

Application Number:	2023/0142	Application Type:	Outline
Proposal:	Outline Application (including access only) for residential development of up to 40 dwellings.	Location:	Land West Of 1162 Burnley Road Loveclough
Report of:	Head of Planning	Status:	For Publication
Report to:	Development Control Committee	Date:	05/09/2023
Applicant:	Hollins Homes	Determination Expiry Date:	08/09/2023
Agent:	Matthew Symons		

Contact Officer:	James Dalglish
Email:	planning@rossendalebc.gov.uk

REASON FOR REPORTING	
Outside Officer Scheme of Delegation	Major
Member Call-In Name of Member: Reason for Call-In:	
3 or more objections received	✓
Other (please state):	

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. CONTEXT AND BACKGROUND

Members will recall that this application was brought before Committee in July, and that Members were minded to refuse planning permission for several reasons.

Based on the discussions at the July Committee meeting, officers have drafted the following reasons for refusal to reflect the reasons suggested by Members at the meeting:

1. *The further encroachment of urban development into an area of countryside and the cumulative visual impact of the proposed development alongside the adjacent ongoing development and the other developments proposed in the Local Plan would cause unacceptable and irrevocable harm to the wider rural character of Loveclough, contrary to the requirements of Policies SD2 and ENV3 of the Local Plan and Section 15 of the National Planning Policy Framework.*
2. *The proposed scheme would not represent sustainable development, as it would inevitably lead to increased traffic congestion on the A682 (Burnley Road) which already experiences significant congestion at peak times. The development would therefore place unacceptable pressure on the capacity of the local highway network. This is contrary to Policy TR1 of the Local Plan and Section 9 of the National Planning Policy Framework.*
3. *The proposed scheme would not represent sustainable development as it would place unacceptable pressure on local schools, which do not have capacity to accommodate additional pupils from the development. This is contrary to Policy SD3 of the Local Plan and Section 8 of the National Planning Policy Framework.*
4. *It has not been demonstrated that the development would avoid causing increased off-site flood risk, through increased rates of surface water run-off into nearby watercourses. This is contrary to Policy ENV9 of the Local Plan and Section 14 of the National Planning Policy Framework.*

The application is again brought before Committee to provide the opportunity for officers to advise Members on the suitability of the proposed reasons for refusal, and to provide the opportunity for the wording of such reasons to be finalised prior to a decision being issued.

Members' attention is also drawn to the appended letter from the applicant, which has been submitted since the last Committee meeting.

2. DISCUSSION

Reason for Refusal No. 1 (Cumulative Visual Impact)

Officers consider that this reason for refusal, whilst contrary to the advice received from the Council's landscape / visual impact consultant (Penny Bennett Landscape Architects), is defensible.

Officers initially considered that the scheme would cause moderate visual harm through the encroachment of urban development into an area of countryside, and afforded this moderate weight in the planning balance in the original Committee report.

If Members consider that the level of harm caused by the above would be significant, rather than moderate, and that the weight afforded to this harm would clearly and demonstrably outweigh the benefits of the scheme – then it would be appropriate for them to refuse planning permission on this basis, in line with Paragraph 11 of the National Planning Policy Framework.

Reason for Refusal No. 2 (Traffic Congestion)

Members considered that the proposed development would place unacceptable pressure on the capacity of the local highway network, particularly in relation to the A682 which is already congested at peak times.

However, the Local Highway Authority was consulted on the planning application and raised no objection in relation to the above. It concluded:

“After considering all of the submitted documentation and under taking a number of site visits I am of the opinion that the level of traffic generated from a development of this size and nature and at this location would not have a severe impact on highway safety or capacity within the immediate vicinity of the site.”

Members will be aware that Paragraph 111 of the National Planning Policy Framework states:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Having regard to the conclusions of the Local Highway Authority, officers do not consider that it has been demonstrated that the proposed development would have an unacceptable impact on highway safety, or that the residual cumulative impacts on the road network would be severe.

As such, in the absence of supporting evidence to the contrary, officers do not consider that this reason for refusal is defensible.

Reason for Refusal No. 3 (Pressure on Local Schools)

Members considered that the proposed development would place unacceptable pressure on the capacity of local schools, which would not have capacity to accommodate pupils from the proposed development

However, the Local Education Authority was consulted on the planning application and raised no objection in relation to the above. It concluded:

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

Having regard to the conclusions of the Local Education Authority, officers do not consider that it has been demonstrated that the proposed development would have an unacceptable impact on local education provision, or that local schools do not have capacity to accommodate pupils from the development.

As such, in the absence of supporting evidence to the contrary, officers do not consider that this reason for refusal is defensible.

Reason for Refusal No. 4 (Off-Site Flood Risk)

Members considered that the proposed development would cause increased surface water run-off which would lead to an increased risk of surface water flooding off-site.

Three separate consultees provided comments to officers on the application in relation to drainage / surface water issues – namely United Utilities, the Environment Agency, and the Lead Local Flood Authority (Lancashire County Council).

None of the above consultees raised any objection to the proposed development on the grounds of increased off-site flood risk. The consultees considered that the development could be made acceptable in relation to surface water drainage / run-off through the imposition of planning conditions, which were included in the original report to Committee.

Having regard to the conclusions of the above consultees, officers do not consider that it has been demonstrated that the proposed development would have an unacceptable impact on off-site flood risk.

As such, in the absence of supporting evidence to the contrary, officers do not consider that this reason for refusal is defensible.

3. RECOMMENDATION

Officers recommend that Members re-consider the reasons for refusal of this application having regard to advice received from the relevant consultees, and recommend that only Reason for Refusal No. 1 (Cumulative Visual Impact) is carried forward in the decision notice.

The recommended reason for refusal in this regard would read as follows:

The further encroachment of urban development into an area of countryside and the cumulative visual impact of the proposed development alongside the adjacent ongoing development and the other developments proposed in the Local Plan would cause unacceptable and irrevocable harm to the wider rural character of Loveclough, and would significantly and demonstrably outweigh the benefits of the proposals. The development would be contrary to the requirements of Policies SD2 and ENV3 of the Local Plan and Section 15 of the National Planning Policy Framework.



H O L L I N S

H O M E S P E O P L E L O V E

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17 August 2023

Dear James,

APPLICATION 2023/0142: LAND OFF BURNLEY ROAD, LOVECLOUGH

Having received confirmation from you that the application will return to Committee on 05/09/23, as agreed, I am writing to set out my thoughts on the reasons for refusal given by Members.

I was obviously pleased to read the Committee Report recommending approval of the application last month¹. Hopefully you will agree that it was the result of collaborative working between the LPA and Hollins Homes during the application process. In my opinion, both parties worked together proactively, in line with the NPPF (para. 38), seeking to secure a development that would “*improve the economic, social and environmental conditions of the area*” (NPPF, para. 38).

The Report confirmed that the so-called tilted balance is engaged as a result of the failure of the Housing Delivery Test (HDT) and as such, permission should be granted “*unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits*” (NPPF, para. 11).

The only adverse impact identified in the Report was the encroachment of urban development into the countryside and the level of harm was referred to as moderate. This is because Officers considered that “*the proposals will be closely related to the existing ongoing development on the adjacent land, and because the proposals would be surrounded on three sides by existing development, rather than encroaching further out/projecting into open countryside*” (Committee Report, page 8).

Under the heading ‘Balancing Exercise’, the Report considered the benefits of the development stating the proposals would:

- A. provide up to 40 new dwellings (including affordable units) towards the borough’s housing need – representing a significant benefit;
- B. deliver dwellings situated in a location close to a public transport route;
- C. incorporate a substantial area of public open space, new footpaths and play equipment that would be accessible for new and existing residents; and,
- D. allow for the incorporation of a link in the proposed strategic cycleway along the valley through the site.

¹ Annex 1: Committee Report

The Conclusion stated that the **moderate harm** which would be caused by the development to the character of the countryside would not significantly and demonstrably outweigh the **substantial benefits** of the scheme in terms of its significant contribution towards the Borough's recognised housing need, and delivery of a substantial area of enhanced public open space on site.

I was then extremely disappointed that the Committee decided to refuse the application for the following reasons:

1. Parking and highways issues;
2. Harm and impact on the character of the countryside and visual amenity;
3. Pressure on education facilities; and,
4. Increased on and off-site flooding risk.

At the meeting, it seemed there was very little discussion on these matters and despite the attempts of Mike Atherton (Head of Planning) to explain the position on each, as well as the engagement of the tilted balance, Members moved very quickly to the vote without setting out the reasons for refusal in any detail whatsoever.

I have watched the Committee Meeting again on YouTube² this week in an attempt to better understand the Committee's thought process behind these reasons for refusal. I would comment as follows.

1. Parking and Highways issues

As all matters are reserved other than access, parking would be controlled at Reserved Matters stage. The LPA will be able to impose its required standards on Hollins Homes, as it did with The Foothills.

With regard to highways impact, it was explained that Lancashire County Council (LCC) Highways Department had assessed the proposals. Additionally, Mike Atherton referred Members to the NPPF during the Committee meeting, which does of course state that "*development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*" (para. 111, NPPF).

In his consultee response, the Highways Officer, Rob Hancock, concluded that "*the Highway Development Control Section of Lancashire County Council has no objections to the planning application*".

Mr Hancock confirmed that the "*Transport Statement is not unreasonable and reflects the previously agreed Transport Assessment submitted for the adjacent site*". The Transport Statement (TS) for the current application applied the trip rates set out in the Transport Assessment (TA) for The Foothills, finding that the proposals would generate up to 20 vehicular movements in the AM peak hour and 18 in the PM peak hour. Importantly, the Council raised no issues with the Transport Assessment (TA) for The Foothills application and so it would be unreasonable to disagree with the trip rates set out in the TS. It can only be assumed that Members consider the limited number of additional vehicular movements would have a severe impact on the local highway network.

Of course, Mr Hancock stated "*After considering all of the submitted documentation and undertaking a number of site visits I am of the opinion that the level of traffic generated from a development of this size and nature and at this location would not have a severe impact on highway safety or capacity within the immediate vicinity of the site*".

Members did not set out why they disagree with LCC or why they feel the 'up to 40 dwellings' would have a severe impact. Vague, generalised and inaccurate assertions seem to have been made which are unsupported by any objective analysis (see NPPG Ref ID: 16-04920140306).

² [Development Control meeting 25th July 2023 - YouTube](#)

2. Harm and impact on the character of the countryside and visual amenity

With regard landscape impact, Officers pointed Members to the consultee response provided by Penny Bennett Landscape Architects (PBLA), Chartered Landscape Architects. Extracts from the PBLA response were set out within the Report but it may assist Members if they are able to review the response in its entirety³.

Quotes from the PBLA response are provided below, which may be worth drawing to the attention of Members:

This is a modest housing development

It would be contiguous with a new approved development 'The Foothills'

The proposed development would occupy the northern part of the site, with the remaining area being managed as public open space, this would create an important buffer between the two Conservation Areas, allowing them to retain their distinctive character and separateness

There would be some landscape effects resulting from developing this site however they would be modest in scale

The proposals appear to infill a small area without extending the urban boundary further into open country

The cumulative effects of this development are considered to be small

It is also important to note that the Committee Report did not inform Members of the Council's own assessment of the site which was undertaken during the Local Plan examination.

Hollins Strategic Land (sister company to Hollins Homes) promoted the developable area of the application site⁴ for residential development at a late stage in the Local Plan examination process. As confirmed in the Council's Examination document 'EL8.008.1'⁵, it was put forward via a Hearing Statement. This was of course after the Council had submitted its Local Plan for Examination. HSL considered it a worthwhile exercise in case the LP Inspectors found that the Council should allocate more sites for housing.

It is acknowledged that the Inspectors did not reach this conclusion. At that time, Inspectors were of the view that the Council had identified sufficient land for housing to secure the required deliverable and developable housing land supply which would deliver housing in line with the annual requirements. Of course, the failure of the HDT has shown this has not been the case.

There has been a significant failure with regard housing delivery. The Committee Report acknowledged the failure but did not inform Members of the extent. The Council's 'Housing Delivery Test and 5 Year Housing Land Supply Note' confirms that the HDT 2021 measurement for Rossendale was only 57% of its requirement. This is a significant failure which equates to 221 required dwellings not being delivered and should be drawn to the attention of Members.

Had housing delivery been forecasted differently by the LPA during the LP examination process, it may have found that additional housing allocations were required, particularly those such as the application site which will deliver numerous benefits including a significant over-provision of public open space in the context of an open space shortfall in the local area which was worsened by LP allocations.

³ Annex 2: PBLA Consultee Response

⁴ This did not include the area now being proposed as Public Open Space

⁵ Annex 3: Extracts from Document EL8.008.1

Nevertheless, the Council assessed the landscape value of the part of the site identified for housing – the developable area alone rather than the developable area and POS area. The Council found that there would be a “*low landscape impact*”. Members must be informed of this.

To conclude on this matter, there have been two assessments of landscape impact undertaken by the Council for this site. The LP evidence base found that the development of the site would have a low landscape impact and PBLs found that the proposals would be acceptable in landscape terms. Members did not set out why they disagree with the Council’s findings.

Furthermore, Members did not confirm whether they consider the landscape impact to be greater than “*low*”, as reported in EL8.008.1 or greater than “*moderate*”, as referred to in the Committee Report. This is of course important with regard the tilted balance, which I will return to below.

3. Pressure on education facilities

It is not clear why Members chose to refuse the application on Education grounds, but it can be assumed that they did not agree with the findings of the School Planning Team (SPT) at Lancashire County Council (LCC).

The SPT were consulted twice during the application process. They were consulted at the start of the application process and closer to the Committee Meeting. On both occasions, the SPT confirmed that “*an education contribution is not required at this stage in regards to this development*”. The SPT undertakes capacity assessments of local schools using a methodology that has been agreed with the Council. Members did not provide any reasoned justification for their decision to disagree with the findings of the SPT or the agreed methodology.

I wrote to you separately on this matter, by email dated 14/08/23. I had done some research online and came across a 2012 Costs Decision in relation to land at Holcombe Road, Helmshore. Taylor Wimpey was awarded Costs against the Council with regard appeal 2159598⁶. The Inspector found that the Council had acted unreasonably by refusing the application (against officer recommendation) for imprecise reasons and also for refusing the application on Education grounds when the Education Authority (LCC) had confirmed that they would not seek a contribution.

Members must set out why they disagree with the findings of the SPT. Vague, generalised and inaccurate assertions seem to have been made which are unsupported by any objective analysis (see NPPG Ref ID: 16-04920140306).

Furthermore, you have informed me that the SPT might reassess the capacity of local schools shortly before the s106 Agreement is finalised to make sure that there is no requirement for a contribution at every opportunity in the application process. Hollins Homes would not object to this.

4. Increased on and off-site flooding risk

With regard drainage and flood risk, the Committee Report confirmed that the “*Lead Local Flood Authority (Lancashire County Council), the Environment Agency and United Utilities have been consulted on the proposed scheme, and have raised no objection subject to the inclusion of conditions*”. The site is within Flood Zone 1 and will not increase the risk of flooding elsewhere.

Members did not set out any technical reasons to disagree with the findings of the consultees. Once again, vague, generalised and inaccurate assertions seem to have been made which are unsupported by any objective analysis (see NPPG Ref ID: 16-04920140306).

⁶ Annex 4: Appeal and Costs decision 2159598

Tilted balance

It is unclear whether Members were of the opinion that the tilted balance is not engaged. The planning balance was not addressed when Members moved quickly to the vote having listened to Mike Atherton explain the position on this matter. The reasons for refusal did not include any mention of the adverse impacts significant and demonstrably outweighing the benefits of the scheme.

In an appeal decision (3289340⁷) dated 24/08/22, an Inspector confirms that the Council “*accepts that ... housing delivery has been less than 75% over the past three years*” (para. 14) before continuing to state that “*the Housing Delivery Test 2021 measurement for Rossendale was 57% of its requirement, such that 221 dwellings that were required were not delivered*” (para. 15). The tilted balance was engaged.

The Forward Planning team confirmed that the tilted balance is engaged in its consultation response on the application. The Committee Report confirmed that the tilted balance is engaged. Officers confirmed at the meeting that the tilted balance is engaged. This was of course because of the failure of the HDT by a significant margin.

At this point, it is worth noting that I have reviewed the Council’s deliverable housing land supply since the Committee Meeting and am of the opinion that it is unlikely to be as strong as suggested in the Council’s ‘5 Year Housing Land Supply Report’ (July 2022).

The NPPF states that “*where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years*” (Annex2, NPPF).

The NPPG provides guidance on what such evidence may include:

- *current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;*
- *firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates;*
- *firm progress with site assessment work; or*
- *clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects. (Ref IF: 68-007-20190722)*

I recently asked the Forward Planning Team for the evidence that is referred to in support of the claimed 7.6 year housing land supply⁸. That has not yet been forthcoming. You will see that I have reasonably asked for evidence which supports the inclusion of sites that are identified as contributing a total of 836 units to the deliverable supply. If the Council does not have the required “*clear evidence*” for these sites, it cannot demonstrate a 5-year supply.

At this stage, I am of the opinion that the supply should be significantly reduced and it appears unlikely that a 5-year supply can be demonstrated when taking into account the definition of ‘deliverable’ set out in Annex 2 of the NPPF. I appreciate that the Council may feel this would need to be tested at Appeal, but if it is the case, the tilted balance would of course be engaged for this reason as well.

It is also worth noting that our Planning Statement (PS)⁹ sets out why the proposals comply with the development plan as a whole. It is acknowledged that there is conflict with policy SD2, but this policy is to be afforded reduced weight in light of the failure of the HDT. It is my opinion that Members should be

⁷ Annex 5: Appeal decision 3289340

⁸ Annex 6: Email trail to Forward Planning on Housing Land Supply

⁹ Annex 7: Planning Statement

made aware of this fact in the Report for the Meeting on 05/09/23. The PS then demonstrates compliance with policy ENV3, as well as all other relevant development plan policies. The Report for the 25/07/23 meeting acknowledged that ENV3 is relevant but did not confirm to Members that the proposals comply with this policy. As you'd expect, I feel this fact should also be confirmed in the next Report to give Members a better appreciation of how the proposals comply with policies of the development plan.

Nevertheless, despite our position on housing land supply and compliance with the development plan, the failure of the HDT means that permission should be granted "*unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits*" (NPPF, para. 11).

As previously stated, the Committee Report considered the benefits of the development stating the proposals would:

- A. provide up to 40 new dwellings (including affordable units) towards the borough's housing need – representing a significant benefit;
- B. deliver dwellings situated in a location close to a public transport route;
- C. incorporate a substantial area of public open space, new footpaths and play equipment that would be accessible for new and existing residents; and,
- D. allow for the incorporation of a link in the proposed strategic cycleway along the valley through the site.

Following publication of the Report, I wrote to you by email on 18/07/23¹⁰ setting out, *inter alia*, a number of additional benefits which I felt should have been reported to Members:

- E. Site to be delivered by a SME housebuilder;
- F. Employment opportunities for the construction industry and wider supply chain;
- G. Spending in local shops and businesses, including Crawshawbooth;
- H. With regard the economic benefits, the Council's Strategic Housing department/Head of Housing and Regeneration stated "*this housing development will bring about huge economic impacts for Rossendale, supporting growth, jobs and sparking much needed infrastructure investment*";
- I. Enhancement of biodiversity – you have listed biodiversity as having a neutral impact but the condition we agreed will secure a net gain;
- J. The provision of the interpretation board, secured by condition; and,
- K. The enhancement of the PROW via the 106 contribution.

I also pointed to the fact that there are currently 2082 active applications for affordable housing in Rossendale. This adds weight to Benefit A – the provision of housing (including affordable housing) which is deemed to be of significant weight in the Report. This fact may have been considered by Officers but was not reported to Members.

I appreciate that you responded saying "*these are not points which I would consider to have a significant impact on the balancing exercise and the acceptability of the proposal in policy terms*". However, if Officers do feel that some/all of E – K above are benefits that weigh in favour of the proposals, even if it is felt that they attract minor weight and do not impact significantly on the balancing exercise, I feel these should be reported to Members so that they are fully aware of the package of benefits when applying the tilted balance.

It remains our opinion that the sole adverse landscape impact, deemed to be **moderate** in the Committee Report, cannot significantly and demonstrably outweigh the **substantial** benefits.

¹⁰ Annex 8: Email to LPA 18/07/23

I am happy to discuss the content of this letter with you and would welcome your thoughts. I am also happy to meet at the Council offices in advance of Committee if you think that would be worthwhile.

I look forward to hearing from you.

Yours sincerely,

Matthew Symons BA MPlan MRTPI
Planning Manager
On behalf of Hollins Homes

Enc.

Annex 1

Application Number:	2023/0142	Application Type:	Outline
Proposal:	Outline Application (including access only) for residential development of up to 40 dwellings.	Location:	Land West Of 1162 Burnley Road Loveclough
Report of:	Head of Planning	Status:	For Publication
Report to:	Development Control Committee	Date:	25/07/2023
Applicant:	Hollins Strategic Land	Determination Expiry Date:	28/08/2023
Agent:	Matthew Symons		

Contact Officer:	James Dalglish
Email:	planning@rossendalebc.gov.uk

REASON FOR REPORTING	
Outside Officer Scheme of Delegation	Major
Member Call-In Name of Member: Reason for Call-In:	
3 or more objections received	✓
Other (please state):	

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 and that the determination of the application hereafter be delegated to the Head of Planning, Chair of Development Control Committee and Vice Chair as follows:

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

- 30% affordable housing provision on site.
- £1,327 per dwelling towards the improvement of playing pitches in the local area.
- Contribution of £25,740 towards improving Public Footpath FP1404094.

- Current Rossendale Borough Council S.106 monitoring and recording fees.
- Management and maintenance of on-site landscaping, public open space and communal areas.
- Any other reasonable and necessary contributions required.

(2) To carry out drafting amendments and alterations to any planning condition or S.106 Agreement, and to insert any other required planning conditions.

(3) To have to discretion to refuse planning permission if the Section 106 Agreement is not completed within a reasonable timescale.

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

APPLICATION DETAILS

2. SITE

The application site is some 3.4ha in extent and is greenfield land that is normally used for grazing. It is also currently being used for the temporary storage of soil from the adjoining development by Hollins Homes.

The site is identified as forming part of the countryside in the development plan, and is immediately adjacent to the urban boundary and the ongoing development known as 'The Foothills'.

To the north of the site lies Loveclough Park, a relatively modern residential development.

The site is located approximately 150m 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 170m 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).

Public Footpath No. 94 runs along the north and western side of the site.

3. RELEVANT PLANNING HISTORY

None on the site itself, however permissions 2018/0554 (outline) and 2020/0378 (reserved matters) relate to the development on the adjacent site by Hollins Homes (the same developer).

4. PROPOSAL

Outline planning permission (including access only) is sought for the erection of up to 40 no. new dwellings on the site. All other matters (including appearance, landscaping, layout and scale) are reserved. An indicative site layout has been submitted as part of the application, but this is for illustrative purposes only, and does not form part of the scheme for which approval is sought.

The proposed access to the development would be off the estate road being constructed within the adjacent development by Hollins Homes, at the north east corner of this site. A single point of access is proposed for the entire development.

The application proposes that around 62% of the site would be retained and enhanced as public open space, incorporating some form of walking trail with play areas positioned along the route. Landscaping and planting would be incorporated, and the existing pond would be retained. However, as this is an outline application only, full details of the specifics of the public open space provision have not been provided at this stage (they would form part of a later reserved matters planning application).

5. POLICY CONTEXT

National Planning Policy Framework

- 2 – Achieving Sustainable Development
- 4 – Decision Making
- 5 – Delivering a Sufficient Supply of Homes
- 8 – Promoting Healthy and Safe Communities
- 9 – Promoting Sustainable Transport
- 11 – Making Effective Use of Land
- 12 – Achieving Well Designed Places
- 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change
- 15 – Conserving and Enhancing the Natural Environment
- 16 – Conserving and Enhancing the Historic Environment

Development Plan Policies

Rossendale Local Plan

SS: Spatial Strategy

SD1: Presumption in Favour of Sustainable Development

SD2: Urban Boundary and Green Belt

SD3: Planning Obligations

HS1: Meeting Rossendale's Housing Requirement

HS2: Housing Site Allocations

HS3: Affordable Housing

HS4: Housing Density

HS5: Housing Standards

HS6: Open Space Requirements in New Housing Developments

HS7: Playing Pitch Requirements in New Housing Developments

HS8: Private Outdoor amenity space

ENV1: High Quality Development in the Borough

ENV2: Historic Environment

ENV3: Landscape Character and Quality

ENV4: Biodiversity, Geodiversity and Ecological Networks

ENV5: Green Infrastructure networks

ENV6: Environmental Protection

ENV9: Surface Water Run-Off, Flood Risk, Sustainable Drainage and Water Quality

ENV10: Trees and Hedgerows

LT2: Community Facilities

TR2: Footpaths, Cycleways and Bridleways

TR3: Road Schemes and Development Access

TR4: Parking

Other Material Considerations

National Planning Practice Guidance

6. CONSULTATION RESPONSES

Cadent (Gas)	No comments received
Coal Authority	No objection
Greater Manchester Ecology Unit	No objection subject to conditions
Tree Consultant	No objection
East Lancashire NHS Trust	No comments received
Environment Agency	No objection subject to conditions
Land Contamination Consultant	No objection subject to conditions
Fire Brigade	No objection
Growth Lancashire (Heritage)	No objection
LCC Archaeology	No objection
LCC Education	No objection, no request for contribution
LCC Lead Local Flood Authority	No objection subject to conditions
LCC Public Rights of Way	No objection, request contribution
LCC Highways	No objection subject to conditions
LCC Minerals and Waste	No comments received
Limey Valley Residents Association	Objection
Penny Bennett Landscape Architects	No objection subject to mitigation at RM stage
Rosendale Primary Care Network	No comments received
Police Architectural Liaison	No objection
RBC Building Control	No comments to make on the application
RBC Environmental Health	No comments to make on the application
RBC Forward Planning	No objection
RBC Strategic Housing	Support
RBC Operations	No comments to make
RBC Property Services	No comments received
United Utilities	No objection subject to conditions

7. REPRESENTATIONS

To accord with the General Development Procedure Order site notices were posted on 29/03/2023 and neighbour letters were sent out on 28/03/2023. A notice was published in the Rosendale Free Press on 31/03/2023.

110 letters of objection have been received raising the following issues in summary:

- Harm to neighbour amenity.
- Harm to ecology / biodiversity.
- Devalues the idea of an urban boundary.
- Merely an extension to existing development site.
- Impact on character of the area / landscape / urban sprawl.
- Flood risk and drainage issues.
- Knock-on impacts on other areas.
- Area should be protected from development.
- Harmful change to land levels.

- Unacceptable pressure on local infrastructure, facilities, schools and services.
- Site is outside urban boundary.
- Harm to highway safety / access / congestion.
- Conflict with local and national planning policy.
- Harm to visual amenity / character of countryside.
- Conflict with rural character of the area.
- Little benefit from the development.
- Pollution.
- Inappropriate type of development.
- Disturbance to residents.
- Other identified harm from the development.

8. ASSESSMENT

Principle

The site lies outside of the Urban Boundary and wholly within the countryside as identified by the Council's adopted Local Plan.

The proposals need to be considered initially against the provisions of the Rossendale Local Plan, which primarily directs new residential development within the defined Urban Boundary via Policy SD2.

A major residential development such as that proposed on land within the countryside is contrary to Policies SS, SD1 and SD2.

The Council can demonstrate a 5 year housing land supply, however, until delivery increases to a minimum of 75% of housing requirement, the Council is currently required to apply NPPF Para 11d to the decision making process of relevant planning applications. This is known as the 'tilted balance'.

This states:

“(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's Forward Planning team have been consulted on the application and have commented as follows:

“The results of the latest Housing Delivery Test mean that the presumption in favour of sustainable development currently applies to the determination of this residential scheme and so the tilted balance is triggered. If the local development plan policies are considered to be out-of-date according to paragraph 11 d of the NPPF, it does not mean that the local plan policies are silent or should not be afforded any weight. Indeed, Inspectors have afforded substantial weight or very significant weight to adopted plan policies in cases where the presumption in favour of sustainable development applied.

The proposal is considered to conflict with strategic policy SD2 of the Local Plan as it constitutes a residential development within an area designated as countryside. The site was brought to the Inspectors' attention by the developers during the Local Plan Examination, but was not allocated in the Plan. In addition, the proposed scheme does not comply with strategic policy ENV1 and local policy ENV4 as it does not demonstrate a measurable biodiversity net gain as a result of the development, nor does it show how it would accord with the measures set out in the Climate Change SPD.

The proposal will however make a positive contribution to the housing requirement (including affordable housing) in the Borough and is therefore in alignment with strategic policy HS1 and the affordable housing policy HS3. The provision of on-site open space and financial contributions to outdoor sport provision would be beneficial and can align with policies HS6 and HS7. Other matters of relevance in the planning balance but not discussed above are likely to include potential impact on designated heritage assets (policy ENV2), flood risk (policy ENV9) and landscape (policy ENV3) and should be adequately addressed.

If following assessment of all the relevant matters, the harm resulting from the development does not significantly outweigh its benefits, than Forward Planning has no objection in principle to the proposed development."

The remainder of this report will consider whether the proposed development is likely to result in adverse impacts which outweigh any benefits and will ultimately draw a conclusion on the overall acceptability of the proposed development. Regard shall also be had to the fact that this is an outline application, and certain detailed matters would not normally be assessed at this stage.

Visual Amenity, Countryside and Heritage Impact

Approval of matters relating to the appearance, layout, scale and landscaping of the development is not sought at this stage. However, it is nonetheless important to ascertain at this stage whether the development can be delivered (in some form) without having a significant adverse impact on the character and appearance of the site and the wider countryside.

Paragraph 130 of the Framework states that planning decisions should ensure that developments:

"Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."*

Given the site's location in countryside, matters of visual amenity and landscape character are of particular importance to the overall acceptability of residential development.

Paragraph 174 of the Framework states:

“Planning policies and decisions should contribute to and enhance the natural and local environment by... recognising the intrinsic character and beauty of the countryside...”

Policy ENV3 of the Local Plan requires development to protect and enhance the character and quality of the landscape, and detailed criteria must be satisfied in this respect as set out in the policy wording.

The Council's heritage consultant (Growth Lancashire) has raised no objection to the proposals.

The Council's Landscape / Visual Impact consultant (Penny Bennett Landscape Architects) has reviewed the outline proposals, and has commented as follows:

“There would be some landscape effects resulting from developing this site however they would be modest in scale. The area proposed for development is surrounded on three sides by existing new development, the Foothills development which is the earlier phase of this development lies immediately to the east. This development does not encroach into new areas of open country in the way that some other recent development has.

There would be some loss of the sense of openness from parts of footpath 94, new development would interrupt some long views southwards, there would be a further dilution in the characteristic upland vernacular within a limited area, and the introduction of a more suburban feel which is more homogenous, less distinctive and less rooted in the local landscape.”

“The development on this site is surrounded on three sides by existing development, and from a distance, the proposals appear to infill a small area without extending the urban boundary further into open country.”

“There has been considerable new development here and while this proposal only adds to this in a minor way, there are still cumulative visual effects which have not been addressed. It is important that the visual separation of the two communities at Loveclough and Goodshaw Fold is retained as is stated in the LVA (Landscape and Visual Impact Assessment), however the steady erosion of the countryside by new residential development in this rural upland valley is leading to a permanent change in character which is not recognised in the LVA.”

The Council's Landscape / Visual Impact consultant suggests several points of mitigation which it is considered should be incorporated into any future Reserved Matters application, if the outline application is approved.

In relation to Local Plan policy HS11, the consultant states:

“In addition Policy H11 states:

‘A Landscape Assessment is submitted with details relating to layout, design and landscaping, showing how the development would respect the landscape character of the site and the views into and from the site’

The LVA addresses some of these points but needs strengthening in order to provide a robust landscape proposal for this site. The LVA needs to fully understand the context of the site in order to fully address the mitigation and enhancement.”

As this is an outline application, details of layout, appearance and landscaping have not been provided. These would be expected as part of a detailed Reserved Matters application, and it is considered reasonable to expect that all of the points outlined in the consultant’s report which request further details, would be submitted at that stage (at which point the officers would again consult the Council’s Landscape / Visual Impact specialist).

In respect of the above, the Council’s consultant concludes that:

“Successful mitigation of landscape and visual effects can be achieved on this site providing these are addressed on the detailed proposals which have yet to be produced.”

Officers consider that the following need to be incorporated in any future Reserved Matters proposal, in line with the consultant’s recommendations:

- Incorporation of native hedgerows and green links
- Incorporation of habitat-rich public open space areas
- Incorporation of wild flower areas to the north east boundary, as a buffer between the two sites, and creation of dense scrub areas for nesting birds and scattered fruit trees in other areas
- Existing dry stone walls should be retained and restored

In conclusion, on the overall acceptability of the outline proposals, the Council’s consultant states:

“The proposed development on this site is closely associated with existing development, the proposals incorporate a new public footpath network which links into a wider area of open space where there is considerable scope for ecological enhancement, providing enhanced wetland and meadow grassland which will be appropriate in the context of the existing stepping stone habitat.

This proposal is acceptable in landscape terms subject to the landscape proposals being developed in greater detail.

The Landscape and Visual Appraisal is currently incomplete as it does not appear to give an appraisal in line with the Methodology.”

The Council’s consultant has agreed that an updated Landscape and Visual Impact Assessment (LVA) can be provided at Reserved Matters stage.

Having due regard to the intrinsic value of undeveloped countryside (as required by paragraph 174 of the Framework) and the visual and wider ranging benefits that it provides, as well as the role that it plays in characterising the local area, officers consider that the encroachment of urban development into this area of countryside would cause unavoidable harm.

However, having regard to the detailed review of the proposals which has been carried out by Penny Bennett Landscape Architects, it is considered that the level of harm that would be caused would be moderate, rather than severe. This is because the proposals will be closely related to the existing ongoing development on the adjacent land, and because the proposed development would be surrounded on three sides by existing development, rather than encroaching further out / projecting into open countryside.

Another key consideration is the mitigation of landscape and other impacts that is possible given the large proportion of the site which will be public open space – and the enhancements visually, ecologically and in relation to amenity which will be possible on the site, subject to appropriate consideration and design at Reserved Matters application stage.

Neighbour / Residential Amenity

A significant number of objections have been received from local residents, raising important points for consideration. However, it is not considered that the outline scheme now proposed would necessitate any unacceptable impact on the daylight, privacy or outlook enjoyed by the occupants of any neighbouring residential properties subject to appropriate design, scale and layout.

Scope exists for the applicant to ensure that unacceptable harm to neighbour amenity does not occur, through appropriate design of the scheme's layout, scale and landscaping at Reserved Matters stage.

The applicant's attention is drawn to the separation distances specified in the Council's Alterations and Extensions to Residential Properties SPD, which would need to be met in order for the development to be considered acceptable.

The outline scheme is considered acceptable in terms of neighbour / residential amenity, subject to conditions.

Access, Parking and Highway Safety

The Local Highway Authority has been consulted on the application, as it provides expert advice to the Council on highways-related matters.

The Local Highway Authority has raised no objection to the proposed development, and considers that the level of traffic generated from a development of this size and nature and at this location would not have a severe impact on highway safety or capacity within the immediate vicinity of the site. A condition requiring the submission of a construction management plan / method statement has been requested by the Local Highway Authority.

Subject to the above condition, on the advice of the Local Highway Authority the scheme is considered acceptable in terms of access and highway safety.

Planning Contributions and Affordable Housing

In accordance with the requirements of Policies SD3 and HS3 of the Local Plan, and the Open Space and Play Equipment Contributions SPD, the applicant has agreed to make the following contributions:

- 30% affordable housing provision on site.
- Open space and play equipment provision on site (as set out on the submitted Parameter Plan).
- £1,327 per dwelling towards the improvement of playing pitches in the local area.
- Contribution of £25,740 towards improving Public Footpath FP1404094.
- Rossendale Borough Council's fees for monitoring and recording S.106 contributions and compliance.

It is considered that the above contributions are necessary to make the development acceptable (in accordance with Policies SD3 and HS3). It is therefore considered appropriate to require the signing of a S.106 Agreement prior to planning permission being granted, in order to secure the contributions.

Separately, in relation to Policy HS5 of the Local Plan, the development would need to ensure that at least 20% of any new dwellings provided on site are specifically tailored to meet the needs of elderly or disabled residents, or are easily adaptable in line with the Optional Standards M4(2) of the Building Regulations. This can be secured by planning condition if the application is approved.

Ecology

The Council's ecology consultant has raised no objection to the outline scheme, subject to the inclusion of conditions relating to the protection of species and the enhancement of habitats on site. A condition securing details of measures to secure biodiversity net gain on the site is also recommended.

Subject to the above, the scheme is considered acceptable in terms of ecology in line with the advice received from the Council's ecology consultant.

Land Contamination and Coal Mining Risk

The Council's land contamination consultant, the Environment Agency and the Coal Authority have been consulted on the application. None of the aforementioned have any objection to the proposals, subject to the inclusion of conditions requiring extensive investigation and potentially remediation of the site prior to commencement of development.

Drainage and Flood Risk

The Lead Local Flood Authority (Lancashire County Council), the Environment Agency and United Utilities have been consulted on the proposed scheme, and have raised no objection subject to the inclusion of conditions.

Balancing Exercise

In line with paragraph 11 of the Framework, it is necessary to carry out a balancing exercise to ascertain whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the scheme when considered against the Development Plan and the policies contained within the Framework.

Such a balancing exercise is carried out in this case in the context of the Council not currently being able to demonstrate the required amount of housing delivery, and as a result policies within the adopted Core Strategy that restrict housing development being considered out-of-date in line with paragraph 11 of the Framework (i.e. a 'tilted balance').

Benefits of the Development

The development would provide up to 40 new dwellings (including affordable units) towards the borough's housing need – representing a significant benefit. The Council cannot demonstrate the required amount of housing delivery at present, and the development would assist in meeting the required housing numbers.

The proposed dwellings would be situated in a location close to a public transport route, and would be located adjacent to an on-going housing development, delivered by the same applicant (Hollins Homes) – as such, it is considered that there is a reasonable prospect of the development coming forward in the near future.

The proposed development would incorporate a substantial area of public open space, new footpaths and play equipment – which would be accessible not only for residents of the new development but also of the surrounding area. The proposals would also allow for the incorporation of a link in the proposed strategic cycleway along the valley through the site.

Having regard to all of the above, significant weight is afforded to the benefits of the proposal.

Harm Caused by the Development

The development would result in significant encroachment of built development into an undeveloped area of countryside, which will unavoidably result in harm to the essentially open and rural character of the area.

The level of harm would be moderate, and although it is considered in this case that the impact could be successfully mitigated to a degree through the inclusion of extensive mitigation measures (such as appropriate layout, habitat enhancement, open space, landscaping and incorporation of natural construction materials), moderate weight must still be afforded to this harm in the planning balance.

Other Considerations

It is not considered that the proposed scheme will have any unacceptable impacts in terms of neighbour amenity, highway safety, flood risk, pollution or ecology subject to the inclusion of conditions requested by the consultees who have provided advice on such matters (and the subsequent inclusion of appropriate further details at Reserved Matters stage). As such, the impact of the scheme in respect of these matters is considered to be neutral.

Conclusion

Having regard to the above and the requirements of paragraph 11 of the Framework it is considered that subject to appropriate and extensive mitigation (with full details submitted at Reserved Matters application stage) the moderate harm which would be caused by the development to the character of the countryside would not *significantly and demonstrably* outweigh the substantial benefits of the scheme in terms of its significant contribution towards the borough's recognised housing need, and delivery of a substantial area of enhanced public open space on the site.

9. RECOMMENDATION

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

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

- 30% affordable housing provision on site.
- £1,327 per dwelling towards the improvement of playing pitches in the local area.
- Contribution of £25,740 towards improving Public Footpath FP1404094.

- Current Rossendale Borough Council S.106 monitoring and recording fees.
- Management and maintenance of on-site landscaping, public open space and communal areas.
- Any other reasonable and necessary contributions required.

(2) To carry out drafting amendments and alterations to any planning condition or S.106 Agreement, and to insert any other required planning conditions.

(3) To have to discretion to refuse planning permission if the Section 106 Agreement is not completed within a reasonable timescale.

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

10. SUMMARY REASON FOR APPROVAL

Although the scheme would result in moderate harm to the open and rural character of the countryside in this location, it would provide a substantial benefit in terms of a contribution towards recognised housing need in a relatively sustainable location. The scheme would also deliver a substantial area of enhanced public open space. Subject to appropriate mitigation it is considered that the development would not unacceptably detract from visual amenity and neighbour amenity or highway safety. It is considered that the development is in accordance with the National Planning Policy Framework and the Council's adopted Local Plan.

11. CONDITIONS

1. An application for approval of the reserved matters (namely the layout, scale, appearance and landscaping of the development) must be made to the Council before the expiration of three years from the date of this permission and 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 forty 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 19th November 2018.
- Site Location Plan (drawing number 000 rev C) received on 22nd March 2023.
- Site Access General Arrangement (drawing number SK22079-002) received on 15th June 2023.

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

3. Either prior to the commencement of the development or as part of the final reserved matters application, full details shall be provided to demonstrate how at least 20% of any new dwellings provided on site shall be specifically tailored to meet the needs of elderly or disabled residents, or shall be easily adaptable in line with the Optional Standards M4(2) of the Building Regulations.

The development shall thereafter be implemented in accordance with the approved details.

Reason: To ensure that provision is made on site for dwellings to meet the needs of elderly or disabled residents.

4. Either prior to the commencement of the development or as part of the final reserved matters application full details of the alignment, height and appearance of all fences and walls and gates to be erected 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 dry stone walling and native hedgerow planting shall be used around the perimeter of the site where boundary treatments are to be used.

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: The required details are not provided as part of this outline application and are required at an early stage in order to ensure a visually satisfactory form of development and to provide reasonable standards of privacy to residents.

5. Either prior to the commencement of the development or as part of the final reserved matters application 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: The application is in outline only and is not accompanied by detailed plans, and 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.

6. The new dwellings shall be predominantly 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.

7. 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 or Bank / Public Holidays.

Reason: In the interests of neighbour amenity.

8. No development shall take place, including any works of demolition or site clearance, until a Construction Management Plan (CMP) or Construction Method Statement (CMS) has been submitted to, and approved in writing by the local planning authority. The approved plan / statement shall provide:

- 24 Hour emergency contact number.
- Details of the parking of vehicles of site operatives and visitors.
- Details of loading and unloading of plant and materials.
- Measures to protect vulnerable road users (pedestrians and cyclists).
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- Wheel washing facilities.
- Measures to deal with dirt, debris, mud or loose material deposited on the highway as a result of construction.
- Measures to control the emission of dust and dirt during construction.
- Details of a scheme for recycling/disposing of waste resulting from demolition and construction works.
- Delivery hours.

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

Reason: In the interests of the safe operation of the adopted highway during the demolition and construction phases.

9. As part of the first reserved matters application, full details of the proposed public open space, recreational and play facilities to form part of the development shall be submitted to the Local Planning Authority for its approval. The submitted details shall demonstrate how the existing pond on site will be retained an enhanced, and how improvements to links to the wider public rights of way network will be incorporated.

The development shall thereafter be implemented in accordance with the approved details.

Reason: To ensure that the development delivers an adequate amount of benefits to public open space provision.

10. As part of the final reserved matters application, the report of an updated survey for badger setts on the site and within 30m of the site boundary shall be submitted to the Local Planning Authority for its approval.

The report shall also contain a mitigation and enhancement strategy, which shall include:

- Dates for updated surveys and monitoring of badgers that may be present;
- Reasonable avoidance measures
- Measures to protect and mitigate if required for any setts that may be present within the zone of influence of the development during construction;
- Measure to protect badgers from accidental harm during construction;
- Measures to protect any setts present within the zone of influence of the development from disturbance post development and;

- Measures to mitigate for loss of any foraging habitat

The development shall be implemented in strict accordance with the approved details.

Reason: To avoid harm to badgers.

11. If the felling of the ash tree (T1) as identified in Section 10 (Figure 2) of the submitted Ecological Survey and Assessment (by ERAP ref: 2022-131) is required, it shall be carried out in accordance with the measures outline in Sections 5.3.9 and 5.3.10 of the same report.

Reason: To avoid harm to bats.

12. No works to trees or shrubs shall occur, nor shall any earthworks commence, between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to works beginning, and written confirmation provided that no active bird nests are present which has been agreed in writing by the Local Planning Authority.

Reason: To avoid harm to nesting birds.

13. For the duration of development works on site, the Reasonable Avoidance Measures in respect of amphibian species and other wildlife specified in Section 5.3.14 of the submitted Ecological Survey and Assessment Report (ERAP Ltd ref: 2022-131) shall be carried out.

Reason: To avoid harm to biodiversity.

14. As part of the final reserved matters application, a Construction Environmental Management Plan (CEMP) shall be submitted to the Local Planning Authority for its approval. The CEMP shall address the risk of pollution and negative impacts to the ecological potential of the watercourse known as Limey Water. The development shall be carried out in strict accordance with the approved details.

Reason: To protect Limey Water from pollution and other negative impacts.

15. As part of the final reserved matters application, details of specific measures to enhance the value of the site for nesting birds and bats shall be submitted to the Local Planning Authority for its approval. The development shall thereafter be implemented in accordance with the approved details, and the approved enhancement measures shall be implemented in full prior to substantial completion of the development.

Reason: To enhance the value of the site for bats and nesting birds.

16. As part of the final reserved matters application, a biodiversity metric and biodiversity net gain report demonstrating a measurable net biodiversity gain on site shall be provided to the Local Planning Authority for its approval.

The net gain report will include:

- Aims and objectives of the plan;
- A baseline habitat and condition assessment;
- A post development habitat and condition proposal;
- Management Proposals for each habitat to be created and enhanced;
- Potential management constraints;
- A 30 year management and monitoring schedule;
- Milestones and Risk Assessment and;
- Details of the organisation(s) responsible for implementation, management and monitoring.

The development shall thereafter be implemented in accordance with the approved details and the biodiversity net gain measures shall be managed and maintained in accordance with the approved details for the lifetime of the development.

Reason: To secure a net gain in biodiversity on site as part of the development.

17. Notwithstanding any information submitted with the application, no development shall take place 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) An updated Preliminary Risk Assessment report (phase 1), including a conceptual model and a site walk over survey;
- ii) 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 all receptors that may be affected, including those off-site. Particular focus should be made on risks to human health, watercourses, groundwater and the wider environment; and
- iii) Should unacceptable risks be identified the applicant shall also submit and agree with the Local Planning Authority in writing a contaminated land remediation strategy (including verification plan) prior to commencement of development. The verification plan shall include any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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 mitigate hazards associated with land contamination and to ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework.

18. Prior to any part of the development being occupied, a verification report demonstrating the completion of works set out in the approved remediation strategy (for that part of the development) and the effectiveness of that remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of any extra sampling and monitoring carried out where required by the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To mitigate hazards associated with land contamination and to ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework.

19. 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 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.

Reason: To mitigate hazards associated with land contamination.

20. No development shall commence in any phase until a detailed, final surface water sustainable drainage strategy for the site has been submitted to, and approved in writing by, the Local Planning Authority.

The detailed surface water sustainable drainage strategy shall be based upon the site-specific flood risk assessment and indicative surface water sustainable drainage strategy submitted (HYD785_BURNLEY.ROAD.02_FRA&DMS, Rev 1.0, 12th January 2023, Betts Hydro) and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly. Surface water discharged from the development shall not exceed 9.8 l/s, unless otherwise agreed with the Lead Local Flood Authority and the Local Planning Authority.

The details of the drainage strategy to be submitted for approval shall include, as a minimum;

- a) Sustainable drainage calculations for peak flow control and volume control for the:
 - i. 100% (1 in 1-year) annual exceedance probability event;
 - ii. 3.3% (1 in 30-year) annual exceedance probability event + 40% climate change allowance, with an allowance for urban creep;
 - iii. 1% (1 in 100-year) annual exceedance probability event + 45% climate change allowance, with an allowance for urban creep;

- b) Final sustainable drainage plans appropriately labelled to include, as a minimum:
 - i. Site plan showing all permeable and impermeable areas that contribute to the drainage network either directly or indirectly, including surface water flows from outside the curtilage as necessary;
 - ii. Sustainable drainage system layout showing all pipe and structure references, dimensions and design levels;
 - iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
 - iv. Drainage plan showing flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
 - v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building and connecting cover levels to confirm minimum 150 mm+ difference for FFL;
 - vi. Details of proposals to collect and mitigate surface water runoff from the development boundary;

vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;

c) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates and groundwater levels in accordance with BRE 365.

d) Evidence of an assessment of the existing culverted watercourse to be used, to confirm that this system is in sufficient condition and has sufficient capacity to accept surface water runoff generated from the development.

e) Evidence that a free-flowing outfall can be achieved. If this is not possible, evidence of a surcharged outfall applied to the sustainable drainage calculations will be required.

The sustainable drainage strategy shall be implemented in accordance with the approved details.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 167 and 169 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems and Policy ENV9 of the adopted Rossendale Local Plan.

21. No development shall commence until a Construction Surface Water Management Plan, detailing how surface water and storm water will be managed on the site during construction, including demolition and site clearance operations, has been submitted to and approved in writing by the Local Planning Authority.

The details of the plan to be submitted for approval shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include for each phase, as a minimum:

a) Measures taken to ensure surface water flows are retained on-site during the construction phase(s), including temporary drainage systems, and, if surface water flows are to be discharged, they are done so at a restricted rate that must not exceed the equivalent greenfield runoff rate from the site.

b) Measures taken to prevent siltation and pollutants from the site entering any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

The plan shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water during each construction phase(s) so it does not pose an undue surface water flood risk on-site or elsewhere during any construction phase in accordance with Paragraph 167 of the National Planning Policy Framework.

22. The occupation of the development shall not be permitted until a site-specific Operation and Maintenance Manual for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority.

The details of the manual to be submitted for approval shall include, as a minimum:

- a) A timetable for its implementation;
- b) Details of the maintenance, operational and access requirement for all SuDS components and connecting drainage structures, including all watercourses and their ownership;
- c) Pro-forma to allow the recording of each inspection and maintenance activity, as well as allowing any faults to be recorded and actions taken to rectify issues;
- d) The arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme in perpetuity;
- e) Details of financial management including arrangements for the replacement of major components at the end of the manufacturer's recommended design life;
- f) Details of whom to contact if pollution is seen in the system or if it is not working correctly; and
- g) Means of access for maintenance and easements.

Thereafter the drainage system shall be retained, managed, and maintained in accordance with the approved details.

Reason: To ensure that surface water flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property, and ecological systems, and to ensure that the sustainable drainage system is subsequently maintained pursuant to the requirements of Paragraph 169 of the National Planning Policy Framework.

23. The occupation of the development shall not take place until a site-specific verification report, pertaining to the surface water sustainable drainage system, and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority. The verification report must, as a minimum, demonstrate that the surface water sustainable drainage system has been constructed in accordance with the approved drawing(s) (or detail any minor variations) and is fit for purpose. The report shall contain information and evidence, including photographs, of details and locations (including national grid references) of critical drainage infrastructure (including inlets, outlets, and control structures) and full as-built drawings. The scheme shall thereafter be maintained in perpetuity.

Reason: To ensure that surface water flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property, and ecological systems, and to ensure that the development as constructed is compliant with the requirements of Paragraphs 167 and 169 of the National Planning Policy Framework.

24. As part of the reserved matters application in respect of layout, the application shall include full details of how a pedestrian link to footpath FP1404094 to the north of the application site will be incorporated into the scheme, and also how a suitably surfaced 3 metre wide path will be incorporated into the area of public open space to facilitate future connectivity of a strategic cycleway link.

The development shall thereafter be implemented in accordance with the approved details.

Reason: To promote sustainable modes of transport and enhance connectivity with the Public Rights of Way network.

25. As part of the final reserved matters application, full details shall be submitted for the Local Planning Authority's approval in respect of an educational information board which shall be provided within the on-site area of public open space. The board shall contain information regarding the historic Goldshaw Hill Colliery tramway, along with other information about historic uses of the site and nearby areas. The information contained on the board shall be compiled by a suitably qualified person / organisation.

The board shall thereafter be implemented on site in accordance with the approved details prior to substantial completion of the development.

Reason: To provide an educational feature relating to the history of the site, and to enhance the proposed area of public open space.

26. The proposals submitted at Reserved Matters stage shall incorporate an area of multi-functional open space in accordance with that shown on the submitted Parameter Plan (2085-URB-00-XX-SK-UD-020).

Reason: To ensure that the benefits associated with the proposed area of public open space are delivered as part of the final development.

12. INFORMATIVES

1. 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 in the first instance to ascertain the details of such an agreement and the information to be provided.
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 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 applicant's attention is drawn to the advice contained in comments received on the application from the Environment Agency, and from the LPA's land contamination consultant. The advice has implications for the submission of a reserved matters application.
4. The applicant's attention is drawn to the advice contained in comments received on the application from the Lead Local Flood Authority (LCC). The advice has implications for the submission of a reserved matters application.

Annex 2

Review of Development at Loveclough Phase 2 by Hollins Homes

Introduction

Penny Bennett Landscape Architects have been asked to review proposals for a housing development at Loveclough on behalf of Rossendale Borough Council.

The following documents produced by the applicant have been referred to for this review:

- Phase 2 Concept Plan
- Landscape and Visual appraisal
- Ecological Survey and Assessment
- Arboricultural Survey

This is a modest housing development, proposing to build 40 homes on land at Loveclough, south of Commercial Street and west of Burnley Road on 3.32 hectares of land. Covered by Policy H11 of the Local Plan. It would be contiguous with a new approved development 'The Foothills' which is partly built by the same developer, and access would be from Burnley Road via that new development.

The proposals show low density housing to the northern part of the site forming two outward facing blocks, with the southernmost properties focusing on an existing pond which would be retained and a new area of open space created to the south of the proposed housing development.

Context

This Site lies in the upper part of the valley of the Limy Water at an elevation of around 250 m. Ribbon development has followed the Limy Water and the A682 northwards from Rawtenstall, modern development coalescing with older communities such as Goodshaw Fold, Crawshawbooth and Lovelclough. During the mid 20th Century development focused to the east of the main road the eastern side of the valley, but recently more housing has been built to the west of the road, on lower ground immediately above the Limy Water.

The proposed development area sits within the western part of the South Pennines Park, which is a collaboration led by the South Pennines Park organisation: www.southpenninespark.org.uk, between public, private and third sector organisations. Although this is a non-statutory designation it should be considered in relation the assessment of landscape value. The area of the South Pennines Park coincides closely with the South Pennines National Character Area (NCA).

The historic importance of the pre- industrial and early industrial settlements is recognised by the two Conservation areas either side of the site, Loveclough Fold 180 m to the north and Goodshaw Fold 160 m to the south, both areas representing the intimate scale and vernacular architectural style of early industrial development typical of the upper valleys of Rossendale. A number of listed buildings are associated with these Conservation Areas but none of their settings would be affected by these proposals.

The site lies within the Settled Valley Landscape Character Type (LCT), and the Enclosed Uplands LCT lies immediately to the west and on higher land to the east, emphasising the upland feel of this site and the sense of openness experienced in this part of the valley.

The lower sections of Settled Valleys LCT are epitomised by narrow steep sided valleys with a ribbon of dense development along the valley bottom characterised by gritstone terraces and textile mills with distinctive chimneys, by Loveclough the valley has become shallower and the surrounding countryside more open and sparsely populated, this is a transitional zone between the densely

developed lower valley and the open countryside of the uplands. The Enclosed Upland landscape dominates the horizons to the east and west, creating a distinctive setting for the Settled Valleys communities.

The sense of openness and the long views towards the Enclosed Uplands are a strong characteristic of this part of the upper valley.

In recent years new housebuilding has extended northwards and westwards across the valley, encroaching on the Conservation Areas and diluting the strong sense of place and introducing suburban characteristics. The new pattern of closes and avenues often does not relate to the landscape in the same way as earlier terraced settlement.

Description of Proposals

The proposed development would occupy the northern part of the site, with the remaining area being managed as public open space, this would create an important buffer between the two Conservation Areas, allowing them to retain their distinctive character and separateness.

An existing public footpath 94 runs outside down the northern and western side of the site, which drops down to the valley of the Limy Water, and links to Goodshaw Fold, giving views into the site along its northern edge. The footpath would link into a new footpath network at the northern end of the site, which would loop round linking back into the local path network at the southeastern edge of the site, and to the adjacent development at the Foothills.

Existing blocks of young semi mature native woodland run along the steeply sloping western side of the site, the woodland and steep topography screen footpath 94 largely from the site.

The southern boundary of the site is bounded by a post and wire fence, but relict hawthorn here suggests this was once a boundary hedge. The remains of a drystone wall are visible along parts of the southeast and east boundaries.

Landscape Effects

There would be some landscape effects resulting from developing this site however they would be modest in scale. The area proposed for development is surrounded on three sides by existing new development, the Foothills development which is the earlier phase of this development lies immediately to the east. This development does not encroach into new areas of open country in the way that some other recent development has.



Image 1 View southeast from footpath 94

There would be some loss of the sense of openness from parts of footpath 94, new development would interrupt some long views southwards, there would be a further dilution in the characteristic upland vernacular within a limited area, and the introduction of a more suburban feel which is more homogenous, less distinctive and less rooted in the local landscape.

The existing pond is recognised as a Priority Habitat in the Ecological survey, and will be retained and would become a focal point for the new properties. There is an opportunity to reinforce the existing wetland habitats, to enhance the biodiversity and the visual amenity in the vicinity of the pond. Care needs to be taken not to suburbanise this upland pond, by fencing it off to make it 'safe' and very careful design will be required to make this feature fit its new location without losing its wildness. An area of damp rushy grassland runs westwards from the pond towards the Limy Water, indicating that this is the drainage pattern for water across this field. On the concept drawing, this marshy ground coincides with proposed pedestrian paving and new private accesses for homes. The management of overflow water from the pond needs to be carefully considered at the detail stage, there is an opportunity for enhancing the site's biodiversity by capitalising on the different types of grassland which might be found in this location.

Neither the proposals nor the LVA suggest that the existing drystone walls might be retained and repaired, to give important continuity with the historic landscape pattern. Policy ENV3: Landscape Character and Quality states:

'The distinctive landscape character of Rossendale, including large scale sweeping moorlands, pastures enclosed by dry stone walls, and stonebuilt settlements contained in narrow valleys, will be protected and enhanced.'

and

'Retain and restore dry stone walls, vaccary stone flag walls and other boundary treatments which are particularly characteristic of Rossendale'

Tree planting is proposed within the site and along the boundaries, and these should tie in with the existing green infrastructure: existing woodland and new planting, in accordance with the recommendations of the Ecological Survey and Assessment, to improve connectivity for wildlife within the immediate locality.

The area identified as open space on the proposals coincides with an important stepping stone for grassland communities, and opportunities should be taken to improve and enhance this areas biodiversity by introducing new flora and appropriate management techniques in accordance with Policy ENV4 Biodiversity, Geodiversity and Ecological Networks.

New development introduces new light pollution, and the diminution of dark skies where stars can easily be seen, design proposals should avoid introducing any new sources of light into previously dark areas such as the proposed public open space.

Visual effects

The development on this site is surrounded on three sides by existing development, and from a distance, the proposals appear to infill a small area without extending the urban boundary further into open country.

The LVA mentions in the Methodology that a plan showing the Zone of Theoretical Visibility has been produced for this site, however this doesn't seem to be present in that report.

The visual analysis in the LVA is incomplete: amongst other things, receptors are not described and there is no assessment of each viewpoint in terms of the positive or adverse effects of the proposals nor the degree of those effects despite this process being described in the Methodology.

The description of the visual baseline in the LVA identifies three points from where the site will be visible. From the network of footpaths to the west it states:

Proposals will not introduce an uncommon feature into the view although there will be an understanding that it has extended built form south of the existing development edge'.

There has been considerable new development here and while this proposal only adds to this in a minor way, there are still cumulative visual effects which have not been addressed. It is important that the visual separation of the two communities at Loveclough and Goodshaw Fold is retained as is stated in the LVA, however the steady erosion of the countryside by new residential development in this rural upland valley is leading to a permanent change in character which is not recognised in the LVA.



Image 2 taken from near Fair View Farm, with the development site on the far left of the image, the phase 1 development is in the early stages of construction in this image.

The image above was taken about 18 months ago (Feb 2022) and demonstrates how fast development is changing the upper valley, the areas to the far left of the image is still largely open country. The mid 20th C development to the east of the A682 is prominent and lacks a strong landscape framework. A strong landscape framework on this site, building on the proposed open space, but introducing significant tree planting within the housing layout too, will reduce the visual impact of the proposals from the west and east.

The LVA considers the visual impact from within the phase 1 housing to the east of the site (The Foothills) as *typical of a resident on the settlement edge* but does not address views from Burnley Road. Views from Burnley Road are recognised as important to the local community, because at this point an uninterrupted panorama opens westwards to Goodshaw Hill, a typical area of Enclosed Uplands to the west, and this sets the Loveclough hamlet in its context in the wider South Pennine Landscape.



Image 3 Looking northwest from the point where footpath 94 reaches Burnley Road. The site is visible in the middle distance, some new housing would be visible from this point.

A strong landscape framework would enable much of the built form of the development to be screened from view from this vantage point.

Footpath 94 runs around the north and west edges of the site, dropping below the level of the site part way along the western boundary where any proposals would be hidden by existing vegetation and the topography. The LVA notes that since the path is passing along the rear of existing properties on Loveclough Park that the effects of passing alongside new residential will be '*not unexpected*' but gives no other evaluation. At this point walkers on the path would have views southwards down the Limy Valley and new development shown on the west of the site would interrupt these views. The LVA goes on to state how the newly created footpath will provide a new route and the result would leave to a low level of change which would be positive. I agree that the introduction of the new path would be positive, however the effects on the existing footpath 94 would be adverse due to the loss of views.

Cumulative effects

The LVA has not addressed the cumulative effects of this development, stating:

There will be some loss of rurality, but this will be negligible considering the development which has come before it.

and

'From the higher ground to the west, views will be slightly altered by the introduction of the Proposals, however the change will not be perceived as significant due to the expansive nature of the

views, the development currently being constructed, the existing settlement, roads, rural elements and watercourses.'

The cumulative effects of this development are considered to be small but it is important that they are noted.

Mitigation and Enhancement

Successful mitigation of landscape and visual effects can be achieved on this Site providing these are addressed on the detailed proposals which have yet to be produced.

The ecological survey and appraisal gives good guidance in respect of the gains that can be achieved in respect of biodiversity, however the landscape and visual appraisal lacks detail at this stage and a number of issues should be addressed on any detailed landscape proposals.

The LVA does not describe the context of the site adequately describing it in para 3.14 as lying 'in close proximity to existing development' and stating in para 21 that built form is constantly around the site, but not describing the open character nor scattered settlement typical of the upper valley, or that Loveclough is bounded on three sides by open country. The LVA states in para 3.18 that

'New development has redefined this edge of the settlement as a residential area with Burnley Road, the watercourse and the landscape between Loveclough and Goodshaw Fold containing it.'

This is troubling as it implies that the whole area between Loveclough and Goodshaw Fold is potential residential development, which is at odds with the definition of H11 shown on the Local Plan.

In addition Policy H11 states:

'A Landscape Assessment is submitted with details relating to layout, design and landscaping, showing how the development would respect the landscape character of the site and the views into and from the site;'

The LVA addresses some of these points but needs strengthening in order to provide a robust landscape proposal for this site. The LVA needs to fully understand the context of the site in order to fully address the mitigation and enhancement.

- In para 6.7 there is mention of hedgerows and green links but does not describe where these would be;
- In para 6.15 habitat rich POS is described, but there is no description of what form this might take, for instance using the Ecological Survey and Assessment to identify areas of wet and neutral pasture that could be improved, the enhancement of the grassland stepping stone habitat is item 6 of Policy H11;
- The Ecological Survey and Assessment also notes that there's scope for wild flower areas to the north east boundary, as a buffer between the two sites, and scope for dense scrub for nesting birds and scattered fruit trees in other areas.

In para 6.16 Policy appraisal, it notes:

- Drystone walls should be retained and restored as policy ENV3 but does not note that there is scope for restoring dry stonewalls at the southern end of the site;

Conclusions

The proposed development on this site is closely associated with existing development, the proposals incorporate a new public footpath network which links into a wider area of open space where there is considerable scope for ecological enhancement, providing enhanced wetland and meadow grassland which will be appropriate in the context of the existing stepping stone habitat.

This proposal is acceptable in landscape terms subject to the landscape proposals being developed in greater detail.

The Landscape and Visual Appraisal is currently incomplete as it does not appear to give an appraisal in line with the Methodology.

Annex 3

SCHEDULE OF ACTIONS MATTER 8 (Action 8.1)

APPROACH TO SITE ALLOCATIONS AND GREEN BELT RELEASE

8.1	Produce a list of omission sites which were suggested during the Regulation 19 consultation stage and undertake a short technical assessment and SA (particularly for non-Green Belt sites)
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Contents

1	Introduction	1
2	List of omission sites suggested at the Regulation 19 consultation stage.....	1
3	Technical Assessment	4
4	Conclusion.....	6
	Appendix A – Maps of the omission sites	7
	Appendix B – New assessments using the Strategic Housing Land Availability Assessment methodology (2018).....	37
	Appendix C – New Heritage Impact Assessments for omitted sites.....	52

1 Introduction

1.1 This note has been produced by Rossendale Borough Council to provide further information about omission sites. 'Omission sites' are considered to be sites submitted at the Regulation 19 consultation stage of the Local Plan but not proposed to be allocated, or proposed to be allocated for a different use than the one proposed by the promoter of the site.

2 List of omission sites suggested at the Regulation 19 consultation stage

2.1 The list of omitted sites is presented in Table 1. The last column in the table provides the reference numbers of assessments contained in Evidence

Base studies such as the Strategic Housing Land Availability Assessment (SHLAA), Employment Land Review (ELR) and Green Belt Review.

Table 1: List of omitted sites suggested at Regulation 19

Site Name	Land Use Proposed by the Landowner / Promoter	Local Plan Allocation	Regulation 19 Consultation Reference [SD10]	Site Gross Area (Ha)	Map (Appendix A)	Other References
Riverside Business Park extension, Townsend Fold, Rawtenstall Other names: Townsend Fold (SHLAA) Site behind K Steels (ELR)	Employment	No	Reference 5192. Appendix 5.	1.94	Map 1	SHLAA16253; ELR: EMP71; Green Belt Parcel 19
Haslam Farm, Rawtenstall	Housing	No	Reference 5160. Appendix 4	4.54	Map 2	SHLAA16248; SHLAA16249; ELR: H23; Green Belt Parcels 21 and 25
Land at Union Road, Rawtenstall Other names: Kirkhill Rise (C) Land behind former Hospital site (SHLAA)	Housing	No	Reference 5188	1.77	Map 3	SHLAA16318; Green Belt Parcel 14
Land opposite 1019 Burnley Road, Loveclough	Housing	No	Reference 18. Appendix 1	0.81	Map 4	SHLAA16215
Land east of Goodshaw Lane, Crawshawbooth	Not stated	No	Reference 75. Appendix 1	1.86	Map 5	SHLAA16196
Land at Hollin Lane, Rawtenstall Other names: Land south of Hollin Lane, Rawtenstall (SHLAA)	Housing	No	Reference 94. Appendix 3	1.27	Map 6	SHLAA16184
Land at the rear of 198 Haslingden Road, Rawtenstall Other names: Land between Haslingden Road and A682 (SHLAA)	Housing	No	Reference 105. Appendix 3	0.92	Map 7	Part of SHLAA20433; Green Belt Parcel 17
Land east of Lower Clowes Road, Rawtenstall	Housing	No	Reference 5156	0.19	Map 8	Part of SHLAA16243
Land at Kirkhill Avenue & Moorland Rise, Haslingden Other name: Land at Moorland Rise (SHLAA)	Housing	No	Reference 5160. Appendix 4	5.38	Map 9	SHLAA16395; Green Belt Parcel 13
Land off Lindon Park Road Other name: Clod Lane South, Haslingden (SHLAA)	Housing	No	Reference 79. Appendix 1	8.02	Map 10	SHLAA16283; Green Belt Parcel 23
Land at Rising Bridge, Haslingden Other name: Land south of 51 Rising Bridge Road, Rising Bridge (SHLAA)	Housing	No	Reference 112. Appendix 3	0.57	Map 11	SHLAA16343; Green Belt Parcel 07

Site Name	Land Use Proposed by the Landowner / Promoter	Local Plan Allocation	Regulation 19 Consultation Reference [SD10]	Site Gross Area (Ha)	Map (Appendix A)	Other References
Land at Hud Hey, Haslingden Other name: Large site at Hud Hey (Allocation)	Mixed-Use or Housing	Yes (Existing Employment Site – EE12)	Reference 5174	7.74	Map 12	SHLAA16339; SHLAA18430; ELR: EMP09
Toll Bar Business Park, Stacksteads	Housing	Yes (Existing Employment Site – EE30)	Reference 5192. Appendix 5	0.76	Map 13	SHLAA16093; ELR: EMP31
Land by St Peter's School, Newchurch Other name: Heightside House, north of St Peter's School	Housing	No	Reference 5037. Appendix 4	1.13	Map 14	SHLAA16155
Forest Mill, Water	Housing	Yes (Existing Employment Site – EE41)	Reference 5194. Appendix 5	0.61	Map 15	SHLAA18424; ELR: EMP20
Isle of Man Garage & Mill, Water	Housing	Yes (Mixed-Use – M3)	Reference 5192	1.09	Map 16	SHLAA16397; ELR: EMP21
Western part of Hugh Business Park, Stacksteads	Housing	Yes (Existing Employment – EE44)	Reference 5322	0.41	Map 17	Part of SHLAA16115; ELR: EMP53
Waterfoot Mills, Waterfoot	Mixed-Use for whole site or Employment for northern part & Housing for southern part	Yes, partly (Existing Employment – EE42)	Reference 5192. Appendix 5	3.61	Map 18	SHLAA16139; SHLAA16385; SHLAA16387; ELR: EMP24
Former Regal Cinema, Burnley Road, Bacup	Retail	No	Reference 5192. Appendix 5	0.06	Map 19	ELR: EMP91
Wavell House, Holcombe Road, Helmshore	Housing	Yes (Existing Employment – EE20)	Reference 5193. Appendix 5	0.47	Map 20	ELR: Part of EMP22; SHLAA (new assessment: SHLAA19440)
Land south of Edinburgh Road, Helmshore Other name: Land at Former Cam Mill, Helmshore	Housing	No	Reference 5196.	0.42	Map 21	Part of SHLAA16300
Land at Lanxess Urethanes UK Ltd, Rising Bridge	Employment	No	Reference 54	0.13	Map 22	SHLAA16348; Green Belt Parcel 05
Land at Burnley Road, Edenfield	Housing	No	Reference 5160. Appendix 4	1.07	Map 23	SHLAA16258; ELR: EMP75; Green Belt Parcel 38;
Land at Elm Street, Edenfield	Not stated.	No	Reference 5139. Appendix 4	0.58	Map 24	SHLAA16268; ELR: EMP74; Green Belt Parcel 47

Site Name	Land Use Proposed by the Landowner / Promoter	Local Plan Allocation	Regulation 19 Consultation Reference [SD10]	Site Gross Area (Ha)	Map (Appendix A)	Other References
Stubbins Vale Mill, Stubbins	Housing	Yes (Existing Employment – EE37)	Reference 65. Appendix 1	3.09	Map 25	ELR: EMP41; SHLAA (new assessment: SHLAA19432)
Acre Meadow, Edenfield	Housing	No	Reference 5146. Appendix 4	1.63	Map 26	SHLAA16269; ELR: EMP80; Green Belt Parcel 49
Huttock Top, Bacup	Housing	No	Reference 5143. Appendix 4	1.08	Map 27	SHLAA18076;
Land to rear of the former Glory Public House, Burnley Road, Loveclough	Housing	No	Reference 41. Appendix 1	2.21	Map 28	SHLAA16382
Land south of Grane Road, Helmshore	Housing	No	Reference 107.	6.27	Map 29	SHLAA (new assessment: SHLAA20441)
Land south of Grane Road and west of Holcombe Road	Housing	No	Reference 109.	8.94	Map 30	SHLAA18305

2.2 Another site listed below was put forward during the Local Plan Examination via a Hearing Statement [EL2.060d].

Table 2: Omitted sites suggested via Hearing Statement

Site Name	Land Use Proposed by the Landowner / Promoter	Local Plan Allocation	Regulation 19 Consultation Reference [SD10]	Site Gross Area (Ha)	Map (Appendix A)	Other References
Land south of Loveclough Park and Penny Lodge Lane, Loveclough Other name: Extension to H13, Loveclough	Housing	No	N/A	1.7	Map 31	SHLAA (new assessment SHLAA19439)

2.3 It is to be noted that the promoters of the proposed housing allocation H60 - Johnny Barn Farm and land to the east, Cloughfold, proposed a larger site within their regulation 19 comment (consultation reference 5037). The Council decided to reduce the site boundary of the allocation considering the conclusion from the Heritage Impact Assessment [EB034] and potential landscape impact (Map 32).

3 Technical Assessment

3.1 Most of the omitted sites shown above were subject to technical assessment during the Local Plan process, as they had also been submitted prior to the Regulation 19 stage or had already been identified as a potential site. The

SHLAA assessment of those sites can be viewed in Appendix E of the SHLAA 2018 [EB004] at https://www.rossendale.gov.uk/downloads/download/10816/strategic_housing_and_availability_assessment_-_stages_1_and_2_and_site_assessment_2017.

However, four sites proposed at Regulation 19 for residential use had not been assessed in the Strategic Housing Land Availability Assessment (SHLAA) as they had not previously been identified as potential housing sites; these are:

- Wavell House, Holcombe Road, Helmshore
- Stubbins Vale Mill, Stubbins
- Land south of Loveclough Park and Penny Lodge Lane, Loveclough
- Land south of Grane Road, Helmshore

A SHLAA assessment for these sites has been undertaken and is available to view in Appendix B.

3.2 Also, certain sites had already been assessed for potential heritage impacts and the assessments can be viewed in the Heritage Impact Assessment of Housing and Employment Sites 2018 [EB034] at https://www.rossendale.gov.uk/downloads/download/11112/heritage_assessment_2018. New Heritage Impact Assessments have been undertaken for the following omitted sites:

- Riverside Business Park extension, Townsend Fold, Rawtenstall
- Haslam Farm, Rawtenstall (the southern parcel)
- Land opposite 1019, Burnley Road, Rawtenstall
- Land at the rear of 198 Haslingden Road, Rawtenstall
- Land east of Lower Clowes Road, Rawtenstall
- Land at Kirkhill Avenue & Moorland Rise, Haslingden
- Land at Rising Bridge, Haslingden
- Land at Hud Hey, Haslingden
- Toll Bar Business Park, Stacksteads
- Western part of Hugh Business Park, Stacksteads
- Wavell House, Holcombe Road, Helmshore
- Land south of Edinburgh Road, Helmshore
- Land at Burnley Road, Edenfield
- Land at Elm Street, Edenfield
- Stubbins Vale Mill, Stubbins
- Land south of Loveclough Park and Penny Lodge Lane, Loveclough

The new Heritage Impact Assessments can be found in Appendix C.

3.3 Some of the omitted sites have previously been assessed in the Sustainability Appraisal (SA) as they were considered reasonable alternatives for development. The results of these assessments can be found in the SA of the Local Plan 2017 [SD037] at

https://www.rossendale.gov.uk/downloads/file/13688/sustainability_appraisal_of_the_local_plan_2017.

In order to complete Action 8.1, the omitted sites not assessed previously in the SA, will be assessed in the SA Addendum 2020; these are:

- Riverside Business Park Extension (for employment use)
- Land at the rear of 198 Haslingden Road, Rawtenstall
- Land by St Peter's School, Newchurch (other name: Heightside House)
- Forest Mill, Water
- Western part of Hugh Business Park, Stacksteads
- Former Regal Cinema, Bacup
- Wavell House, Helmshore
- Stubbins Vale Mill
- Land south of Loveclough Park and Penny Lane Lodge (Extension to H13), Loveclough
- Huttock Top, Bacup
- Land to rear of former Glory Public House, Loveclough
- Land south of Grane Road, Helmshore

These assessments will be shown in the SA Addendum 2020 to be published later on under Action 1.3.

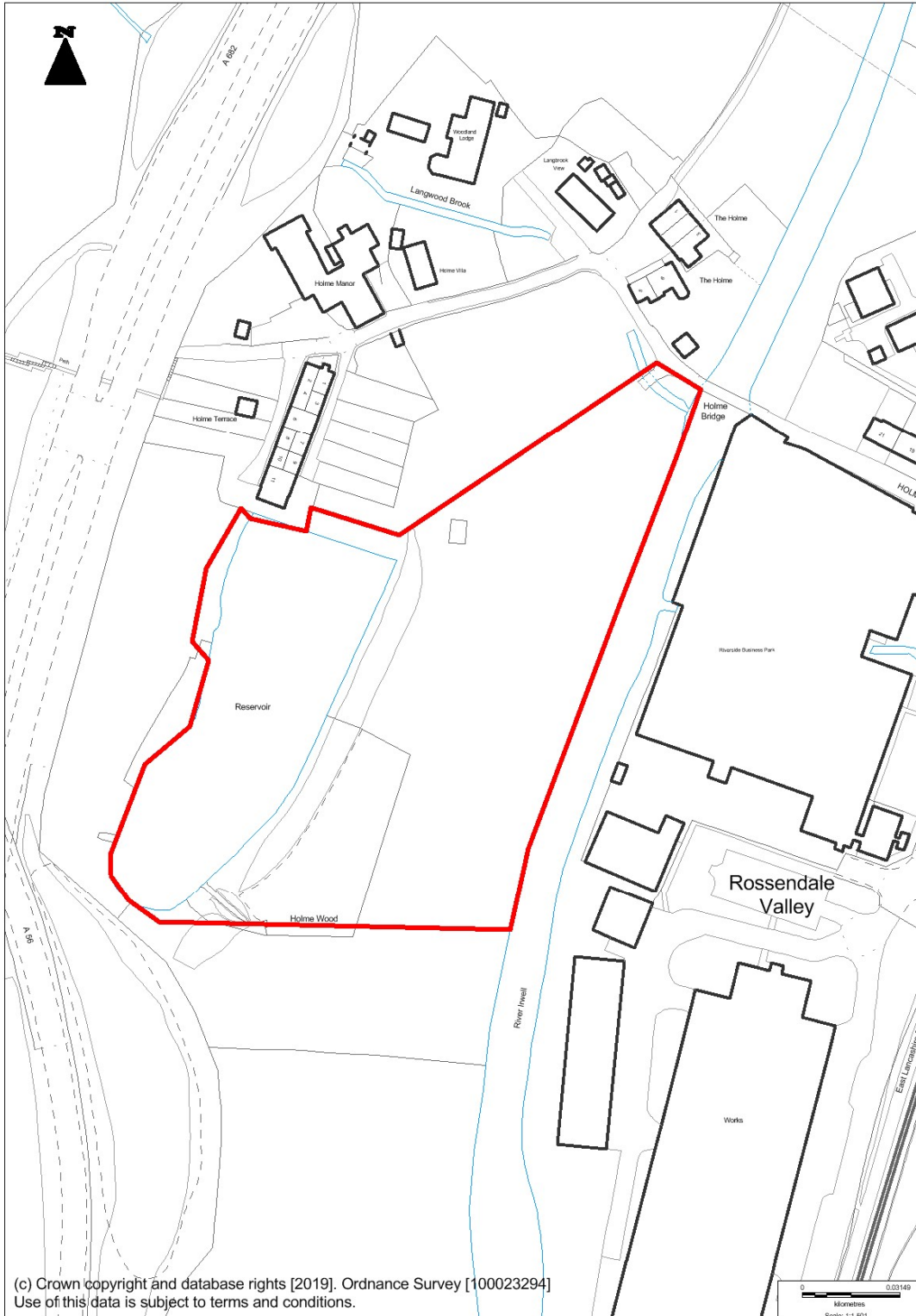
4 Conclusion

4.1 Table 1 shows that most of the omitted sites proposed at Regulation 19 have been previously assessed during the Local Plan process. New assessments have been undertaken to provide further information about certain sites. For example, four new SHLAA assessments have been undertaken, including two for sites currently or last used for employment for which the land owner is promoting a change to residential use. In addition, sixteen Heritage Impact Assessments were produced and twelve sites will be assessed in the SA Addendum 2020.

4.3 Reasons for which these sites were not proposed for allocation or proposed to be allocated for a different use than the one proposed by the promoter are set out in action 8.7 and the SA Addendum 2020 (action 1.3).

Appendix A – Maps of the omission sites

**Map 1: Riverside Business Park extension, Townsend Fold, Rawtenstall.
Other names: Townsend Fold (SHLAA); Site behind K Steels (ELR)**



Map 31: Land south of Lovelough Park and Penny Lodge Lane



Appendix B – New assessments using the Strategic Housing Land Availability Assessment methodology (2018)

- Land at Wavell House and car parking, Helmshore (SHLAA19440).....1
- Stubbins Vale Mill, Stubbins (SHLAA19432).....4
- Land south of Loveclough Park and Penny Lodge Lane (SHLAA19439).....8
- Land south of Grane Road, Helmshore (SHLAA20441).....12

GENERAL INFORMATION

Site Ref	SHLAA19439	Most Recent Source	Local Plan Examination (2019)	Site Gross Area (ha)	1.7
Site Name	Land south of Loveclough Park and Penny Lodge Lane				
Greenfield versus Brownfield	Greenfield	Designations	None		
Site Location - Urban Area, Countryside or Green Belt	Countryside NOT adjoining the urban area				
Current Land Use	Field				
Characteristics of the site reducing the development area	Pond (0.03ha), Area at high risk of surface water flooding (0.02ha). Grassland steppign stone area (0.02ha)				
Area available for development	1.6	Net Development Area (ha)	1.4	Density	30 dwellings per hectare
Yield calculated	42	Yield proposed by applicant	35	Current planning permission	<input type="checkbox"/>



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AVAILABILITY

Land ownership	unknown ownership
Comments	
Intentions of landowner	developer/landowner willing to deliver residential units in the short term (next 5 years)
Comments	Hollins Strategic Land have submitted a statement during the Local Plan Examination (EL2.060d) describing that they have secured an interest for the site which could be developed by Hollins Homes within a five-year period.
Legal constraints / ownership issues	no legal or ownership constraints known
Comments	

SUITABILITY

Topography	gradient present but can be mitigated
Comments	Relatively flat site with gradient present along the north-east boundary
Vehicular access	access requires improvements
Comments	Access from the adjoining development granted approval for 80 dwellings (outline application: 2018/0554)
Distance to strategic road network	greater than 5.5km (approximately 3.5 miles)
Comments	
Access by public transport	high frequency bus service (half hourly or more frequent) within 400m (0.24 miles)
Comments	Within 400m to a bus stop on Burnley Road with two services (X43 and 743)

Access to primary school **access within 1.5km (approximately 1 mile)**

Comments Approximately 1.3km to Crawshawbooth primary school

Access to secondary school **access within 5km (approximately 3 miles)**

Comments Within 5km from Alder Grange School

Access to GP surgery **no access within 3km (1.8 miles)**

Comments More than 3km to St James Medical Centre

Access to a local centre or convenience shop **no access within 1.5km (approximately 1 mile)**

Comments Approximately 1.8km to Crawshawbooth Local Centre

Access to a park or play area **access within 300m (0.18 miles)**

Comments Within 300m to Loveclough Sports Playing Field

Flood risk **flood zone 1 or low surface water flood risk**

Comments Flood Zone 1. Small area at high risk of surface water flooding along the northern boundary

Ecological value **located in a Biological Heritage Site, Local Geodiversity Site or Core Area or Stepping Stone areas**

Comments Pond excluded from the area available for development. Site largely within a grassland ecological network corridor and partly within a grassland stepping stone area which has also been excluded from the area available for development.

Recreational value **presence of Public Rights Of Way or informal use**

Recreational value comment Footpath 14-4-FP94 along the northern boundary of the site

Heritage assets **site does not contain or adjoin a Listed Building and site is not within or adjoins a Conservation Area**

Comments Site situated between Goodshawfold Conservation Area and Loveclough Fold Conservation Area, with some listed buildings located in the vicinity.

Landscape value **low landscape impact**

Comments Within the Settled Valley Landscape Character Type. Fairly prominent site but situated between an existing residential area and a site with outline approval for residential use.

Land contamination **no known issues**

Comments

Mineral sterilisation **if entirely within or partly within a Mineral Safeguarding Area or surface coal area**

Comments Site is largely within a Mineral Safeguarding Area

Land instability **if no known issues and situated in a low risk development area**

Comments

Proximity to dangerous structures **not within any HSE consultation zones**

Comments

Bad neighbour **site in residential or retail area**

Comments Residential area to the north and west, site with outline approval for residential use to the east and open land to the south

Constraints due to utilities **no known utilities infrastructure on site**

Comments

ACHIEVABILITY

Extra costs of development **no extra costs to what is normally required (e.g. planning conditions, affordable housing, planning obligations)**

Comments No extra costs identified

Market are **high value market area (£190 to £210/sqm)**

Comments

CONCLUSION

Availability summary **Available now**

Justification A developer stated that they have secured an interest for the site.

Suitability summary **Suitable now**

Justification It is a greenfield site situated within the countryside which is adjoining an existing residential area and another site with approval for residential use. The site is not within walking distance to a GP surgery or local centre but is within 400m to a bus stop with a half-hourly bus service to Burnley or Rawtenstall. The site is likely to have ecological value due to the presence of a pond, therefore an ecological impact assessment would be required. Due to its location in proximity to Loveclough Fold Conservation Area, particular attention to the historic environment would be needed. Please refer to the Heritage Impact Assessment. In terms of landscape and access, the site should be designed in close relation to the adjoining proposed residential scheme. Advice from Lancashire County Council regarding the possible sterilisation of mineral resource should be sought. Overall, subject to the creation of a suitable access, the findings of an ecological impact assessment, historic impact assessment and landscape impact assessment, as well as the advice from the Minerals and Waste Team, the site could be suitable for residential development.

Viability and achievability summary **Achievable now**

Justification The site is situated in a high market value area with no extra costs identified, therefore the site is considered achievable.

Conclusion **Deliverable in the next 5 years**

Justification The site is considered to be available for development. It can be suitable for residential use subject to the findings of further studies regarding the ecology of the

site, historic environment and landscape. Also, advice from the Waste and Minerals Team at Lancashire County Council should be sought due to the presence of a Mineral safeguarding Area.

Delivery (next 5 years)

35

Delivery (6 to 10 years)

0

Delivery (11 to 15 years)

0

Annex 4



Appeal Decision

Inquiry held on 6 March 2012

Site visit made on 6 March 2012

by **D L Burrows DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 March 2012

Appeal Ref: APP/B2355/A/11/2159598

Land at Holcombe Road, Helmshore, Rossendale BB4 4NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Calvert/Mr Richard Lever, Taylor Wimpey/Urban Regen against the decision of Rossendale Borough Council.
 - The application Ref 2011/0046, dated 25 January 2011, was refused by notice dated 20 July 2011.
 - The development proposed is a change of use from an existing derelict warehouse to a residential development consisting of 74 dwellings made up of 2 bedroom apartments and 2, 3 and 4 bedroom houses.
-

Decision

1. The appeal is allowed and planning permission is granted for a change of use from an existing derelict warehouse to a residential development consisting of 74 dwellings made up of 2 bedroom apartments and 2, 3 and 4 bedroom houses on land at Holcombe Road, Helmshore, Rossendale BB4 4NB in accordance with the terms of the application, Ref 2011/0046, dated 25 January 2011, subject to the conditions set out in the schedule attached to this decision.

Application for costs

2. At the inquiry an application for costs was made by Taylor Wimpey and Urban Regen against Rossendale Borough Council. This application is the subject of a separate decision.

Background/Clarifications

3. During the Council's consideration of the proposal various amendments were made to the scheme as originally proposed and a number of plans were superseded by the time the application was refused. The Council's decision was based on the amended plans.
4. The day before the inquiry the appellants sought to make further minor changes to the development. The changes relate to the substitution of 4 dwellings in the centre of the site. The alterations do not affect the number or nature of the houses. The four units would remain a pair of semi-detached and 2 detached houses. The layout would also remain the same. Given these circumstances it seems to me that consideration of these additional amendments would not prejudice the interests of any party. The plans are numbered 02-01K and 10082(PI)115, 116, 250A, 260. As a consequence the

conclusions below are based on the development proposed at the time of the Council's decision as changed by the 5 plans listed above.

5. By the time of the inquiry the Council had withdrawn its reasons for refusal and did not oppose the granting of planning permission for the development. It produced no evidence against the proposal and only participated in the inquiry proceedings to provide factual information and discuss conditions and the s106 undertaking provided by the appellant. During the course of the Council's determination of the proposal letters objecting to the scheme were received from members of the public. There were more written representations in response to the inquiry notifications and at the inquiry itself concerns about the development were also expressed by a number of local people. These have all been taken into account in reaching the conclusions below.

Main issue

6. Given the circumstances of the appeal, it seems to me that the main issue to consider is whether the proposal accords with national and development plan policies which seek to promote sustainable development including matters such as the principle of the development and the effects of it on the character, appearance and services of Helmshore.

Reasons

7. The development plan consists of the North West of England Plan Regional Spatial Strategy to 2021 (RSS) and the Rossendale Core Strategy Development Plan Document 2011-2026 (CS) together with the amended proposals map November 2011. I note that insofar as the main issue in this appeal is concerned there is no fundamental conflict between RSS and national policy.
8. Whilst the A56/M66 corridor is rural in character it is straddled by substantial settlements. Helmshore lies to the west of the A56 dual carriageway which separates it from Haslingden which is mostly to the east of the A road. Helmshore contains a range of housing and employment opportunities and an assortment of local facilities and services. On the amended proposals map it is shown within the settlement boundary. It is a large, vacant and somewhat neglected rectangular piece of land with a 2 storey brick office building at the front, facing Holcombe Road and a smaller warehouse/workshop building along the rear (eastern) boundary.
9. The principle of development - The site lies on the western limits of the built up area in the valley adjacent to the Ogden river. The land rises to the east to what appears to be the centre of the settlement at the roundabout crossroads of Helmshore Road and Gregory Fold/Broadway with its shops and schools nearby. There is a convenient footpath to the north of the site linking the site to Gregory Fold. It is only a short 5-10 minute walk to the shops/primary schools. The National Cycle Route 6 adjacent to the eastern boundary of the site means journeys by bicycle are also convenient. Access to these facilities by road is, however, rather more circuitous. It involves travelling south on Holcombe Road before turning north at the B6214 Helmshore Road.
10. For a short stretch the footpath to Gregory Fold is rather steep and this would discourage journeys on foot to the shops/schools by some people who are either unable or unwilling to tackle the slope. However there is also a shop along Holcombe Road which can be reached without any steep inclines and the No.11 bus would provide access by public transport (a couple of minutes ride)

to those facilities on higher ground and also to the wider bus network operating along Broadway and Helmshore Road.

11. In addition, information provided by the appellants indicates a range of services/employment is available within easy reach of the appeal site which can be accessed by a variety of means of transport and those which are not, such as health facilities and a supermarket are within a reasonable travel distance in Haslingden. It has been said that health facilities and the like are oversubscribed, but no empirical evidence was submitted to the inquiry to substantiate that view.
12. The Council's Interim Housing Policy 2010 encourages the provision of housing within the defined urban area of Haslingden (which includes the appeal site) if, amongst other things, the development would reuse brownfield land, would contribute to affordable housing and would be built at an appropriate density. The appeal scheme satisfies these criteria. It uses previously developed land and would provide 15 affordable units and would have a density of 34dph.
13. The combination of the above leads to the conclusion that because the site is a brownfield one within the built up area which has reasonable access to a variety of goods and services by different modes of transport, its redevelopment would, in principle be, acceptable for residential development. The proposal would therefore be in accord with the objectives of national policy guidance in particular PPS 1: Delivering Sustainable Development and PPS3: Housing, development plan policies RSS policies DP1, DP4, DP5 and L5, CS policies 1, 3 and 4 and the Council's Interim Housing Policy 2010. In reaching this view I have taken account of the frequency of buses and their routes.
14. Education provision - The Council's second reason for refusal related to the predicted shortage of primary school places to serve the proposed development. The full correspondence between the parties in respect of education provision was not provided to the inquiry. However it appears that the situation in respect of school places changed during the Council's dealings with the application. Briefly, before the application was submitted it was not considered there would be a shortage, but by the time of the decision a shortfall had been identified and financial contributions to assist in their provision were sought, whilst after submission of the appeal further information indicated there would be no shortfall. As a result of these circumstances the reason for refusal was withdrawn.
15. At the inquiry it was still the view of some parties that there would be a problem with accommodating children from the development in local schools. However there was no substantive evidence from any party to seriously challenge the County Council's figures/conclusions that spaces would be available.
16. Evidence was submitted by the appellants which sought to demonstrate that the County Council's figures were flawed and at no time would there have been a shortfall. However by the time of the inquiry there was no longer an issue. By whatever means both parties had reached the conclusion that there would not be a shortfall of spaces. No detailed information from the County Council was available at the inquiry itself to indicate how it had arrived at this conclusion. As a result it is not possible to come to any meaningful conclusion about whether its methodology was flawed. Nor in my view is it necessary to do this, given the agreement by the parties that there would not be a problem

in relation to the availability of school places. From the information before me I am satisfied that the proposal would not overburden the education system by the demand for primary school places and would accord with RSS policy L1.

17. Employment land – The appeal site is shown as an existing employment area on the proposals map. In order to foster the economy, amongst other things, CS policy 10 seeks to safeguard/encourage the reuse of existing employment sites. The policy sets out criteria which must be met to justify the loss of existing sites. I am told that the appeal site has been vacant and/or marketed for about 8 years. In that time there has been some interest shown in developing the site, but nothing has come to fruition. A 2006 application (2006/17) for residential, industrial and commercial development was approved, but was not proceeded with.
18. Evidence provided by the appellant demonstrates why the site has and will continue to prove unattractive to the market for employment purposes. It is in a poor location both in terms of surrounding uses and distance from the main arterial roads in the locality. There is also ample other, better located land available. The Rossendale Employment Land Study 2009 commissioned by the Council generally supports the appellants' findings. At paragraph 9.19 it recognises that the appeal site has limited market attractiveness and recommends that a flexible approach to redevelopment for various uses including residential (paragraph 9.22).
19. From the information before me I see no reason to differ from the tenor of views expressed in the various reports. I appreciate that a number of residents believe the land could be put to a variety of other uses, but I have seen no information which supports the view that there is either serious interest in such uses or that they would be financially viable on the appeal site. I am satisfied that the loss of the site for employment purposes would generally meet the criteria in CS policy 10 and the objectives of RSS policies DP1, DP4 and W3 and those in PPS3 and PPS4: Planning for Sustainable Economic Growth.
20. Character and appearance - Holcombe Road is characterised by variety. There are strong reminders of the industrial heritage of the area with the Textile Museum (which is a listed building) to the north of the appeal site and the rows of stone terrace houses set at back of pavement or built very close to the road. These houses are interspersed with more modern residential units and there are former mills and other commercial/industrial units scattered along the roadside. The buildings vary in height and number of storeys and the external materials extend from stone, through brick to render. The building at the appeal site is of no particular merit, but the river frontage fringed by vegetation is a major positive factor in the street scene which links into the open landscaped land to the north around the museum.
21. To the south of the site, at the southern end of 352-374 Holcombe Road, the riverside with its greenery is again clearly seen from Holcombe Road and Station Road. There is a green corridor on all sides of the appeal site and this would remain. The footpath/cycleway to the east of the river loops round the southern and eastern sides of the site linking into the footpath from Holcombe Road to Gregory Fold.
22. The appeal scheme would retain and enhance the river frontage. Behind the frontage landscape, instead of an office building and car park would be

detached, semi-detached and terraced houses. They would generally face Holcombe Road and be served by a combination of minor pedestrian/vehicular accesses, not the main estate road. The houses would be primarily faced in artstone with the terrace of 5 properties at right angles to the road built in brick. In my view the public perception of the scheme would be of a modern development which reflects aspects of the existing built form without slavishly mirroring the existing properties in the locality. Along the north, south and eastern boundaries, with the exception of 3 units there would be garden/green areas between the properties and the boundaries. Moreover, the raised footpath/wooded slope to the east of the site would remain.

23. The proposal would undoubtedly change the appearance of the locality and I acknowledge that some of the views across the site would be lost. However I do not believe the changes proposed would result in a degree of change which would materially harm the visual amenity of the area.
24. It has been suggested that the proposal would result in overdevelopment of the site, but the proposed density would be 34 units per hectare. This would be an acceptable compromise between seeking to make the most efficient use of land which is required by policy at all levels whilst remaining sympathetic to the character and appearance of the locality. It is evident from the numbers and ages of properties that Helmsore has over the years become accustomed to new development. It is a relatively large settlement which to my mind can satisfactorily absorb the proposed number of units, even when taking into account the recent building which has taken place. There is no substantive evidence which demonstrates that the proposed development would fundamentally change the character of the settlement. It would replace employment use with residential, but the information before the inquiry indicates that the likelihood of redevelopment or reuse for employment purposes would be extremely remote. The combination of the above leads to the conclusion that the proposal would be in accord with the objectives of PPS1 and PPS3, RSS policies DP2, DP7 and EM3 and CS policy 23 in this respect.
25. Living conditions - The proposed layout would meet the Council's standards for space about buildings and would have an acceptable relationship with neighbours. I have looked in particular at 300 Holcombe Road. The front of this property faces south along Holcombe Road. Its garden abuts the footpath to Gregory Fold. Whilst there would be residential units to the south of the footpath, they would be set much further away from Holcombe Road. There would be no direct overlooking and the eastern elevation of the proposed block would have no openings. Given the separation, design and orientation of the existing house and the proposed units, I do not consider there would be an unacceptable impact in terms of privacy, light or overbearing impact between neighbours.
26. Similarly the existing properties to the east and south of the appeal site are at a higher level. The significant difference in ground levels between them and the proposed units, together with the rear boundary treatment of the existing properties would ensure a satisfactory relationship with these dwellings. The backs of the houses in the terrace numbered 352-374 Holcombe Road look out over the appeal site across the river Ogden. In terms of the Council's standards the separation between the new dwellings and the existing houses would be tight. However, there would only be 3 new units behind the terrace. And whilst the house to the north and south would front the backs of the

existing houses, they would only partially overlap the terrace and there would be the river in between. The middle unit would only have a side gable facing the terrace. There would also be large gaps between the new dwellings. Given these circumstances I do not consider the proposal would have an unacceptable impact on the living conditions of these residents. I find the proposal would comply with the objectives of CS policy 24.

27. Highways - Holcombe Road (B6235) is a minor road running from north to south and linking to Helmshore Road (B6214) in the south and Grane Road (B6232) in the north. The appellants carried out a traffic survey for 3 days in November 2011 which indicates that even in the peak hours (08.00-09.00 hours and 17.00-18.00 hours) the two way traffic flow on Holcombe Road was in the region of 350 vehicles. This is a relatively low level of traffic for a road of the nature of Holcombe Road. And given that the estimated number of trips generated by a development of 74 houses would add in the region of some 45-50 additional vehicles in the peak periods, the total usage of the road would remain relatively low.
28. Concerns have been raised about the impact of additional traffic on the junctions of Holcombe Road with the B6214 and the B6232. I do not doubt that at peak times it can be difficult to make turning movements at these junctions. However, it is not uncommon to have queues at junctions at peak times. The accident statistics for the past 5 years provided by the appellants indicate that there were 4 accidents at the Grane Road/Holcombe Road junction within that period. Three of them involved cars where the injuries were recorded as slight and the fourth a single pedal cyclist where the injuries were serious. There was also anecdotal evidence of an accident along Grane Road which involved a fatality in the summer months of last year, but no details were available as to the exact location or what vehicles were involved.
29. At the junction with the B6214 there were 2 accidents recorded, 1 involved 2 cars and 1 involved 1 car. In both the injuries were recorded as slight. I do not doubt that there have also been a number of bumps and scrapes which have gone unrecorded within that period. It is a matter of fact that there is always the potential for accidents when travelling by car and that at junctions when drivers have to exercise a degree of judgement there is room for human error, even when all relevant standards of road configuration are met.
30. I have also looked at the location of and the sight lines at the entrance to the appeal site together with its proximity to the drive at 352 Holcombe Road. Manual For Streets 2 recognises that whilst the Y distance at a junction should be based on the stopping sight distance, unless there is local evidence to the contrary, and a reduction in visibility below the recommended levels would not necessarily lead to significant problems. There is therefore flexibility in what is considered satisfactory visibility for drivers.
31. I saw at my visits that unrestricted on-street parking in the locality at times obscures visibility for some drivers when joining Holcombe Road. The vicinity is therefore one where visibility is already restricted for motorists and the accident statistics show it has not resulted in a high risk of collisions. It is the intention, as part of the development, to secure the restriction of on-street parking to both the north and south of the site entrance and this would ensure sight lines were not obscured by parked cars. Moreover in this case Lancashire County Council, as highway authority, were consulted on the development and they had no objections to the proposals in terms of highway safety. From my

inspections of the site and the nearby road junctions at different times of day, the present and predicted traffic flows together with the recorded accident statistics, I am satisfied that approval of the proposal would not result in material harm to highway safety.

32. The proposal would therefore accord with the objectives of PPG13: Transport, RSS policies RT1, RT2 and RT4, and CS policy C8. I note that the proposed use would generate less traffic than the former offices and the previously permitted mixed use scheme.
33. Other material considerations - I acknowledge that a previous appeal on the site for a mixed use office and residential development was dismissed in 2004, but from reading that decision it appears that the situation has changed somewhat since then. In particular, in the present appeal, the site has been vacant for 8 years, there is no uncertainty about the bus services nor is there any suggestion that the proposal would add unnecessarily to the short term supply of housing land. Moreover it has been demonstrated that the site is unattractive and poorly located for employment uses and that there is ample better located land available.
34. I am required to assess the merits of the scheme before me, that is, whether or not the proposed development is acceptable in planning terms. My remit cannot include making a judgement on vague/non-specific alternative schemes which take account of individuals' preferences for different housing layouts/lower density nor any scheme which is not before me for determination. A number of other concerns raised about land contamination, drainage/flooding and the like could be addressed by appropriate conditions. There have been no objections from the Environment Agency on these counts. Similarly the provision sufficient/adequate open space, improvements to cycle, walkways and bus facilities, ensuring safe visibility at the access and providing affordable housing is dealt with by the legal undertaking provided by the appellants. As a consequence these matters would not preclude approval of the proposal. Factors such as the impact on property values are not planning matters.
35. The Council suggested a number of conditions which for the most part were agreed by the appellants in principle before the inquiry. I have looked at and amended those conditions in the light of Circular 11/95. I consider them all to be necessary apart from removing permitted development rights to convert garages into ancillary domestic accommodation. It is not necessary because alternative parking would be generally available at properties and any on-street parking would be likely to be within the confines of the estate. It would not cause congestion or impede the free flow of traffic on Holcombe Road.
36. For the avoidance of doubt it is necessary to specify the approved plans. Approval of materials would be in the interests of visual amenity, as would the protection of retained trees, implementation of the landscaping scheme and a riverside buffer together with details of future management including the treatment of Japanese knotweed. Site investigations and remediation of possible sources of land contamination would safeguard public health and approval of floor/ground levels together with surface water details would reduce the risk of flooding. Provision of parking and a satisfactory standard of road/footpath construction would be necessary in the interests of highway safety and orderly site development, as would the provision of suitable wheel washing facilities during construction. Improvements to the footpath/cycleway

on the eastern boundary of the site, together with a travel plan will encourage travel by sustainable means of transport.

37. The provision of a fish pass would protect and enhance ecological interests and bat activity surveys would ensure the development did not harm this protected species. Providing for an element of renewable energy/reduction in energy consumption within the scheme would be in the interests of sustainable development, whilst restricting the hours of use would safeguard the living conditions of neighbours.
38. The appellants have produced a s106 unilateral undertaking dealing with various matters. Such undertakings must be necessary to make a development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. CS policy 22 sets out the types of matters which are likely to be included in an undertaking when there is an acknowledged deficiency or improvements need to be made. It also says that where the proposals involve the development of previously developed land, only those contributions deemed essential to help deliver the site and/or provide benefits to the immediate community. Guidance on such matters is set out in a variety of documents including the County Council's Planning Obligations in Lancashire Policy (updated September 2008) and the Council's Open Space and Play Equipment Contributions SPD 2008.
39. In terms of encouraging sustainable travel and highway safety, the s106 undertaking includes provision for the upgrading of the bus stop (providing a shelter) outside the appeal site together with a contribution towards its future maintenance, a contribution towards the running of the No.11 bus and a contribution towards a traffic regulation order to limited on-street parking near the access to accord with the objectives of CS policies 1 and 9; the provision of 15 affordable housing units to meet the requirements of the Council's Interim Housing Policy Statement 2010 and CS policy 4; and a contribution towards the provision of open space commensurate with the scale of the development. I am told the expenditure would be used in Helmshore in accord with the Council's open space strategy. I consider the provisions of the s106 are necessary to meet the requirements of planning policy, directly related to the development and commensurate in scale.
40. Conclusion – I have taken account of all the other matters raised including wildlife interests and the appellants' conclusions on the 5 year supply of housing land. I note in respect of the latter that the issue of oversupply of housing land was not raised as an issue by the Council either in its reasons for refusal or its inquiry statement. When taken together none change the overall conclusion that the proposal would, subject to appropriate conditions and the s106 undertaking, be acceptable and would meet the general requirements of national and development plan policies in so far as they seek to encourage sustainable development, ensure the infrastructure of an area is not overburdened, and protect interests of acknowledged importance such as the character and appearance of an area, the living conditions of neighbours and the like. I shall allow the appeal.

D L Burrows

INSPECTOR

APPEARANCES

Rossendale Borough Council did not oppose the granting of planning permission. The extent of its participation in the inquiry was limited and it set out below.

FOR THE LOCAL PLANNING AUTHORITY:

Mr T Leader	Counsel (in relation to the session on conditions /s106 undertaking and to respond to the costs application)
Mr S Stray	Planning Manager Rossendale BC (in relation to the conditions/s106 undertaking)
Ms C Ridge	Assistant Planner Rossendale BC (in relation to the conditions/s106 undertaking)

FOR THE APPELLANT:

Mr P Village	Queens Counsel
He called	
Mr B O'Herlily	Preston O'Herlily
Mr C Self	CSa Environmental Planning
Mr D Boswell	David Boswell and Associates Ltd
Mr R Barton	HOW Planning LLP

INTERESTED PERSONS:

Mr D Williams	Local resident
Mr A Woods	Local resident
Mrs G Garriff	Local resident
Mr J McManus	Local resident
County Councillor P Evans	Lancashire County Councillor

DOCUMENTS

- 1 Attendance list
- 2 Notifications of inquiry 29 December 2011 and 19 January 2012
- 3 Planning Obligations in Lancashire Policy
- 4 Open Space and Play Equipment Contributions SPD
- 5 Breakdown of transport contributions requested by RBC
- 6 5 March 2012 HOW letter to RBC requested plan amendments and new condition
- 7 S106 undertaking
- 8 Mr Williams email 8 February 2012
- 9 Emails submitted with RBCs response to costs application
- 10 Papers submitted with appellant's final submissions on costs application
- 11 RBC response to costs application

PLANS

- A 5 plans submitted with 5 March 2012 HOW letter 02-01K, 10082(PI)115, 116, 250A and 260A

**SCHEDULE OF CONDITIONS for planning permission
APP/B2355/A/11/2159598**

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the annex attached to this permission.
3. Notwithstanding the details shown on the approved plans and prior to development commencing, samples of the facing materials to be used in the construction of the external elevations and roofs of the buildings/walls hereby permitted shall be submitted to and approved in writing by the local planning authority. The buildings/walls shall be constructed using the approved materials.
4. No development shall take place until a site investigation of the nature and extent of contamination of the site has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The methodology shall incorporate measures for a verification plan to validate all aspects of the remediation works. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site (including timing of works) to render it suitable for the development permitted shall be submitted to and approved in writing by the local planning authority before development begins. The site shall be remediated in accordance with the approved measures. If, during the course of development, any contamination is found which has not been identified in the site investigation, construction/development works on the contaminated area shall cease until such time as additional measures (including timing of works) for the remediation of this source of contamination have been submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
5. No development shall take place until details of the proposed floor and ground levels have been submitted to and approved in writing by the local planning authority. The development shall be constructed and completed in accordance with the approved floor/ground level details.
6. No development shall take place until details of the drainage of the site have been submitted to and approved in writing by the local planning authority. The submitted details shall include a surface water regulation system and a separate foul water system. The development shall be carried out and completed in accordance with in accordance with the timing of provision included in the approved drainage details.
7. Prior to occupation of any dwelling the associated drive and/or parking space(s) to serve it shall be surfaced with a hard permeable material and shall thereafter be kept available for the parking of vehicles.
8. Development shall not commence until details of the estate roads construction and improvement of the bridge crossing of the river Ogden to a standard to enable them to be adopted by Lancashire County Council have been submitted to and approved in writing by the local planning authority.

The submitted details shall include the timing of the proposed road works. The works shall be carried out in accordance with the approved details.

9. Development shall not commence until details of improvement works to the footpath situated adjacent to the northern boundary of the site have been submitted to and approved in writing by the local planning authority. The approved works shall be completed prior to occupation of the first dwelling.
10. Prior to the occupation of the first dwelling hereby permitted, a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall be implemented, updated and audited in accordance with the approved details.
11. Development shall not commence until all the trees within or overhanging the site (with the exception of those trees clearly shown to be felled on approved plans c-673-01 and 02) have been protected in accordance with tree protection measures which have been previously submitted to and approved in writing by the local planning authority. The approved measures shall remain until the development is complete and no work, including any form of drainage or storage of materials, earth or top soil shall take place within those areas unless first approved in writing by the local planning authority.
12. A programme for the implementation of the approved landscaping scheme (including fences, walls, gates and hardstandings) shall be submitted to and approved in writing by the local planning authority before development commences. The approved programme shall be implemented concurrently with the development. Any trees or shrubs removed, dying or becoming severely damaged or diseased within 5 years of planting shall be replaced by trees or shrubs of similar size or species to those originally required to be planted, unless the local planning authority has agreed otherwise in writing.
13. Development shall not commence until details of a buffer zone alongside the river Ogden have been submitted to and approved by the local planning authority. The details shall include a schedule of works and their timing, a detailed method statement for the removal and long term management/eradication of Japanese knotweed and a riparian management plan. The riverside buffer shall be provided and managed in accordance with the approved details.
14. Development shall not commence until details of a new fish pass (as identified on approved plan 02-01K) have been approved in writing by the local planning authority. The details shall include long term management and maintenance schedules, together with a programme for construction of the pass. The development shall be carried out in accordance with the approved details.
15. Prior to the demolition of the existing buildings on the site a bat activity survey shall have been carried out between May and October and the results of the survey provided to the local planning authority. If signs of bats are found, details of demolition including timing of such works shall be submitted to and approved in writing by the local planning authority. Demolition shall take place in accordance with the approved details.

16. Development shall not commence until details of the facilities within the development to provide for 10% of total energy usage from renewable sources or a 10% reduction in energy usage through energy efficiency measures, or a combination of the two have been submitted to and approved by the local planning authority. The details shall include the timing of the provision of these measures. The development shall be implemented in accordance with the approved details.
17. Prior to the commencement of demolition, remediation and/or construction works, facilities for the washing/cleaning of the wheels of vehicles using the site shall be provided and maintained on the site until the development is complete.
18. Demolition, remediation and/or construction works in connection with the development hereby permitted shall only take place only between 07.00 to 19.00 hours Mondays to Fridays, 08.00 to 13.00 hours on Saturdays and at no time on Sundays, public or bank holidays.

ANNEX

approved plans

1. Site plan 10082(PI)010
2. Planning Layout 02-01K
3. Massing diagram 10082(PI)020
4. Gable detail diagram 10082(PI)021A
5. Materials, fencing and bin store diagram 10082(PI)030A
6. Survey of existing TPO trees c-673-01
7. Tree protection and special construction details c-673-02
8. Soft landscaping proposals c-673-03
9. Typical bin store detail BST-01
10. Plans D1227V-WD 10082(PI)101
11. Plans D1251-WD 10082(PI)102
12. Plans D1216-WD 10082(PI)103
13. Plans AA22 10082(PI)104
14. Plans AA31 10082(PI)105
15. Plans AB41 10082(PI)106
16. Plans PA32M 10082(PI)107
17. Plans PA34 10082(PI) 108
18. Plans PA42 10082(PI)109
19. Plans PD41 10082(PI)111
20. Plans PD43 10082(PI)112
21. Plans H908 10082(PI)114

22. Plans H1089 10082(PI)115
23. Plans PD41 10082(PI)116
24. Elevations AA22 Art Stone River 10082(PI)201
25. Amended elevations AA22 Brick 10082(PI)202D
26. Amended elevations AA31 Brick 10082(PI)203D
27. Amended elevations AB41 Brick 10082(PI)204D
28. Amended elevations D1227V-WD Art Stone 10082(PI)205B
29. Amended elevations D1227V-WD Art Stone River 10082(PI)206B
30. Amended elevations D1227V-WD Brick 10082(PI)207D
31. Amended elevations D1251-WD Art Stone River 10082(PI)208B
32. Amended elevations D1251-WD Brick 0082(PI)209D
33. Amended elevations H908 Art Stone 10082(PI)210A
34. Amended elevations H1216-WD Brick 10082(PI)211C
35. Amended elevations H1216-WD Brick 10082(PI)212A
36. Amended elevations PA32M Art Stone River 10082(PI)213A
37. Amended elevations PA32 Art Stone River 10082(PI)214A
38. Amended elevations PA32 Brick 10082(PI)215D
39. Amended elevations PB32 Brick 10082(PI)217C
40. Amended elevations PS 32 Brick 10082(PI)218A
41. Amended elevations PD41 Art Stone 10082(PI)219A
42. Amended elevations PD43 Art Stone 10082(PI)220A
43. Amended elevations PD43 Brick 10082(PI)221C
44. Amended elevations PD46 Art Stone River 10082(PI)223A
45. Amended elevations PD46 Brick 10082(PI)224D
46. Amended elevations H1089 Art Stone 10082(PI)250A
47. Amended elevations PD410 Art Stone 10082(PI)260A
48. Apartment block A Floor Plans 10082(PI) 141
49. Apartment Block A Option 10082(PI) 242A
50. Apartment Block A Elevations 10082 (PI)241D
51. Street scenes 10082(PI) 281B
52. External Plans 02-01DH
53. Additional Landscape Proposals c-673-04
54. External Screening Details – Fence 4 (Fence 4)
55. Planning Layout/Parking Provision 02-03



Costs Decision

Inquiry held on 6 March 2012

Site visit made on 6 March 2012

by **D L Burrows DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 March 2012

Costs application in relation to Appeal Ref: APP/B2355/A/11/2159598 Land at Holcombe Road, Helmshore, Rossendale BB4 4NB

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Taylor Wimpey/Urban Regen for a full or partial award of costs against Rossendale Borough Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for the change of use from an existing derelict warehouse to a residential development consisting of 74 dwellings made up of 2 bedroom apartments and 2, 3 and 4 bedroom houses.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Taylor Wimpey/Urban Regen

2. The application was for a full award of costs or alternatively a partial award if determined that the facts justify such a course. The application was made in writing. The following additional points were made orally at the inquiry.
3. The reasons for refusal were never precise and it was unreasonable of the Council to add to its reasons in its rule 6 statement. This necessitated the production of additional evidence from an expert witness. Both the evidence to counter this and the original 2 reasons for refusal were in any event substantially produced before the Council's decision to not contest the appeal on any ground.
4. In respect of school places, the position is that the Local Education Authority never asked for contributions to meet a shortfall in places. This is confirmed by the Richard Sharples' email of 24 August 2011 to HOW Planning. Further the Lynn MacDonald (LCC) email of the 10 November confirms that there would be no shortfall in primary school places resulting from the development. Yet it took the Council until the 5 December to withdraw the second reason for refusal. In any event the Council should have satisfied itself as to the robustness of the Education Authority's advice in line with B23 of Circular 03/2009.
5. It is understandable that the Council is concerned about the costs, but virtually all the costs had been incurred by the time of the withdrawal of the Council from the appeal. Leading counsel had been involved throughout the appeal process. None of the evidence is irrelevant or tangential. It addresses matters

raised by either the Council or third parties. A statement of common ground would have assisted had it been available.

6. The ultimate decision about the appeal procedure rested with the Planning Inspectorate who confirmed on the 19 December 2011 that the appeal should continue as an inquiry. Costs were awarded in very similar circumstances in respect of appeal APP/W4515/A/11/2159579. Because of its unreasonable behaviour the Council is responsible for the all the costs of the appeal.

The response by Rossendale Borough Council

7. The response was made in writing.

Reasons

8. Circular 03/2009 advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
9. It does not follow as a matter of course that refusal of an application contrary to officers' advice amounts to unreasonable behaviour in terms of 03/2009. However, in this case neither the 2 original reasons for refusal nor the additional reason referred to in the Council's rule 6 statement were justified by the Council during the appeal process. The eventual withdrawal of all 3 reasons at a late stage suggests that the Council considered they could not be substantiated. This amounts to unreasonable behaviour in terms of 03/2009.
10. In these circumstances I find that unnecessary costs have been incurred by the appellants in bringing the matter to appeal. By the time the Council's decision to not contest the appeal was taken and the appellants were informed it was after the original submission date for proofs of evidence. By this time it appears that the appellants' evidence was more or less complete. The evidence was produced not only to counter the Council's reasons for refusal, but also the objections put forward by interested persons. This would not have been necessary had the application been approved by the Council in the first place.
11. The situation is somewhat different in respect of the alleged shortage of primary school places. The appellants suggest that no financial contributions were ever required by the Local Education Authority to assist in the provision of additional places. However, whilst the information available is somewhat contradictory, the Council's email of the 2 June 2011 and committee report of 14 June 2011 refer to an amount being required by the Education Authority and the email of the 10 November 2011 confirms that it (The LEA) *...would no longer be seeking a contribution.*
12. That being said the committee report also refers to ongoing negotiations with the appellant and the recommendation to members that the application be approved subject to the completion of a s106 undertaking dealing with education and other matters. From papers submitted with the appeal this appears to have been a normal procedure in similar situations. It was therefore a perceived problem which could have been satisfactorily addressed. In these circumstances I consider the Council also acted unreasonably in refusing the application on this ground.

13. The Council may query the nature and extent of evidence, but it is essentially a matter for an appellant to determine what evidence is needed to support its case when proposals are being considered afresh by another decision maker. Similarly, whilst the Council wished to change the appeal procedure and the appellants did not, it was the Planning Inspectorate's decision to continue with the inquiry. The Council may not agree with the appellants' level of representation, but the choice of an opposing party's legal representation is not a decision for the Council to make.
14. In general terms it seems to me that the costs of pursuing the matter to appeal are justified in this case. There are two exceptions to this. Firstly any work which was involved after the 14 December 2011 in the production of the statement of common ground when the Council informed people that it would no longer defend any of its reasons for refusing the development. That decision meant that the level of agreement between the parties obviated the need for such a document. And secondly the costs involved in the production of the s106 undertaking. The findings of the appeal indicate that the production of a legal undertaking was necessary to make the development acceptable in planning terms before planning permission could be granted.
15. In conclusion I consider that the decision was taken by members without sound reasons as evinced in the withdrawal of all the Council's objections to the proposal. The behaviour of the Council was unreasonable and led to unnecessary costs. Those costs are those associated with the appeal with the exception of work carried out on the production of a statement of common ground after 14 December 2011 and the costs in producing the s106 unilateral undertaking.

Costs Order

16. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Rossendale Borough Council shall pay to Taylor Wimpey/Urban Regen, the costs of the appeal proceedings described in the heading of this decision those costs incurred in the appeal except for work carried out on the production of a statement of common ground after 14 December 2011 and the costs in producing the s106 unilateral undertaking.
17. The applicant is now invited to submit to Rossendale Borough Council, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

D L Burrows

INSPECTOR

Annex 5



Appeal Decision

Site visit made on 27 July 2021

by **C Rafferty LLB (Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 24th August 2022

Appeal Ref: APP/B2355/W/21/3289340

Land at Greendale Avenue, Newchurch, Rossendale, Lancashire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr C Green against the decision of Rossendale Borough Council.
 - The application Ref 2021/0327, dated 21 May 2021, was refused by notice dated 16 December 2021.
 - The development proposed is the construction of 1 detached dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.
4. A site layout plan showing a dwelling and detached garage has also been submitted with the appeal, which I have considered as indicative only.

Main Issue

5. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

6. The appeal site comprises a plot of land within the open countryside, sitting just outside the defined urban boundary. It is accessed via the residential Greendale Avenue but is immediately surrounded in other directions by open fields. The site comprises sections of gravel with several containers and an

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

area of decking but otherwise remains free from development, reflective of and positively contributing to the open countryside within which it sits.

7. Policy SD2 of the Rossendale Local Plan 2019 to 2036 states new development will take place within defined urban boundaries except where it specifically needs to be located within the countryside and enhances the rural character of the area. Because of its proximity to the urban area the proposed dwelling would not be in an isolated location and would have access to services and facilities. However, there is no substantive evidence that it specifically needs to be within the countryside.
8. The rural character of the area, and the contribution of the site to this, is visible from the surrounding footpath network. Despite the proximity of other dwellings, the site is visually separated from nearby residential development and is experienced primarily alongside adjoining open land.
9. While the design of the proposal would be considered at a later stage, the erection of a dwelling of any scale and design would introduce permanent residential built form at the site. In the context of the immediately surrounding fields, this would appear as an incongruous addition to the landscape, at odds with the predominantly open nature of the countryside that envelopes the site. The proposal would also introduce residential paraphernalia, further highlighting the presence of a standalone residential use and contributing to the encroachment on the openness of the surrounds.
10. As such, while the removal of the storage and structures currently present at the site may have some visual benefit, the erection of a dwelling would nevertheless fail to enhance the rural character of the area. Indeed, a residential land use in this location would serve to unduly erode the overall open countryside character of the site and immediate surrounds.
11. For the reasons given, the site would not be suitable for residential development, having regard to its location, the proposed land use and the amount of development. It would therefore fail to comply with Policies SD2, ENV3 and ENV1 of the Rossendale Local Plan 2019 to 2036, which together seek to ensure that development is directed towards suitable locations, is in keeping with surrounds, and takes account of the character and appearance of the local area.

Other Matters

12. A dwelling was granted outside the urban boundary by an appeal decision² at Shawclough Farm in Rossendale. However, that was set among buildings. This differs from the appeal site which is primarily among open fields. While the appellant has provided a decision notice³ for another dwelling permitted outside the urban boundary, there is no evidence this site is comparable to the current case. In any event, the proposal has been considered on an individual basis and the acceptance of other developments referred to is of little weight.
13. The appellant refers to comments made by the Council in relation to another appeal that proposals on small sites adjacent to settlement boundaries should be carefully considered and supported if they are sustainable. However, this does not represent adopted development plan policy.

² APP/B2355/W/21/3266588

³ 2019/0473

Planning Balance

14. The Council accepts that it does not have an up to date 5 year housing supply and that housing delivery has been less than 75% over the past three years. Paragraph 11(d) of the National Planning Policy Framework (Framework) is therefore relevant.
15. The Government's objective is to significantly boost the supply of housing and the Framework states that small and medium sized sites can make an important contribution. I also acknowledge that the Housing Delivery Test 2021 measurement for Rossendale was 57% of its requirement, such that 221 dwellings that were required were not delivered. Nevertheless, the proposal would only result in one additional dwelling and so its impact on the future delivery of housing would be limited. Overall, I consider that the contribution of the proposal to housing supply by providing a single dwelling should be afforded moderate weight in the planning balance.
16. I have found that the site is not suitable for residential development. As such, the proposal would be contrary to parts of the Framework which require that development adds to the overall quality of the area, is sympathetic to local character, and recognises the intrinsic character and beauty of the countryside. I acknowledge that, in requiring certain development to be within the defined urban boundary, Policy SD2 of the RLP constrains the possible location of new housing. Nevertheless, elements of Policies SD2, ENV3 and ENV1 of the RLP remain consistent with those parts of the Framework outlined above, with which the proposal conflicts.
17. I find that the adverse impacts of the proposal would be significant and, even acknowledging the weight afforded to the provision of housing at the site, in the context of paragraph 11(d) of the Framework, the harm that would be caused would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
18. On this basis, I find the proposal would conflict with the development plan and that material considerations, including the Framework, do not indicate that a decision contrary to the development plan should be reached.

Conclusion

19. For the reasons set out above, I conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR

Annex 6

From: [Matthew Symons](#)
To: [Matthew Symons](#)
Subject: FW: 2023/0142 - Land West of Burnley Road
Date: 17 August 2023 09:13:12
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image248237.png](#)
[image238116.png](#)
[image913203.png](#)

Matthew Symons BA MPlan MRTPI
Planning Manager



On behalf of Hollins Strategic Land | Suite 4 | 1 King Street | Manchester | M2 6AW | www.hsland.co.uk
 T: 0161 300 6509 | DD: 0161 244 8781 | M: 07827 669 141 | E: matthew.symons@hsland.co.uk



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From: Matthew Symons
Sent: Monday, August 14, 2023 1:47 PM
To: 'Jacob Landers' <JacobLanders@rossendalebc.gov.uk>
Cc: 'Michael Atherton' <MichaelAtherton@rossendalebc.gov.uk>; 'Anne Storah' <AnneStorah@rossendalebc.gov.uk>
Subject: RE: 2023/0142 - Land West of Burnley Road

Hi Jacob,

I've now looked at Appendix D too.

Planning app reference (Site ref)	Address	Claimed 5-yr delivery	MS comments / queries
2019/0335 (H68)	Grane Village, Helmshore	131	<p>The application webpage states that the app went to Committee in November 2021, yet there is still no decision notice.</p> <p>Could you tell me why there has been such a delay?</p> <p>Is it realistic to expect it to deliver 131 units in the next 5 years?</p>
2020/0008	Todmorden Rd, Bacup	29	<p>The DN was issued earlier this month, granting outline PP.</p> <p>Please could you send me the clear evidence you have to show that the site will deliver the 29 units in the next 5 years?</p>
2021/0500 (H22)	Blackwood Rd, Stacksteads	41	<p>I can see that the 2022/0393 was submitted in August 2022 to discharge a number of conditions but remains pending.</p> <p>I've had a look at the most recent documents. The Environmental Protection consultee response is one of the latest that has been uploaded, back in</p>

			October 2022. That states there appear to be "fundamental interlinked issues that need to be resolved which will potentially impact on the whole scheme". Please can you provide the clear evidence that shows this site can be relied upon for the 5yr HLS?
TOTAL		201	

Thanks,
Matthew

Matthew Symons BA MPlan MRTPI
Planning Manager



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From: Matthew Symons
Sent: Monday, August 14, 2023 1:29 PM
To: Jacob Landers <JacobLanders@rossendalebc.gov.uk>
Cc: Michael Atherton <MichaelAtherton@rossendalebc.gov.uk>; Anne Storah <AnneStorah@rossendalebc.gov.uk>
Subject: RE: 2023/0142 - Land West of Burnley Road

Hi Jacob,

I understand that you'll be picking up my HLS queries in Anne's absence.

I've been looking at Appendix C of the Report today. As you'll know, this relates to sites that are allocated but don't have PP. The NPPF states such sites should only be included in the 5-yr supply where there is clear evidence that housing completions will begin on sites in the next 5 years.

Please could you send me the clear evidence that you have for the following sites?

Site	Address	Predicted 5-year delivery
H4	Swinshaw Hall, Loveclough	47
H25	Sheephouse Reservoir, Britannia	63
H26	Land off Pennine Rd, Bacup	71
H33	Gladstone St, Bacup	40
H35	Cowtoot Lane, Bacup	60
H37	Suth of Weir PH	30
H55	Land east of Jonny Barn Farm	49
H66	Land west of Market St, Edenfield	218
H67	Edenwood Mill, Edenfield	47
M1	Waterside Mill, Bacup	10
TOTAL		635

Thanks,
Matthew

Matthew Symons BA MPlan MRTPI
Planning Manager



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From: Anne Storah <AnneStorah@rossendalebc.gov.uk>
Sent: Friday, August 11, 2023 4:33 PM
To: Matthew Symons <matthew.symons@hsland.co.uk>
Cc: Michael Atherton <MichaelAtherton@rossendalebc.gov.uk>; Jacob Landers <JacobLanders@rossendalebc.gov.uk>
Subject: FW: 2023/0142 - Land West of Burnley Road

CAUTION:EXTERNAL EMAIL!

I'm copying in Jacob this time too.
Anne

From: Anne Storah
Sent: 11 August 2023 16:31
To: Matthew Symons <matthew.symons@hsland.co.uk>
Cc: Michael Atherton <MichaelAtherton@rossendalebc.gov.uk>; Forward Planning <forwardplanning@rossendalebc.gov.uk>
Subject: RE: 2023/0142 - Land West of Burnley Road

Hi Matthew,
I'll ask my colleague Jacob Landers to see if he can help with this. Jacob and I will miss each other as he is on leave today, and Nat is on leave at the same time as me. Hopefully he can get it over to you next week, otherwise we'll be looking at end of August/ early September.
I'm copying Jacob and Mike into this email.
Best wishes,
Anne

From: Matthew Symons <matthew.symons@hsland.co.uk>
Sent: 11 August 2023 13:57
To: Anne Storah <AnneStorah@rossendalebc.gov.uk>
Cc: Michael Atherton <MichaelAtherton@rossendalebc.gov.uk>; Forward Planning <forwardplanning@rossendalebc.gov.uk>
Subject: RE: 2023/0142 - Land West of Burnley Road

Hi Anne,

I'm looking at the 2022 HLS Report this afternoon and note that the third para. on page 17 of appendix B states that the Council secured "updated information" and "expected delivery rates", which would form part of the evidence base that would be relied upon if the deliverable supply was challenged.

The evidence is not provided in the Report. Please could you forward all of this evidence to me?

As you'd expect, I'm starting to consider whether I can be satisfied that the Council has the evidence required by the NPPF/PPG to support its HLS position.

I have cc'd Forward Planning so that one of your colleagues can hopefully pick this up while you are on leave?

Please could you let me have a timeframe for the provision of this information? I would be happy to come to the Council offices to review the information in person if that is easier for you/Forward Planning at all?

Again, I appreciate this is all subject to change relatively soon (in planning terms!), but I need to carry out this exercise based on what is available at the moment.

Thanks,
Matthew

Matthew Symons BA MPlan MRTPI
Planning Manager



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From: Matthew Symons
Sent: Friday, August 11, 2023 11:52 AM
To: Anne Storah <AnneStorah@rossendalebc.gov.uk>
Cc: Michael Atherton <MichaelAtherton@rossendalebc.gov.uk>
Subject: RE: 2023/0142 - Land West of Burnley Road

Hi,

Sorry, should have asked about this in my below email.

Before I start looking at the HLS document, have you had any applicants challenge the 5-yr position since the LP was adopted? Have there been any appeal decisions on housing land at all?

The only one I've come across is attached, but that was from August last year and I was surprised to see the Inspector say that the Council accepted it did not have a 5-yr supply?

Thanks,
Matthew

Matthew Symons BA MPlan MRTPI
Planning Manager



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From: Matthew Symons
Sent: Friday, August 11, 2023 11:21 AM
To: Anne Storah <AnneStorah@rossendalebc.gov.uk>
Cc: Michael Atherton <MichaelAtherton@rossendalebc.gov.uk>
Subject: RE: 2023/0142 - Land West of Burnley Road

Thanks Anne,

Ok, I'll probably be having a look at the latest 5 yr HLS document over the next couple of weeks, appreciating that the position will change later this year. It's not something I've looked at in detail yet, but with a potential appeal on the horizon, I'm going to need to give it some proper thought.

Have a good break and hopefully we can catch up when you're back.

Thanks,
Matthew

Matthew Symons BA MPlan MRTPI
Planning Manager



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From: Anne Storah <AnneStorah@rossendalebc.gov.uk>
Sent: Friday, August 11, 2023 10:41 AM
To: Matthew Symons <matthew.symons@hsland.co.uk>
Cc: Michael Atherton <MichaelAtherton@rossendalebc.gov.uk>
Subject: RE: 2023/0142 - Land West of Burnley Road

CAUTION:EXTERNAL EMAIL!

Hi Matthew,

Yes I heard of course.

I'm just about to go on holiday so off after today until after the Bank Holiday.

The AMR needs to go to Overview & Scrutiny Committee in November so all the data will definitely be public in time for that meeting.

Completions rates have increased and I expect the 5 YHLS document to be available ahead of the AMR publication, but as I said it won't be until next month at the earliest.

Whilst I am on leave I'm hoping we can circulate the Affordable Housing SPD for internal consultation. Again that document needs to go to O&S Committee ahead of the 4-week consultation. I'm hoping that will be towards the end of the year.

Hope this helps.

I'm copying Mike in to this email too.

Kind regards,

Anne

From: Matthew Symons <matthew.symons@hsland.co.uk>
Sent: 11 August 2023 09:45
To: Anne Storah <AnneStorah@rossendalebc.gov.uk>
Subject: RE: 2023/0142 - Land West of Burnley Road

Hi Anne,

A very disappointing and frustrating outcome for us at committee last month.

I'm now considering our next steps. Could you tell me when you'll be releasing your next update on the Council's five-year Housing Land Supply please?

Is there any news on when the affordables SPD will be published?

Thanks,
Matthew

Matthew Symons BA MPlan MRTPI
Planning Manager



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Annex 7



H O L L I N S

H O M E S P E O P L E L O V E

Land west of Burnley Road, Loveclough

Planning Statement

Application for outline planning permission for residential development (all matters reserved other than access)

Hollins Homes

February 2023

Contents

1 Introduction3

2 The Application Site and its Setting.....4

3 Relevant Town Planning History6

4 Planning Policies and Guidance.....7

5 Technical Reports13

6 Evaluation16

7 Conclusions28



1 Introduction

- 1.1 This Statement is written in support of an application for outline planning permission for residential development on land west of Burnley Road, Loveclough (all matters reserved other than access).
- 1.2 Hollins Homes secured Reserved Matters approval for 80 dwellings on land off Burnley Road, Loveclough in December 2020. The scheme, known as 'The Foothills', is now under construction and dwellings are being occupied. The application proposals are for an extension to The Foothills. Up to 40 additional dwellings can be delivered on the infill site which is located between existing development off Loveclough Park, Penny Lodge Lane and The Foothills.
- 1.3 The proposals are compliant with the development plan as a whole. Furthermore, the Council acknowledges that it has failed the Housing Delivery Test (HDT) and as such, the so-called 'tilted balance' applies. The proposals will result in economic, social and environmental benefits which are not significantly and demonstrably outweighed by any adverse impacts.
- 1.4 The benefits include:
- A. Employment opportunities for the construction industry and benefit to the wider construction industry supply chain;
 - B. Residents spending in local shops and businesses;
 - C. Market housing to meet an acknowledged shortfall;
 - D. Affordable housing to meet an acknowledged shortfall;
 - E. High quality public open space in response to an acknowledged shortfall that is accessible to existing residents and managed in perpetuity;
 - F. Enhancing biodiversity at the site; and,
 - G. Providing locationally sustainable development.
- 1.5 Should the LPA consider that the proposals do not comply with the development plan as a whole or that the tilted balance is not engaged, this Statement also demonstrates that the proposals should be approved under the straight balance.
- 1.6 Planning permission should therefore be forthcoming.

2 The Application Site and its Setting

2.1 The application site is some 3.4ha in extent and is greenfield land that is used for grazing. It is also currently being used for the temporary storage of soil from the adjoining development.

2.2 The site is identified as forming part of the countryside in the development plan but immediately adjoins the urban area, as shown in the below extract of the proposals map.

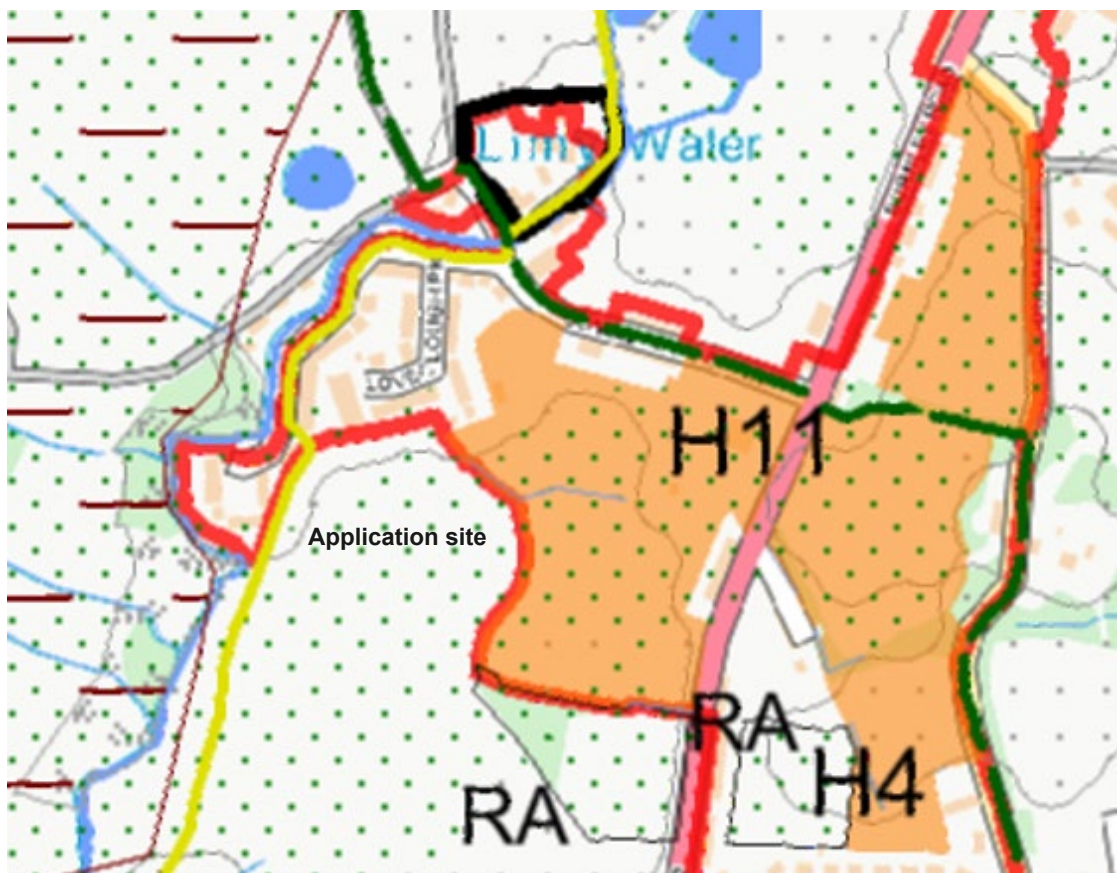


Figure 1: Proposals Map extract



2.3 Whilst the site is identified as forming part of the countryside, it is well contained by urban development:

- To the north and west, the site is bound by existing development off Loveclough Park and Penny Lodge Lane.



- To the north east, the site is bound by The Foothills, a Hollins Homes scheme that will deliver 80 dwellings and is under construction.
- The Foothills adjoins Burnley Road, east of which is another housing allocation (H4) at Swinshaw Hall.
- A recreation area lies to the east of the site and south of The Foothills.
- Allotments lie south east of the site with intervening woodland planting.
- To the west, a wooded embankment slopes down from the site to agricultural land.
- Agricultural land used for grazing also lies to the south, separating the site from Goodhsaw Fold.

2.4 The application site benefits from being adjacent to the established residential community of Loveclough, which is identified as a Rural Local Service Centre in the development plan. Loveclough is well connected to Crawshawbooth, an Urban Local Service Centre, which is within a 2km walking catchment from the centre of the site. A number of local services and facilities are accessible by foot/cycle within Loveclough and Crawshawbooth.

2.5 Furthermore, the site is located within close proximity of bus stops along Burnley Road which offer regular services north and south to the wider area. The X43 service (The Witchway) provides a regular service that connects to Burnley, Queensgate, Rawtenstall, Prestwich and Manchester. The service operates across the week, including at weekends and evenings. On Fridays, a night bus service operates on the route. Service 743 also operates along Burnley Road, providing a school bus service.

2.6 The application site is locationally sustainable, as was of course acknowledged by the LPA when allocating H11 and H4 for housing in the Local Plan.

Site Summary

2.7 The above assessment has revealed that the application site:

- comprises of greenfield land;
- is identified as countryside in the development plan but adjoins the urban area;
- is well contained by existing development and natural features; and,
- is locationally sustainable.



3 Relevant Town Planning History

3.1 There is no relevant planning history for this site.

3.2 Hollins Strategic Land, sister company to Hollins Homes, secured outline permission (application no. 2018/0554) for up to 80 dwellings on the land to the immediate east of the site on 17/05/2019.

3.3 Hollins Homes then secured Reserved Matters approval (application no. 2020/0378) for 80 dwellings on 11/12/2020. Development commenced in 2021 and it is anticipated that the site will be completed by Q1 of 2025.



4 Planning Policies and Guidance

4.1 Planning policy is set out within the development plan, which comprises the Rossendale Local Plan 2019 – 2036 adopted on 15/12/2021.

Rossendale Local Plan 2019 - 2036

4.2 The following LP policies are considered relevant:

- SS: Spatial Strategy;
- SD1: Presumption in favour of sustainable development;
- SD2: Urban boundary and Green Belt;
- SD3: Planning obligations;
- HS1: Meeting Rossendale's housing requirement;
- HS3: Affordable housing;
- HS4: Housing density;
- HS5: Housing standards;
- HS6: Open space requirements in new housing developments;
- HS7: Playing pitch requirements in new housing developments;
- ENV1: High quality development in the Borough;
- ENV2: Historic environment;
- ENV3: Landscape character and quality;
- ENV4: Biodiversity, geodiversity and ecological networks;
- ENV5: Green infrastructure networks;
- Policy ENV6: Environmental protection;
- ENV9: Surface water run-off, flood risk, sustainable drainage and water quality;
- ENV10: Trees and Hedgerows;
- TR1: Strategic Transport;
- TR2: Footpaths, cycleways and bridleways; and,
- TR4: Parking.

Supplementary Planning Documents

4.3 The following SPDs are considered relevant to the application:

- Open Space and Play Equipment Contributions SPD; and,
- Climate Change SPD.



Other Local Documents

Strategic Housing Market Assessment Update (March 2019)

- 4.4 As confirmed in the Inspector's Report (IR) on the LP, "*The Council's SHMA identifies a high level of affordable housing need in the borough*" (para. 70).
- 4.5 The SHMA "*identifies a range of affordable housing need for the borough of between 102 and 170 affordable dwellings per annum, (based on 25% and 33% income ratios respectively) or between 50% and 83% of 204 dwellings per annum (the upper estimate of demographic-led needs)*" (IR, para. 94).
- 4.6 The SHMA confirms that "*assuming delivery of affordable housing is at 30% of total delivery, this would amount to a required total housing provision of between 340 dpa (assuming 33% income) and 567 dpa (assuming 25% income) to meet the quantities of affordable housing need*" (para. 5.50).

Rossendale Local Plan Economic Viability Assessment (March 2019)

- 4.7 The Council's VA shows that requiring more than 30% affordable housing would have been unviable "*and there may be challenges achieving 30% in Zone 1 (Bacup and Stacksteads) and Zone 2 (Whitworth, Facit, Shawforth, Britannia, Weir, Newchurch and Waterfoot)*" (IR, para. 96).

Open Space Assessment Report (January 2021)

- 4.8 The introduction to the OSA states the following:

The purpose of an Open Space Study is to recognise the role of open space provision as a resource to the Borough of Rossendale. Open spaces contribute to the health, well-being, cultural heritage, landscape, education, climate change mitigation, biodiversity and movement for people and wildlife. The impact of climate change is a recognised concern. One which open space provision has the ability to help contribute towards tackling through measures such as tree planting, landscaping, re-wilding and creation of wild areas etc. It is therefore vital for local authorities to know what provision currently exists and what the priorities and requirements are for the future.

- 4.9 The OSA assesses the existing provision of the various open space typologies. Loveclough/Goodhsaw lies within the Goodshaw Ward and the Rawtenstall analysis area.

Parks and gardens

- Fields in Trust (FiT) suggests 0.8ha per 1000 population as a guideline quantity standard;
- Rossendale only has 0.44ha/1000;

- Rawtenstall only has 0.58ha/1000;
- A very small proportion of the Rawtenstall community is within the identified walking catchment of the nearest Park (Whittaker Park).

Natural and semi-natural greenspace

- FiT suggests 1.8ha/1000 as a guideline quantity standard;
- Rossendale has 5.19ha/1000;
- There is however no natural/semi-natural greenspace in Rawtenstall;
- Loveclough/Goodshaw does not fall within the catchments for the natural/semi-natural greenspaces in Rossendale.

Urban greenspace

- FiT suggests 0.6ha/1000 as a guideline quantity standard;
- Rossendale has 2.1ha/1000;
- Rawtenstall has the lowest provision of all areas (0.86ha/1000) with 18 of 24 sites having poor quality ratings;
- Loveclough Park is one of the lowest scoring greenspace sites for quality in Rossendale.

Provision for children and young people

- Rawtenstall has the third lowest provision in Rossendale and is below average for the Borough;
- 50% of Rawtenstall sites have poor quality;
- Goodshaw Lane Play Area in Crawshawbooth has the third lowest score for quality in Rossendale.

Allotments

- FiT suggests 0.25ha/1000 as a guideline quantity standard;
- Rossendale has 0.06ha/1000;
- Rawtenstall also has 0.06ha/1000.

Civic space

- Rawtenstall has no civic space;
- There is only 0.3ha in Rossendale as a whole.

Provision standards

- This confirms there are gaps in catchment for all assessed typologies in Rawtenstall.
- Table 12.3.2 confirms that Rawtenstall has the worst provision of natural/semi-natural greenspace and urban greenspace.
- Table 12.3.4 confirms a deficiency of play provision in Rawtenstall.
- Table 12.4.4 highlights the significant Green Infrastructure shortfall in Rawtenstall.

Appendix 3

- This also highlights the significant Green Infrastructure shortfall in Rawtenstall.



Appendix 4

- This demonstrates that a significant amount of GI will be lost to development in Rawtenstall as a result of the LP proposals
- Sites H5, H7, H10, H12 and H16 (as defined in the OSA) will all exacerbate the quantity shortfall in Rawtenstall.

5 Year Land Supply Report (2022/23 – 2026/27) (July 2022)

4.10 This Report states that the Council can demonstrate a deliverable housing land supply of 7.6 years. This allows for a 20% buffer because the Council has failed the 2022 Housing Delivery Test (HDT).

Housing Action Plan (July 2022)

4.11 The HAP is supposed to set out the Council’s response to the failure of the HDT. The PPG states that it should “*identify the reasons for under-delivery, explore ways to reduce the risk of further under-delivery and set out measures the authority intends to take to improve levels of delivery*” (Ref ID 68-047-20190722).

4.12 The Council’s HAP acknowledges “*that the Council must continue to work proactively with landowners, developers and house-builders to bring sites forward at an increased pace for development and improve existing associated infrastructure, as well as explore ways of maximising the potential of the Council’s own land portfolio.*” (para. 6.7). However, it refuses to commit to a Call for Sites on the basis of its identified deliverable supply of 7.6 years. Rather, it chooses to focus on ensuring those sites are delivered in a timelier manner.

4.13 Appendix 1 to the HAP provides updates on the status of allocated sites for 10 or more houses. Actions are identified for 10 of the allocations, 4 of which are identified as contributing to the deliverable supply.

Housing Delivery Test and 5 Year Housing Land Supply Note (September 2022)

4.14 This Note confirms that the HDT 2021 measurement for Rossendale was 57% of its requirement and provides the following table:

Number of homes required			Total homes required	Number of homes delivered			Total homes delivered	HDT: 2021 measurement	HDT: 2021 consequence
2018/19	2019/20	2020/21	2018/19 to 2020/21	2018/19	2019/20	2020/21	2018/19 to 2020/21		
208	180	127	515	123	94	77	294	57%	Presumption

Table 1: Table 1 of HDT and HLS Note: HDT Results 2021



4.15 The Note confirms that the tilted balance must be applied to the decision-making process. It concludes as follows:

For the avoidance of doubt, regardless of the fact that the Council can demonstrate a 5 year housing land supply position of 7.6 years (at 31st March 2022) until delivery increases to a minimum of 75% of housing requirement the Council will be required to apply NPPF Para 11d to the decision making process of relevant planning applications.

Annual Monitoring Report 2021/22 (October 2022)

4.16 The AMR confirms housing completions for 2019/20 – 2021/22:

Monitoring period	Net dwelling completions
2019/20	94
2020/21	77
2021/22	137

Table 2: Completions for previous three years

4.17 The Executive Summary to the AMR confirms that the Council delivered 74% of the annual dwelling requirement in 2021/22. This immediately demonstrates that the Council will fail the HDT 2022.

4.18 With regard affordable housing, the AMR confirms that there was a 21% average affordable dwelling contribution in 2021/22. Two major sites were approved and one (2019/0405) will not deliver affordable housing due to viability issues linked to extensive land remediation and pilings costs.

National Planning Policy and Guidance

National Planning Policy Framework (NPPF) (2021)

4.19 Para. 11 provides a presumption in favour of sustainable development and states that development proposals that accord with an up to date plan should be approved without delay. It also states that when policies most important for determining the application are out-of-date (including when authorities cannot demonstrate a five year supply of deliverable housing sites), permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

4.20 The following parts of NPPF are also considered relevant to this application:

- Achieving sustainable development;



- Delivering a sufficient supply of homes;
- Promoting healthy and safe communities;
- Promoting sustainable transport;
- Making effective use of land;
- Achieving well-designed places;
- Meeting the challenge of climate change, flooding and coastal change;
- Conserving and enhancing the natural environment; and,
- Conserving and enhancing the historic environment.

5 Technical Reports

Arboricultural Report

- 5.1 The Report confirms that the main body of the site is free from tree cover. There is one over-mature ash on the north eastern boundary but it is suffering from ash dieback disease. There are woodland groups adjacent to the western boundary of the site, which are considered to be of low and moderate quality.

Ecological Survey and Assessment

- 5.2 ERAP has undertaken an Ecological Survey and Assessment:
- Direct and indirect adverse effects of the proposals on statutory and non-statutory designated sites for nature conservation are reasonably discounted.
 - The pond in the centre of the site is Priority Habitat due to its suitability for use by breeding common toad. Great crested newt eDNA surveys have been undertaken and returned negative results.
 - No other priority habitat is present at the site and none of the habitats are semi-natural or identified as irreplaceable.
 - The ditch that leads to the culverted watercourse and associated marshy grassland provide habitat diversity and opportunities for wildlife which can be retained.
- 5.3 The Assessment confirms that the proposals will achieve biodiversity enhancements via a range of features incorporated into the Concept Plan. The report describes the appropriate and proportionate measures and recommendations that aim to enhance the value of the site for wildlife such as roosting bats, nesting birds and biodiversity associated with residential developments. The recommendations comprise landscape planting, habitat creation and the application of positive habitat management in the long-term to achieve measurable gains for biodiversity and compliance with the NPPF, local planning policy and best practice.

Flood Risk Assessment and Drainage Management Strategy

- 5.4 The FRA confirms that the proposals are at very low risk of flooding from all sources. A drainage strategy has been provided which would ensure that the proposals discharge to the culverted watercourse at greenfield rates. The proposals will not increase the risk of flooding elsewhere.



Heritage Statement

- 5.5 This Statement confirms that the application site is not adjacent to the Loveclough Fold Conservation Area, but separated by new housing development. The Conservation Area is primarily experienced looking down Commercial Street and Loveclough Fold, the proposal site does not impact these views. The proposal site does not contribute to the significance, character and appearance of the Loveclough Fold Conservation Area.
- 5.6 The historic asset is assessed as having a medium value, as it is a Conservation Area containing buildings that contribute significantly to its historic character. The proposed new development will not affect the elements of the Conservation Area that are identified as contributing to the significance of the area, and as such will constitute a slight change to the setting that hardly affects the Conservation Area. Therefore, the magnitude of change of the proposed works on the Conservation Area is negligible.
- 5.7 Following the heritage assessment methodology, the significance of impact of a negligible magnitude of change to a heritage asset of medium value would constitute a slight/neutral impact. As it is expected that the proposed works will use appropriate and contextual materials and designs, this assessment finds that the works will have a neutral impact on the character and appearance of the Conservation Area. As there is a neutral level of impact, there is no harm to the Loveclough Fold Conservation Area.

Phase 1 Geo-environmental Assessment Report

- 5.8 The Report finds there to be no environmental or geotechnical issues that would prevent development of the site and recommends some further work that would be required before development is undertaken but not before permission is granted.

Landscape and Visual Appraisal

- 5.9 The LVA recognises that the proposed development would result in the loss of greenfield land. However, it also confirms that the site is located against the existing and new settlement edge and the allocation of the extensive area to the south as POS protects further encroachment into the countryside and provides a large swathe of enhanced landscape, with opportunities for public access.
- 5.10 From views on high ground to the west, the site will be read in the context of The Foothills and will appear as a small intervention in an expansive view. From views close to the site, there will be a change although residential development is a familiar feature of the overall experience. There will be a low level of change beyond the immediate environs of the site and the improvements to access to the countryside and the enhanced biodiversity offer benefits.



Transport Statement

5.11 The Transport Statement (TS) concludes that the proposed development is in accordance with national and local transport policies.

- There are no prevailing road safety issues on the local network.
- The proposals will not be associated with a significant level of traffic.
- An appropriate vehicle access can be formed with pedestrian provision.
- Opportunities are available for sustainable access and that local amenities are available south of the site.
- The site is well served by the X43 bus service which provides regular buses throughout the week to north to Burnley and south to Manchester.
- The traffic impact assessment demonstrates that the proposals will not have a severe impact on highway operation or unacceptable road safety effects.



6 Evaluation

- 6.1 Statutory duty requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. It is demonstrated that the proposals comply with the development plan as a whole.
- 6.2 Furthermore, the presumption in favour of sustainable development applies on the basis of the failure of the HDT. The policies that are most important for determining the application are out of date and there are no adverse impacts that would significantly and demonstrably outweigh the benefits.
- 6.3 If the LPA contends that there is some conflict with the development plan and a straight planning balance should be applied, it is demonstrable that permission should be granted. The benefits, when considered alongside compliance with development plan policies, would justify the approval of the application.

Compliance with the development plan as a whole

- 6.4 The application site is within the open countryside, as defined on the proposals map, yet is adjacent to the Rural Local Service Centre of Loveclough. The developable area is bound by existing development on three sides, lying to the immediate south, east and west of existing and approved housing¹.
- 6.5 Policy SD2 states that “*all new development in the borough will take place within the Urban boundaries, defined on the policies map, except where development specifically needs to be located within a countryside location and the development enhances the rural character of the area*”. The policy explanation states that examples of such development “*would include farm diversification or certain types of tourism uses, as well as rural affordable housing to be delivered on rural exception sites*” (para. 48).
- 6.6 It is acknowledged that the application proposals represent a form of development that would not ordinarily need to be located in the countryside. To this extent, there is conflict with policy SD2. However, the weight to be afforded to this policy is limited in light of the failure of the HDT. Furthermore, when taken in isolation, policy SD2 seeks to restrict/strictly control development outside the settlement boundaries. This cannot be on all fours with the NPPFs absence of a blanket protection of the countryside. The development plan must recognise the landscape in the planning balance.

¹ The Foothills is under construction to the east



- 6.7 Policy ENV3 confirms that the LP does take this approach, allowing any form of development beyond settlement boundaries (not just that which requires a countryside location) provided it conserves and, where possible, enhances the natural and built environment. Policy ENV3 applies the cost/benefit approach required by the NPPF.
- 6.8 For the reasons set out in this Statement, it is evident that new housing should be delivered on the application site, in compliance with ENV3, and the proposals are compliant with other relevant development plan policies.
- 6.9 The proposals accord with the development plan and, in accordance with policy SD1 and the NPPF, should be approved without delay.

Visual amenity, Countryside and Heritage Impact

- 6.10 The following LP policies are relevant to this matter:
- HS4: Housing density;
 - ENV1: High quality development in the Borough;
 - ENV3: Landscape character and quality; and,
 - ENV2: Historic environment.
- 6.11 Policy ENV1 seeks to achieve good design across all developments, with the explanation to the policy pointing to the need to respond to Rossendale's character. Policy ENV3 seeks to ensure that new development demonstrates "*it is based on and responds to a thorough understanding of the landscape character and quality of the immediate and wider context, and take steps to conserve and enhance the natural and built environment*" (LP, para. 248). HS4 requires development to be built at densities in keeping with local areas and to have no detrimental impact on the amenity, character, appearance, distinctiveness and environmental quality of an area.
- 6.12 The LVA and DAS demonstrate a thorough understanding of the site and its surrounding context. The LVA identifies the existing relevant landscape character areas and the key landscape features within the study area. The DAS identifies the specific constraints/opportunities of the site and illustrates the wider setting in terms of access to amenities, transport and movement, as well as the built form and urban fabric in the surrounding area. The application proposals are based on this understanding in order to achieve a high-quality development which would achieve a density that is entirely in keeping with the local area.



- 6.13 The proposals are in scale and keeping with the landscape character and are appropriate to the site surroundings in terms of siting, design, density, materials, appearance and landscaping. Additionally, in order to protect and enhance the character and quality of the landscape in compliance with ENV3, the proposals:
- respond positively to the visual inter-relationship between Loveclough and the surrounding hillsides, following the contours of the site;
 - have an acceptable impact on the skyline and roofscape;
 - would be built at a density that reflects the character of the area;
 - retain the existing watercourse and trees, enhancing green infrastructure and making a positive contribution to the character of the area;
 - incorporate native planting to the south to soften the edge of the POS area;
 - take account of views into and from the site and surrounding area, enhancing the availability and attraction of views south through the valley; and,
 - retain boundary treatment that is characteristic of Rossendale.
- 6.14 Policy ENV2 relates to the historic environment and is relevant given the proximity of the Loveclough Fold Conservation Area to the application site. However, the Heritage Statement demonstrates that the proposals will have no harm on the heritage asset.
- 6.15 The application submission demonstrates that the proposals will have an acceptable visual amenity, countryside and heritage impact, complying with policies HS4 and ENV1 – ENV3.
- Neighbour amenity**
- 6.16 In seeking to achieve good design, policy ENV1 requires that development does not have an unacceptable impact on neighbouring development by virtue of it being overbearing or oppressive, overlooking, or resulting in an unacceptable loss of light.
- 6.17 The DAS and Concept Plan demonstrate that scope exists for Hollins Homes and the Council to ensure that unacceptable harm to neighbour amenity does not occur, through appropriate design of the scheme's layout, scale and landscaping at reserved matters stage. Development will be set back from existing properties along Loveclough Park ensuring there are no adverse overlooking or overbearing issues.
- 6.18 The proposals comply with policy ENV1.



Highways, access and parking

- 6.19 Policy TR1 seeks to ensure that development which generates significant movement is located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. The Transport Statement has demonstrated that the site is locationally sustainable. There are local services available within walking/cycling distance and the site is well served by public transport as a result of the X43 service which runs along Burnley Road at frequent and regular intervals throughout the week.
- 6.20 Policy TR2 states that proposals which improve, extend or add to the existing footpath, cycleway and bridleway network in the Borough and in new development will be supported provided criteria are met. As demonstrated in the DAS, the proposed development would provide a pedestrian link to the existing PROW to the north and to the footpath within The Foothills. These links will take pedestrians to the proposed on-site public open space, which itself could provide a circular path through managed grassland with play provision. The POS will be overlooked and will enhance biodiversity. This creation of an enhanced network of public footpaths is supported by policy TR2.
- 6.21 Policy TR4 relates to parking and compliance with its requirements can be secured at Reserved Matters stage.

Planning contributions and affordable housing

- 6.22 The submitted s106 proforma confirms that the applicant is willing to enter into a s106 Agreement to secure the following:
- Affordable housing, in line with policy HS3, unless secured by condition;
 - A contribution towards playing pitch requirements in line with policy HS7; and,
 - In compliance with policy SD3 and if required, contributions towards:
 - school places;
 - sustainable transport; and,
 - sports and recreation facilities.

Open Space

- 6.23 The application site is identified as forming part of the Borough's Green Infrastructure on the Proposals Map. Policy ENV5 states that "*proposals which enhance the integrity and connectivity of the green infrastructure network will be supported*". It continues to state that schemes which would result in a net loss of GI on-site will only be permitted if:
- *The function and connectivity of GI networks are retained or replaced; or*



- *The development scheme integrates new or enhanced GI where appropriate, such as natural greenspace and trees; and in all cases*
- *The proposal would not have an unacceptable impact on amenity, surface water or nature conservation.*

6.24 The application site is some 3.4ha in extent and there is no public access to the site at present. Only 1.3ha is identified as the developable area with the remaining 2.1ha or 62% providing GI in the form of multi-functional open space. The on-site POS will incorporate the existing pond and enhance biodiversity, as discussed further below. It will connect to the existing PROW network via the footpath to the north and it will also link with the approved footway through the POS within The Foothills to the east. It can also provide formal play provision.

6.25 The provision of enhanced GI and the retention of the function and connectivity of the existing GI ensures compliance with policy ENV5, together with the enhanced amenity that will result from the POS, the biodiversity net gain and the appropriate surface water drainage strategy set out in the FRA.

6.26 Policy HS6 relates to the provision of on-site POS in new housing developments. It confirms that on-site POS will be required where there is an identified local deficiency in quantity of open space. The development plan does not set out how much on-site POS should be required as this is set to be established via a new Supplementary Planning Document. The SPD has not yet been published. However, it is entirely reasonable to assume that the application proposals comply with policy HS6 and indeed, the level of on-site POS being proposed would far exceed the requirements of the SPD representing 62% of the application site.

Ecology, trees and hedgerows

6.27 Policy ENV4 states that “*all development proposals should seek to protect and enhance biodiversity, and will be requested to quantify net gains*”. It continues to state that “*the design and layout of new development should retain and enhance existing features of biodiversity and geodiversity value within and immediately adjacent to the site*”.

6.28 The Concept Plan demonstrates that the existing pond will be retained. It will become a feature of the site and part of a wider area of on-site POS that will enhance biodiversity, as confirmed in the submitted Ecological Survey and Assessment.



6.29 Policy ENV10 requires developers to plan for retention of trees and hedgerows. The submitted Arboricultural Report demonstrates that the proposals will not impact on any trees of value.

6.30 The proposals comply with policies ENV4 and ENV10.

Land contamination and coal mining risk

6.31 Policy ENV6 requires applicants to have undertaken assessments of land which may be affected by contamination. The submitted Geo-environmental Assessment finds there to be no environmental or geotechnical issues that would prevent development of the site.

6.32 The proposals comply with policy ENV6.

Drainage and Flood risk

6.33 Policy ENV9 requires that development proposals consider and address flood risk from all sources. The submitted FRA/DMS demonstrates that the proposals are at very low risk of flooding from all sources and will not increase the risk of flooding elsewhere.

6.34 The proposals comply with policy ENV9.

Summary

6.35 It has been demonstrated that limited weight should be attributed to policy SD2 and that the proposals are compliant with the development plan as a whole:

- The LVA and DAS demonstrate a thorough understanding of the site and its surroundings which is in turn used to achieve a high-quality development which protects and enhances the character and quality of the landscape.
- The site is located against the existing and new settlement edge and the allocation of the extensive area to the south as POS protects further encroachment into the countryside and provides a large swathe of enhanced landscape, with opportunities for public access.
- The proposals will have no harm on the Loveclough Fold Conservation Area.
- Scope exists for Hollins Homes to ensure that unacceptable harm to neighbour amenity does not occur.
- The proposals will not have a severe highways impact.
- The site is locationally sustainable and well served by public transport.



- The proposals will result in the creation of an enhanced network of public footpaths focussed on an area of POS that significantly over-provides against the policy requirement.
- Biodiversity enhancement will be achieved, primarily as a result of the multi-functional POS.
- There are no environmental or geotechnical issues that would prevent development of the site.
- The proposals are at very low risk from flooding and will not increase the risk of flooding elsewhere.
- The necessary contributions could be secured via a s106 Agreement.

6.36 As a result, the proposals should be approved without delay in accordance with policy SD1 and the NPPF.

Tilted balance

6.37 Para. 11 of the NPPF and LP policy SD1 state that where the policies most important for determining the application are out-of-date, including situations where LPAs have failed the HDT, permission should be granted unless:

- the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- 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.

6.38 As stated in Section 4 of this Statement, the Council has failed the HDT. As such, the most important policies are out of date and the tilted balance applies.

6.39 The proposals would not have an impact on protected areas or assets of importance and so the Framework provides no clear reason for refusing the development proposed. Furthermore, it is demonstrable that there are no adverse impacts which would significantly and demonstrably outweigh the numerous benefits of the proposed development.

Benefits of application proposals

6.40 The proposed development would provide the following benefits:

Economic:

- A. Provide employment opportunities for the construction industry and benefit the wider construction industry supply chain; and,



B. Result in spending in local shops and businesses.

Social:

C. Contribute market housing to help meet an acknowledged shortfall;

D. Contribute affordable housing to help meet an acknowledged shortfall; and,

E. Provide high quality public open space, accessible to existing residents and managed in perpetuity.

Environmental:

F. Enhance biodiversity at the site; and,

G. Provide locationally sustainable development.

A: Employment opportunities for construction industry and benefits to supply chain

6.41 The Council has failed the HDT and so the availability of the site to contribute to house building and economic development attracts significant weight.

6.42 The site is deliverable. Hollins Homes would expect to complete its delivery within 2 years of commencement of development. The proposals would provide for a further 2 years of economic benefits for the construction industry in the area.

6.43 Therefore, the proposals represent an investment with significant economic benefits

B: Spending in Local Shops and Businesses

6.44 The permanent economic benefits would accrue to the local shops and businesses in Loveclough and Crawshawbooth. The Transport Statement demonstrates that the site is within easy walking/cycling distance of the services and facilities in these settlements. The additional dwellings could act as a catalyst for the development of local services and facilities in these areas.

C: Contribution to market housing to meet an acknowledged shortfall

6.45 The Council has failed the HDT by a significant margin, delivering only 57% of its requirement in 2021.

6.46 As stated, the site is deliverable. It is anticipated that The Foothills will be completed by Q1 of 2025. Towards the end of the construction period for The Foothills, Hollins Homes will move onto the application site. It is anticipated that the site would be

delivered before the end of 2026/27, thereby contributing towards the deliverable supply.

- 6.47 The social benefit of making a valuable contribution towards the delivery of housing against a significant failure of the HDT carries substantial weight in support of the proposals.

D: Contribution to affordable housing to meet an acknowledged shortfall

- 6.48 There is a high level of affordable housing need in the Borough, as confirmed in the SHMA and IR. The SHMA confirms that “*assuming delivery of affordable housing is at 30% of total delivery, this would amount to a required total housing provision of between 340 dpa (assuming 33% income) and 567 dpa (assuming 25% income) to meet the quantities of affordable housing need*” (para. 5.50). Furthermore, Council’s VA confirms that there may be challenges for some sites in Zone 1 and 2 to deliver affordable housing.
- 6.49 The Council has failed the HDT by a significant margin and the AMR confirms that of the two major sites approved in 2021/22, only one will deliver affordable housing with the other being unable to do so for viability reasons. This results in a 21% average affordable dwelling contribution for that monitoring year from major applications and a contribution of only 9 units. Only 34 affordable dwellings were delivered in 2021/22.
- 6.50 The combination of high level of need, the failed HDT and the impact of viability on affordable housing in the Borough, results in the policy-compliant affordable housing provision being a substantial benefit.

E: Provision of high quality public open space, managed in perpetuity

- 6.51 The Concept Plan demonstrates that significant, attractive on-site public open space (POS) can be provided. It can total some 2.1ha in extent, significantly in excess of what would be required by the development plan, and can comprise of amenity open space and equipped play. The Concept Plan also shows that the POS can form effective links with that to be delivered at the Foothills, the existing recreation area to its south and the park to the east of Burnley Road, as well as the PROW network.
- 6.52 The NPPF confirms that “*access to high quality open spaces ... is important for the health and well-being of communities*” (para. 98). This is repeated in the LP which “*seeks to ensure that Rossendale’s residents have access to outdoor amenity space and recreation space*” because “*this is important for encouraging health and well-being*” (para. 147). The OSA also states that POS contributes to “*health, well-being, cultural*



heritage, landscape, education, climate change mitigation, biodiversity and movement for people and wildlife”.

- 6.53 However, the OSA confirms that Rossendale, and Rawtenstall in particular, suffers from a shortfall of POS for a number of typologies and the deficit will worsen as a result of the Council having to allocate existing POS as housing sites. There is a significant GI shortfall in Rawtenstall which will be exacerbated by sites H5, H7, H10, H12 and H16.
- 6.54 The on-site POS provision, which would provide significant amenity open space and play provision, and would be managed in perpetuity, is a social benefit of significant weight in the planning balance particularly given the deficiencies in Rawtenstall and Rossendale as a whole.

F: Enhance biodiversity

- 6.55 The Ecological Assessment confirms that measures to enhance biodiversity can be implemented. Habitat connectivity can be enhanced through a number of measures, including the planting of new trees and hedgerows. It sets out recommendations that aim to enhance the value of the site for wildlife such as roosting bats, nesting birds and biodiversity associated with residential developments. The recommendations comprise landscape planting, habitat creation and the application of positive habitat management in the long-term to achieve measurable gains for biodiversity and compliance with the NPPF
- 6.56 These environmental benefits can be secured by condition.

G: Locationally sustainable development

- 6.57 The Council identifies Loveclough as a Rural Local Service Centre that is well-connected to nearby Crawshawbooth, an Urban LSC. As demonstrated in the TS, the services/facilities on offer in these centres are numerous and within easy walking/cycling distance of the application site. Additionally, the X43 bus service runs along Burnley Road offering regular services to the wider area.
- 6.58 The Council acknowledged the locational sustainability of the local area when allocating H11 and H4 for housing in the Local Plan. The environmental benefit of providing such a locationally sustainable development weighs in favour of the application proposals.



Adverse impacts of application proposals

6.59 The proposals would result in the following adverse impact:

Environmental Impact

A. Loss of land allocated as countryside, contrary to LP policy E4;

A: Loss of land allocated as countryside

6.60 It is acknowledged that the proposed housing on the developable area would result in the loss of greenfield land. However, it has been demonstrated that the proposals comply with ENV3.

6.61 The LVA confirms that the site is located against the existing and new settlement edge and the allocation of the extensive area to the south as POS protects further encroachment into the countryside and provides a large swathe of enhanced landscape, with opportunities for public access.

6.62 From views on high ground to the west, the site will be read in the context of The Foothills and will appear as a small intervention in an expansive view. From views close to the site, there will be a change although residential development is a familiar feature of the overall experience. There will be a low level of change beyond the immediate environs of the site and the improvements to access to the countryside and the enhanced biodiversity offer benefits.

6.63 The loss of land identified as countryside is an adverse impact, but one which should be afforded limited weight in the decision-making process.

Summary

6.64 It is acknowledged that the proposals will result in the loss of land identified as countryside. However, for the aforementioned reasons, this impact attracts limited weight and it must be weighed against the numerous benefits, some of which attract significant or substantial weight:

A. Provide employment opportunities for the construction industry and benefit the wider construction industry supply chain;

B. Result in spending in local shops and businesses;

C. Contribute to market housing to meet an acknowledged shortfall;

D. Contribute to affordable housing to meet an acknowledged shortfall;



- E. Have the potential to provide high quality public open space, accessible to existing residents and managed in perpetuity;
- F. Enhance biodiversity at the site; and
- G. Provide locationally sustainable development.

6.65 It is therefore concluded that there are no adverse impacts which would significantly and demonstrably outweigh the benefits. As such, permission should be forthcoming.

Straight balance

6.66 It has been demonstrated that the numerous benefits, when considered alongside compliance with development plan policies, are of such weight that they would justify the approval of the application should the LPA consider that the tilted balance is not engaged and that the proposals do not comply with the development plan as a whole.

6.67 The proposals would provide a substantial combination of benefits which would clearly outweigh any limited or technical conflict with the development plan. Under a straight balance, permission should be forthcoming.



7 Conclusions

7.1 LP policy SD1 confirms that the Council applies the presumption in favour of sustainable development. The NPPF confirms that for decision-taking, the presumption means:

- Approving development proposals that accord with an up-to-date development plan without delay; or,
- 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 the 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 the Framework taken as a whole.

7.2 While there is conflict with SD2, the policy must attract limited weight in light of the failure of the HDT. In any event, compliance with ENV3 has been demonstrated, along with all other relevant development plan policies. It has therefore been demonstrated that the proposals comply with the development plan as a whole.

7.3 It has also been demonstrated that the policies which are most important for determining the application are out-of-date because the Council has failed the HDT. As such, the tilted balance is engaged, and permission should be granted as there are no adverse impacts which would significantly and demonstrably outweigh the numerous benefits. Individually, some of the benefits are to be afforded significant or substantial weight. Collectively, the benefits represent a substantial combination.

7.4 If the LPA considers that the proposals do not comply with the development plan as a whole or that the tilted balance is not engaged, it has also been demonstrated that the proposals should be approved under a straight balance.

7.5 It is therefore concluded that the application should be approved.

Annex 8

From: [Matthew Symons](#)
To: [Matthew Symons](#)
Subject: FW: 2023/0142 - Lovelough
Date: 17 August 2023 11:39:54
Attachments: [image003.png](#)
[image004.png](#)
[image005.png](#)
[image887623.png](#)
[image520657.png](#)
[image882419.png](#)

Matthew Symons BA MPlan MRTPI
Planning Manager



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From: Matthew Symons
Sent: Tuesday, July 18, 2023 9:55 AM
To: James Dalglish <JamesDalglish@rossendalebc.gov.uk>
Subject: RE: 2023/0142 - Lovelough

Morning James,

Thanks very much for pushing to get this one to Committee next week.

I've read through the Report and have a few comments/queries that I'd like to run by you if that's ok?

- Applicant name – you have reported that it is HSL but the applicant is Hollins Homes.
- 106 – affordable housing – given we haven't been able to make progress on the split of the affordables, am I right to work on the basis of the 106 simply securing 30% with the split to be agreed at a later date?
- Section 8 - Principle – the Report states that the proposals are contrary to policy SD1, but that is the Presumption policy and the Report concludes that the proposals are acceptable in this regard. Is it worth confirming this to Members via a Late info sheet i.e. that the proposals accord with SD1?
- Policy ENV3 – the Report refers to this policy, but I can't see that it later confirms that the proposals comply with this policy, which I noted that we agreed upon when we met?
- There is reference to a requirement for another LVA to be submitted at RM stage. Is this something you will be requesting? I ask as LVAs are pricy documents and I'm wondering if a design statement of sorts could work at RM stage, setting out the thought process behind the landscaping works?
- Benefits – you haven't listed the following benefits and I just wanted to check if that is because you don't see them as benefits?
 - Site to be delivered by a SME housebuilder
 - Employment opportunities for the construction industry and wider supply chain
 - Spending in local shops and businesses, including Crawshawbooth
 - With regard the economic benefits, there is no reference to the comments of the Council's Strategic Housing department/Head of Housing and Regeneration – *"this housing development will bring about huge economic impacts for Rossendale, supporting growth, jobs and sparking much needed infrastructure investment"*.
 - Enhancement of biodiversity – you have listed biodiversity as having a neutral impact but the condition we agreed will secure a net gain.
 - The provision of the interpretation board, secured by condition
 - The enhancement of the PROW via the 106 contribution
- Benefits – I've also noted the following:
 - Affordable housing – there is no reference in the report the fact that there are currently 2082 active applications for affordable housing in Rossendale

Are these matters that you might be able to report on via a late info sheet, or verbally on the night?

Given I am on leave next week, I'm going to be preparing for the Meeting this week. Is there anything that you and I need to discuss before the Committee Meeting? I'd welcome a chat with you about I should focus on in my 3-minute speech to Members and what Qs I might face, but perhaps that would be worth having after you've had Members briefing? When does that take place?

I'm intending to keep my phone switched off on Monday but then to turn it back on again on Tuesday in case you and I need to discuss anything. Would that be ok with you?

Thanks,
Matthew

Matthew Symons BA MPlan MRTPI
Planning Manager



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