

Application Recommended for Delegation to approve subject to s106 Agreement

FUL/2021/0273

Coal Clough With Deerplay Ward

Town and Country Planning Act 1990

Proposed residential development of 87 houses with new access from Rossendale Road and associated estate roads, open space and infrastructure. Proposal affects Public Footpath No. 8 (Habergham Eaves).

Land South of Rossendale Road Burnley

Applicant: BDW Trading Ltd trading as Barratt Homes

Background:

The application proposes a residential scheme for 87 dwellings on approximately 4ha of grazing land that bounds Rossendale Road to its north and north east side, Helm Close and Micklehurst Crescent to its east side and open fields to its west and south sides. The site is closely related to the urban area, approximately 2Km to the south west of Burnley town centre, situated on the A646 which is a main traffic route around the southern urban fringe of Burnley. Public Footpath No. 8 flanks the western side of the site and would be affected by the proposal.

The originally submitted scheme for 101 dwellings has been amended to 87 dwellings to take account of objections, planning policies and to improve the quality of the scheme.

Site edge with Rossendale Road



Undulating pasture



Rossendale Road with lay-by and bus stop adjacent to the site



buffer areas around the drainage basin and swale would be landscaped and form part of the open space for the scheme.

The proposal would provide 59no. three bedroom houses, 27no. four bedroom houses and 3no. two bedroom houses with 66% semi-detached, 31% detached and 3% terrace properties. The development would be constructed in reconstituted stone and flat dark grey tiles.

Proposed street view facing Rossendale Road



There would be a mix of nine house types, all of which would be two storey and designed with gable roofs, stone heads, cills and surrounds and features such as chimneys to prominent plots which display a distinctive character.

Proposed house frontages facing westerly onto countryside



The proposed scheme would be built to achieve an energy efficient development with a 20% betterment on the current requirements of building regulations by using a combination of fabric improvements and photovoltaic (PV) panels.

A 22% proportion of the development (19 dwellings) which consists of 4no. two bedroom dwellings and 15no. three bedroom dwellings would be built as Accessible and Adaptable Homes to comply with the optional technical standard M4(2) of the Building Regulations 2010.

The proposal would provide 4no. Affordable Houses to comply with policy requirements for this part of the housing allocation.

Electric charging points for cars would be installed on all plots.

A landscaping scheme has been submitted that includes a frontage of heavy standard trees to Rossendale Road, native trees and shrubs within the site, including street trees and native hedges to plot frontages and corners of the development, species rich meadow grass and trees to areas of amenity open space, and an orchard of fruit trees, species rich grasses and meadow grasses within the green buffer around the sustainable drainage features. A Locally Equipped Area for Play (LEAP) and a Local Area for Play (LAP) which would provide play equipment for children would be located within an area of public open space to the south side of the site.

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
- SP6 - Green infrastructure
- HS1/4 – Housing allocations (Land at Rossendale Road)
- HS2 – Affordable housing provision
- HS3 – Housing density and mix
- HS4 – Housing developments
- HE2 – Designated heritage assets
- HE4 – Scheduled monuments and archaeological assets
- NE1 – Biodiversity and ecological networks
- NE3 – Landscape character
- NE4 – Trees, hedgerows and woodland
- NE5 – Environmental protection
- CC4 – Development and flood risk
- CC5 – Surface water management and sustainable drainage systems
- IC1 – Sustainable travel
- IC2 – Managing transport and travel impacts
- IC3 – Car parking standards
- IC4 – Infrastructure and planning contributions

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)

Relevant Planning History:

None.

Consultation Responses:LCC Highways

No objection.

There is a concern that the potential increase in the traffic will create issues with the capacity of the signalised junction of Rossendale Road, Manchester Road and Glen View Road. The bus services at this location are being promoted as support to the sustainability of the development. It has been suggested by our Transport team that there will also need to be some improvements to the bus stops on Manchester Road and the possible relocation of the bus stops at the site location on Rossendale Road.

The junction for a new access road is to be formed with the provision of a number of additional traffic islands, a right turn lane, the provision of some build-outs (to limit on

street parking and aid junction visibility), we would look for additional off-site highway works in the following areas:

- A financial contribution of £70,000 to support the provision of pedestrian facilities at the signalised junction [of Manchester Road and Rossendale Road] and other measures to improve the functionality of the junction.
- A sum of money in the region of £20,000 to provide new shelters, raised kerbs and boarding point with Bus Stop Boxes for the X43 stops on Manchester Road one of the stops will also require some kerbs to be re-aligned, to allow the bus to pull parallel to the kerb.

These improvements are best delivered as part of the section 278 agreement.

The general layout of the proposed Section 278 works has been agreed; there are however still some minor points such as the relocation of 2 bus stops on Rossendale Road which need to be agreed. Whilst significant these points can be agreed as part of the details of the s278 agreement with the local highway authority.

Earlier concerns regarding off-street parking have been addressed.

It is noted that the dwellings are to be provided with Electric vehicle charging points. These should be fitted in line with the DfT guidance regarding Electric Vehicle Charging in Residential and Non-residential buildings, which states:- charge points must have a minimum power rating output of 7kW, be fitted with a universal socket that can charge all types of electric vehicle.

Conditions are recommended to require a Construction Management Plan; to restrict deliveries during the construction period outside of peak traffic hours; to require wheel washing facilities; an estate street phasing and completion plan; highway works to facilitate access for construction traffic; construction to base course level prior to any occupation of dwellings; a detailed scheme for a surface water drainage of highways; the provision of electric vehicle charging points; details of the management and maintenance of estate streets prior to adoption; full engineering, drainage, street lighting and constructional details of streets; and, the removal of permitted development rights to retain garages for the parking of a car(s) and the retention of approved car parking spaces.

Local Lead Flood Authority (LCC)

No objection subject to conditions to require the development to be carried out in accordance with the principles set out within the site specific flood risk assessment as well as to require a detailed surface water drainage strategy; a construction surface water management plan; a sustainable drainage system operation and maintenance manual; and, a verification report of the constructed sustainable drainage system.

United Utilities

The proposals are acceptable in principle. Drainage conditions are recommended to secure a detailed design for the drainage scheme; separate systems; and, a sustainable drainage management and maintenance plan for the lifetime of the development. A public sewer crosses the site and building over it may not be permitted; an access strip 3m either side of the centre line is required.

Greater Manchester Ecology Unit (GMEU)

The following comments were received prior to the submission of an amended landscape proposal, biodiversity net gain assessment and plans for bat/bird boxes and hedgehog highways which seek to address the issues that are raised:

An ecological assessment of the site was undertaken in May 2019 and updated in April 2021, and includes 3 breeding bird surveys undertaken between April – June 2019, and updated in April 2021. The survey findings are included with the ecology report submitted with this planning application (ERAP (Consultant Ecologists) Ltd ref 2019-063d) and the survey work appears to have been undertaken by suitably experienced ecologists following best practice guidelines.

The site is located to the south of Rossendale Road (A646) and has existing residential areas to the north and east. Habitats to the south and west are consistent with the main habitats on the site, predominantly improved and marshy grassland as well as an ephemeral pond and ditch.

Habitats, Layout/Landscaping and Net Gain

The majority of the semi-natural habitats on the site will be lost as a result of the proposed development including extensive areas of improved grassland, marshy grassland and the ephemeral pond and ditch on site. The proposed development does incorporate a length of native screening planting down the western edge of the residential boundary and land to the west of the site has been identified as an area for a Sustainable Urban Drainage Scheme which the ecology report has identified will provide some compensation for the loss of some of the habitats on the site. However the landscaping plan does not reflect all of the recommendations made within the ecology report for enhancements (for example the use of a wetland meadow mix or marshy grassland species in the mix in the SuDS scheme and a hedgerow on the southern boundary).

The site is within the allocations plan for housing (HS1/4) and while it is not specifically identified that net gain for biodiversity is required as part of the scheme, the general policy in the Local Plan (NE1: Biodiversity and Ecological Networks) 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.” This is in line with Policies in the NPPF which encourage biodiversity improvements as part of developments to secure measurable net gains for biodiversity. Whilst the on-site habitats may not be priority habitats, they do support priority species (confirmed breeding of lapwing and skylark for example) and will be providing a valuable resource for local wildlife. No DEFRA metric calculations have been submitted with this application and it is not clear that the biodiversity value has been maintained (i.e. no net loss) or any net gains provided within the current proposals.

I would therefore recommend that given the existing planning policies, and the size and scale of the proposals, that it is appropriate for the DEFRA Biodiversity Metric (latest version) to be used to evaluate the biodiversity value of the site and provide an indication of the level of mitigation/compensation required for each habitat. This could also be used to demonstrate if no net loss/biodiversity enhancements are being delivered as a result of the development and be used to guide the proposed layout of the site and the required levels of mitigation/compensation for the loss of habitat. An appropriate long term management plan for the habitat will also be required (LEMP).

A number of general enhancements for biodiversity, (which aren't necessarily accounted for in the DEFRA metric) are recommended in the ecology report, such as inclusion of bat and bird boxes into the new houses, and designing connectivity through the site through appropriate gaps in boundary features etc., which should be secured through the planning system by use of an appropriately worded condition for an Ecological Enhancement Plan.

A Construction and Environment Management Plan (Biodiversity) will be required to protect retained habitats (the offsite ditch for example) and to secure working practices which will not damage any of the wildlife that may be present on the site, such as a methodology for drainage and infilling of the existing ditch and pond, and method statement for site clearance for species such as hedgehogs). This should also include measures to treat and prevent the spread of invasive non-native species recorded on and adjacent to the site. Once this is agreed in writing with the LPA all measures will be implemented and maintained for the duration of the construction period in accordance with the approved details.

Nesting birds

The habitats on the site (structures, trees, grassland) are suitable for nesting birds, and the active nests of all wild birds are protected under the Wildlife and Countryside Act, 1981 (as amended). Breeding has been confirmed on and close to the site of priority and species of conservation concern, including lapwing, skylark and dunnock. The ecology report has acknowledged that the current scheme does not provide replacement habitat for species such as skylark and lapwing (paragraph 5.5.3) but opportunities for other priority species can be provided. This is justified by the low number of birds recorded, the location of the proposals next to existing residential development and the availability of similar habitat in the wider environment. However, I would like to see a greater consideration of the habitat loss for these ground nesting birds. The current residential boundary is being moved closer into the grassland habitat, which not only creates habitat loss in these areas, but expands the area of habitat that is then considered sub-optimal as it will become adjacent to a new residential area which was previously grassland. In addition to this, I am concerned that the cumulative impacts of development in this area, on similar types of habitat (with similar low levels of priority species) has not been considered. Land to the north-west has outline planning permission (OUT/2019/0625) with a further phase indicated for the future in this area, and land to the south of the current application also in the allocation for housing. I would advise that further measures to reduce the impact on ground nesting birds are considered such as increasing the opportunities within the SuDs (further scrapes/wet grassland to the south of the attenuation area for example) or (preferably) an opportunity to enhance the wider habitat for these species.

A condition should be used so that the applicant is aware of the legal protection that active bird nests receive. Work which may impact on nesting birds (such as structure demolition, site and vegetation clearance) must be timed to avoid the main bird nesting season (March - August inclusive) unless it can otherwise be demonstrated that no active bird nests are present (see section 5.5.1-5.5.2).

Bats

The structures (dry stone walls) and trees on the site were judged to have negligible potential to support roosting bats, and no evidence of roosting bats was found. No further survey work is required in relation to roosting bats.

Any new lighting for the site should be designed to minimise the impact on nocturnal mammals such as roosting bats in line with published best practice guidelines and section 5.4.1-5.4.3 of the ecology report.

Invasive Species

Two invasive species listed on Schedule 9 of the Wildlife and Countryside Act, 1981 (as amended) have been recorded on the site (Wall cotoneaster and Japanese rose). It is an offence to plant or cause these species to grow in the wild.

A condition to secure a management plan to treat and prevent the spread of control of invasive species should therefore be used (if not incorporated into the CEMP).

Other Protected Species

There are judged to be no implications for other protected species such as water vole and otter and no evidence of other protected or priority species such as badger was recorded. Other than the ephemeral water body on the site which was not considered highly suitable for great crested newts, no other water bodies are present within 500m which have connectivity to the proposed development site.

An informative should be used so that the developer is aware of the legislation that is in place to protect wildlife. If at any time protected species are found on the site, work should cease immediately and ecologist/LPA should be contacted.

Further comments will be reported from GMEU in respect of the further biodiversity net gain assessment and plans that have been received.

Burnley Wildlife Conservation Forum (BWCF)

The BWCF is no longer taking part in consultations on planning applications but made the following comments on the original scheme for 101 houses. As such, their comments are provided below for information:

The land comprises semi-natural grazing pasture which is a prominent elevated part of the adjoining attractive open countryside. The semi-natural grazing pasture has a mosaic of habitats containing both drier and marshy grassland areas, a boggy drainage ditch and a shallow pond. The vegetation on the site contains a wide range of drier and marshy grassland wildflower, grass and sedge species, notably, Cuckooflower, Bog Stitchwort, Brooklime, Marsh Thistle, Self Heal, Thyme-leaved Speedwell, Meadow Vetchling, Common Mouse-ear and Celandine. This is confirmed by the April 2021 Ecological Survey and Assessment by ERAP Ltd (on behalf of the applicant) which states that the ditch and marshy grassland are of ecological value and contribute to the site's diversity of habitats. As a result of this, the land is used for foraging for food by a wide range of bird species and most importantly, for foraging and nesting habitat for four upland breeding birds: Skylark, Meadow Pipit, Curlew and Lapwing. This is confirmed by the applicant's breeding bird surveys which recorded a total of 35 bird species (with counts of 5 skylarks, 7 Meadow Pipits, 4 Curlews and 6 Lapwings). The LERN Assessment of Local Plan sites (June 2015) states that species have been recorded with European and NERC Act section 41 protection along with Lancashire Biodiversity Action Plan long list and key species. Wildlife and Countryside Act schedules 1, 5 and 8 species have been recorded within 250m of the site. The site is in the Historic Woodland Survey and intersects Lancashire Woodland and Grassland Ecological Network stepping stone habitat. The Planning Layout shows a high density development of 101 houses with no open space provision for loss of wildlife habitat mitigation. This would result in a significant adverse effect on biodiversity for the reasons outlined above and consequently the BWCF formally object to the application.

The Coal Authority

Following the submission of further details there are no objections subject to conditions. The application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

Based on an initial desk based review of coal mining and geological information, the Coal Mining Risk Assessment correctly identifies that the Arley Mine coal seam is conjectured to outcrop across the application site. As this seam has been extensively mined in the locality, it correctly considers that the seam may have been subject to unrecorded mining activity in the past and recommends that an intrusive investigation of the site is required to establish the shallow mining situation.

The Coal Mining Investigation indicates that 18 boreholes were subsequently drilled within the application site. The report indicates that these investigations established extensive shallow mine workings in the Arley Mine coal in the northern half of the site along with three unrecorded mine shafts.

The Coal Mining investigation advises that further investigations are required to identify any further unrecorded shafts present within the northern half of the site. Once these works have been carried out and the building layout designed accordingly, the report advises that a scheme of mine working stabilisation works can be designed.

The Mineshaft Investigation indicates that investigatory trenching works subsequently carried out at the site encountered 15 further unrecorded mine entries. It advises that any development layout for the site should avoid the identified shafts and advises that the clusters of shafts effectively sterilise certain parts of the site. It outlines that each shaft should be capped at rock head (2m depth) with a structural engineer designed reinforced cap measuring at least twice the external shaft diameter.

The Mineshaft Investigation also makes broad recommendations for stabilising the shallow mineworkings within the Arley Mine coal under proposed buildings by means of drilling and grouting on a 3.0m grid pattern. It also advises that structural foundations (rafts) will be required for all properties underlain by the Arley Mine coal. The applicant has also submitted a *Specification for the Treatment of Mine Shafts and Shallow Coal Workings* document (March 2022). The specification document confirms that each mine shaft will be treated by means of grout injection, with a reinforced concrete cap constructed within rock, at a nominal depth of 2.0m below existing ground levels.

It is noted that the shafts will be accommodated in POS, private gardens, driveways and estate roads, and we are pleased to note that buildings and structures have now been arranged to avoid the shafts and their calculated potential zones of influence.

The specification document also sets out proposals to stabilise shallow mine workings present within the northern part of the site. Section 6.2.1 confirms that grouting will take place “*across the development footprint of House Plot Nos. 1-54 and 83-87 and associated driveways and roadways.*”

We welcome the recommendations for the undertaking of remedial stabilisation works to the shafts and shallow workings. The remedial works should be designed and

carried out by competent persons in order to ensure the safety and stability of the proposed development as a whole, including buildings and external parts of the site.

The Coal Authority affirm that that shallow coal mining activity and recorded mine shafts pose a stability risk to the proposed development and that remedial measures are required in order to ensure the safety and stability of the development. As such, conditions are recommended to require the carrying out of remedial treatment works to ensure the site is made safe and stable for the development and verification of the works prior to the occupation of the development.

The Coal Authority also advise on the need for the applicant to be aware of potential mine gas, stability issues for a SuDs system and for the Local Planning Authority to take into account that its records indicate that surface coal resource is present on the site.

Environmental Health

Air Quality: The submitted Air Quality Assessment (AQA) indicates that there is negligible potential for health related air quality impacts as a result of the occupation of housing at the Rossendale Road site. Background NO₂ and PM levels are relatively low, and pollutants are mainly road traffic related, the additional road traffic on local roads would have a negligible impact. No additional requirements to control pollution are needed. Construction activities are more significant with a *medium risk* of health related exposure from trackout dusts. A dust management plan should be prepared by the site contractor addressing all the mitigation measures identified in the submitted AQA. Any such plan should include:

- Proposals for monitoring dust deposition and, if necessary respirable dusts
- Identification and implementation of the primary controls, particularly in relation to minimising production of respirable dusts.
- Compliance monitoring for dust at or adjacent to sensitive receptors to demonstrate compliance.

Based on the recommendations of the above report, the development is acceptable in air quality terms subject to condition to require an appropriate Dust Management Plan.

Noise: The submitted Noise Impact Assessment identifies that day and night time noise levels would exceed the BS8233 criteria for proposed premises adjacent to the main road. The level of exceedance requires acoustic glazing and ventilation systems to be installed for the identified premises that effectively provide a barrier effect to those further into the site. The report identifies façade treatment and glazing specifications and acoustic fencing on plot 1. Subject to implementing the mitigation requirements the proposal is acceptable subject to a further condition to restrict construction hours to 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays.

Contaminated Land Officer

Comments to be reported in Late Correspondence.

LCC Schools Planning Team

An education contribution is not required at this stage in regards to this development.

East Lancashire NHS Trust

Request a contribution. In summary, the Trust states that they currently provide acute, emergency and secondary healthcare across Blackburn with Darwen, Burnley,

Hyndburn, Pendle, Ribble Valley and Rossendale. The impact of non-recurrent (capital) and recurrent (service provision) infrastructure costs as a direct result of new housing development are very significant and as such a contribution is now sought to address the direct impact which the application will have on the Trust. A scheme for 101 new dwellings [the original number of dwellings proposed by this application] will support a population increase of 232 (assuming an average of 2.3 people per dwelling) all of whom will need to access health services. It follows that without the provision of additional facilities and services it will not be possible to accommodate the health impact of the development within the existing provision which is available. The Trust will in due course be able to obtain funding to meet the needs of the population which arises from the development but this funding will not be in place for approximately three years. Once in place, the funding will not be provided retrospectively, and as such the impact on the Trust for the initial period will not be met from any alternative source of funding⁶. We therefore request a contribution for this development in the sum of £172,357.00 [this would equate to a reduced figure of £148,465 for a total of 87 dwellings]. The Trust consider that this request meets the requirements of the appropriate tests.

LCC Historic Environment Team (Archaeology)

No objections. The Archaeological Desk Based Assessment & Walkover and Geophysical survey identified little of interest but it suggested that evidence for former coal working on the site of a possible medieval date might be encountered by the development. However, coal pits are recorded about 500m to the north west (survey 1844) but none were recorded by the Ordnance Survey at the same time within the boundary of the proposed development. Coal mining data records workings in the area but these are all post 1950. Field names on the Tithe Map for Habergham Eaves (1842) do not suggest the area to have been used for coal mining either in the 19th Century or earlier. Consequently, the works already undertaken have demonstrated that the site has a low-nil archaeological potential and no further intrusive archaeological works are required.

Burnley Civic Trust

Support the comments of the Habergham Eaves Parish Council; would like to see a smaller number of houses with adequate green spaces and provision of affordable housing and including some bungalow properties.

CPRE The Countryside Charity

The number of dwellings exceeds the housing allocation. The scheme should include genuinely affordable homes and enough homes for Burnley's older households and people with mobility requirements. Access to the site should include appropriate traffic management systems. Recommend that appropriate landscaping and boundary treatment is used to screen the northern and western boundaries to reduce the impact on the wider landscape with roadside trees and shrubs adjacent to Rossendale Road.

Ramblers (Burnley and Pendle Group)

No objection. The proposed slight diversion of Footpath 12-6-FP-8, to join up with the start of FP-6 about 10yds down Rossendale Road is minimal and of no real consequence. The developers will need to apply for a footpath diversion.

Head of Greenspaces and Amenities

No objection. Initially, raised concerns over the lack of proposed public open space (POS). In respect of the amended plans, it is affirmed that there is sufficient POS for

the development and the location of the POS that includes a LEAP (Locally Equipped Area for Play) and LAP (Local Area for Play) to the south end of the development adjoining the remainder of the housing allocation would be appropriate.

Habergham Eaves Parish Council

Initial response to the application (prior to changes to the scheme): The Parish Council objected when this land was first considered for inclusion in the Local Plan and our concerns are broadly the same, that is, pressure on Rossendale Road due to the increase of traffic from not only the houses but the new industrial estate. Just to extend the 30mph zone will not reduce speed. The Parish Council raised concerns in respect of mineshafts when the Local Plan was being considered. The open space that is planned is poor and too small for this size of development. There appears to be no affordable housing or contributions to the infrastructure. Also object to the affect of the proposal on Pubic Footpath no. 8 and ask that the footpath issue is decided before the planning application is considered in order to be fair to those people with concerns.

A further response has been received in respect of the amended plans for 87 dwellings which states that the Parish Council is pleased that the developer has taken note of concerns regarding housing numbers, affordable housing, access for the disabled and the open play area provision but still has the following concerns which are summarised below:-

- Concern about the impact on the area from the volume of traffic;
- Lack of evidence of promotion of more sustainable ways of travelling;
- Concern that as Public Footpath 8 will be affected;
- The separate application by Seddon Homes uses the same access onto Rossendale Road and as such although the applications are separate, the access issue affects both and should be looked at together;
- Our major concern is a lack of real concern shown by the developer in the ecology report. The Council has declared a climate emergency and has promised to take more measures to protect our borough. The proposal has calculated 36% loss of biodiversity habitat units which is unacceptable. The submission claims that there is no need to accommodate net gain for biodiversity as part of a scheme for the site. We disagree with this interpretation which is contrary to Policy NE1, the National Planning Policy Framework and the Environment Act (2021) which is set to require developments across England to achieve at least 10% net gain in biodiversity as measured by the Biodiversity Metric. It is not acceptable for the developer to claim that a net gain in area-based habitats cannot be achieved and thereby side-step national and local planning policies.

Councillor Gordon Birtwistle

Object to this application on the grounds of access onto Rossendale Road which in my view would be extremely dangerous and on the destruction of the natural environment, with the caveat that I will read carefully the highway authority report on the access and listen to any environmental report received by the Council.

Publicity

Letters of objection have been received from a total of 18 properties in the local area, mainly: Rossendale Road, Helm Close, Micklehurst Crescent, Buttercross Close and Rossendale Avenue. Neighbours were reconsulted on amended plans, following

which ten letters were received that maintain and state their objections. A summary of all the comments received (including those received prior to the changes made to the scheme) is provided below:-

- Should preserve green areas and countryside
- Impact on landscape and the environment
- People park on the lay-by to enjoy the views of this site
- Nearby brownfield sites are available and are not being used
- Inadequate new public open space to comply with policy requirements
- Rossendale Road is a very busy main route from Yorkshire to Junction 9 of the M65 with a fast four lane with speeding traffic at 50mph and dangerous location for a new junction
- Speeding traffic in both direction will contribute to collision, injury and death
- Concerns about excessive speeds on this road have been previously lodged with authorities
- Site entrance is on a brow of a hill where visibility is limited, presenting a danger to vehicles and pedestrians
- There will already be increased traffic from the new Rossendale Road industrial estate development
- Would lead to a further 200+ cars entering and leaving the site
- The additional traffic from the land to the south side (Seddon Homes site) should be considered at the same time
- Volume of traffic on match days
- An extension of the 30mph zone will not reduce the speed of vehicles down this stretch of road
- Contributions to improve junctions is not sufficient to deal with traffic problems
- Impact on the Rosegrove and the Manchester Road signal junctions which are bottle necks, traffic congestion and lengthy queues of traffic
- Site access and right turn is unsuitable and will cause accidents from cars being rammed on the brow of a hill and from cars crossing two lanes of fast traffic, with traffic backing up both entering and leaving the site
- All of Rossendale Road should become a 30mph zone and speed camera placed near new junction
- Pedestrians put at risk by trying to cross four lanes of traffic
- Increasingly difficult to get out of Rossendale Avenue
- New pedestrian crossing is close to private access road
- Question whether there would be sufficient room for cars to safely turn right into private access road
- Personal accounts of accidents on Rossendale Road
- Impact of additional traffic on air quality and effect of pollution on children and people with respiratory conditions
- Additional noise from traffic
- Loss of habitat of wild species of animals, birds including protected birds and insects such as foxes, stoats, deer, brown hare, hedgehogs, bats, bees, barn owls, kestrels, sparrowhawks, lapwing, skylarks, snipe, starlings, curlew, reed bunting, butterflies
- There is a significant population of ground nesting birds in the pastures located west of the site that will be indirectly affected, includes curlew, lapwing and skylark which are Priority Species and Red List species

- The scheme does not show it will deliver a net biodiversity benefit through mitigation or incorporate the recommendations of the Ecological Survey into the design, including planting around the new wetland
- Cumulative impacts of this and other development in the area on ground nesting birds
- Re-routed Public Footpath will create further disturbance to birds
- Underground mineshafts may lead to flooding and subsidence in the area
- Overcrowding/cramped development, density higher than Policy HS1/4
- Insufficient Affordable Housing on the site
- Impact on health and mental health
- Would like to see bungalows on the site
- Impact on daylight, sunlight, privacy
- Overlooking into property and garden from proximity of kitchen, bedrooms and lounge
- Overshadowing of garden
- Increase vulnerability to crime
- Will create a strain on schools and GP surgeries
- There is a stream that runs through the centre of the site which feeds the stream in Scott Park.

Planning and Environmental Considerations:

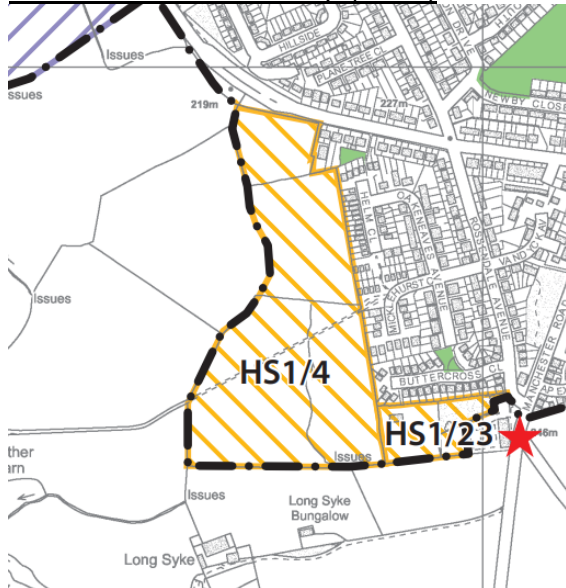
Principle of Proposal

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

Policy SP2 sets out the Housing Requirement for the borough between 2012 and 2032, identifying a net additional requirement of 3,880 dwellings, of which there is a residual requirement of 1,798 dwellings to be met by site allocations. Policy HS1 identifies those sites that have been chosen through the local plan process to meet this requirement. The application site is part of one of the larger identified sites for housing, identified as Policy HS1/4 – Land at Rossendale Road (7.52ha) identified as a Greenfield site.

This application relates to 37.5% of the land area of the above housing allocation HS1/4 (that is, is 2.78ha out of a total 7.52ha). The full red edge application site area amounts to approximately 4ha and includes a sewer easement parallel with Rossendale Road and land to the west of the site allocation to be used to provide a sustainable urban drainage system consisting of an attenuation basin and swale and including a green buffer. An access road to the western side of the site also sits on the edge of the housing allocation and into the adjoining field.

Extract from Policies Map (West)



Application Site area



Policy HS1 states that development on the allocated site will be acceptable in principle for housing development and will be required to be delivered in accordance with the site specific requirements [listed in HS1/4] together with the requirements of other relevant policies elsewhere in the Plan. The principle of developing the site for residential purposes has already therefore been established through the local plan process, taking into account the economic, social and environmental objectives of sustainable development. The inclusion of adjoining land for ancillary purposes to provide a sustainable drainage system, green buffer and access road which would support the delivery of the housing allocation will be assessed in terms of its visual impact.

Policy HS1/4 states that the site [as a whole] is acceptable for around 188 dwellings. The revised proposal is for 87 dwellings on part of this site. The proposal is acceptable in principle subject to the remaining site specific requirements and consideration of other plan policies.

Additional and Site Specific Policy Requirements and Design Principles

- 1) A mix of dwelling types, including a minimum of 55% 3+ bedroomed detached and semi-detached houses will be expected;
- 2) Appropriate traffic management systems will be required both at the site entrance and within the locality, for which contributions may be sought in accordance with Policy IC4;
- 3) Protected Species have been recorded on the site. An ecological survey will be required to accompany any planning application which identifies and addresses this issue in accordance with Policy NE1;
- 4) Appropriate landscaping and boundary treatment should include screening to the northern and western boundary to reduce the impact on the wider landscape, along with roadside trees and shrubs adjacent to Rossendale Road. New planting on the site will need to accord with Policy NE3; and
- 5) The presence of known heritage assets (Medieval and earlier) within close proximity of the site would suggest some limited potential for unknown archaeology of local-regional significance and suitable provision will need to be made for archaeological desk based assessment and field evaluation consistent with Policy HE4; and any further investigation or recording works that may be necessary as a consequence of development.

The proposed development would comply in principle with the spatial strategy for development in Policy SP4 and the specific housing allocation in Policy HS1.

The above requirements and other material considerations relating to plan policy requirements, including the impact of the development on traffic, ecology, mining legacies and neighbouring properties, are considered below.

Design, layout and visual impact of the development

Policy SP5 states, amongst other things, that the Council will seek high standards of design, construction and sustainability in all types of development. In respect of design and layout, this requires new housing to respect existing, or locally characteristic street layouts, scale and massing; contribute positively to the public realm; provide for new open space and landscaping which enhances/or provides mitigation for loss of biodiversity; respect the townscape or landscape setting; be orientated to make good use of daylight and solar gain; to ensure there is no unacceptable impact on the amenity of neighbouring occupants or new occupiers; and provide for carefully designed storage for bins and recycling containers.

The proposed scheme has been amended since first submitted to reflect some of the concerns raised by neighbours and to ensure a high quality scheme for a key housing allocation for the borough. The proposed scheme appropriately addresses the main road location of the site with a frontage of houses and a row of trees to provide a satisfactory view of the development from Rossendale Road. The scale of dwellings has been maintained at two storey that reflects the predominant scale of surrounding development.

The proposed development creates a new edge with the countryside to the west of the site. The view of the development from the countryside would be a row of fronts of two storey houses, tree planting and planting around the proposed drainage features (attenuation pond and swale). This would allow the development to integrate sensitively and provide an appropriate edge and appearance to the countryside. Street trees and landscaping have been incorporated into the scheme.

The mix and range of house types complies with the site specific criteria of Policy HS1/4 that requires a minimum of 55% of three or more bedroom semi-detached and detached dwellings. Policy HS3 states that development should make efficient use of land and be built at a density appropriate to its location and setting. However, it states that developments should achieve a minimum of 25 dwellings per hectare (dph). In this case, the proposed development amounts to 31 dph which is accommodated on the site with adequate spacing, landscaping and impact on its surroundings. The proposed density would not differ significantly from the indicative number stated in Policy HS1/4 from this part of the site and would comply with Policy HS3.

Adequate spacing between new dwellings is achieved and a mix of houses with driveways to the side and forecourt parking to the front provides a spacious development. The use of reconstituted stone and designs with gable roofs, head/cills, well proportioned facades and the use of chimneys for some of the plots, reflects the local distinctive character of development.

Public open space is proposed along the site frontage, close to the site entrance and to the south side of the site, amounting to 0.32ha. The layout creates frontages

orientated to provide a good level of surveillance over the main body of open space that would be used for play.

Houses designed to overlook public open space



The open space would also provide a suitable edge to the southern boundary which bounds the remainder of the housing site allocation.

Smaller pockets of open space also form part of the development and contribute to a spacious layout. Policy HS4 requires new residential developments to provide a rate of 0.3ha of new open space per 50 dwellings, inclusive of a smaller area of equipped space for play. The required level of open space is calculated at 0.52ha. The provision of 3.2ha within the housing allocation site would be supplemented by a further 0.34ha of amenity open space within the green buffer areas which is contiguous with the western boundary of the site. This would provide amenity open space for walking, sitting and being outdoors and would in total amount to 0.66ha of public open space which would be above the policy expectation. This would create adequate open space and play provision to meet the needs of the development and provide a high quality environment for new occupiers. A condition is recommended to require details of the siting and specification of play equipment to be agreed with the Local Planning Authority.

The proposal would comply with requirements of Policy HS4 in respect of Adaptable Homes which requires 20% of dwellings to achieve the optional technical standard M4(2) of the Building Regulations 2010. The purpose of the policy is to provide homes that will allow occupiers to stay within their homes to retain independence as their needs change. The applicant has produced a checklist to demonstrate that 22% of their dwellings (19 properties) would meet this standard. A condition is recommended to require the implementation of the scheme and verification of its completion prior to occupation.

Policy SP5 requires developments to incorporate measures to minimise energy and water consumption and seek opportunities for on-site energy supplies from renewable or low carbon energy sources. The submitted Carbon Reduction Report has demonstrated that a 20% betterment on energy efficiency performance can be achieved for the development using a combination of fabric improvements and renewable energy by way of photovoltaic panels (PV) on a minimum of 7 properties. The proposed scheme would provide an energy efficient development that would comply with Policy SP5.

The proposed scheme would provide a well planned development that is sensitive to its surroundings and reflects the character of the local area. The layout and construction of the proposed dwellings would provide energy efficient homes, would contribute to the stock of Adaptable Homes and would provide a high quality living environment for occupiers. It would therefore comply with the relevant provisions of Policies HS1/4, HS3, HS4 and SP5.

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. Amendments have been made to the scheme since first submitted to ensure full compliance with the minimum separation distances between properties as set out in Policy HS4 (20m between elevations with habitable windows and 15m between habitable windows and a blank gable). The amended scheme would therefore satisfactorily safeguard the outlook and privacy of neighbouring properties and this which would also protect daylight and sunlight provision. A condition is recommended to withdraw some Permitted Development rights for plot 85 to prevent side extensions that may affect the outlook or privacy of existing dwellings and to withdraw permitted development rights for roof enlargements for plots 72 to 84 to avoid potential overlooking from such developments. A condition is also necessary to implement the recommendations of the Noise Assessment submitted with the application which includes some measures to reduce noise to those properties that may be affected by traffic noise. With these provisions, the design and layout of the development would adequately safeguard the living conditions and amenities of the occupiers of neighbouring properties and future occupiers of the development.

Affordable housing provision

Policy HS2 requires affordable housing on sites of over 10 dwellings. This will normally be an on-site requirement and the exact amount of financial contribution/number and tenure of affordable units will be determined by economic viability having regard to the individual site and market conditions. The Developer Contributions SPD provides a guide to what the Council can expect for allocated sites which is based upon the Local Plan Viability Assessment which also takes into account other contributions that may be necessary.

It is recognised that there are substantial abnormal costs in developing this site due to coal mining legacies that affect this northern part of the housing site allocation. In these circumstances, the Developer Contributions SPD indicates that there is a viability ceiling of 5% for on-site Affordable Housing. This should also be considered alongside other contributions which would affect the viability of the scheme as a whole. Notably, other contributions for off-site highway works and ecology that are discussed later in the report would exceed the indicative ceiling heights for the viability of the scheme and this would reinforce the SPD ceiling height of 5% for affordable housing. As such, a contribution of 5% Affordable Housing which would be delivered on site with 4no. two bedroom dwellings has been agreed which would consist of three intermediate (shared ownership) and one affordable rent which would be in accordance with Policy HS2. This represents a positive outcome and a benefit of the development. A s106 Agreement would be necessary to secure the agreed Affordable Housing.

Impact on traffic and highway safety

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 two and 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.

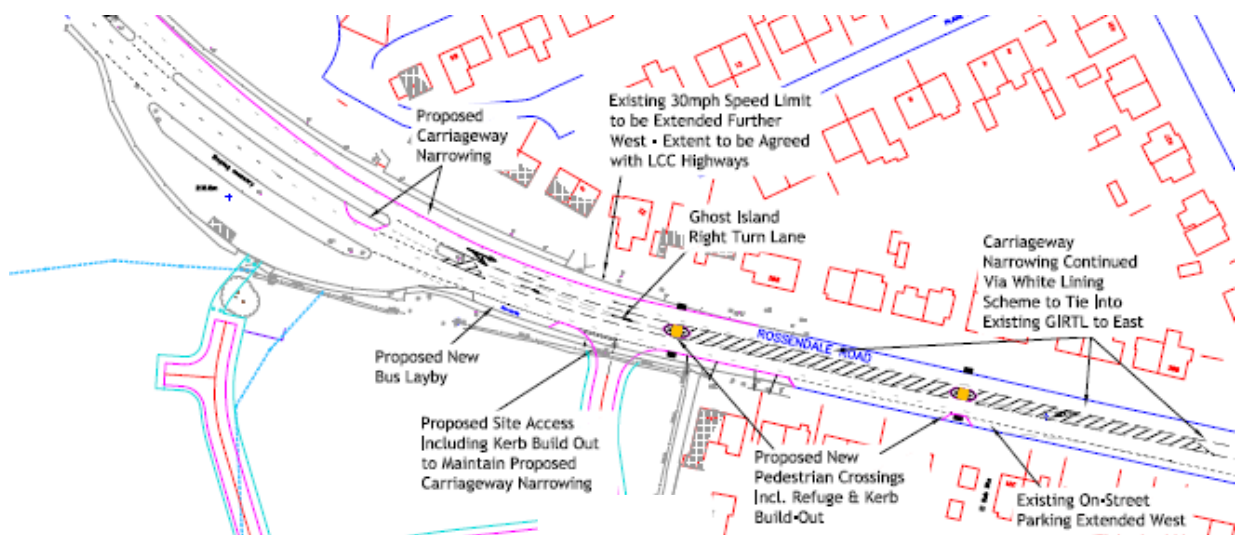
A Transport Assessment and Travel Plan have been submitted with the application to assess the impact of the development on the highway network and to demonstrate measures to reduce reliance on the motor car.

The supporting text at Policy HS1/4 states that Lancashire County Highway engineers have advised that vehicular access should be from Rossendale Road with appropriate sight lines and traffic management infrastructure.

The site is accessible to amenities and facilities within the urban area and is served by public transport, having bus stops adjacent to the northern boundary of the site on Rossendale Road.

The proposed new junction on Rossendale Road would provide the access to the proposed development. A second access onto Rosendale Road would be constructed for emergency use only and exit onto the lay-by (and controlled through lockable bollards). Amendments have been made to the design of the new junction, including a minor increase in the width of the site access to take account of comments from the local highway authority. The local highway authority has also taken account of the whole of the site allocation for housing development which would increase traffic generation at the junction in the future.

Proposed junction



The proposed junction would involve carriageway narrowing with kerb edging which reduces the carriageway at the site entrance to two lanes and a right turn lane. A kerbed pedestrian refuge would be constructed at the site entrance and a further refuge installed between the site entrance and the signalised junction of Rossendale Road and Manchester Road. The existing bus stop located at the site entrance would be re-located to a nearby site that would be agreed with the local highway authority. A build-out to the east side of the junction would prevent on-street parking within the visibility splays and a further small build-out in an easterly direction would create an extended area of on-street parking. The existing zones for the 30/40 mph speed limits would be changed in order to extend the 30mph speed limit in a westerly direction, the positioning of which would be for the local highway authority to determine.

Objections have been received from local residents and the Parish Council, amongst others, refer to Rossendale Road as a dangerous road where an increase in traffic would increase hazards for vehicles and pedestrians. The main impacts of the development on traffic and safety are at the proposed junction, Rossendale Road and the signalised junction of Rossendale Road and Manchester Road.

The Transport Assessment which is based on the original figure of 101 dwellings from this application calculates (using a TRICS database) that there would be a total of 39 trips west and 28 trips east of the site access in the morning peak hour of traffic which would be less than one car movement per minute in each direction. The trip rates in the afternoon peak hour would be similar, having up to 2.5% impact on traffic rates. The reduction in the number of homes from 101 to 87 would reduce these figures further. The proposed junction with associated road narrowing and safety measures would be able to cater for the proposed traffic and provide pedestrian crossing facilities. Conditions are necessary to require further details of the access junction and off-site highway works which would also require the applicant to enter into a s278 Agreement with the local highway authority.

In respect of the impact of the development on the function of the signalised junctions of Rossendale Road with Manchester Road to the east of the site, the Transport Assessment found that whilst the traffic numbers from this development would be limited in proportional terms, the junction operates close to its operational capacity. It therefore explores mitigation measures with a view to providing operational improvements at the signalised junction. The local highway authority consider that concerns regarding the capacity of this signalised junction can be adequately addressed by improvements to its functionality and the provision of pedestrian facilities. A contribution of £70,000 towards junction improvements and a further contribution of £20,000 to be used to provide new bus stop facilities and raised kerbs on Manchester Road (to serve X43 stops) has been requested and agreed by the applicant. With these provisions, the amount of traffic from the proposed development would not significantly impact on the capacity of the highway network.

The internal layout of the site would provide adequate access, turning and off-street parking to comply with the Council's car parking standards. An electric car charging point would be provided for each dwelling.

The development would require a minor diversion of Public Footpath No. 8 around the open space surrounding the proposed drainage basin at the north west side of the site. This is unlikely to cause any significant inconvenience or detract from the existing route, in which case it is unlikely to raise any material objections. The

Ramblers group for Burnley and Pendle reports that they do not object to the minor diversion. A separate application will be required for a Public Footpath Diversion Order.

In conclusion, the proposed new junction and the traffic impacts of the development on the highway network have been carefully considered. Subject to conditions recommended by the local highway authority relating to the details of highway design and construction, and measures to control activities during the construction period, and to a contribution to improving the junction of Rossendale Road and Manchester Road and improving bus stop facilities to encourage sustainable transport, the development can be satisfactorily accommodated within the highway network and maintain highway safety. Further conditions to require the implementation of a travel plan and to restrict the future use of parking spaces/garages are also required to meet the objectives of encouraging sustainable travel and retaining adequate levels of off-street parking. As such, the proposal complies with Policies IC1 and IC3.

Impact on ecology

Policy NE1 states that all development proposals should, as appropriate to their nature and scale, seek opportunities to maintain and actively enhance biodiversity in order to provide net gains where possible. An ecological survey and assessment has been submitted with the application which has identified that the site contains improved and marshy grassland that provides a semi-natural habitat. Whilst no protected species such as bats, great crested newts, water vole or badgers have been recorded, the site is used by nesting birds and ground nesting breeding has been confirmed on or close to the site of priority and species and species of conservation concern. The proposed scheme would provide opportunities for birds to nest, including priority species but this would be more difficult for ground nesting birds such as lapwing and skylark. GMEU concur with the ecological assessment that the loss of the semi-natural habitat is justified given the low numbers of these nesting birds at or close to the site, the site's location and the availability of similar habitat in the wider environment. GMEU recommend, however, that further consideration is given to improving opportunities for nesting birds.

A Biodiversity Net Gain (BNG) Assessment has been carried out by the applicant's ecologist that calculates a loss of Habitat units which would be commensurate with a development of this nature. Notably, the proposed landscape scheme which has been improved to include suitable grasses and meadow mixes around the wetland areas, native hedgerows and trees would minimise the loss of habitat units but a loss would be inevitable. The policy approach towards BNG as set out in Policy NE1 and the National Planning Policy Framework (NPPF) requires losses in biodiversity to be positively addressed. A contribution towards improving habitat for ground nesting birds at a suitable off-site location would achieve this and provide opportunities to provide suitable habitat elsewhere for ground nesting farmland bird species recorded on this site. A contribution has been calculated based on the identified loss of 3.51 Habitat Units and Defra guidance which amounts to £31,590. Details of a scheme to provide these improvements would need to be established as part of a section 106 Agreement. The applicant has agreed to this contribution.

In addition to the proposed landscape proposals which seek to maximise the opportunities for biodiversity on site, other on-site biodiversity enhancements including measures to incorporate 7 bat boxes, 7 swift boxes, 5 house sparrow nesting terraces and 6 small bird nest boxes and hedgehog highways throughout the development are

also proposed and will create favourable conditions for biodiversity on the site. The on-site measures would mitigate for nesting birds in general whilst the off-site measures would mitigate the impacts of the development for farmland ground nesting birds. The proposed residential scheme would in these circumstances sufficiently mitigate against the loss of biodiversity on the site and maximise opportunities for enhancing biodiversity. As such, the proposal would comply with Policy NE1.

GMEU recommend conditions to require a Landscape and Ecological Management Plan (LEMP) to ensure the ecology of the landscape scheme is appropriately managed; a Construction and Environment Management Plan to protect biodiversity during the construction period, including treating and preventing the spread of non-native invasive species that have been recorded; implementation of an Ecological Enhancement Plan; a lighting scheme and the avoidance of site clearance works in the bird nesting season.

Impact on ground conditions

Policy NE5 requires development proposals to demonstrate that environmental risks have been evaluated and appropriate measures have been taken to minimise risks.

A Phase I and II Geo-environmental Ground Investigation has been submitted that identifies no viable sources of pollution or ground contamination. There are however potential pollutants from past coal mining activities, including mine gas, which will require further assessment and appropriate remediation.

Past coal mining activity has been assessed through a coal mining risk assessment that has identified up to 18 coal mining shafts across the application site. The proposed layout has been designed to avoid building over the exclusion zones to these areas. The Coal Authority is satisfied that the investigations and measures outlined for dealing with this legacy have adequately addressed the risks of land instability and recommend a condition to ensure the implementation of remedial measures. With this provision, the site would be made safe and stable and would not, therefore pose a risk to the land stability or human health. The proposal therefore complies with Policy NE5.

Air quality

An air quality assessment has been submitted that indicates that there would be no significant adverse impact on air quality resulting from the proposed development. In accordance with the Air Quality Management SPD, electric vehicle charging points will be required as standard mitigation. A condition is recommended to require a Dust Management Plan to mitigate against potentially higher levels of dust and air pollutants during the construction period.

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 £148,465 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. On a recent appeal where a similar request had been made (FUL/2020/0321- Butchers Farm), the Inspector agreed with the Council's reasoning on this matter.

In these circumstances, a contribution is not necessary to make the development acceptable. 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.

Other issues

The site is within Flood Zone 1 where there is the lowest risk of flooding. The proposal would provide a sustainable drainage solution to the site through an attenuation and swale that would also be landscaped to provide for biodiversity and visual amenity benefits. 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.

Some neighbour objections refer to a strain on education and GP surgeries. The Schools Planning Team is satisfied that there are sufficient school places within the local area for additional school places. There is no evidence that GP practices will have insufficient capacity for new patients. An objection to the proposed development on these basis could therefore not be sustained.

There is no notable tree loss associated with the development but there are some off-site boundary trees within neighbouring gardens that will need adequate protection during construction.

Conclusion

The proposal seeks to develop a site that is allocated for housing purposes in Burnley`s Local Plan. The proposed scheme has been amended since first submitted and proposes a high quality scheme that protects the amenities of existing neighbouring properties, addresses the need to provide safe access and to improve the functioning of a nearby junction and provide for safe pedestrian access, includes measures to encourage the use of public transport by improving nearby bus stop facilities and provides for the biodiversity of the site and for off-site measures for farmland ground nesting birds. The scheme would also provide highly energy efficient homes on a key housing site and provide a degree of affordable housing with and a proportion of accessible and adaptable homes. Objections to the proposal have been considered and have been addressed in the report. The NPPF states that decisions should apply a presumption in favour of sustainable development which for decision-taking means approving development proposals that accord with an up-to-date development plan without delay. The proposal complies with the development plan and there are no material reasons to outweigh this finding in which case the application should be approved.

Recommendation: Delegate to the Head of Housing and Development Control to approve subject to the applicant entering into a section 106 Agreement to secure contributions to highway improvements and biodiversity and to provide affordable housing

Conditions

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

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

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

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

3. Prior to the commencement of development, details and representative samples of the external materials (natural stone and natural slate) of construction to be used on the walls and roofs of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development, having regard to the character of the local area, in accordance with Policy SP5 of Burnley's Local Plan (July 2018). The material details are required prior to the commencement of development to ensure that the approved materials are available for use at the appropriate stage of the development.

4. Prior to the commencement of development, a scheme of landscaping, to include details of all retained trees and new tree and shrub planting, to include native species on and near to site boundaries and within the development site (noting species, plant sizes/heights on planting and proposed numbers/densities where appropriate), shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure a satisfactory scheme of landscaping that provides biodiversity and visual benefits to the site, in accordance with Policies NE4, SP5 and NE1 of Burnley's Local Plan (July 2018). The scheme is required prior to the commencement of development to ensure that the works are agreed early in the process in order that they can be carried out at the appropriate stage of the development.

5. All planting, seeding or turfing comprised in the approved details of landscaping (as approved by Condition 4) shall be carried out in the first planting and seeding seasons following the first occupation of the approved development or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.

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

6. The boundary treatment indicated on the approved plans (drawing number 490-P-BTL-01Rev4) shall be carried out and completed prior to the completion of the development or the occupation of the first dwelling (whichever is the sooner). The approved boundary treatment shall thereafter be retained at all times.

Reason: To ensure adequate and sensitive boundary treatment to provide a satisfactory appearance to the development and provide screening where appropriate, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

7. No demolition, site works or removals of trees or shrubs on the site shall take place during the bird nesting season between the 1st March and 31st August inclusive in any year unless a qualified ecologist has inspected the area no more than 24 hours prior to the works/removal and provides written confirmation to the Local Planning Authority that no nests or breeding birds will be affected by the development.

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

8. Prior to the commencement of development, a Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority which shall provide details for the following measures:
 - i) methodology for draining and infilling of the existing ditch and pond on the site;
 - ii) method statement for site clearance for species such as hedgehogs; and,
 - iii) measures to treat and prevent the spread of non-native invasive species on and adjacent to the site.The agreed measures shall be implemented prior to any site clearance or development being commenced and retained in their entirety for the duration of the development until its completion.

Reason: To protect the wildlife along the canal bank and woodland during the construction period, in accordance with Policy NE1 of Burnley's Local Plan (July 2018). The Plan is required prior to the commencement of development to ensure that the measures are implemented prior to any works taking place.

9. Prior to the commencement of development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The submitted LEMP shall provide details for the following:-
 - a) description and evaluation of the features to be managed;
 - b) ecological features and constraints that may influence management;
 - c) aims and objectives of management;
 - d) appropriate management options and prescriptions for management actions;
 - e) a work schedule (including an annual work plan capable of being rolled forward over a five year period);
 - f) details of the body or organisation responsible for implementation of the plan; and,
 - g) on-going monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanisms by which the long-term implementation of the plan will be secured by the developer with the management company or body responsible for its delivery.

The Plan shall also set out how contingencies and/or remedial action will be identified, agreed and implemented. The approved LEMP shall thereafter be carried out and adhered to at all times in perpetuity.

Reason: To ensure that the biodiversity benefits of the landscaping scheme and biodiversity enhancements for the site are appropriately managed to ensure their long term protection and benefits to biodiversity, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018).

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

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

11. The ecological enhancements consisting of Bird and Bat boxes (drawing number (Fig 1 2019 -63e V1) and Hedgehog Gaps (drawing number Fig 2 2019-063e V1) shall be carried out in accordance with the submitted details prior to any dwelling associated with such measures being first occupied. The bird and bat boxes and hedgehog gaps shall thereafter be retained in situ in perpetuity.

Reason: To ensure adequate biodiversity enhancement measures for birds, bats and hedgehogs and other mammals, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018).

12. Prior to commencement of development, a detailed external lighting plan to minimise the intensity of lighting in wildlife sensitive areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details of external lighting only and shall be retained at all times. No additional external lighting or variance to the approved scheme shall be carried out at any time without the prior written permission of the Local Planning Authority.

Reason: To protect wildlife, including protected species, which is sensitive to lighting, in accordance with Policy NE1 of Burnley`s Local Plan (July 2018).

13. No development shall take place, including any works of demolition or site clearance, until a Construction Management Plan (CMP) or Construction Method Statement (CMS) has been submitted to, and approved in writing by the local planning authority. The approved plan / statement shall provide:
- 24 Hour emergency contact number
 - Details of the parking of vehicles of site operatives and visitors
 - Details of loading and unloading of plant and materials
 - Arrangements for turning of vehicles within the site
 - Swept path analysis showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available and maintained, including any necessary temporary traffic management measures
 - Measures to protect vulnerable road users (pedestrians and cyclists)
 - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - Wheel washing facilities
 - Measures to deal with dirt, debris, mud or loose material deposited on the highway as a result of construction
 - Measures to control the emission of dust and dirt during construction
 - Details of a scheme for recycling/disposing of waste resulting from demolition and construction works
 - Construction vehicle routing
 - Delivery and construction working hours.

The approved Construction Management Plan or Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: To ensure that the safety and amenities of occupiers of neighbouring properties and users of the local highway are satisfactorily protected, in accordance with Policies NE5 and IC1 of Burnley's Local Plan (July 2018). The Construction Management Plan is required prior to the commencement of development to ensure that the measures contained therein can be carried out at the appropriate phases of the construction period.

14. Unless otherwise approved in writing by the Local Planning Authority, all works and ancillary operations in connection with the construction of the development, including the use of any equipment or deliveries to the site, shall be carried out only between 0800 hours and 1800 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sundays, Bank Holidays or Public Holidays. Where permission is sought for works to be carried out outside the hours stated, requests in writing must be made with at least seven days' notice to the Local Planning Authority.

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

15. The applicant or developer shall only permit delivery vehicles to arrive at or enter or exit the site between the hours of 08:00 and 18:00 hours on Monday to Friday, between 08:00 and 13:00 on Saturdays and no deliveries shall be made at all on Sundays or Bank Holidays.

Reason: To manage traffic and protect the amenities of local residents, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

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

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

17. Prior to the commencement of development, a scheme for the detailed design of the proposed site access and off-site works of highway improvement as outlined in the approved plans shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented in its entirety and completed prior to any dwelling being first occupied.

Reason: To ensure that satisfactory access is provided to the site and is made safe for all highway users and satisfactory provision is made to encourage use of public transport, having regard to sustainable travel and highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018). The details are required prior to the commencement of development to ensure that the details are satisfactory and can be implemented at the appropriate time and stages of the development in the interests of highway safety.

18. The approved access junction and estate road which shall include the full length of the estate road up to the red edge southern boundary of the application site, shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any dwelling is occupied on the site.

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

19. The development shall not be commenced until all the highway works to facilitate construction traffic access to the site have been constructed in accordance with a scheme which shall be first submitted to and approved in writing by the Local Planning Authority.

Reason: To enable all construction traffic to enter and leave the development site in a safe manner, in the interests of highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

20. No development shall take place until an estate street phasing and completion plan has been submitted to and approved in writing by the Local Planning Authority. The estate street phasing and completion plan shall set out the development phases and completion sequence that estate streets serving each phase of the development will be completed. The development shall then

be carried out only in accordance with the approved estate street phasing and completion plan.

Reason: To ensure the phasing and completion of estate streets serving the development are completed to ensure the provision of satisfactory access, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

21. No development shall commence other than site clearance, remediation and preparatory works until details of a highway surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The approved highway surface water drainage scheme shall thereafter be implemented in accordance with the approved details as part of the highway construction and completed prior to the occupation of any dwellings within each phase.

Reason: To prevent water from discharging onto the public highway, in the interest of highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

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

Reason: To ensure these details are adequate to provide satisfactory access and amenity for the occupiers of the development, in accordance with Policy IC1 of Burnley's Local Plan (July 2018). The details are required prior to the commencement of development to ensure that the details are satisfactory and can be implemented at the appropriate time and stages of the development in the interests of highway safety.

23. No dwelling shall be first occupied unless and until all its associated car parking has been constructed, drained, surfaced (in black bitumen macadem or other approved bound material) and is available for use in accordance with the approved plans. The car parking spaces associated with each dwelling shall thereafter be retained for the purposes of car parking at all times.

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

24. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order with or without modification), the garages hereby approved (including integral/attached/detached garages) shall remain available at all times for the parking of a motor vehicle and shall not be altered to provide habitable space.

Reason: To ensure that car parking levels for each property are preserved to ensure the continued compliance with the Council's parking standards and avoid reliance on off-street parking, in accordance with Policy IC3 of Burnley's Local Plan (July 2018).

25. Electric vehicle charging points which shall be in accordance with the relevant Department for Transport guidance (minimum power rating output of 7kW and fitted with a universal socket) shall be installed externally at each plot prior to its first occupation.

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

26. Prior to the first occupation of any dwelling, refuse bins and recyclable waste containers for each respective dwelling shall be provided within a concealed area of the curtilage in accordance with the approved plans. The refuse and recyclable waste storage provision for each dwelling shall thereafter be retained at all times.

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

27. No development shall take place unless otherwise agreed in writing until a scheme to deal with contamination shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall conform to current guidance and best practice as set out in BS10175:2011 Investigation of potentially contaminated sites - code of practice; CLR 11 - Model procedures for the management of land contaminations; or other supplementary guidance and include the following phases, unless identified as unnecessary by the preceding stage and agreed in writing by the Local Planning Authority:

- a) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study; and
- b) A remedial strategy detailing the measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a suitably qualified person to oversee the implementation of the works.

No dwelling shall be first occupied until a Verification report (produced by the suitably qualified person) to evidence that all remediation works, as applicable, have been carried out in accordance with the approved remedial strategy, has been submitted to and approved in writing by the Local Planning Authority.

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

28. No development shall commence until;
- a) a scheme of intrusive investigations has been carried out on site to

establish the risks posed to the development by past coal mining activity and the extent of zones of influence/instability of off-site mine shafts; and
b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance and a verification report to demonstrate that any identified remediation and/or mitigation measures have been implemented in full shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any dwelling.

Reason: To ensure that the issues arising from historic shallow coal mine workings close to the site are adequately dealt with in order to ensure the safety of the construction, in accordance with Policy NE5 of Burnley's Local Plan (July 2018).

29. Prior to the commencement of built development above ground level, details of the design and implementation of a surface water sustainable drainage scheme, based on sustainable drainage principles, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented and completed in accordance with the approved scheme prior any dwelling to any dwelling within each phase of the development being first occupied. The approved drainage scheme shall be retained at all times thereafter.

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

30. The approved development shall not be first occupied until a Verification Report and Operation and Maintenance Plan for the approved surface water drainage system for the lifetime of the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be completed, retained, maintained and managed at all times in accordance with the approved plan.

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

31. Prior to the commencement of any development, details of how surface water and pollution prevention will be managed during the construction process shall be submitted to and approved in writing by the Local Planning Authority. The agreed measures shall be implemented at all times during the construction of the development until its completion.

Reason: To manage any risks from pollution and flooding arising from construction activities on site, in accordance with Policies NE5 and CC4 of Burnley`s Local Plan (July 2018). The details are required to be submitted prior to the commencement of development in order that they can be in place prior to any work taking place that could lead to pollution or flooding from the site.

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

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

33. Notwithstanding the provisions of Article 3 and Part 1 of the Second Schedule of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order with or without modification), no development as specified in Class A of Part 1 of Schedule 2 of that Order shall be carried out at plot 85 and no development as specified in Class B of Part 1 of Schedule 2 of that Order shall be carried out at plots 72-84 inclusive without express planning permission first being obtained from the Local Planning Authority.

Reason: To allow the Local Planning Authority to assess the impact of any future changes relating to the enlargement of plot 85 on the privacy and outlook of existing adjacent properties and to assess any enlargement to the roofs of plots 72-84 on residential amenities of other neighbouring properties, in accordance with Policies SP5 and HS4 of Burnley`s Local Plan (July 2018).

34. The development shall be constructed to comply with the optional technical standards of Part M4(2) of the Building Regulations 2010 to provide adaptable homes in respect of the approved house types T50 and T52 (a total of 19 dwellings) as indicated on the approved plans. None of these dwellings shall be first occupied until a verification report prepared by a suitably competent surveyor or professional to demonstrate that the standard has been achieved for each dwelling has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development provides benefits to new occupiers by the provision of adaptable homes to meet lifetime needs, in accordance with Policy HS4 of Burnley`s Local Plan (July 2018).

35. The development shall be constructed to achieve a 20% betterment on energy efficiency standards (compared to current Building Regulation requirements) as set out in the submitted Carbon Reduction Report, Detailed proposals for energy efficiency measures shall be submitted to and approved in writing by the Local Planning Authority prior to any development being commenced above

ground level. The development shall thereafter be constructed in accordance with all the approved measures and a verification report shall be prepared by a suitably qualified person and submitted to the Local Planning Authority to verify compliance with the Strategy prior to any dwelling being first occupied.

Reason: To ensure that the scheme provides high quality energy efficient dwellings, in accordance with Policy SP5 of Burnley`s Local Plan (July 2018). The Strategy is required prior to the commencement of development to ensure that the measures that are necessary to achieve energy efficiencies can be designed into the construction of the development at the earliest stages.

36. Prior to the commencement of built development above ground level, details of the management, responsibilities and maintenance schedules for all areas of open space within the site excluding private gardens, to cover the lifetime of the development, shall be submitted to and approved in writing by the Local Planning Authority. Any subsequent changes to the management details shall be submitted to the Local Planning Authority prior to the change taking place.

Reason: To ensure that these areas are appropriately managed and maintained, in the interests of the amenities of the site, in accordance with Policy HS4 of Burnley`s Local Plan (July 2018). The details are required prior to the commencement of the built development above ground level in order that proper arrangements can be secured at the earliest opportunity for the maintenance of the open space which is for the lifetime of the development.

37. Play areas shall be constructed and completed in accordance with timescales and details of the location, design, layout and specification of play equipment to include its surfacing, seating, bins and boundary treatment which shall be previously submitted to and approved in writing by the Local Planning Authority. The approved play areas shall thereafter be available for use in accordance with the approved timescales.

Reason: To ensure satisfactory and appropriate play provision for children, to cater for the needs of the development, in accordance with Policy HS4 of Burnley`s Local Plan (July 2018).

38. All mitigation measures identified in the Noise Impact Assessment (E3P report Reference: 50-154-R1-2) shall be implemented in full prior to first occupation of the associated dwellings.

Reason: To protect the amenities of future residents, in accordance with Policy SP5 of Burnley`s Local Plan (July 2018).

39. No development shall be commenced until a Dust Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Dust Management Plan shall identify all areas of the site and site operations where dust may be generated and further identify control methods to ensure that dust does not travel beyond the site boundary. The identified measures shall be implemented and maintained at all times. Should any equipment used to control dust fail, all handling of materials shall cease immediately until the dust control equipment has been repaired or replaced.

Reason: To minimise the risk of pollution to occupiers of nearby buildings, in accordance with Policy NE5 of Burnley`s Local Plan(July 2018).

Janet Filbin
30th March 2022