

Application Number:	2019/0214	Application Type:	Major
Proposal:	Full: Erection of 71 no. dwellings (comprising 39no. 3 beds and 32no. 4 beds) with associated works including car parking, landscaping, open space and pumping station	Location:	Land Off Fieldfare Way, Bacup
Report of:	Planning Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	1 October 2019
Applicant(s):	McDermott Homes	Determination Expiry Date:	10 December 2019
Agent:	N/A		

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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	<input checked="" type="checkbox"/> (Major Application)
Member Call-In Name of Member: Reason for Call-In:	
3 or more objections received	<input checked="" type="checkbox"/>
Other (please state):	Council land

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

1. RECOMMENDATION

That Members resolve that they would be minded to grant planning permission subject to conditions and that the determination of the application hereafter be delegated to the Planning Manager and Chair of the Development Control Committee as follows:

(1) To complete a suitable Section 106 Agreement to secure in particular:

- A financial contribution of £96,986 to be allocated to improving the existing facilities at Hawthorn Road play area.

(2) To carry out drafting amendments to any planning condition

(3) To have to discretion to refuse planning permission in the circumstance that the Section 106 Agreement is not completed within four months of the resolution to grant planning permission.

(4) That upon satisfactory completion of the above legal agreement that planning permission be granted subject to the following conditions or as amended by (2) above.

2. **SITE**

The site comprises an irregularly shaped parcel of Greenfield land extending to approximately 3.17 hectares located within the urban boundary of Bacup. It is sandwiched between Pennine Road to the west and Goldcrest Avenue to the east. To the north is St Mary's RC Primary School and to the south is Fieldfare Way.

The site is currently designated as Greenlands on the Proposals Map, and is characterised by an open area of grassland within an otherwise suburban environment. No public rights of way cross the site, though it does have some informal paths leading over it in addition to remnants of a BMX track located in the centre including a dirt track, artificial mounds and part of a concrete slab. There is a direct pedestrian link from Pennine Road to the west into the site and from Fieldfare Way to the south east. The site contains a small number of trees and shrubs however there is a more notable belt of trees immediately to the east (to the rear of properties on Goldcrest Avenue). The trees were planted around 6 years ago by the applicant McDermott Homes as part of planning permission 2004/401. There is an area of maintained amenity grassland at the south-eastern part of the site where it meets Fieldfare Way and Goldcrest Avenue. The maintained amenity grassland and the belt of trees to the east of the site are protected areas of public open space / incidental open space provided by McDermott Homes as part of permission 2004/401 and secured in a Section 106 Agreement.

Regular walking, dog walking and other recreational activities are present across the site as a whole but appear most pronounced at the southern end. The land slopes from east to west.

The site is approximately 750 meters from Bacup Town Centre. The land is within three ownerships, with the majority owned by Rossendale Borough Council, the proposed site access is owned by the applicant and the northern section is owned by a third party.

3. **RELEVANT PLANNING HISTORY**

None

4. **PROPOSAL**

Full planning permission is sought for the erection of 71 detached dwellings (39 x 3 beds and 32 x 4 beds) with associated works including access from Fieldfare Way.

To support the application for outline planning permission, the applicant has submitted the following documents:

- Open Space Assessment
- Financial Viability Appraisal
- Geo-Environmental Report
- Design and Access Statement
- Ecological Assessment
- Badger Survey and Method Statement
- Arboricultural Constraints Report
- Flood Risk Assessment and Drainage Strategy
- Planning Statement
- Transport Statement
- Statement of Community Involvement

5. **POLICY CONTEXT**

National

National Planning Policy Framework (2019)

- Section 2 Achieving sustainable development
- Section 4 Decision making
- Section 5 Delivering a sufficient supply of homes
- Section 8 Promoting healthy and safe communities
- Section 9 Promoting sustainable transport
- Section 11 Making effective use of land
- Section 12 Achieving well-designed places
- Section 14 Meeting the challenges of climate change, flooding and coastal change
- Section 15 Conserving and enhancing the natural environment

Development Plan Policies

Rossendale Core Strategy DPD (2011)

- AVP 2 Strategy for Bacup
- Policy 1 General Development Locations and Principles
- Policy 4 Affordable Housing
- Policy 8 Transport
- Policy 9 Accessibility
- Policy 16 Preserving and Enhancing Rossendale's Built Environment
- Policy 17 Rossendale's Green Infrastructure
- Policy 18 Biodiversity and Landscape Conservation
- Policy 19 Climate Change and Low and Zero Carbon sources of Energy
- Policy 21 Supporting the Rural Economy and its Communities
- Policy 22 Planning Contributions
- Policy 23 Promoting High Quality Design & Spaces
- Policy 24 Planning Application Requirements

Other Material Planning Considerations

- National Design Guide September 2019
- National Planning Practice Guidance
- RBC Alterations and Extensions to Residential Properties SPD
- LCC Planning Obligations in Lancashire (2008)
- RBC Open Space & Play Equipment Contributions SPD

6. CONSULTATION RESPONSES

Consultee	Response	Conditions recommended?
LCC Lead Local Flood Authority	No objection	Yes
LCC Highways	No objection	Yes
Contaminated Land Officer	No objection	Yes
LCC Public Rights of Way	No response received	N/A
United Utilities	No objection	Yes
LCC Planning Contributions (education)	No objection (no contribution necessary)	No
Greater Manchester Ecology Unit	No objection	Yes
Lancashire Badger Group	No objection	Yes
RBC Environmental Health	No objection	Yes
Tree Officer	No objection	Yes

7. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order a press notice was published on 14 June 2019, site notices were posted on 17 June 2019 and 129 letters were sent to neighbours on 7 June 2019.

116 objections have been received and 1 neutral. The key areas of concern are summarised below:

- This development will decimate the only useable green space within a mile of the estate where children can safely play. The only other 2 space where children can play are Britannia play area, where there is a small park with 4/5 little play things there, and also a closed area to play football or basketball. This is just short of a mile away from the estate. This has to be accessed via a walk along a busy main road, or going across back roads and again via a busy road. The next are is Stubby Lee park, again just under a mile away via 2 busy roads,
- The land is an active BMX track and public open space which is a safe play space enjoyed by children within the immediate vicinity. Any proposals to develop this area should include provision on site to mitigate the loss of amenity.
- I think this development would put residents living on field fare way in danger with the increased flow of traffic. My children play quite frequently on this land along with other children from the area there is also a lot of wildlife living in this land that would be affected for example foxes and badgers.
- The said land is the only parcel of green space, which has been left to nature, hence the wildlife. Rossendale Borough Council and the people of Bacup own this land. This land provides recreation space for the people of Bacup. There is a childrens BMX cycle track

situated on this land. My kids used and the kids on the road still use it. We use this land for walking, leisure, exercising our pet dogs. The kids use it for camping out in summer, for organising local bonfires on November 5th. We have done this for over 30 years as that is how long I have lived here and our children used to do it.

- Traffic is an existing problem on Fieldfare Road already; it would be better if there were two entrances or exists. The estate is already overcrowded, causing concern for the accessibility for emergency services.
- There is no infrastructure in place to cope with all the extra traffic, The traffic now is a accident waiting to happen
- How are schools and doctors going to cope with full capacity already?
- Where is the provision for extra school places for all the additional children there will be when parents already find it hard to get places for their children?
- We don't need any more houses to be built on the remaining bit of greenery we have.
- What's going to happen to all the wildlife on the land Deers, foxes and badgers, hedgehogs, bats etc?
- On the new estates roads are not wide enough for traffic to pass this causes gridlock.
- Snow leads to cars being abandoned causing roadblocks and accidents.
- The BMX track which is used by local children will be lost; this is the only safe area for them to play.
- It is over saturation of the piece of land.
- At the time we purchased our house we were assured by the McDermott sales person at the time (Caroline) that the local authority land to the rear of our property would not be developed.
- 71 houses crams every available bit of space, this is far too many. Why not build 50 houses and create a playground for the children of the area to use. If you take away all the green space there will be more children playing in the street, more danger from vehicles due to idiot drivers and more traffic.
- Pennine Road access would be flatter exit/entry – why is this not being factored in
- A playground was promised would be built on the land at the end of Goldcrest/junction of Fieldfare – 11 years on since we moved in, nothing built. This bit of the land is now this is to become a road junction!
- This is another example of our wonderful countryside being taken away.
- Flooding - the land proposed for this development is very boggy after rain. With the area already having flooding issues such as on Boxing Day 2016 building this development and the loss of the green space is only going to lead to more flooding issues. Potential also affecting other towns further down the valley.
- The applicant has indicated that the payment of any S106 contributions would make the scheme not viable. I note that the applicant argues this on the basis of profitability.
- Concerns over the drainage of the land, creating them homes there will mean the water will run off on to surrounding properties.
- The amount of inconvenience building will cause. It will block access to Fieldfare Way for months meaning our lives would be at risk of losing our jobs for being late.
- The amount of dirt that will go on the roads and will not be cleaned.
- The extra pollution caused by so many cars being on the road, making the breathing air not as fresh for residents.
- The extra stress on water and gas and electricity network.
- The extra noise created by having so many new homes.

8. ASSESSMENT

The main considerations of the application are:

Principle

Loss of open space and Greenlands

The site is within the defined urban boundary of Bacup, where Policy 1 of the Core Strategy seeks to locate the majority of new development. The majority of the land is surrounded by existing residential development. However, the site is currently designated as Greenlands – spaces protected by Policy 17 of the Core Strategy for their value in maintaining areas of open space within otherwise built-up areas, for the benefit of residents, biodiversity and the Borough's Green Infrastructure Network. Ordinarily any application for residential development on a Greenlands designation would need to demonstrate that it would not lead to unacceptable harm to the Borough's wider Greenlands network, and that the current function of the site in question as a Greenlands (in terms of its recreational value, visual amenity value, biodiversity value and function as part of the Borough's Green Infrastructure network) is not sufficiently valuable as to warrant its retention as open space.

The National Planning Policy Framework is a material consideration in the determination of this application. Section 8 of the Framework relates to 'Promoting healthy and safe communities' and more specifically, open space and recreation. Paragraph 97 states:

"Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quality and quantity in a suitable location; or*
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use."*

Open space is defined in the Framework as *"All open space of public value including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity."* The site falls within this definition, and, more specifically, is 'amenity greenspace' which provides opportunities for informal recreation close to homes or work or enhances the appearance of residential or other areas. As the site is open space for the purposes of The Framework, an assessment against paragraph 97 is triggered and accordingly the applicant was asked to provide a statement to demonstrate how they consider the scheme complies with paragraph 97.

An Open Space Assessment was prepared by Pegasus Group on behalf of the applicant within which it considers the availability of amenity greenspace within Irwell ward (the assessment area was agreed with Forward Planning Officers). The assessment refers to the 2015 Fields in Trust *Guidance for Outdoor Sport and Play: Beyond the Six Acre Standard* which sets out benchmark guidelines in terms of the quantity, quality and accessibility of open spaces at *Table 3 Fields in Trust Recommended Benchmark Guidelines – Informal Outdoor Space*. The guidance identifies a minimum requirement of 0.6ha of 'amenity greenspace' per 1,000 population. The assessment finds that Irwell ward has a population of 5,505 (Census 2011), thus has a total minimum requirement of 3.30ha of 'amenity greenspace'. In terms of quantity, the assessment finds that collectively the

'amenity greenspaces' have a combined area of 9.48ha and of this 9.48ha, 5.95ha has been found to be high quality. The report concludes that there is a large surplus within the assessment area and therefore it is demonstrated that the proposed development complies with paragraph 97, part a) of the Framework.

The assessment has been reviewed by Forward Planning and Development Management Officers who disagreed with parts of the report's findings particularly in relation to the downplaying of the functions of the site, rather than setting out clearly what uses it has and the value that the local residents who use it attach to it. However, overall it does serve to demonstrate that there is a large amount of amenity greenspace within the assessment area, and officers are in agreement that the application is compliant with paragraph 97a.

Principle of residential development

At the heart of the Framework is a presumption in favour of sustainable development, which means securing net gains across economic, social and environmental objectives. So that sustainable development is pursued in a positive way, at the heart of the Framework is a "...presumption in favour of sustainable development." Paragraph 11 of the Framework makes clear that for decision taking this means:

"c) Approve development proposals that accord with an up to date development plan without delay; or

d) Where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

The Council cannot currently demonstrate a five-year supply of deliverable housing sites (the Council can currently demonstrate between 2.4 - 2.6 years' supply), and as such this triggers paragraph (d) above. The Framework clarifies that policies that are most important to an application are considered out of date where local authorities cannot demonstrate a five year supply of deliverable housing sites. In this case the policies controlling the supply of housing includes Policy 17 'Greenlands' as it impacts upon the principle of the development.

With regards to paragraph 11(d)(i) of the Framework, analysis later in this report demonstrates there are no protective policies in the Framework which provide a clear reason for refusing the development proposed. Paragraph 11(d)(ii) is therefore engaged i.e. planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

The site is proposed as a housing allocation within the Council's emerging Local Plan (allocation H29). The Local Plan has been through Examination in Public, but has not been adopted by the Council, and therefore only limited weight can be afforded to the proposed allocation in the planning balance.

Sustainable Development

Paragraph 11 of the Framework contains a presumption in favour of sustainable development, and as such a key consideration in this case is whether the proposed scheme represents sustainable development or not. The Framework promotes the integration of development with sustainable modes of transport, and paragraph 110 states that developments should “*give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas*”.

Policy 1 of the Core Strategy requires that developments:

“Maximise access by public transport, walking and cycling in a manner that promotes safe and inclusive communities and promote co-location of services and facilities.”

Policy 9 of the Core Strategy states that the transport user hierarchy will form the basis of consideration of planning applications, in order to promote sustainable travel and better designed places. The hierarchy is as follows, and consideration is given to the impact of the proposal on users higher up the hierarchy first:

- *Pedestrians and mobility impaired users*
- *Cyclists and equestrians*
- *Emergency Vehicles and refuse collection*
- *Public Transport, motorcycles and taxis*
- *Freight movement*
- *Private cars*

The route to Bacup Town Centre from the site (whilst further than would be ideal for encouraging pedestrian journeys) is generally served by continuous footways and is along well-lit streets, and a regular bus service runs along Rochdale Road (located around 280m from the site).

On balance, given the proximity of the site to Bacup Town Centre and fact that the site is within the existing urban boundary and a substantial residential development, it is considered that the site is sustainably located.

Other considerations

Layout and design

As this is a full planning application, all matters are for approval and as such the application is accompanied by detailed drawings to show the design of each dwelling and the layout of the scheme as a whole. Full boundary treatment details are included, in addition to a full materials palette.

The layout of the development and the design of the dwellings largely reflect the neighbouring development to the east (Goldcrest Avenue, Sisken Avenue etc) which was by the same housebuilder McDermott Homes.

A mix of 3 and 4 bedroom dwellings are proposed comprising 32 x 3 bedrooms and 39 x 4 bedrooms. The submitted layout plan shows that access is proposed from Fieldfare Way and the spine road runs through the approximate centre of the site. The dwellings on the west side of the road face onto the road, and the dwellings to the east side typically face north or south and are arranged around cul-de-sacs. All dwellings are detached, all with

private amenity space to the rear and small gardens to the front. All dwellings have driveways and some have garages.

Section 2.1 of the Council's Alterations and Extensions to Residential Properties SPD contains guidance on separation distances between habitable room windows. It specifies that there should be a minimum of 20m between habitable room windows in properties that are directly facing each other. The layout of the development demonstrates compliance with this guidance.

The dwellings are proposed to be constructed from artificial buff stone and concrete roof tiles, white upvc window frames, black upvc garage doors and front doors and black upvc guttering. Ordinarily officers would consider the use of artificial stone and concrete roof tiles to be inappropriate and contrary to policy, however, having regard to the similar materials used on the development to the east, and the low quality materials present on Pennine Road (pebble dash and red coloured concrete roof tiles), it is considered that it would be unreasonable to insist upon local, natural materials in this instance.

All dwellings are two storey and this is appropriate for this site, having regard to the surrounding residential developments and the site's location and topography. Site sections have been included with the submission; however, it is necessary to attach a planning condition that requires full details of existing and proposed ground levels and finished floor levels across the site, including any retaining walls that may be necessary.

The design of the dwellings themselves is considered to be standard. They are an improvement to the design of dwellings on Pennine Road and are similar to the recently constructed houses to the east.

A number of important changes have been made to the scheme to address objections from officers. As originally submitted there was a shortfall of 39 car parking spaces due to all 39 garages having dimensions lower than the minimum standard meaning they cannot count as parking spaces. The applicant has now increased the dimensions of the garages to 3m x 6m to meet the minimum standard, meaning that all garages (except for 5no) can be counted as parking spaces. Of the 5 that have not been amended, 2 of these have enlarged driveways, meaning that the shortfall has fallen to just 3 spaces. This significantly reduces the likelihood, as far as is reasonably possible, of cars being parked on-street and addresses the LPA's previous concerns in this regard.

Other negotiated changes include the provision of a footpath link from the northern end of the site to meet the existing public footpath FP 660 and the provision of informal access points into the wooded areas to the east and west of the site.

Overall the proposed development is now considered to accord with relevant local and national policy with regards to layout and design.

Neighbour Amenity

The proposed development would not have any unacceptable impact on the daylight, privacy or outlook enjoyed by the occupants of any nearby residential properties, having regard to the proposed siting, orientation and levels of the proposed dwellings.

Given the proximity of nearby residential properties and the scale of the proposed development, it is considered appropriate to include a condition restricting the hours of construction on site.

Subject to the above, the scheme is considered acceptable in terms of neighbour amenity.

Access, Parking and Highway Safety

The application has been assessed by Lancashire County Council's Highway Engineer (LCC Highways) who raised no objection on highway safety grounds subject to conditions.

Landscaping

As the site is greenfield (i.e. not previously developed) and is designated as Greenlands in the development plan (being recognised for its recreational value, visual amenity value, biodiversity value and function as part of the Borough's Green Infrastructure network), how the proposed residential development is intended to be landscaped is fundamental to the overall acceptability of the scheme. The application is accompanied by the following:

- Arboricultural Constraints Report
- Landscape Proposals 1 and 2
- Ecological Survey and Assessment

The Council's Tree Officer has reviewed the applicant's Arboricultural Constraints Report, in conjunction with the landscaping planting proposal drawings. In terms of existing trees, the report finds only two trees on site to be of category B (trees T25 and T29) and the majority of the rest are of category C. The two category B trees are on adjacent land to the west of the site and therefore outside the applicant's ownership and are to be retained. The large belt of trees to the east are to be retained and enhanced (they are shown in the blue edge on the site location plan) although full details of any enhancement will need to be secured by planning condition.

In terms of proposed landscaping, full details of planting have been submitted and in summary this includes approximately 149 trees which are proposed to be planted throughout the site, but particularly along the spine road, in the area of open space to the north, and along the western boundary behind Pennine Road. In addition to tree planting there will be shrubs, native plant mix, specimen plants and hedging plants. The area of open space to the northern end of the site will include tree planting, native shrub planting, benches, and grassed areas.

The Tree Officer concludes that the proposed development provides for a gain in landscape and green space variety and provision, noting that the schedule of plants is satisfactory as is the specification for ground preparation, cultivation, planting and turfing.

Subject to the use of planning conditions, relating to protective fences, compliance with the submitted landscaping plans, and the use of TPOs where appropriate, the development is acceptable with regards to landscaping.

Ecology

The application was originally accompanied by an Ecological Assessment which presents the ecological, biodiversity and nature conservation status of the site. The Council's Ecological advisor Greater Manchester Ecology Unit (GMEU) found that the assessment has been undertaken by a licensed and experienced ecological consultancy whose work is known to them. The ecological consultants appear to have undertaken a detailed survey of the site and carried out an appropriate level of survey. The survey found the site to have some limited ecological value.

With regards to badger, the assessment found no evidence of badger on the site. However, local residents did raise concerns in their representations that there was an active sett on the land and accordingly officers consulted Andy Hardman of the Lancashire Badger Group. An active outlier badger sett was found to present in the site and therefore the applicant was required to undertake a Badger Survey and Mitigation Strategy. This document holds confidential information and therefore is not available to view online. Both the Lancashire Badger Group and Greater Manchester Ecology Unit (GMEU) have reviewed the submitted report and have found it to be a thorough piece of work and raise no objection to it subject to a condition that requires the developer to adhere to the recommendations in section 4.3 to ensure that badger are suitably protected.

With regards to bats, none of the trees on site were assessed as being suitable for use by roosting bats, although bats may foraging and commute across the site. GMEU agrees with the Ecological Assessment which recommends that the lighting for the site be designed to limit light pollution and disturbance to bats. This will be secured by planning condition.

With regards to nesting birds, GMEU notes the site supports suitable nesting habitat for birds. As all wild birds, their nest and eggs are protected under the Wildlife and Countryside Act 1981 (as amended) they recommend a condition be attached to any permission that limits works to trees and other vegetation to certain times of the year.

GMEU advises that to ensure that construction activities do not harm species and retained habitats, a Construction Environmental Management Plan for Biodiversity should be required, and this can be secured by planning condition. In terms of other species, GMEU notes that local residents reported deer using the site. Deer receive no special protection in law, except restrictions on hunting/killing and general protection against cruelty like all mammals. They recommend that the presence of deer should be included in the CEMP for Biodiversity to ensure they are not harmed during construction activities.

Hedgehogs have also been reported. Again measures to protect these should be incorporated into the CEMP. In addition the boundaries between new houses should be designed to allow movement of hedgehogs and this should be included within the measures for biodiversity enhancement at the site.

With regards to biodiversity enhancement, the ecology report makes recommendations for biodiversity enhancement at the site, in line with the requirements of the National Planning Policy Framework. A planning condition is attached which requires a scheme for the biodiversity enhancement measures set out in the ecology report to be submitted for approval.

Subject to the conditions described above, no objections are raised by the GMEU or Lancashire Badger Group and the development is found to be acceptable with regards to ecology and biodiversity.

Flood risk and drainage

The site extends to 3.17 hectares and is located within Flood Zone 1. The application is accompanied by a Flood Risk Assessment and Drainage Management Strategy which have been reviewed by the Lead Local Flood Authority and United Utilities. No objections have

been raised subject to a condition requiring the final details of a sustainable drainage scheme, SUDS and SUDS management to be submitted for approval.

Subject to conditions, the scheme is considered acceptable in principle with regards to flood risk and drainage.

Land Contamination

The application is accompanied by a Geo-Environmental Assessment Report which has been reviewed by the Council's Contaminated Land Officer. The officer has identified that gas monitoring has been undertaken however additional consideration and discussion needs to be had in relation to this in order to justify the downgrading of gas protection (from Amber 1 to Green) that is suggested. Secondly, traces of asbestos have been detected in two of the four samples tested. Levels were low and the report advises that the overall risk is low. However, the officer requires further discussion and soil sampling across the site as four samples are inadequate. An updated Geo-Environmental Assessment Report (October 2019) was submitted in November 2019 which identifies that additional work has been undertaken with regards to the gas monitoring data and asbestos.

Notwithstanding the above, the officer considers the site to be otherwise a relatively low risk but that remedial measures are likely to be required in some form or another and may need to be site wide. As such, the Contaminated Land Officer is satisfied that the proposed residential development is acceptable subject to a planning condition requiring a full site investigation report and details of remedial works to be submitted for approval in advance of any development commencing.

Planning Contributions and Viability

Policy 22 of the Core Strategy relates to planning obligations and states that where developments will create additional need for improvements / provision of services or facilities, contributions will be sought to ensure that the appropriate improvements are made. Policy 4 requires a minimum of 30% affordable housing to be provided on-site on Greenfield sites over 8 dwellings. The Borough is significantly underperforming against its affordable housing target.

Section 5 of the Framework states:

“Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.”

The following contributions have been requested in relation to the proposed residential development:

- £96,986 towards open space and play provision; and
- 30% (21 dwellings) affordable housing to be provided on site split between social rent and shared ownership (Social Rent: 7 x 2 bedroom 4 person houses and 4 x 3 bedroom 6 person houses; and Shared Ownership: 3 x 2 bedroom 4 person houses and 7 x 3 bedroom 6 person houses)
- The Local Education Authority (Lancashire County Council) has advised that the proposed development does not necessitate a contribution towards school places.

As originally submitted the development proposed no affordable housing and no open space contribution. The application was submitted with a viability appraisal which sets out that with no affordable housing and no Section 106 contributions; the scheme produces a return of 16.31% (£2,130,978) on Gross Development Value (GDV) for the developer. The appraisal states that this is 3.69% less than the developer's "benchmark" return of 20% and for this reason, it is not viable / affordable to deliver either Section 106 monies or affordable houses.

The LPA has obtained independent advice from a viability advisor which has found that:

- A profit margin of 16.31% of GDV is the outturn of the project based on the applicant's figures (with 100% Market Housing).
- Thus, the reference to 20% on GDV is erroneous in the context of this scheme.
- The scheme without affordable housing generates a substantially higher profit (total not percentage; £1,331,655 more profit) for the developer.
- The applicant has used BCIS figures for build costs rather than actual costs incurred from the adjacent development. Using actual costs would be more accurate and much more transparent.
- The applicant has not followed the recommended approach to estimating Benchmark Land Value as set out in PPG (2018).
- The appraisal suggests that the costs to develop this site (excluding land and profit) make up 80% of the GDV. This is an unusually high cost base and coupled with the suggestion that value of new homes are falling in real terms which is unrealistic, the LPA's consultant concludes that they are not satisfied that the development is unable to afford any affordable houses.

As required by Planning Policy Guidance (PPG) on Viability, negotiations have been taking place between the applicant, officers and the LPA's viability advisor which has resulted in the applicant confirming their agreement to provide the full £96,986 POS contribution.

In addition, the applicant now proposes to provide 9 (13%) affordable houses of shared ownership tenure to be sold to Together Housing Association as a registered provider of affordable housing, using grant assistance from Homes England. The applicant's viability assessment excludes the proposed Homes England grant and assesses the ability of the scheme to deliver affordable housing without grant funding, concluding that none can be provided. As such officers consider that the proposed development should be able to deliver the 9 grant funded affordable units AND an additional level of affordable housing provided by the developer and still be viable. The applicant has advised they are only willing to provide the 9 grant funded units and as shared ownership not social rent. The Council's Strategic Housing Manager has advised that if the development can only afford to provide 9 units, to meet the housing needs of Bacup, all units should be social rent and not shared ownership.

Given that question marks remain over the robustness of the applicant's viability appraisal, and that the affordable houses are to be provided through grant funding – albeit there will be some impact on sales values to the developer – it is disappointing that applicant is unwilling to provide further affordable units. Had the grant funding not been available and the development proposed no affordable housing, it is likely that this would have weighed very strongly against the scheme in the planning balance. However, judgement has been applied and officers are mindful that with the grant funded approach, 9 affordable units will be secured and will be provided on site which is a benefit. Whilst this is less than the policy

requirement of 30%, at 13% it is marginally more than the 10% minimum required by the Framework.

The applicant states that to secure the Homes England grant funding required to deliver the affordable housing, it is a requirement that no S106 obligation and no planning condition can be used to secure it. The LPA has taken advice on this and found that whilst the applicant is correct that the affordable units cannot be secured by S106 agreement, the LPA can and should require the units by planning condition; indeed if neither a condition nor a S106 agreement was used, the LPA would have no mechanism of ensuring that the development provides any affordable housing.

Accordingly a planning condition is recommended to secure the affordable housing, and a S106 Agreement to secure the contribution to public open space.

Balancing Exercise

As required by the Framework, permission should be granted unless “...any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework.” As such it is necessary to consider the adverse impacts and benefits having regard to the previous sections in this report and reach a conclusion as to whether the impacts significantly outweigh the benefits.

Adverse impact	Weight afforded
Failure to provide a level of affordable housing over and above that provided from grant funding (provision of 13% affordable housing against a policy requirement of 30%).	Substantial
The proposed scheme would have an urbanising impact on the character and appearance of the site, which is an open field.	Moderate
Loss of open space. Although the development proposes the loss of the site to residential development, the submitted Open Space Assessment demonstrates there is more than the minimum amount of high quality amenity greenspace in the vicinity of the site and as such the proposal is compliant with paragraph 97 of the Framework. As such this is not an adverse impact. Importantly, the development will facilitate public access through the site and incorporates accessible public open space.	Limited
Loss of site (3Ha) allocated as Greenlands for a variety of functions including open space / recreation purposes, contrary to Section 8 of the Framework and Policy 17 of the Core Strategy. The Greenlands policy is considered out of date as a result of the Council’s lack of a 5 year supply of housing and so the weight to attach to it is a matter for the decision maker. The development now includes the provision of pockets of amenity greenspace including a larger area in the northern portion of the site. In addition, the introduction of further pedestrian links to the adjacent woodlands to the west; a route off-street to the open space to the north; and a footpath connection from the site to FP 660 to the north	Limited

collectively lessen the impact of the loss of this site as a whole.	
With only 13% affordable homes being provided, the development will over-deliver on market housing (based on demand projections) by 12 units. Over time this can affect the market and can drive down house prices. A further consequence is that more land is required to provide the affordable houses that are not being delivered on this site.	Limited

Benefit	Weight afforded
The scheme would make a significant contribution to the delivery of market housing in a relatively sustainable location which would go a considerable way in boosting the Council's shortfall in housing supply.	Substantial
Biodiversity enhancements from considerable tree planting, thereby delivering environmental objectives of sustainable development. The development now includes the provision of pockets of amenity greenspace including a larger area in the northern portion of the site. In addition, the introduction of further pedestrian links to the adjacent woodlands to the west; a route off-street to the open space to the north; and a footpath connection from the site to FP 660 to the north are social and environmental benefits.	Substantial
Provision of 13% affordable housing against a policy requirement of 30%.	Moderate
Economic benefits that will flow from construction and occupation.	Limited
Contribution towards off-site public open space of £96k. This is a policy requirement and is necessary to make the development acceptable in planning terms.	Limited
The site is allocated for housing in the emerging Local Plan.	Limited
Additional expenditure in the local economy.	Limited
Council tax payments and New Homes Bonus.	Limited

In the context of the Framework, as the Council has a shortage of housing land supply, accordingly the provision of 71 houses carries substantial weight in favour of the proposals. The applicant has demonstrated compliance with the Framework in relation to loss of open space. The development will provide for a full policy compliant contribution towards off-site open space and 9 affordable units on site. The development will of course result in a dramatic change to the character of the site and significant changes to the ways in which it is currently used, however the provision of on-site amenity greenspace and routes through the site will enable existing users to continue to use the space for walking and informal amenity, albeit on a lesser scale. Overall officers have concluded that the adverse impacts identified above do not significantly or demonstrably outweigh the benefits of the development. As such, and on balance, the proposal is recommended for approval subject to conditions and a legal agreement.

9. RECOMMENDATION

That Members resolve that they would be minded to grant planning permission subject to conditions, and that the determination of the application hereafter be delegated to the Planning Manager and Chair of the Development Control Committee as follows:

(1) To complete a suitable Section 106 Agreement to secure in particular:

- A financial contribution of £96,986 to be allocated to improving the existing facilities at Hawthorn Road play area.

(2) To carry out drafting amendments to any planning condition

(3) To have to discretion to refuse planning permission in the circumstance that the Section 106 Agreement is not completed within four months of the resolution to grant planning permission.

(4) That upon satisfactory completion of the above legal agreement that planning permission be granted subject to the following conditions or as amended by (2) above.

10. CONDITIONS

1. The proposed development must be begun not later than three years from the date of this permission.

Reason: Required to be imposed by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the following plans and documents unless otherwise required by the conditions below:

Drawing / document	Reference
Drainage Strategy 1 of 2	19037/01/1
Drainage Strategy 1 of 2	19037/01/2
Landscape Proposals 1 of 2	5944.01 A
Landscape Proposals 2 of 2	5944.02 A
Material Palette	MP01
Materials Layout	WA ML 01
House Type – The Applebury	APP 1.7
House Type – The Ashdown	ASH 1.7
House Type – The Grasmoor	GAR 1.7
House Type – The Maidstone	MAI 1.7
House Type – The Oakhurst	OAK 1.7
House Type – The Welland	WEL 1.7
Management Plan	MP 01 A
Site Sections	SS 01
Site Location Plan	WA-LP-01 B

Reason: To ensure the development complies with the approved plans and submitted details.

3. The development shall be carried out in strict accordance with the Material Palette drawing ref MP01 and prior to the commencement of above ground construction samples of the stone and roof materials (including any dormers and porches) of the dwelling houses shall be provided by means of the erection on site of a one metre square sample panel including proposed mortar mix and joint detail, for the written approval of the Local Planning Authority. The panel so approved shall be retained on the site and shall not be removed until such time as the external walls of all of the dwellings hereby approved are complete. The development thereafter shall be constructed utilising the approved materials.

Reason: To ensure that the development is appropriate in terms of visual amenity and to ensure that it responds to the local context of the site.

4. Notwithstanding any submitted details, prior to any above ground construction, full details of all boundary treatment, which shall be designed to allow movement of hedgehogs (in accordance with the CEMP required by condition 19), shall be submitted to and approved in writing by the LPA. The development shall be carried out in strict accordance with the approved details. No dwelling shall be occupied until all fences / walls shown on the approved plans to bound its plot have been erected in conformity with the approved details. Other fences and walls shown in the approved details shall have been erected in conformity with the approved details prior to substantial completion of the development.

Reason: To ensure the protection of hedgehogs and to ensure a visually satisfactory form of development and to provide reasonable standards of privacy to residents.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the earlier, and any trees or plants which within a period of 5 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.

Reason: In the interest of the appearance of the locality.

6. Prior to first occupation of any of the dwellings, full details of the external appearance of the Pump Station shall be submitted to and approved in writing by the Local Planning Authority. The Pump Station shall be constructed in accordance with the approved details.

Reason: To enhance the environment created by the new development.

7. Prior to the commencement of development, full details (including seating, equipment etc) of the open spaces shown in green on the Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Details of proposed arrangements for their future management and maintenance shall be provided. The open space areas shall thereafter be provided in accordance with the approved plans prior to the completion of the development and maintained in accordance with the approved management and maintenance details until such time as a private management and maintenance company has been established. The open spaces shall be retained for this and no other purpose.

Reason: To ensure that the communal areas serving the development and landscaped areas are maintained to an acceptable standard in the interest of residential and visual amenity.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (Schedule 2, Part 1, Class F) or any subsequent re-enactment thereof no hard surfacing shall be constructed over the front gardens shown on the approved landscaping plan without express planning permission first being obtained.

Reason: To protect the visual amenities of the development.

9. During the construction period all trees to be retained (as shown on the approved landscaping plan) shall be protected in accordance with BS 5837 (2012) as detailed in the arboricultural constraints report and must be fully erected before any other work commences on site and should be retained and maintained throughout the duration of works.

Reason: To safeguard the trees to be retained.

10. No development shall commence until full details of existing and proposed ground levels and proposed building finished floor levels (all relative to ground levels adjoining the site) and a drawing to show full details of any retaining walls (heights, locations, materials) shall have been submitted to and approved in writing by the Local Planning Authority, notwithstanding any such detail shown on previously submitted plan(s). The development shall be carried out strictly in conformity with the approved details.

Reason: Insufficient details have been submitted and in order to protect the appearance of the locality and in the interests of the amenities of local residents.

11. The garage(s) hereby approved shall be kept freely available for the parking of cars and no works, whether or not permitted by the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any order amending or revoking and re-enacting that order, shall be undertaken to alter convert the space into living or other accommodation.

Reason: To ensure adequate garaging/off street parking provision is made/maintained and thereby avoid hazards caused by on-street parking.

12. No development shall commence until final details of the design, based on sustainable drainage principles, and implementation of an appropriate surface water sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. Those details shall include:

a) Final sustainable drainage layout plan appropriately labelled to include all pipe/structure references, dimensions, design levels, finished floor levels in AOD with adjacent ground levels.

b) The drainage scheme should demonstrate that the surface water run-off and volume shall not exceed the pre-development runoff rate (which has been calculated at joint totals 28.98l/s 1 in 1, 56.82l/s 1 in 30 and 69.52l/s 1 in 100 + climate change). The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

- c) Sustainable drainage flow calculations (1 in 1, 1 in 30 and 1 in 100 + climate change) with allowance for urban creep.
- d) Measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses.
- e) A plan to show overland flow routes and flood water exceedance routes and flood extents.
- f) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates.
- g) Detailed surveys of existing watercourses to determine:
 - Proposed surface water discharge points x2 – condition/capacity/outlet
 - Proposed removal of land drainage ditches x2 (rear No28 & No12 Goldcrest Ave) – any inlet/connections that will require diverting.
- h) Details of an appropriate management and maintenance plan for the sustainable drainage system for the lifetime of the development. This shall include arrangements for adoption by an appropriate public body or statutory undertaker or management and maintenance by a Management Company and any means of access for maintenance and easements, where applicable.
- i) Construction phase surface water management plan to include how surface water and pollution prevention will be managed during each phase of construction.

The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

Reason: To ensure that the final drainage designs are appropriate following detailed design investigation. To ensure that the proposed development can be adequately drained. To ensure that there is no flood risk on or off the site resulting from the proposed development. To reduce the flood risk to the development as a result of inadequate maintenance. To identify the responsible organisation/body/company/undertaker for the sustainable drainage system. To ensure that the construction phase(s) of development does not pose an undue flood risk on site or elsewhere. To ensure that any pollution arising from the development as a result of the construction works does not adversely impact on existing or proposed ecological or geomorphic condition of water bodies.

13. Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

14. Notwithstanding any information submitted with the application, no development shall take place (except for demolition and enabling works as agreed with the LPA) until an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority. The submitted report shall include:

- i) Where potential risks are identified by the Preliminary Risk Assessment, a Phase 2 Site Investigation report shall also be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. The investigation shall address the nature, degree and distribution of land contamination on site and shall include an identification and assessment of the risk to receptors focusing primarily on risks to human health, groundwater and the wider environment; and

ii) Should unacceptable risks be identified the applicant shall also submit and agree with the Local Planning Authority in writing a contaminated land remediation strategy prior to commencement of development.

The development shall thereafter be carried out in full accordance with the duly approved remediation strategy or such varied remediation strategy as may be agreed in writing with the Local Planning Authority.

Reason: To ensure the development does not pose a risk of pollution.

15. Pursuant to condition 14 and prior to first occupation of any of the dwellings hereby approved, a verification report, which validates that all remedial works undertaken on site were completed in accordance with those agreed with the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of mitigating hazards associated with contamination and to prevent pollution.

16. All works shall be carried out in strict accordance with the details contained in section 4.3 of the Updated Badger Survey And Mitigation Strategy 2019 by ERAP (Consultant Ecologists) Ltd dated September 2019 (reference no. 2019-004b).

Reason: For the protection of badger in accordance with best practice.

17. Prior to occupation, a "lighting design strategy for biodiversity" for areas to be lit shall be submitted to and approved in writing by the local planning authority. The strategy shall:

a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and

b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To ensure that lighting for the site is designed to limit light pollution and disturbance to bats.

18. No removal of or works to any hedgerows, trees, shrubs or other vegetation may be used by breeding birds shall take place during the main bird breeding season 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures

in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: The site supports suitable nesting habitat for birds, as all wild birds, their nest and eggs are protected under the Wildlife and Countryside Act 1981 (as amended), therefore this condition is necessary.

19. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Provisions for the protection of deer and hedgehogs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that construction activities do not harm species and retained habitats, a Construction Environmental Management Plan for Biodiversity is required.

20. A scheme for the Biodiversity Enhancement Measures, as set out in section 5.0 of the Ecological Survey And Assessment by ERAP (Consultant Ecologists) Ltd dated March 2019 (ref: 2019-004), shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation of the development (or in accordance with a phasing plan which shall first be agreed in writing with the local planning authority) and shall be retained thereafter.

Reason: To secure biodiversity enhancement in line with the recommendations within the submitted ecology report.

21. No development shall take place until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the demolition and construction period. It shall provide for:

- The parking of vehicles of site operatives and visitors
- The loading and unloading of plant and materials
- The storage of plant and materials used in constructing the development
- The erection and maintenance of security hoarding
- Details of working hours
- HGV delivery times and routeing to / from the site
- Contact details for the site manager

Reason: In the interests of highway safety.

22. The new estate road/access between the site and Fieldfare Way shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any development takes place within the site.

Reason: To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative.

23. No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway improvement has been submitted to, and approved by, the Local Planning Authority in consultation with the Highway Authority. No part of the development shall be occupied until the works have been carried out in accordance with the approved details.

Reason: In order to satisfy the Local Planning Authority that the final details of the highway scheme/works are acceptable before work commences on site.

24. No part of the development hereby approved shall be occupied until the approved scheme referred to in Condition 23 has been constructed and completed in accordance with the scheme details.

Reason: In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway scheme/works.

25. Prior to the first use of the development hereby permitted, a Travel Plan shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Highway Authority. The Business Travel Plan shall be implemented within the timescale set out in the approved plan and will be audited and updated at intervals not greater than 18 months to ensure that the approved Plan is carried out.

Reason: To promote and provide access to sustainable transport options.

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

Reason: To prevent stones and mud being carried onto the public highway to the detriment of road safety.

27. No development shall take place until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason: In order to ensure proper management and maintenance of the streets within the development.

28.No development shall take place until full engineering, drainage; street lighting and constructional details to adoptable standards (Lancashire County Council specification) of the internal estate roads and site access 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.

Prior to first occupation of any of the dwellings hereby approved the estate roads shall be completed to at least base course level and in accordance with the agreed details.

Reason: In the interests of highway safety.

29.No dwelling shall be occupied until a facility to permit the recharge of an electrical battery-powered vehicle has been installed at that dwelling. Unless otherwise required by the location the installation(s) shall comply with IEE regulations, IEC 61851-1 Edition 2, and BSEN 62196-1. The facility shall be so retained thereafter.

Reason: In the interests of sustainable development.

30.Any demolition and construction works associated with the development hereby approved shall not take place except between the hours of 08:00 and 18:00 Monday to Friday and 8:00 am and 1:00 pm on Saturdays. No construction shall take place on Sundays, Good Friday, Christmas Day or Bank Holidays.

Reason: In the interests of neighbour amenity.

31.The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

- the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 13% of housing units;
- the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved) ;
- the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: To ensure the residential development provides appropriate affordable housing.

INFORMATIVES

1. Response does not grant permission to connect/remove/divert ordinary watercourses

For the avoidance of doubt, this response does not grant the applicant permission to connect to or remove/divert any ordinary watercourses once planning permission has been obtained, it does not mean that land drainage consent will be given. It should be noted that LCC will generally refuse consent applications which seek to culvert/divert/remove existing ordinary watercourses. This is in

line with Environment Agency guidance on protecting watercourses. The applicant should obtain Land Drainage Consent from Lancashire County Council **before** starting any works on site. Information on the application process and relevant forms can be found here: <http://new.lancashire.gov.uk/roads-parking-and-travel/roads/flooding/alterations-to-a-watercourse.aspx>

2. During the period of construction, should contamination be found on site that has not been previously identified, no further works shall be undertaken in the affected area. Prior to further works being carried out in the affected area, the contamination shall be reported to the Local Planning Authority within a maximum of 5 days from the discovery, a further contaminated land assessment shall be carried out, appropriate mitigation identified and agreed in writing by the Local Planning Authority. The development shall be undertaken in accordance with the agreed mitigation scheme.

- The applicant is advised that they have a duty to adhere to the regulations of Part 2A of the Environmental Protection Act 1990, the National Planning Policy Framework 2018 and the current Building Control Regulations with regards to contaminated land. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.

3. The alterations to the existing highway as part of the new works may require changes to the existing street lighting at the expense of the client/developer.

4. The grant of planning permission will require the applicant to enter into an appropriate Legal Agreement, with the County Council as Highway Authority. The Highway Authority hereby reserves the right to provide the highway works within the highway associated with this proposal. Provision of the highway works includes design, procurement of the work by contract and supervision of the works. The applicant should be advised to contact the contact the Environment Directorate for further information by telephoning the Developer Support Section (Area East) on 0300 123 6780, or writing to Developer Support Section, Lancashire County Council, Environment Directorate, Cuerden Mill Depot, Cuerden Way, Cuerden, PR5 6BJ or email lhscustomerservice@lancashire.gov.uk

5. The grant of planning permission does not entitle a developer to obstruct a right of way and any proposed stopping-up or diversion of a right of way should be the subject of an Order under the appropriate Act.