is required in order to deliver the stated public benefits. The submitted heritage assessment advocates preservation of Walshaw Mill and provides options for balancing the loss against the retention and re-use of the most significant parts of the complex. It has not been demonstrated that the retention and adaptive reuse of the most significant elements of the mill complex as set out in the Heritage Assessment (possibly alongside new housing) could be a viable alternative that would achieve the stated public benefits; and as the application is in outline, it is also not possible to ascertain whether a viable scheme could be successfully designed to provide mitigation to deliver some of the benefits.

To conclude, the proposal would result in a degree of harm to the significance of the Harle Syke Conservation Area that is considered to be at the higher end of the spectrum of 'less than substantial'. In such circumstances the relevant statutory duty requires that considerable importance and weight must be given to the harm arising. It has not been demonstrated that the level of harm arising is necessary to achieve the asserted public benefits and neither are the benefits considered to be collectively sufficient to outweigh the less than substantial harm that would be caused to the conservation area, when having regard to the statutory (and therefore strong) presumption against the grant of planning permission. Approval of the application would therefore be contrary Local Plan Policies HE1 and HE2, the NPPF and the relevant statutory duty.

#### **Impact on the significance of other Heritage Assets:**

The Heritage Assessment (dated September 2019) identifies eight other heritage assets in the conservation area with the potential to be impacted by the proposed development. The assessment finds the potential for total loss of significance of the former Coal Pit House through

destruction of potential below ground remains, however the relative significance is considered to be low and any potential harm arising could be adequately mitigated through recording and analysis. The potential impact on Tattersall's Farmhouse and Barn, a grade II listed building which directly overlooks the site to the east, is considered to be slight with the change in its setting resulting in the partial erosion of the building's already compromised historical context. The impact on the remaining heritage assets is found to be either a slight loss of historical context, through the erosion of their wider settings or negligible. The proposal would therefore not directly affect these heritage assets however this would not outweigh the harm that would be caused to the conservation area and its setting as set out above.

### **Loss of Employment Site:**

The proposed development will result in the loss of an employment site with buildings amounting to some 7,340sqm gross internal floorspace (Use Class B8).

Large sites and premises in existing employment use (over 1,000sqm) are currently afforded a level of protection in the Local Plan in recognition of their contribution to meeting the borough's overall employment needs and providing a choice of sites and premises. The cumulative loss of employment sites will have an adverse effect on business and jobs wishing to establish, expand or relocate and furthermore the loss of such sites to housing would be likely, in the longer term, to lead to the release of greenfield, open countryside and Green Belt sites to replace them. The losses of employment land to date are exceeding the replacement allowances built into the employment land requirement in Policy SP3.

Policy EMP3 sets out two exceptions where the loss of sites/premises comprising over 1,000sqm floorspace would be permitted, where it can be demonstrated that (a) redevelopment does not prejudice the lawful operating conditions or viability of adjacent land uses; and (b) the continued use of the site for employment use is not viable through evidence of at least 12 months comprehensive marketing.

With regards to (a) given that the adjacent uses are residential it is considered that the principle of redevelopment for residential use would fulfil this policy clause.

With regards to (b) the applicant has not provided evidence of comprehensive marketing and contends that there are strong grounds to outweigh the need to justify the loss of the site through marketing as follows:

- i) The site is not allocated in the Local Plan nor was it important enough for evaluation purposes in the 2017 Strategic Housing and Employment Land Assessment (SHELA)
- ii) The estimated loss of existing employment land is provided for in the Local Plan allocations
- iii) The site is inappropriate and undesirable for employment use given its accessibility and residential context
- iv) As of June 2020 a local commercial agent had some 78,000 sqm of commercial floorspace for sale providing a large and varied amount of space to meet market needs

With regards to i) and ii), the site was in active employment use during the plan preparation period and as such would not have been considered appropriate to put forward as a site allocation or a SHELA site. Neither was its loss accounted for in the employment land requirement calculation as set out in Policy SP3. These factors give rise to the level of protection provided by EMP3.

The applicant confirms that the business relocated from the premises in 2018 and the site has remained unoccupied since that time. This does not in itself demonstrate a lack of need/demand for the site. Indeed from the evidence submitted it would appear that the premises have not been 'actively' marketed as available for rent or purchase in the intervening period. Accordingly, with regards to iii) and iv) no substantive evidence, notably the outcomes of a 12 month marketing exercise, has been provided to confirm the applicant's assertions that the site/premises could not accommodate or be attractive to an alternative occupier for continued employment use.

Taking the above into account, the loss of the site for employment use would be unwarranted due to a lack of appropriate marketing assessment, or other substantive evidence, which demonstrates that there is no reasonable prospect of the continued use of the site for employment use. Accordingly, the proposal conflicts with Policy EMP3.

It is fundamental that the loss of such employment sites are robustly justified as the Local Plan evidence base indicates that the longer term consequences of a shortfall in employment land would be likely, in the longer term, to lead to the release of greenfield, open countryside or Green Belt to replace them. It is also noted that without marketing there is no evidence to demonstrate that an alternative scheme for the site could come forward that would strike a better balance between its effects on heritage assets and its public benefits, as considered above.

### **Highway Safety:**

NPPF paragraphs 108 and 109 state that in assessing applications for development it should be ensured that, amongst others, safe and suitable access to the site can be achieved for all users; and that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road would be severe. Local Plan Policy IC1 requires development schemes to, amongst others, provide for safe pedestrian, cycle and vehicular access to, from and within the development; and maintain the safe and efficient flow of traffic on the surrounding highway network.

The site will be accessed via Talbot Street with the current vehicular entrance proposed to be stopped up and a new access created approximately 40.0m north, at around the mid-point of the frontage to Talbot Street. The indicative layout shows that the access road would form the sole vehicular, pedestrian and cyclist route into the site.

Objections have been received on the grounds of highway concerns including safety and capacity on the existing network. These concerns are addressed in the submitted Transport Statement. LCC Highways have provided comments on the application and though they consider the indicative site layout would not be acceptable they do not object to the principle of the proposed access subject to conditions and information being submitted as part of a reserved matters application.

The Transport Statement concludes that the site is locationally sustainable and accessible by public transport (bus), walking and cycling. It uses robust data to demonstrate that there are no safety issues presently arising from the operation of the local network. Additionally, an assessment of present and forecasted traffic flows demonstrate that there would be no unacceptable impact on highway safety or the safe and efficient flow of traffic on the surrounding highway network.

The application demonstrates that safe and suitable access can be achieved and, subject to the imposition of relevant conditions, the proposal would satisfy the relevant local plan policy IC1 and the NPPF which aims to only prevent or refuse development on highway grounds where there is an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

### **Other Considerations:**

It should be noted that other matters, with the exception of access, cannot form part of the assessment of the current proposal. Notwithstanding this, it is reasonable to consider whether or not the proposal will lead to other matters that are likely to be significantly adverse or constitute grounds why planning permission should not be granted

#### Environmental Protection

Policy NE5 requires appropriate assessment to deal with environmental protection. A Preliminary Risk Assessment and a Coal Mining Risk Assessment have been submitted with the application. The documents both make recommendations regarding the need to undertake intrusive site

investigations. The documents have been examined by the relevant consultees who have made comments and recommendations for conditions which are detailed in their responses as set out above.

### 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 application has been supported with an Ecology Appraisal and Bat Survey. These documents have been examined by the relevant consultees who have made comments and recommendations for conditions necessary to protect wildlife and to ensure opportunities are created for biodiversity gains. Subject to these conditions, the proposal would not significantly affect local biodiversity or protected species.

### Housing Land Supply

Policy SP2 of Burnley's Local Plan (Adopted July 2018) sets out the Borough's dwelling requirement and identifies the sources of supply that will contribute towards meeting this requirement and significantly boosting the supply of homes. The Local Plan housing trajectory identifies that the Council has over 8 years supply of deliverable sites (5 years is required) and more than sufficient developable sites to meet the overall plan requirement in numerical terms (108%). In these circumstances the provision of new housing per se does not weigh in favour of the proposal against the identified harm and the applicant has not demonstrated that the development would meet any identified housing need to otherwise indicate acceptability.

### **Conclusion:**

The proposal would result in a degree of harm to the significance of the Harle Syke Conservation Area that is considered to be at the higher end of the spectrum of 'less than substantial'. In such circumstances the relevant statutory duty requires that considerable importance and weight must be given to the harm arising. It has not been demonstrated that the level of harm arising is necessary to achieve the asserted public benefits and neither are the benefits considered to be collectively sufficient to outweigh the less than substantial harm that would be caused to the conservation area, when having regard to the statutory (and therefore strong) presumption against the grant of planning permission. Approval of the application would therefore be contrary Local Plan Policies HE1 and HE2, the NPPF and the relevant statutory duty. Furthermore, the loss of the site for employment use would be unwarranted due to a lack of appropriate marketing assessment, or other substantive evidence, which demonstrates that there is no reasonable prospect of the continued use of the site for employment use. Accordingly, the proposal conflicts with Policy EMP3.

Regard has been given to the considerations advanced by the applicant however, it is found that the harm that would result from the impact of the development would not be outweighed by the other considerations or the limited benefits that would result from the development.

**Recommendation:** It is recommended that permission be refused for the following reasons:

1. The proposal would result in a degree of harm to the significance of the Harle Syke Conservation Area that is considered to be at the higher end of the spectrum of 'less than substantial'. In such circumstances the relevant statutory duty requires that considerable importance and weight must be given to the harm arising. It has not been demonstrated that the level of harm arising is necessary to achieve the asserted public benefits and neither are the benefits considered to be collectively sufficient to outweigh the less than substantial harm that would be caused to the conservation area, when having regard to the statutory (and therefore strong) presumption against the grant of planning permission. Approval of the application would therefore be contrary Local Plan Policies HE1 and HE2, the NPPF and the relevant statutory duty.

2. The loss of the site for employment use would be unwarranted due to a lack of appropriate marketing assessment, or other substantive evidence, which demonstrates that there is no reasonable prospect of the continued use of the site for employment use. Accordingly, the proposal conflicts with Policy EMP3.

Principal Planner  
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