

<b>Application Number:</b>	2021/0168	<b>Application Type:</b>	Full
<b>Proposal:</b>	S.73 Application: variation of Condition 8 (to change the wording of the condition so that the timescales to discharge this condition can be met, regarding a scheme for the construction of the site access and the off-site highway works) pursuant to Planning Approval 2018/0554.	<b>Location:</b>	Land On The South Side Of Commercial Street Loveclough
<b>Report of:</b>	Planning Manager	<b>Status:</b>	For Publication
<b>Report to:</b>	Development Control Committee	<b>Date:</b>	25/05/2021
<b>Applicant:</b>	Hannah Wild, Hollins Homes	<b>Determination Expiry Date:</b>	17/06/2021
<b>Agent:</b>	N/A		

<b>Contact Officer:</b>	<b>James Dalglish</b>	<b>Telephone:</b>	<b>01706 238643</b>
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<b>REASON FOR REPORTING</b>	
<b>Outside Officer Scheme of Delegation</b>	<b>Major</b>
<b>Member Call-In</b> Name of Member: Reason for Call-In:	
<b>3 or more objections received</b>	
<b>Other (please state):</b>	

## 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

Approve planning permission subject to the conditions set out in this report and subject to the original Section 106 Agreement (securing planning contributions and obligations pursuant to 2018/0554). The original Section 106 Agreement contains a clause to bind its requirements to any subsequent variations of the original outline approval (2018/0554) including the variation hereby sought. All contributions and obligations from the original Section 106 Agreement are therefore carried through into this variation.

## APPLICATION DETAILS

### 2. SITE

The application site (of approximately 3.2 hectares) lies on the west side of Burnley Road, sloping down from the road. It is bordered on its northern boundary by Commercial Street and the terraced residential properties constructed along it. A row of trees covered by a TPO runs along the north western edge of the site adjacent to Commercial Street.

To the west of the site lies Loveclough Park, a relatively modern residential development – separated from the application site by a public footpath. On the site's south side there is a playing pitch.

A row of terraced dwellings runs along the eastern side of the site adjacent to Burnley Road, and Loveclough Social Club is located slightly further north (accessed off Commercial Street).

The site itself is predominantly open fields bound by stone walling and agricultural fencing, and is considered to be a greenfield site.

The site lies in an area designated as countryside, and is located approximately 80m south of the Loveclough Fold Conservation Area, where there are two Grade II Listed Buildings (Barn South of Loveclough Farm and 11 & 12 CPA Club).

The site is also around 270m north of another Conservation Area (the Goodshawfold Conservation Area) where there are two further Grade II Listed Buildings (the Spewing Duck Well and Barn North East of Goodshawfold Farm).

### 3. RELEVANT PLANNING HISTORY

2018/0554 - Outline Application: Erection of up to 80 dwellings and associated works with all matters reserved except for access – Approved

2020/0378 - Application for approval of reserved matters (appearance, landscaping, layout and scale) for 80 dwellings, pursuant to outline approval 2018/0554 - Approved

### 4. PROPOSAL

Following the approval of outline planning permission and subsequent approval of the reserved matters for the development, the applicant seeks to vary Condition 8 pursuant to the outline approval (2018/0554), which reads as follows:

*“No development shall take place until a scheme for the construction of the site access and the off-site highway works has been submitted to and approved in writing by the Local Planning Authority and the necessary agreement entered into with the Highway Authority.*”

*No part of the development shall be occupied until all of the works have been carried out in accordance with the approved details.”*

The applicant seeks to re-word Condition 8 to read as follows:

*“No development shall take place until a scheme for the construction of the site access and the off-site highway works has been submitted to and approved in writing by the Local Planning Authority and the necessary inspection fees paid to the Highway Authority. No part of the development shall be occupied until the necessary agreement is then entered into with the Highway Authority and all of the off-site highway works have been carried out in accordance with the approved drawings.”*

The reasoning behind the proposed change is that the variation to the condition will allow the developer to start on site sooner without having to wait for the S.278 (highway works) agreement to be entered into by the developer with the Local Highway Authority. The Agreement would still be required between the developer and the Local Highway Authority, but the trigger point for it would be prior to first occupation of the development rather than prior to commencement of development.

## **5. POLICY CONTEXT**

### **National Planning Policy Framework**

Section 2	Achieving Sustainable Development
Section 4	Decision Making
Section 5	Delivering a Sufficient Supply of Homes
Section 6	Building a Strong, Competitive Economy
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 15	Conserving and Enhancing the Natural Environment
Section 16	Conserving and Enhancing the Historic Environment

### **Development Plan**

#### **Rossendale Core Strategy DPD**

AVP 4	Rawtenstall, Crawshawbooth, Goodshaw and Loveclough
Policy 1	General Development Locations and Principles
Policy 2	Meeting Rossendale’s Housing Requirement
Policy 3	Distribution of Additional Housing
Policy 4	Affordable Housing
Policy 8	Transport
Policy 9	Accessibility
Policy 18	Biodiversity and Landscape Conservation
Policy 19	Climate Change and Low & 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 considerations**

National Planning Practice Guidance  
RBC Strategic Housing Land Availability Assessment (SHLAA) (2018)  
RBC Alterations and Extensions to Residential Properties SPD  
LCC Planning Obligations in Lancashire (2008)  
RBC Open Space and Play Equipment Contributions SPD (2008)  
Emerging Rossendale Borough Council Local Plan

## 6. CONSULTATION RESPONSES

LCC Highways	<u>No objection</u>
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## 7. REPRESENTATIONS

To accord with the General Development Procedure Order site notices were posted on 24/03/2021 and neighbour letters were sent out on 23/03/2021. A notice was published in the Rossendale Free Press on 02/04/2021.

2 objections have been received, raising the following points:

- Harm to visual amenity / countryside impact.
- Insufficient capacity of local services / facilities.
- Insufficient highway capacity.
- No value in the development for local residents.
- Flood risk.
- Harm to neighbour amenity / overlooking / loss of privacy / loss of light / harm to outlook.
- Harm to biodiversity.
- Access issues.

## 8. ASSESSMENT

As the application seeks only to vary the wording of Condition 8 (site access and off-site highway works) pursuant to outline approval 2018/0554, all other aspects of the originally approved scheme remain identical.

As such, the only consideration in determining this application is the acceptability of the proposed change of wording to Condition 8.

The Local Highway Authority has been consulted on the application, and has confirmed that it has no objection to the proposed varied wording of Condition 8.

As such, the proposed wording of the condition (as varied) is considered acceptable, and there is no reason not to vary the condition as proposed.

In relation to objections raised by members of the public, given that this application proposed only a variation to the previous wording of Condition 8 (and does not propose any additional development over and above that already approved under 2018/0554 and 2020/0378), it is not considered that the issues raised can reasonably warrant refusal of the application.

## 9. SUMMARY REASON FOR APPROVAL

The application proposes only a variation to the wording of Condition 8 (site access and off-site highway works) pursuant to 2018/0554, which is considered acceptable by the Local Highway Authority. It is considered that the development is in accordance with the National Planning Policy Framework and Policies 1, 8, 9, 17, 18, 21, 22, 23 and 24 of the adopted Core Strategy DPD.

## 10. CONDITIONS

1. The development hereby permitted must be begun two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The outline planning permission hereby approved relates to the erection of up to eighty residential units which shall be carried out in accordance with the following plans and documents unless otherwise required by the conditions below:

- Application form received on 19<sup>th</sup> November 2018.
- Site Location Plan (drawing number LOCATION PLAN 01) received on 19<sup>th</sup> November 2018.
- Access Arrangements (drawing number SK21875-001) received on 19<sup>th</sup> November 2018.
- Proposed Off-Site Improvement Works (drawing number SK21875-002) received on 2<sup>nd</sup> January 2019.
- Arboricultural Report (ref: AWA2327) received on 19<sup>th</sup> November 2018.
- Flood Risk Assessment and Drainage Management Strategy (ref: HYD343\_BURNLEY.ROAD\_FRA&DMS) received on 19<sup>th</sup> November 2018.

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

3. Prior to the commencement of the development full details of the alignment, height and appearance of all fences and walls and gates to be erected (notwithstanding any such detail shown on the submitted plans) shall be submitted to and approved in writing by the Local Planning Authority.

Notwithstanding the above there shall be 1.8m boundary treatments between the rear gardens of each individual dwelling, and natural stone walling and native hedgerow planting shall be used around the perimeter of the site where necessary.

No dwelling shall be occupied until all fences, walls and other boundary treatments shown in the approved details to bound its plot have been erected in conformity with the approved details. Other fences, walls and other boundary treatments 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 a visually satisfactory form of development and to provide reasonable standards of privacy to residents.

4. Prior to the commencement of the development full details of the following (including samples) shall be submitted to the Local Planning Authority for its approval. No development shall take place until such approval has been given in writing by the Local Planning Authority:

- a) All external facing and roofing materials to the proposed dwellings
- b) All hard ground surfacing materials.

The dwellings shall be constructed predominantly of natural coursed stone, and shall have exclusively natural slate roofs.

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.

5. Notwithstanding the details shown on the submitted plans the new dwellings shall be no greater than two storeys in height.

Reason: To ensure that the development is appropriate in terms of visual amenity and to protect neighbour amenity.

6. Any construction works associated with the development hereby approved shall not take place except between the hours of 7:00 am and 7:00 pm 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.

7. No development shall take place until a scheme for the construction of the site access and the off-site highway works has been submitted to and approved in writing by the Local Planning Authority and the necessary inspection fees paid to the Highway Authority. No part of the development shall be occupied until the necessary agreement is then entered into with the Highway Authority and all of the off-site highway works have been carried out in accordance with the approved drawings.

Reason: In the interests of highway safety.

8. 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 a legal agreement has been entered into the Local Highway Authority 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.

9. 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 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.

10. Before the access is used for vehicular purposes, that part of the access extending from the highway boundary for a minimum distance of 10m into the site shall be appropriately paved in tarmacadam, concrete, or block pavements.

Reason: To prevent loose surface material from being carried on to the public highway thus causing a potential source of danger to other road users.

11. The new access between the site and Burnley Road shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any development takes place within the site.

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

12. 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.

13. No development shall take place until tree protection fencing has been erected to BS 5837 (2012) as detailed in the submitted Arboricultural Report (ref: AWA2327) and as shown on the tree constraints plan.

Reason: To protect trees to be retained on site.

14. Prior to the commencement of development a Phase 2 Site Investigation report shall be submitted to and approved in writing by the Local Planning Authority. 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.

Should unacceptable risks be identified the applicant shall also submit a contaminated land remediation strategy for the approval of the Local Planning Authority prior to commencement of

development. No development shall take place until the submitted scheme is approved in writing by the Local Planning Authority.

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: In the interests of mitigating hazards associated with land contamination, and preventing pollution.

15. Pursuant to condition 14 and prior to first occupation of any of the dwellings, 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 land contamination, and preventing pollution.

16. No development shall commence until 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, as a minimum:

a) Information about the lifetime of the development:

- Design storm period and intensity (1 in 30 & 1 in 100 year + allowance for climate change see EA advice Flood risk assessments: climate change allowances') - discharge rates and volumes (both pre and post development).
- Temporary storage facilities.
- The methods employed to delay and control surface water discharged from the site.
- The measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses.
- Details of floor levels in AOD – mitigation measures essential if various proposed plots are to remain within surface water flooding areas (FRA 7/11/18 Rev1 – Figure 4) – expected flood depths/mitigation measure details required.

b) The drainage strategy should demonstrate that the surface water run-off must not exceed the pre-development greenfield runoff rate (which has been calculated at 36.8l/s litres per second total for entire development site – as per FRA 7/11/18 Rev1). The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

c) Flood water exceedance routes, both on and off site.

d) A timetable for implementation, including phasing as applicable.

e) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates.

f) Details of water quality controls, where applicable.



The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or substantial 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 proposed development can be adequately drained, and to ensure that there is no flood risk on or off the site resulting from the proposed development

17. None of the dwellings hereby permitted shall be occupied until the sustainable drainage scheme for the site has been completed in accordance with the submitted details.

The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: To ensure that the drainage for the proposed development can be adequately maintained, and to ensure that there is no flood risk on- or off-the site resulting from the proposed development or resulting from inadequate the maintenance of the sustainable drainage system.

18. No development shall commence until details of an appropriate management and maintenance plan for the sustainable drainage system for the lifetime of the development have been submitted to and approved in writing by the Local Planning Authority. The submitted details, as a minimum, shall include:

a) The arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company.

b) Arrangements concerning appropriate funding mechanisms for its on-going maintenance of all elements of the sustainable drainage system (including mechanical components) and will include elements such as:

- On-going inspections relating to performance and asset condition assessments.
- Operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

c) Means of access for maintenance and easements where applicable.

The plan 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 sustainable drainage system shall be managed and maintained in accordance with the approved details.

Reason: To ensure that appropriate and sufficient funding and maintenance mechanisms are put in place for the lifetime of the development, to reduce the flood risk to the development as a result of inadequate maintenance, and to identify the responsible organisation/body/company/undertaker for the sustainable drainage system.

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

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

20. 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 Annex 2 of the National Planning Policy Framework or any future policy that replaces it. The affordable housing shall remain as such in perpetuity.

The scheme shall include:

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of 30% of the dwellings in each phase;
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider, or for the management of the affordable housing if no registered provider is involved;
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) 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: In order to secure the necessary provision of affordable housing on the site.

## 12. INFORMATIVES

1. The Local Planning Authority has a Core Strategy (adopted in November 2011) and a series of Supplementary Planning Documents, which can be viewed at:

[http://www.rossendale.gov.uk/downloads/download/331/core\\_strategy\\_local\\_plan\\_part\\_1\\_adopted](http://www.rossendale.gov.uk/downloads/download/331/core_strategy_local_plan_part_1_adopted)

The Council operates a pre-application planning advice service. All applicants are encouraged to engage with the Local Planning Authority at the pre-application stage. In this case the applicant did not engage in pre-application discussions.

The Local Planning Authority has considered the application and where necessary considered either the imposition of planning conditions and/or sought reasonable amendments to the application in order to deliver a sustainable form of development in accordance with the National Planning Policy Framework and the local planning policy context.

2. The grant of planning permission will require the applicant to enter into a Legal Agreement with the County Council as Highway Authority. The applicant should be advised to contact Lancashire County Council, Highway Development Control email – [developeras@lancashire.gov.uk](mailto:developeras@lancashire.gov.uk) in the first instance to ascertain the details of such an agreement and the information to be provided.
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. 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.

5. The submitted Phase 1 site investigation report specifically recommends that gas monitoring should be undertaken on site (section 7.3.2). A scheme of ground gas monitoring will be required to be carried out on site, with the results to be submitted as part of an application for the approval of details reserved by conditions 3 and 16. Gas monitoring shall be carried out in accordance with the relevant up-to-date guidance. The applicant is advised to contact Martin Plant (the Council's land contamination and remediation consultant) for clarification on the specific requirements at the earliest opportunity on 0161 686 5847.