

**Application Recommended for Delegation to
approve subject to s106 Agreement**
Lanehead Ward

FUL/2021/0264

Town and Country Planning Act 1990

Demolish former school buildings and erect 44 houses with new access

Former Isaac Centre Harrogate Crescent Burnley Lancashire

Applicant : McDermott Developments Ltd & Lancashire County Council

Background:

The proposal is to demolish a former school building complex and utilise the site and its grounds amounting to 1.45 ha for a residential development of 44 houses at land to the south side of Harrogate Crescent , within a built-up residential area at Lanehead , sitting beyond the perimeter houses to the south side of Briercliffe Road and to the east side of Eastern Avenue. A loop of houses and bungalows on Harrogate Crescent and Minehead Avenue surround the school site. The most direct access to the site is from the short length of Lytham Road from Briercliffe Road, whilst access from Eastern Avenue via Torquay Avenue and Minehead Avenue also provides a route to the application site. St James` Lanehead Cof E Primary School is located to the south side of Briercliffe Road but is accessible on foot from the easterly end of Harrogate Crescent.

The site consists of a main school building and a number of ancillary buildings clustered to towards the Harrogate Crescent frontage. The school grounds contain a former tennis court and are mainly grassed on undulating ground with some areas of hardstanding. The school was last used as a pupil referral unit and closed in 2012.

Rear of buildings



Former School

Harrogate Crescent



Land slopes north east to south west



The site has a general downward slope from the north east to the south west. It is currently served by two access points on Harrogate Crescent.

The proposal is to demolish the school buildings, permanently close the existing access points and erect a frontage of 12 houses on Harrogate Crescent and form a new vehicular access opposite nos. 46 and 48 Harrogate Crescent which would access the main site for a further 32 houses. A new footpath link would also be constructed from the end of the estate road to link to Harrogate Crescent (adjacent to no. 7 Harrogate Crescent).

Proposed Site Layout



The proposed houses would be two storey, inclusive of four plots which would be a dormer bungalow (3 bedrooms). In total, there would be 38 detached (3 and 4 bedroom) houses and 6 semi-detached (3 bedroom). The dwellings would be constructed in red brick, including some with render and a grey flat concrete tile.

The Energy Statement submitted with the application states that a fabric first energy strategy is proposed to reduce energy consumption and the energy requirement of the buildings.

The existing site is partially screened from its surroundings by boundary trees and trees within the grounds. Due to changes to levels and the location of trees, the submitted Arboricultural Impact Assessment identifies that three moderate quality (Category B) trees and five moderate quality tree groups and three low quality trees (Category C) and seven low quality tree groups would need to be removed. One further tree group (U Category) would also be unsuitable to retain due to its condition. The proposal involves planting 71no. new trees as well as a variety of hedges and shrubs to compensate for the tree loss on the site. Four individual trees and six groups of trees would also be retained.

Proposed Street Elevations



Some changes to ground levels would be necessary but the proposed houses would generally follow the slope of the land which can be seen in the street elevations above.

Relevant Policies:

Development Plan

Burnley`s Local Plan (July 2018)

- SP1 – Achieving sustainable development
- SP2 – Housing requirement 2012-2032
- SP4 – Development strategy
- SP5 – Development quality and sustainability
- 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
IC5 – Protection and provision of social and community infrastructure

Material Considerations

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

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

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

Site History:

NOT/2008/0574 – Erection of 3m and 2.5m high mesh security fence within school grounds. Approved by LCC September 2008.

Consultation Responses:

LCC Highways

Following the submission of amended plans, no objections are raised. Several off-site highway works are recommended and would be completed as part of a s278 Agreement with the local highway authority. These include:-

- The provision of two new quality bus stops on Briercliffe Road Stops Nos 2500IMG2652 and 250010774
- The provision of some tactile pavements, lowered kerb across Ramsey Grove, Minehead Avenue and Lytham Road to aid access to the local buses for the partially sighted.
- A traffic regulation order to revoke and remove the existing school marking on Harrogate Crescent
- The construction of the footway link at the gable of Plot 1 to an adoptable standard and lit

An electric vehicle charging point is required for all residential properties in order to promote sustainable modes of transport. Conditions are also recommended to require a Construction Management Plan; to restrict delivery hours to between 9.30am and 2.30pm only on Mondays to Fridays in order to avoid peak traffic on the surrounding highway network; to require wheel washing facilities for construction vehicles; to require a highway conditions survey (of the adoptable roads) prior to work commencing in order that any damage that is subsequently caused is made good; to require the new access and access roads to be built to base course before other

development takes place; and, to require the provision of electric vehicle charging points.

Lead Local Flood Authority (LCC)

No objections subject to the inclusion of conditions to require the development to be carried out in accordance with the principles set out in the flood risk and drainage assessment (April 2021) and for the submission of the following:

- a further detailed surface water drainage scheme
- a construction phase surface water management plan (details of how surface water and pollution prevention will be managed during construction)
- operation and maintenance plan and verification report of constructed sustainable drainage system.

United Utilities

Following review of the submitted Flood Risk Assessment and Drainage Strategy (April 2021), the proposals are acceptable in principle to United Utilities subject to conditions to require additional investigation, assessment and the submission of a detailed surface water scheme and the drainage of foul and surface water on separate systems. United Utilities also advise that a water main crosses the site for which there needs to be unrestricted access for operating and maintaining.

Greater Manchester Ecology Unit

The submitted Preliminary Ecological Appraisal was undertaken by an experienced ecological consultant and identified the building on the site to have moderate bat roosting potential. As such, in line with national guidelines, the Assessment recommends that two dusk/dawn surveys be undertaken on the building. If the development is likely to disturb a potential bat roost then a full bat survey should be carried out before the application is determined. If bats are found on site then a licence is required from Natural England. Before a licence can be granted, the following three tests must be satisfied:-

- i) That the development is “in the interest of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequence of primary importance for the environment:
- ii) That there is “no satisfactory alternative”;
- iii) That the derogation is “not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range”.

Further to this initial advice, a Full Bat Survey was carried out and the following further comments received from GMEU:

The submitted full bat survey found that the building is used as a day roost for Common Pipistrelle bats. Details of the mitigation measures that are required have been provided and these are acceptable. We are therefore satisfied that provided the mitigation measures are followed in full, the favourable conservation status of bats would be maintained at the site. Recommend a condition to ensure that the demolition does not take place until either a licence is issued by Natural England (pursuant to Regulation 55 of the Conservation of Habitats and Species (Amendment)(EU Exit) Regulations 2019 , authorising the specified activity/development to go ahead; or, a statement in writing from the relevant licensing body stating that a licence is not required.

Given that there will be replacement roosting sites for bats on the site, it is important that any lighting for the new development is designed to avoid lighting for the new bat boxes, both on trees and in the houses. A detailed lighting strategy is recommended to identify those sensitive areas and then show how lighting has been designed to avoid disturbing the territory and the breeding and resting places of bats.

As the proposals involve the loss of trees and scrub that may be used by nesting birds, any clearance works should avoid the main breeding season (1st March to 31st August).

The scheme should include measures to enhance biodiversity and provide a net gain. A condition is recommended to require a scheme of Biodiversity Enhancement Measures.

Natural England

No comments – refer to Standing Advice on impacts on protected species.

Burnley Wildlife Conservation Forum

Object to the application. A large part of the plot of land comprises a mosaic of wildlife habitats containing areas of semi-natural grassland, scrub and semi-mature trees and shrubs. The semi-natural grassland supports a good range of common wildflower species. The areas of scrub, semi-mature trees and shrubs provide foraging and nesting resources for a diverse range of bird species including Blackbird, Robin, Song Thrush, Mistle Thrush, Dunnock, Greenfinch, Goldfinch, Chaffinch, Blackcap, Blue Tit, Great Tit, Coal Tit, Long-tailed Tit, Woodpigeon and Collared Dove. The plot of land therefore functions as a very important local wildlife oasis, a sanctuary for a wide range of flora and fauna species and a stepping-stone resource for the surrounding area. An Arboreal Impact Assessment shows that the development requires the removal of well over a hundred trees and shrubs. The Site Layout drawing shows a high density intense development of the whole of the site with no open space provided for the loss of wildlife habitat. The plot of land is not designated for housing development in the Local Plan and should remain as valuable greenspace and wildlife habitat as it makes a significant contribution to the conservation of biodiversity and also the mitigation of climate change.

LCC Schools Planning Team

An education contribution is not required.

East Lancashire 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 £75,086 (based on the figure of 44 units) which is based on the additional cost of providing one year of healthcare for the development and represents the minimum level of funding that is required by the Trust.

Environmental Health

Comments to be reported in Late Correspondence prior to the meeting.

Greenspaces and Amenities

Recommend an off-site contribution which would be used for improvements to Kibble Bank Neighbourhood Park, which is the preferred site for improvements, as specified within several sections of the Council's Green Spaces Strategy (2015-2025) as detailed below:-

"Parks & Gardens (PG6) - North Burnley is the district with a significant shortfall in provision of parks (-2.5 Hectares). However, this district has a corresponding surplus of amenity green space, and the shortfall could be addressed by improving the quality of provision at Briercliffe Recreation Ground, Kibble Bank and Rakehead Recreation Ground as resources permit.

Amenity Greenspace (AGS3) - Based on quality and level of use, improvements to open spaces should be prioritised in the following areas (subject to securing funding),:

- Rosehill (Rosehill Gardens) • Owen St (Rosegrove) • Rakehead Recreation ground
- Turfmoor (Turfmoor Gardens, Barley Grove) • Stoneyholme, Lanehead (Kibble Bank), Queensgate (Disraeli St Recreation Ground).

Children & Young People (CYP5) - If resources allow, improve provision on the following play areas: Calder Park, Barclay Hills, Thornber Gardens, Kibble Bank, Stoneyholme".

Greenspace and Amenities - Trees

There is a mixture of mainly semi mature trees and shrubs in groups. They work well in the current setting forming a border along Harrogate crescent and providing greenery and shade around the former school building and break up the landscape over the field to the rear of the school. However it is difficult to see how any of the trees listed for removal could be incorporated into the development as proposed. The trees in general appear to be in good health, although there are three Ash trees along the boundary with Harrogate Crescent which are suffering from Ash dieback disease.

T9 contributes quite a lot to the visual amenity value of the area as a standalone tree, although the tree is an Alder and may not be suited to the environmental changes on a newly developed housing site.

Representations from elected Councillors

A letter signed by County Councillor Usman Arif, Councillor Asif Raja and Councillor Shbana Khan supports the resident`s objections to the application, including the view that this is an opportunity to better use the site for much needed school places. The letter also lists the following points of objection (summarised):-

- GP surgeries, dentists, hospital, nurseries in the locality are already at full capacity and will struggle to accommodate the additional increase in population;
- No communal playing area for children;
- Lack of parking in the area;
- Will overshadow the existing bungalows and breach their privacy;
- Increased congestion on roads;
- Environmental impacts as a result of removing mature trees;
- Bats roosting on the site; and,
- Not in the Local Plan.

An objection has also been received from Councillor Andy Fewings, making the following points (summarised):-

- The site should remain a school and recent monies received from education contributions could help to deal with the shortage of primary school places;
- Impact on bats;
- The amount of Affordable Housing is too low (the developer is relying on Vacant Building Credit).
- Lack of public realm – the nearest recreation ground is around 500m away;
- Lack of assessment on public health;
- Lack of an air quality assessment;
- Lack of a crime assessment;
- Lack of a daylight/sunlight assessment;
- Lack of an open space assessment;
- Lack of consideration to parking and access;
- Lack of a recycling statement;
- Lack of a site waste management plan; and,
- Lack of a heritage assessment.

Representation from Antony Higginbotham MP

Two letters have been received from Antony Higginbotham MP to put forward views of constituents who are objecting to the planning application (enclosing details of ten further letters). Antony Higginbotham MP states that he would like to associate himself with these comments and supports the residents in their objection for the following reasons:

- The site has not previously been identified by Burnley Borough Council as one for development. This means that there will have been limited consideration of the impact an additional housing development in that area would have, including on public services and traffic. This issue is exemplified by the area not being included in the Burnley Local Plan.
- If the area was to be identified as suitable for development, the proposal in this application for 44 dwellings is significantly higher than what could reasonably be expected. Given that the proposed dwellings are a family size, such a significant number would have a detrimental effect on traffic in the area.
- There has been no consultation with residents in the immediate area about other proposed uses for the site. Had residents been aware that there was the potential for the site to be sold for development purposes, consideration may have been given to nominating the land as an Asset of Community Value.
- The area is one of significant biodiversity, utilised by many residents on a daily basis for recreation and dog walking.

Publicity

Representations, expressing objections and concerns, have been received from 29 neighbouring properties (mainly residents of Harrogate Crescent and Minehead Avenue but also from residents in the surrounding streets). A summary of the comments received (including a summary of the contents of a further ten letters received indirectly through Anthony Higginbotham MP) is provided below:-

- The development is not part of the Local Plan and its impact on infrastructure, public services and traffic has not been planned or taken into account;
- The recently approved site at Higher Saxifield has not been taken into account;
- There has been no consultation with residents on proposed uses for this site;
- The Council has already met/surpassed its targets for housing so there is no need to build houses on this site;

- Oppose the loss of a valuable community asset;
- Site could be put to better use by supporting St James Lanehead School or as an outdoor activity centre for schools and other organisations, or a community hub, allotments, nursery, retirement home or for a lesser number of bungalows;
- Local schools are oversubscribed and would benefit from expansion into the former Isaac Centre;
- Suggest that contributions from large housing site nearby could be utilised to invest in additional primary school places at this site;
- Loss of valuable greenspace;
- Lanehead has a lack of recreational greenspace areas which are vital for mental health and well-being;
- It is used by many residents on a daily basis for recreation and dog walking;
- Is an oasis of calm;
- Loss of well established trees, including semi-mature alder, ash, apple, Norway maple, silver birch, cherry, willow species, many of which are more than 40 years old and support wildlife and offset greenhouses gases and pollution;
- Newly planted trees take many years to offer the same properties and benefits to wildlife;
- Various requests for trees on, near to and seen from residents` boundaries to be retained;
- Impact on wildlife from removing the natural habitats in the area;
- Impact on local bats, flora and fauna, frogs, toads, squirrels, a variety of birds such as blue tits, coal tits, robin, blackbirds, goldfinch, magpie, wood pigeon, jays, owls, sparrowhawk and also deer seen grazing;
- Loss of small pond that supports invertebrates;
- Dispute the findings of the breeding bird survey and that the birds are only of local interest;
- Roads are already congested and a large housing estate is about to be built at the top of Standen Hall Drive;
- Will significantly increase traffic at a heavily used roundabout and on surrounding streets – Lytham Road, Torquay Avenue, Harrogate Crescent and Minehead Avenue , affecting safety;
- Narrow residential streets, and Lytham Road is short and close to a congested roundabout;
- Used as a cut -through to Harle Syke;
- Lack of car parking spaces for the proposed houses;
- Parking spills out into the roads, will lead to double parking and parking on the pavement and dangerous conditions for pedestrians, local children and school children;
- The top of Harrogate Crescent is the main drop off point for Lanehead school, putting children at danger;
- The 20mph speed limit is rarely followed;
- Hospital staff also park in this area;
- No alternative access for emergency vehicles;
- Gradient of Harrogate Crescent creates hazards for cars in poor weather conditions such as snow, with cars being damaged which would worsen with more parked cars;
- Various suggestions put forward such as `no parking` on one side of the lower estate to avoid pavement parking, the creation of a one way route (between Torquay Avenue and Lytham Road), the creation of a mini-roundabout at the bottom of Torquay Avenue, and a crossing on Eastern Avenue;
- Impact on the risk of flooding, drains and sewage;

- The existing development has used up the drainage capacity of the area;
- 1960`s drainage pipes are unable to cope;
- Numerous occasions occupiers have been flooded by sewage and groundwater;
- Rats observed, gutters and manhole covers regularly overflow and turn to ice in winter;
- The area holds water in the dip where the current building stands and will need a lot of groundwork;
- Removing trees will reduce rainwater absorption and exacerbate problems;
- Impact on River Don`s drainage into the River Brun, leading to an impact lower down the river where there is a higher level of flood risk;
- Possible route of gas from underneath the site and affect on safety of residents;
- Insufficient General Practitioners and dentists in the area (with local practices closing lists);
- Impact on the community;
- Impact on mental health, including the elderly from the loss of enjoyment of green space/wildlife and noise in a currently quiet area;
- Increase in traffic fumes;
- Close proximity of houses to new 5G mast;
- Noise nuisance and disturbance from increase in traffic and parking problems;
- Loss of private outlook, overlooking, invasion of privacy, overshadowing and loss of sunlight;
- Dominating impact from the close proximity of houses and amount of overlooking windows;
- Large four bed houses are out of scale and not in keeping with the existing properties in the area;
- Proposed houses will be on higher elevated land;
- Cramming of too many houses;
- Question why there are no bungalows on the site;
- Not in keeping with the majority of homes in the area which are bungalows
- Lack of community space.

Planning and Environmental Considerations:

Principle of proposal

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

Policy SP2 sets out the Housing Requirement for the borough between 2012 and 2032, identifying a net additional requirement of 3,880 dwellings, of which there is a residual requirement of 1,798 dwellings to be met by site allocations. This is a minimum rather than a maximum requirement. The proposed site has no allocation in Burnley`s Local Plan and should be assessed in accordance with Policy SP4 which sets out the Development Strategy as well as other relevant plan policies.

The application site is situated within the urban area of Burnley which falls within Tier 1 of Policy SP4, serving as the Principal Town which is home to the majority of the borough's population and is suitable for the development of large scale, major and a variety of smaller sites to deliver a comprehensive range of choice of types and tenures. The application site falls within the defined Development Boundaries. At Paragraph 2 of Policy SP4 it states that in addition to allocated sites, new development within the Development Boundaries will be supported where it is of an appropriate type and scale, having regard to the role of the settlement in the hierarchy and where it satisfies given criteria:-

- a) It makes efficient use of land and buildings;
- b) It is well located in relation to services and infrastructure and is, or can be made, accessible by public transport, walking or cycling;
- c) It does not have an unacceptably detrimental impact on residential amenity or other existing land users.

In addition to the above, consideration will also be given to whether schemes appropriately re-use existing buildings and infrastructure; or whether schemes make use of previously developed land that is not of recognised high biodiversity value.

The application site is situated within a primarily residential area, close to services and amenities and accessible by public transport services. It is also a redundant former school building and as such represents previously developed land. The use of the land for an appropriate development would satisfy Policy SP4 subject to detailed considerations which are considered below.

Loss of school site and suitability of site for development

The site is situated within a primarily residential area. The site has been little used since the re-location of the pupil referral unit at the school premises in 2012. It has therefore become a quiet site and its green surroundings been little disturbed. The owner of the site, Lancashire County Council, who are joint applicants with McDermott Developments Ltd, have been looking to dispose of the site for some years which has culminated in the present application. Neighbour objections to the proposal refer to the site as a community asset and consider that it should be retained for education purposes in order to deal with shortages of primary school places locally. This issue is only relevant to the determination of the planning application within the context of Policy IC5 `Protection and Provision of Social and Community Infrastructure`. Policy IC5 states that the Council will, where possible and appropriate, "Safeguard existing social and community infrastructure, subject to a continued need or likely future need or demand for the facility in question; and require alternative comparable or improved provision where a development scheme would result in the loss of important social and community infrastructure".

In this case, the current owner of the site is also the local education authority who have declared the site to be surplus to their requirements and have been attempting to dispose of the site for some years. In these circumstances, the site is unlikely to be required for a similar use in the future. Notably, the site is a substantial size and to be used economically would require a significant change in the strategy of the local education authority. Given that there is no evidence of a continued need for this scale of provision and given the lapse of time since the building was in proper use, there is no substantiated case for safeguarding and protecting the site for community use. As such, the re-use of the current buildings or the re-use of the previously developed would be potentially beneficial in bringing the site into economic use, making efficient use of land and buildings.

The current planning application should therefore be considered on its own merits, having regard to Policy SP4, Policy HS4 (Housing development) and other relevant policies.

Design and layout considerations

The NPPF also states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps to make development acceptable to communities. 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. Principles for good design are set out in the National Design Guide. Policy HS4 sets out open space requirements and relevant spacing distances to safeguard outlook and privacy.

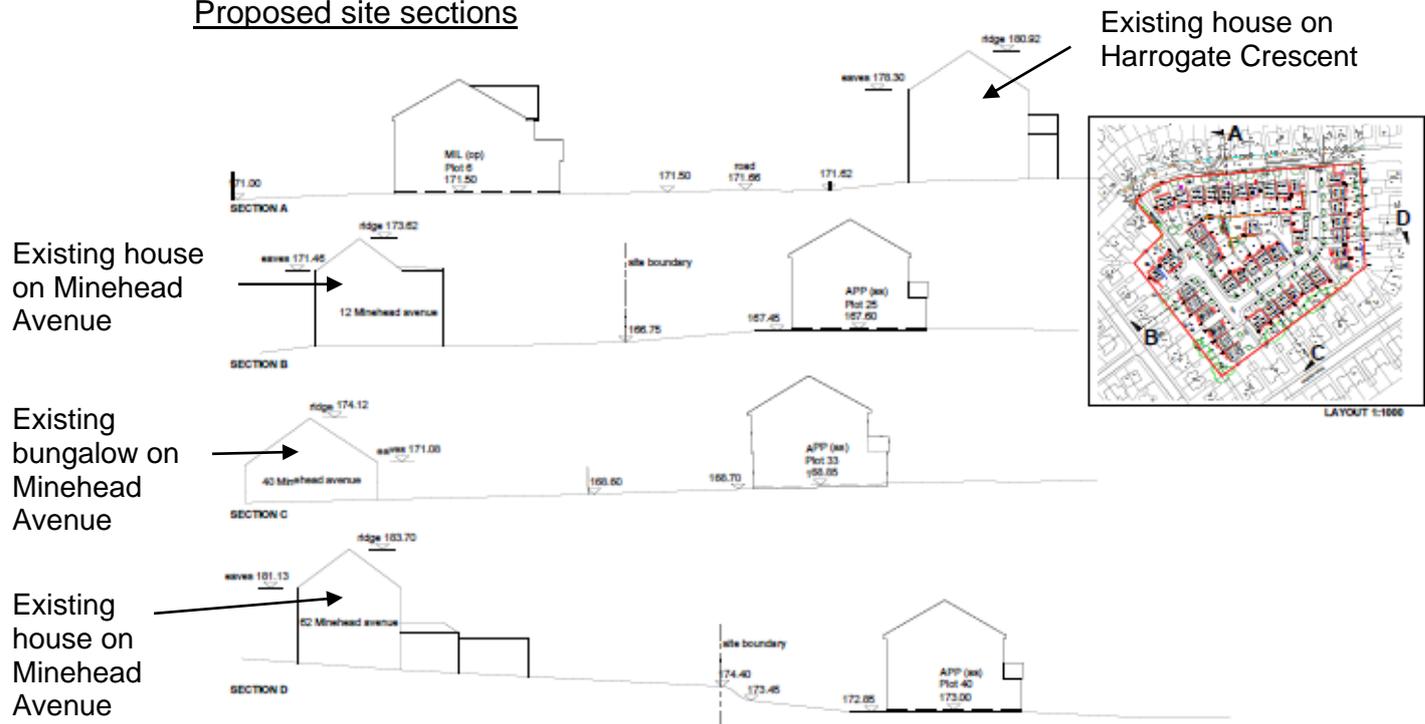
The development has been designed to provide formal fronts and elevations with windows to the street. The NPPF states that new streets should be tree lined. Trees have been incorporated into the front gardens of plots to achieve tree lined streets.

The proposed site layout would achieve 33 dwellings per hectare which would be consistent with Policy HS3 which states that new housing should make efficient use of land and be built at a density appropriate to its location and setting and achieve a minimum of 25 dwellings per hectare. The proposed density would display a suburban character which is in keeping with the site's surroundings. Some of the neighbour objections refer to the dominance of bungalows surrounding the site and consider that single storey development would be more in keeping with the area. There is, however, a mix of bungalows and houses on both Harrogate Crescent and Minehead Avenue. The proposed frontage houses on Harrogate Crescent would follow the grain and scale of existing development. These would be set back from the footway edge by approximately 7-8m to provide sufficient space to plant heavy standard trees on the frontage. There would only be limited views from Harrogate Crescent into the main body of the development which would be accessed by a new estate road. The main views of these proposed houses would be from the rear of the perimeter bungalows and houses where separation distances are applicable to ensure that residential amenities are satisfactorily protected.

Policy HS4 requires a minimum of 20m between elevations with habitable rooms and 15m between a blank gable and habitable rooms. The applicant has made some minor adjustments to the layout to ensure all plots achieve these spacing distances; in most cases the separation distances are greater than the standards in Policy HS4. On the site frontage, the separation distance between the fronts of existing and proposed houses is approximately 25m. On other boundaries, the distance between the rear elevations of the proposed houses and the main rear elevations of existing bungalows is approximately 25m or greater.

Some neighbour objections refer to the elevated levels of the site and the dominance of new houses on their outlook. Proposed site sections are shown below which show the relative heights and spacing between the existing and proposed development.

Proposed site sections



The proposed site sections indicate that in most cases there would only be a minor difference in levels and in some cases (shown above at section D between 62 Minehead Avenue and Plot 40) the proposed houses would be at a lower level. In all instances the separation distances between the existing and proposed dwellings would be sufficient to safeguard outlook and privacy to a reasonable degree in accordance with the expectations of Policy HS4.

The proposed houses are designed with good proportions and attractive formal fronts. The use of brick with some render would be appropriate in these surroundings.

In respect of achieving energy efficient homes, the applicant has considered various renewable sources of energy, indicating that PhotoVoltaic (PV) panels are a viable option. The Energy Statement concludes that a fabric first energy strategy would be employed to reduce energy consumption by reducing the energy requirements of the

new buildings. Details of the proposal and its implementation should be subject to a condition.

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 total of 9 dwellings compliant with this higher standard which equates to 20% of the development. The proposal therefore complies with this requirement of Policy HS4.

Open Space

Some neighbour objections refer to the loss of valuable green space. The site is the former grounds of a school and has no public access or protected status. The site is not also part of the Green Infrastructure that is identified in Burnley's Local Plan. 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 0.26ha of open space. 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 appropriate in this case, where improvement to existing provision should be given higher priority to creating new open space areas and facilities. In accordance with the Developer Contributions SPD which is based on bedroom numbers, the applicant has agreed to pay a contribution of £75,086 which would be used to improve open space and play facilities at Kibble Bank which is accessible from this site. This would fulfil the open space requirements at Policy HS4.

Impact on Residential amenities

Policy SP5 seeks to ensure that development has no unacceptable adverse impact on the amenity of neighbouring occupants or result in unacceptable conditions for future users and occupiers of the development. The layout and spacing considerations discussed above have shown that the development would satisfactorily safeguard the outlook and privacy of neighbouring properties, which would also protect daylight and sunlight.

Other objections have been received from neighbouring occupiers on the basis of an increase in noise, traffic and general disturbance. Following initial noise from a construction period, the amount of general noise from a residential development which is designed for families is unlikely to generate types or levels of noise and activity that would be unsuitable for a residential area. There would be some degree of inconvenience from the glare of headlights from cars emerging from the new access road onto Harrogate Crescent but given the number of dwellings that would be served by the access (34no.) then the occurrence would be intermittent and the impact would not be severe. Additional traffic noise from a development of this scale would be less than significant with the forecast trip rates indicated in the submitted Transport Statement showing a total trip rate (combined in and out) of 26 trips within the peak morning hour and 29 trips (combined in and out) in the peak afternoon hour which equates to an additional vehicle every two minutes which is unlikely to significantly affect local noise levels.

Impact on traffic and parking

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

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

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

A Transport Statement has been submitted with the application to assess the accessibility of the site and to assess the traffic generation from the proposed development and its impact on the road network. It is accepted that the site is reasonably accessible to public transport services and local amenities. The traffic generation from a development of this size and type is calculated using TRICS (Trip Rate Information Computer System). Within the morning and afternoon peak periods, this would produce around one additional vehicle every two minutes (as a total in either direction). This additional traffic would not significantly affect traffic rates on the local roads. LCC Highways is satisfied that there would be no significant impact on junctions or the surrounding roads but recommends a number of minor improvements to bus stops on Briercliffe Road and use of tactile paving on local roads. The recommendations of LCC Highways which are necessary for pedestrian and highway safety and to promote the use of public transport should be required by condition. In making their recommendations, LCC Highways is aware of other developments that are committed in the local area.

The proposed development would provide sufficient off-street parking to comply with the standards in Policy IC3. One minor exception is the Cleveland house type (4 bedroom) which only affects three properties where the third parking space which is an integral garage which is short of the 3m x 6m internal standard. This does not significantly detract from the policy compliant provision of off-street parking for the development. Neighbour objections refer to existing levels of on-street parking and problems of pavement parking resulting from double parking and safety concerns for children and school children crossing roads and walking to and from the nearby school which is accessed on foot at the easterly end of Harrogate Crescent. Given however that there would be sufficient convenient off-street parking for new residents and visitors, the development would not increase the current levels of on-street parking or lead to safety issues for pedestrians. LCC Highways is satisfied with the amended proposed layout and the parking provision.

A number of neighbour objections also refer to the adverse gradient of Harrogate Crescent in winter conditions, resulting in hazards and damage to vehicles. Difficult conditions like this are the exception rather than the norm and it is accepted that in difficult conditions that extra care is always required. Adverse conditions such as snow affects many streets due to the local terrain and is not a reason to prevent further traffic on such roads. Notably, the use of the premises as a school would also potentially lead to traffic at peak hours to the site.

It has been found that the impact of the development on the local highway network would not be significant; there would be adequate parking and the development has been designed to take account of connectivity with its surroundings. Subject therefore to conditions to include the recommendations of LCC Highways, the proposal would be acceptable in highway terms and would comply with Policies IC1 and IC3.

Impact on Biodiversity and Bats

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. Where development would affect protected species, Policy NE1 states that the first preference is to avoid disturbance, the second to provide suitable inter-connecting new habitats within the development site and if this is not feasible, suitable alternative habitats should be provided.

Neighbour objections to the application refer to the amount and variety of wildlife that use the site for habitat and as a `stepping stone`. The Burnley Wildlife Conservation Forum (BWCF) has made similar comments. The grounds of the former school have been unused for some time and relatively undisturbed. The removal of a significant number of trees that is necessary for the development has heightened concerns. The Preliminary Ecological Appraisal submitted with the application indicates however that the site is largely low value grassland of very limited ecological value. GMEU do not disagree with this finding. The trees on site were all assessed as having negligible bat roost potential and the site supports many ornamental or non-native trees which are generally of low biodiversity value, although ash trees should be retained. GMEU recommend that no trees or vegetation clearance takes place in the bird nesting season and that biodiversity enhancement measures are secured through a condition to require the submission and approval of an acceptable scheme.

A full bat survey has been submitted which identifies that the main school building is used as a bat roost for common pipistrelle bats. Given that the species are protected, it is an offence to harm or allow harm to be caused to bats. The proposed works would require a licence from Natural England which would first require the following three tests to be satisfied:-

- i) That the development is "in the interest of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequence of primary importance for the environment;
- ii) That there is "no satisfactory alternative";
- iii) That the derogation is "not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range".

To address these tests, firstly, the development would be in the public interests by providing an appropriate economic use for the site that provides good quality new homes in an accessible and sustainable location. Secondly, there would be no alternative to removal of the bat roost due to the need to demolish the building. Finally, GMEU advise that subject to the implementation of mitigation measures which are outlined in the full bat survey, the proposal would not be detrimental to the maintenance of bat population of the common pipistrelle at a favourable conservation status in their natural range.

The three tests are therefore fulfilled. The mitigation measures involve providing new habitat for bats within the development site. Conditions are necessary to ensure

satisfactory details of this and its implementation. A condition is also recommended to require details of external lighting to ensure that this does not adversely affect locations for bats on the site. Subject to these conditions, together with conditions to require a Biodiversity Enhancement Scheme and to protect birds during the nesting season, the proposal would not significantly affect biodiversity or protected species on the site and would comply with Policy NE1.

Impact on trees

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. Neighbour objections refer to the trees on the site and object to their removal.

An Arboricultural Impact Assessment has been submitted with the application which identifies that identifies that three moderate quality (Category B) trees and five moderate quality tree groups and three low quality trees (Category C) and seven low quality tree groups would need to be removed. One further tree group (U Category) would also be unsuitable to retain due to its condition. The proposal involves planting 71no. new trees as well as a variety of hedges and shrubs to compensate for the tree loss on the site. Heavy standard trees would also be planted on the Harrogate Crescent frontage to provide a more immediate impact. Four individual trees and six groups of trees would also be retained. The Council's Tree Officer accepts that it would be difficult to incorporate the trees that are to be removed into the development. The trees are of moderate and low value and can be compensated by a new tree planting scheme that can also provide some native species that would be favourable to wildlife. A landscape plan submitted with the Assessment indicates the planting of 71 new trees. Subject to details of a full landscaping scheme, the proposed loss of trees can be adequately mitigated subject to conditions to secure this. As such, the proposal would not conflict with Policy NE4.

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 £75,086 towards health care provision. The contribution would be used for capital and revenue funding within the Trust area. The Trust provides acute, emergency and secondary healthcare across Blackburn with Darwen, Burnley, Hyndburn, Pendle, Ribble Vally and Rossendale.

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

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

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

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

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

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.

Affordable Housing

Policy HS2 requires affordable housing on sites of over 10 dwellings. This will normally be an on-site requirement. Vacant Building Credit is taken into account in accordance with the NPPF which in this case reduces the number of affordable homes. An agreed figure would be subject to a s106 Agreement.

Other issues

The scale of the development is unlikely to significantly affect the provision of public services such as doctors, dentists etc. Issues relating to healthcare have been

discussed earlier. The local education authority has not requested any contributions towards new school places.

The site is within Flood Zone 1 where there is the lowest risk of flooding. Subject to conditions recommended by the Lead Local Flood Authority and United Utilities, the site can be adequately drained and would not lead to an increase in flood risk on the site or elsewhere.

The proposal includes electric vehicle charging points which would be sufficient to mitigate against an increase in traffic and pollution from the development . This would be consistent with the recently adopted SPD on air quality.

Further to the submitted Ground investigation Report, further gas monitoring will be required and should be conditioned to ensure the development is carried out safely.

Recommendation: Delegate to the Head of Housing and Development Control to approve subject to the applicant entering into a section 106 Agreement relating to open space improvement and affordable housing

A list of recommended conditions will be reported in Late Correspondence.

Janet Filbin
1st Sept 2021