

Application Number:	2016/0563	Application Type:	Outline
Proposal:	Outline application for demolition of all existing buildings and structures and erection of up to 100no. dwellings (Use Class C3) with all matters reserved except for access	Location:	Rossendale Football Club, Dark Lane, Newchurch, Rossendale
Report of:	Planning Unit Manager	Status:	For publication
Report to:	Development Control Committee	Date:	28 th February 2017
Applicant:	Culzean Developments	Determination Expiry Date:	13 th March 2017
Agent:	Euan Kellie Property Solutions		

Contact Officer:	Lauren Ashworth	Telephone:	01706-238637
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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	✓
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 Committee be minded to approve Planning Permission subject to a S106 Agreement and Memorandum of Understanding to secure the planning obligations and subject to the conditions set out in Section 10.

2. **SITE**

The site extends to 2.69 hectares and is located within Hareholme Ward. It is located to the south side of Staghills Road within Newchurch. To the west of the site runs Dark Lane which is a narrow unadopted road over which runs a public footpath and provides access to domestic driveways and garages serving properties to the west, and also to Newchurch St Nicholas C.E. Primary School where the road then terminates. Houses on Queensway adjoin the site to the east side. The south of the site is bound by Staghills Wood which contains a dense area of deciduous woodland and is a Priority Habitat.

The site itself can be described in two distinct areas. The northern part of the site contains large areas of hardstanding, the now disused playing pitch which was previously occupied by Rossendale United Football Club, along with a number of dilapidated stands, structures and the former club house. 'Modified neutral grassland' has developed where the former playing pitch was sited - this is grassland which naturally regenerates on disturbed ground and is unmanaged. Two dwellings on Queensway (no. 3 and no. 5) have domestic garages at the rear of their properties which falls on land within the application site and are accessed from the site. The majority of the northern part of the site is owned by Culzean Developments (the applicant).

The southern part of the site lies adjacent to Newchurch St Nicholas C.E. Primary School and comprises marshy open grassland, dense scrub and a scattering of trees. This part of the site is owned by Rossendale Borough Council.

Ground levels slope significantly from the north west to the south east by around 11 metres. The levels have been altered historically to accommodate the pitch and buildings on a plateau which has resulted in a retaining wall located between the site and Dark Lane.

The entire site is allocated on the Adopted Proposals Map (1995) as 'Greenlands' and the northern part is a Recreation Area. The full site lies within the Urban Boundary of Waterfoot. The majority of the site consisting of southern area owned by the Council, and the disused pitch within the northern part are 'greenfield' in planning terms. There is some debate between Officers and the applicant's agent whether the land containing the hardstanding areas and dilapidated structures would constitute previously developed land. The National Planning Policy Frameworks' definition of previously developed land excludes 'recreation grounds' therefore Officers take the view that the entire site is greenfield. However the agent considers that whilst the land is designated as a recreation ground it is not a piece of public land for recreation, therefore considers part of the land is previously developed. Nevertheless, the issue of the principle of redeveloping the entire site is considered in Section 8 of this report.

The site is not within a Conservation Area nor does it contain listed buildings or Tree Preservation Orders (TPO). There are 17 trees on third party land adjacent to Dark Lane (outside of the application site but adjacent to it) which are covered by a TPO (reference – T2/6/T1 to T17).

3. PROPOSAL

Outline planning permission is sought for the demolition of all buildings and structures on the site to allow for the erection of up to 100 residential units. The application is submitted in outline, with only details of access for approval. All other matters are reserved.

An indicative proposed site plan has been submitted with the application which demonstrates how a residential scheme could be incorporated within the site. It includes a mix of four house types including semi-detached and terraced units comprising 94 x three bedroom and 6 x two bedroom. A mix of two and three storey units are proposed. This achieves a density of 37 dwellings per hectare. Each dwelling has dedicated car parking spaces and these are shown indicative on the site plan as either within curtilage or on-street.

The layout demonstrates that Dark Lane will provide the primary access into the site, and this will be via a new vehicular and pedestrian access which will be formed to the south of the existing Dark Lane / Staghills Road junction. A new internal road will be formed from this junction and will run the full extent of the site to the south at a width of 5.5m and with a 2m wide footway on both sides. Dark Lane is proposed to be offered for adoption, widened to 5.5m, lit with the provision of a 2m wide footway. An additional access will be formed off Dark Lane at its southern end.

A children's play area is shown in the approximate centre of the site and other areas of open space are provided at the northern and southern ends of the site. The indicative site plan proposes to retain most trees around the perimeter although various trees from within the centre are proposed to be removed. Indicative replacement tree planting is shown on the proposed site plan.

The following have been submitted in support of the application:

- Design and Access Statement
- Planning Statement including Statement of Consultation
- Agronomy Report on Proposed Soccer Pitch
- Economic Viability Appraisal
- Playing Pitch Strategy
- Flood Risk Assessment and Outline Drainage Strategy
- Transport Assessment
- Travel Plan
- Noise Report
- Ecological Assessment
- Geo Environmental Phase 1 Desk Study
- Arboricultural Impact Assessment

4. PLANNING HISTORY

2012/0341 - Outline application for residential development. Withdrawn December 2012. This application related to the north-east part of the site.

5. POLICY CONTEXT

National

National Planning Policy Framework (2012)

Section 1 Building a strong, competitive economy

Section 4 Promoting Sustainable Transport

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- Section 6 Delivering a Wide Choice of High Quality Homes
- Section 7 Requiring Good Design
- Section 8 Promoting Healthy Communities
- Section 10 Meeting the Challenges of Climate Change, Flooding, etc
- Section 11 Conserving and Enhancing the Natural Environment
- Section 12 Conserving and Enhancing the Historic Environment

Development Plan Policies

Rossendale Core Strategy DPD (2011)

- AVP 3 Strategy for Waterfoot, Cowpe, Lumb and Water
- Policy 1 General Development Locations and Principles
- Policy 2 Meeting Rossendale's Housing Requirement
- Policy 3 Distribution of Additional Housing
- Policy 4 Affordable & Supported Housing
- Policy 8 Transport
- Policy 9 Accessibility
- Policy 10 Provision for Employment
- Policy 16 Preserving and Enhancing Rossendale's Built Environment
- Policy 17 Rossendale's Green Infrastructure
- Policy 18 Biodiversity and Landscape Conservation
- Policy 19 Climate Change and Low & Zero Carbon Sources of Energy
- Policy 22 Planning Contributions
- Policy 23 Promoting High Quality Design & Spaces
- Policy 24 Planning Application Requirements

Other Material Planning Considerations

- LCC Planning Obligations in Lancashire (2008)
- RBC Open Space & Play Equipment Contributions SPD (2008)
- Planning Practice Guidance
- Sport England 'A Sporting Future for the Playing Fields of England'
- The Pennine Lancashire Playing Pitch Strategy (2016)

6. CONSULTATION RESPONSES

Consultee	Response	Conditions recommended?
RBC (Forward Planning)	No response received	No
Sport England	No objection	No however a Memorandum of Understanding and Section 106 Agreement are required
Contaminated Land Officer	No objection	Yes
LCC (Highways)	No objection	Yes and Section 278 Agreement
Ecology Consultant	No objection	Yes

LCC (Planning Contributions)	No objection	No
United Utilities	No objection	Yes
Lancashire County Council (Lead Local Flood Authority)	No objection	Yes
Natural England	No comments to make	No
Lancashire Fire and Rescue	No objection	No - comments relate to Building Regulations as opposed to Planning
Police Architectural Liaison Officer	No objection	Informatives
Environment Agency	No objection	Yes

7. **NOTIFICATION RESPONSES**

To accord with the General Development Procedure Order a press notice was published on 23/12/2016, site notices were posted on 30/12/2016 and 265 letters were sent to neighbours on 13/12/2016.

8 letters of objection have been received. The key areas of concern / queries are summarised below:

- 100 dwellings is too much for the site.
- Access and traffic concerns.
- Concerns over the safety and visibility at the access into the site and onto Staghills Road.
- There should be more open space within the site.
- Loss of recreation area.
- Would the new pitch at Marl Pits be free to use?
- Will the new pitch be open before the Dark Lane site is made unavailable?
- Will the trees to be lost be replaced?
- Is there any affordable housing proposed on the site?
- Concerns over capacity at local schools.
- Concerns over boundary treatment at the rear of the dwellings which back on to the site.
- Concerns over ground levels on the site compared to the existing levels at existing properties which lie opposite.
- Concerns over loss of wildlife.

8. **ASSESSMENT**

Principle

The key issues for consideration in determining whether the proposal is acceptable in principle are: 1) impact on a playing field and 2) proposed residential development.

Impact on the loss of a playing field

The proposal is for the construction of housing on the former Rossendale FC football ground. It should be noted that although use of the site as a football ground as discontinued it is still considered to be a playing field in land use terms because the site has not been developed for any alternative use. As the proposal results in the loss of a playing field consultation with Sport England is a statutory requirement.

The role of Sport England is to assess the proposal against the Framework (paragraph 74) and their own policy to protect playing fields 'A Sporting Future for the Playing Fields of England'. The policy states that planning permission should be rejected for any development which would lead to the loss of, or prejudice the use of, all or part of a playing field, unless one or more of the five exceptions listed in the policy apply.

Sport England have commented that the application relates to the loss of an existing playing field, and includes the provision of a replacement field, thereby triggering an assessment against exception E4 which states: *"The playing field or playing fields which would be lost as a result of the proposed development would be replaced by a playing field or playing fields of an equivalent or better quality and of equivalent or greater quantity, in a suitable location and subject to equivalent or better management arrangements, prior to the commencement of development."*

In assessing the proposal against E4, Sport England had regard to the following considerations in relation to the existing playing fields:

- Existing playing field area at Dark Lane is 7,420sqm
- The site has been disused as a football ground for several years
- The site was formerly used by Rossendale United Football Club
- There were stands and other ancillary facilities which burnt down several years ago
- The Pennine Lancashire Playing Pitch Strategy (2016) identifies this site as disused. However, the overall supply/demand balance for pitch provision in the area is one of deficiencies across most pitch types. This means the playing field land must be replaced to meet identified deficiencies in the area and cannot be considered surplus to requirement. Consultation with the pitch sport national governing bodies identified a need for a full size adult football pitch to be replaced.

In assessing the proposed playing fields Sport England noted:

- Proposed playing field area to be created at Marl Pits is 7,420sqm
- Neil Allen Associates produced a feasibility study to assess potential locations for a new adult pitch.
- Marl Pits was the only feasible location as the area to be brought into use at this facility (on a grass plateau to the east of the existing rugby pitch) is not currently a functional playing field and requires sufficient works in order for it to constitute a "new adult pitch". Such works include tree clearance, minor ground levelling works on the eastern and southern elevations, drainage and cultivation in order to achieve the required dimensions of an adult pitch (100m x 64m plus 3 run-offs).
- PSD Agronomy Labosport Group has produced an Agronomy Report and pitch specifications for the Marl Pits site that comply with FA Performance Quality Standards.
- The pitch will be used by local football teams to help alleviate overplay on nearby pitches.
- Marl Pits is currently a sports hub with ancillary facilities (car parking and changing rooms).
- Location – the new pitch is contained within the same catchment area as the pitch at Dark Lane.

- Phasing – this will be determined by the Section 106 Agreement and the Memorandum of Understanding. However, Sport England’s policy is clear that the replacement must be implemented and ready for use prior to the construction on the existing playing field site.
- Marl Pits is managed and maintained by Rossendale Council and this will extend to the new pitch.

The applicant has offered a sum of £130,755 to fund the replacement pitch which will be secured through a Section 106 Agreement. The cost is based on the schedule of works set out in the PSD Agronomy Report and has been agreed with Sport England. Sport England has recommended to Officers that a Memorandum of Understanding should be prepared between themselves and the Council which identifies the timescales for delivery, the schedule of works and any alternative provision that may be required. Officers have considered the extent of the works required to create a new adult pitch at Marl Pits (tree clearance, minor ground levelling works on the eastern and southern elevations, drainage and cultivation) with regards to whether they will require planning permission. Part 12 of The Town and Country Planning (General Permitted Development) Order 2015 gives permitted rights to local authorities to erect buildings or undertake works on land belonging to or maintained by them for the purpose of any function exercised by them. It is considered that the necessary works identified within the PSD Agronomy Report would constitute permitted development under Class A of Part 12 of the GPDO.

In summary, given the above assessment, Sport England does not raise an objection to this application as it is considered to broadly meet exception E4 of the above policy and paragraph 74(ii) of the Framework. The absence of an objection is subject to:

- A Section 106 Agreement requiring the payment of £130,755 towards a new pitch at Marl Pits. As the legal agreement is the mechanism by which the replacement will pitch will be triggered Sport England should be consulted on the wording to ensure the obligations and timescales comply with Sport England Policy; and
- Memorandum of Understanding between Sport England and the Council to ensure the pitch contribution is spent on Marl Pits and implemented in accordance with the pitch specification set out within the PSD Agronomy Report to an agreed timetable.

Accordingly, Officers are now satisfied that the applicant has demonstrated compliance with the Framework (paragraph 74), Policy 17 of the Core Strategy, and with Sport England’s policy to protect playing fields ‘A Sporting Future for the Playing Fields of England’.

Proposed residential development

The Council cannot currently demonstrate a five-year supply of deliverable housing sites based on Full Objectively Assessed Need (FOAN), and therefore certain Core Strategy policies concerned with the supply of housing cannot be considered up-to-date (in line with paragraph 49 of the Framework). Notwithstanding this, Policy 1 directs new development to the Urban Boundary and requires individual planning applications to make the best use of under-used, vacant and derelict land and buildings. Policies 2 and 3 are supportive of housing development on previously developed land within the Urban Boundary, and the largest number of houses will be targeted towards the Rawtenstall area. This includes Hareholme Ward within which the site is located.

In terms of sustainability, the nearest bus stops are on Staghills Road and are served by Rosso Bus Service 10, which provides a half hourly service in the AM peak and an hourly

service in the PM peak to Rawtenstall Bus Station. However it is unlikely that this service will meet the travel needs of the development site and it is likely that potential residents will want to travel on the mainline service (464) which operates every 10-20 minutes towards Accrington and Rochdale. The nearest bus stops are on Bacup Road however the existing links to Bacup Road are via unmade surfaces and are wet during the winter months. Lancashire County Council Highways have made recommendations with regards to these links in the 'Transport and access' section below.

The nearest Primary School is Newchurch St Nicholas C.E. Primary School which is immediately adjacent to the site. Bacup and Rawtenstall Grammar School is the closest secondary school which is approximately 1km away to the east. Waterfoot (a local centre) is approximately 1km away and contains a range of local services. Overall the site is considered to be reasonably sustainably located.

The site comprises two distinct parcels of land. The northern part of the site contains large areas of hardstanding, the now disused playing pitch which was previously occupied by Rossendale United Football Club, along with a number of dilapidated stands, structures and the former club house. The southern part comprises marshy open grassland, dense scrub and trees. The site is vacant in its entirety; and all of the land is allocated as 'Greenlands' with the northern part being a 'Recreation Area' also. The applicant has proposed appropriate compensation for the loss of the playing pitch (via a Section 106 Agreement securing monies to provide a full size adult pitch at Marl Pits, and a Memorandum of Understanding in relation to timings). Although the site is greenfield, Officers note that it is within a reasonably sustainable and accessible location within the Urban Boundary of Waterfoot, and re-development for residential purposes would be compatible with the surroundings than the current use. In addition, Officers are satisfied that the scheme being for up to 100 new dwellings would make a significant contribution to reducing the shortfall in housing supply for the Borough over the plan period. Accordingly Officers attach significant weight in favour of the proposal in respect of its contribution to housing supply.

At the national level paragraph 14 of the Framework contains a presumption in favour of sustainable development. It states that development proposals that accord with the development plan should be approved without delay. Based on the findings above, Officers are satisfied on balance that the proposal is compliant with the development plan in so far as the loss of a playing pitch, subject to its replacement, and the proposed residential development in a sustainable location are concerned.

Other considerations

Contamination

The application is accompanied by a Phase I Geo-Environmental Desk Study which has been reviewed by the Council's Contaminated Land Officer. The report identifies a number of potential sources of contamination including made ground, asbestos, car park surfaces and ground gasses. The applicant is aware of the potential issues on site and there is acknowledgement that further investigation and assessment work is required and that remediation is needed.

The Contaminated Land Officer is satisfied that the proposed residential development is acceptable in principle subject to a planning condition requiring a full site investigation report and details of remedial works to be submitted for approval.

Flood risk and drainage

The site extends to 2.69ha and is located within Flood Zone 1. Given the site area the application is accompanied by a Flood Risk Assessment and Outline Drainage Strategy which have been reviewed by the Lead Local Flood Authority and United Utilities. The drainage strategy is to discharge surface water via new drainage networks to the existing public sewer network surrounding the site at agreed rates. Foul water generated by the development will be discharged to the adjacent combined water public sewers.

No objection has been raised by either consultee subject to planning conditions requiring the submission of a surface water drainage scheme, and full details of SUDS and SUDS management. Accordingly, Subject to conditions, the scheme is considered acceptable in principle with regards to flood risk and drainage.

Transport and access

Full details of access are sought for approval as part of the outline application. The application is accompanied by a Transport Assessment and Travel Plan, and an Indicative Proposed Site Plan. The layout demonstrates that Dark Lane will provide the primary access into the site, and this will be via a new vehicular and pedestrian access which will be formed to the south of the existing Dark Lane / Staghills Road junction. Dark Lane has a road width of 4-5m and does not have footpaths or street lighting. Dark Lane is proposed to be offered for adoption, widened to 5.5m, lit, and a 2m wide footway created on one side. An additional access will be formed off Dark Lane at its southern end. A new internal road will be formed from this junction and will run the full extent of the site to the south at width of 5.5m and with a 2m wide footway on both sides.

The layout demonstrates that 198 car parking spaces can be achieved, with 91 being within curtilages and 107 being shared spaces. However the applicant is aware that the Council's parking standards require a total of 200 spaces, and therefore a reserved matters application will need to include a layout that accommodates this number. 12 properties on Dark Lane will be served by a garage and a parking space, with access being taken directly from Dark Lane and not from within the internal estate road.

Lancashire County Council Highways has been consulted on the application. No objection has been raised however additional information was requested in relation to the following:

- Flows and junctions within the Transport Assessment
- Adoption of Dark Lane
- Detailed drawing of driver visibility splay at Dark Lane and Staghills Road
- Footways on Dark Lane
- Pedestrian links across the site and outside of the site
- Off-site highway works will be secured by 278 Agreement and planning condition

The following additional off-site highway works have been requested and will be secured though a Section 278 Agreement between the developer and Lancashire County Council:

- Upgrading of bus stops on Staghills Road to quality bus stops, with shelters, bus border kerbs and road markings.
- The west bound bus stop has an existing bus shelter however there is no seat or timetable case and it will need replacing or upgrading if possible.
- A new footway to be constructed on the south side of Staghills Road at both sides of Dark Lane to provide a continuous footway provision for pedestrians.

The applicant submitted a Supplementary Information Report on 14 February 2017 which is currently being reviewed by Lancashire County Council Highways. Their findings will be reported to Members in the Update Report.

Layout and design

The indicative proposed site plan submitted with the application is for illustrative purposes only and is not for approval; however it provides a useful visualisation of how the site could be developed. The Design and Access Statement explains the key features of the layout are as follows:

- All properties face the main circulation routes;
- Two and three storey properties front Dark Lane with vehicular and pedestrian access from the lane;
- A new vehicular access formed to the south of Dark Lane / Staghills Road junction and a new road from this runs through the site;
- Properties face a central area of public open space with play equipment and reconnects this route with the junction of Dark Lane and the entrance to the adjacent primary school;
- Additional areas of open space are located within the development;
- The new internal road layout reinforces the linkages to Staghills Wood;
- The proposals will create a development with its own identity but one which respects the principles of local vernacular and built form;
- Properties are arranged in terraced rows or semi-detached form;
- All properties benefit from outdoor amenity space either in private gardens; and
- The proposed development will return the site to its natural topography which will be achieved by a process of cut and fill across the site.

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

Overall and subject to conditions, it is considered that the key principles shown on the illustrative masterplan are acceptable in principle.

Housing mix and quantum

The development proposes a density of 37 dwellings per hectare. Policy 2 states that 30 dwellings per hectare should be achieved as a minimum, and that this can exceed 50 in sustainable locations. The density proposed is considered to be appropriate for this site.

The housing comprises a mix of 2 and 3 bedroom houses in the form of terraces and semi-detached. Although the proposed mix is indicative at this stage and will only be fixed at reserved matters stage, the mix is considered to be appropriate in principle.

Landscaping and Ecology

Landscaping and tree loss

Landscaping is a reserved matter and therefore not for determination at this stage. However the indicative site plan has been informed by an Arboricultural Impact Assessment which identifies the following key points:

- The majority of tree cover across the site is confined to the periphery, with some middle aged to mature trees along the access road leading to the school, and along the edge of the woodland at the south and west.
- Species are predominantly sycamore with some common ash, common beech, birch and oak species.
- All of the trees surveyed were of good condition. 3 are category A, 19 are category B and 22 are category C.
- Trees within the gardens of properties facing Dark Lane (outside of the application site) are protected by Tree Preservation Order.
- To facilitate the development proposals 17 individual trees, 5 groups (totalling 0.12ha) and 20 young to middle-aged trees from within G1 and W1 would be removed. All others can be retained and protected during construction.
- The majority of trees to be removed are of low value. The removal of 16 young to middle-aged trees from the edge of W1 would not substantially reduce the overall quality or value of the woodland.

The report identifies that as a result of the number of trees to be removed, mitigation for the loss of amenity and associated habitat may be required in the form of replacement tree planting. It is acknowledged that there is limited space within the site to provide this to any significant degree, although the indicative site plan does provide for a small degree of planting in and amongst the housing. The applicant's report recommends that mitigation in the form of tree planting has the potential to result in a net balance of long-term tree cover and quality, and that this will need to be agreed with the Local Planning Authority.

The Council's Ecologist has reviewed the Arboricultural Impact Assessment and has made the following comments:

- The development lies immediately adjacent to Stag Hills Wood. Whilst not designated as a statutory or non-statutory site, the wood is an important wildlife habitat and should be protected during construction.
- Existing boundary trees are to be retained. T3 has been highlighted as having moderate bat roosting potential. Prior to felling of this tree, a condition shall require that its cavities are inspected by a licensed bat ecologist.
- In terms of ecological mitigation, whilst the site is generally of low ecological value the scale of the development is such that without mitigation the development would lead to a negative impact on the natural environment, contrary to the Framework which states the planning system should contribute to and enhance the natural environment. Currently no land is set aside for ecological mitigation though a number of trees are proposed across the site and a small play area is located centrally. Utilising the draft biodiversity offset guidance it would be expected that around 0.3 ha of high value ecological habitat to be provided for the loss of around 2.7ha of low value ecological habitat. This would approximately equate to a 10m buffer for Stag Hills Wood along the southern boundary.
- However in this instance it is recommended that off-site compensation would be a better option via a Section 106 Agreement. The proximity of Stag Hills Wood to the site makes this an ideal opportunity to produce an ecological enhancement plan to the woodland, particularly if the woodland is owned by either the developer or Rossendale Council. The Council's Estates Department has confirmed that the woodland is within the Council's ownership.

In terms of ecology more generally, the Council's Ecologist has also reviewed the Ecological Assessment supplied by the applicant and has found this to be undertaken by a suitably experienced consultancy.

With regards to bats, the buildings and trees on site were assessed for their bat roosting potential. No evidence of bats roosting was found, but one tree was assessed as having moderate potential and emergence surveys were carried out on the former club house. The emergence surveys also proved negative. A planning condition is recommended which states that if demolition does not commence before 30 April 2018, the buildings need to be re-assessed for bats. As noted above, T3 was highlighted as having moderate bat roosting potential and therefore needs protection. In relation to the requirement to retain T3, the submitted drawings show this tree to be removed however the applicant has now provided an updated Ecology Report which includes an assessment of the tree in relation to its potential roosting suitability for bats. The results have been passed to the Council's Ecologist and their comments are awaited. Members will be updated on this matter in the Update Report.

With regards to badgers, no evidence of active badger setts were found however it is noted that the habitat along the boundary is suitable. The Council's Ecologist recommends that precautionary surveys prior to any development take place and this will be secured through a planning condition.

The Ecologist has identified that the development will result in the loss of potential bird nesting habitat. All British birds nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife & Countryside Act 1981, as amended. Therefore a planning condition is recommended which prohibits work to trees or shrubs between 1 March and 31 August.

In terms of invasive species, cotoneaster and rhododendron have been found on site as a result of the surveys. However the Ecologist has advised Officers that unlike Japanese knotweed and Himalayan balsam, neither species are difficult to eradicate. A condition requiring a method statement is recommended.

The recommendations made by the Council's Ecologist have been discussed with the applicant's agent. The applicant has agreed to provide off-site compensation for the loss of trees to be provided within the Section 106 Agreement and discussions in relation to this are ongoing between the applicant's Solicitors and the Council. These are considered fundamental to the overall acceptability of the scheme with regards to biodiversity. Therefore subject to conditions and a Section 106 Agreement, the proposed development is acceptable having regard to Core Strategy Policies 17 and 18, and Section 11 of the Framework.

Statement of Community Involvement

The Framework emphasises the importance of engaging local residents early in the process. In this regard the application is accompanied by a Statement of Community Involvement which sets out the consultation undertaken with Council Officers, members of the public and local Councillors. The statement explains the following:

- a public exhibition was held at the adjacent primary school on Tuesday 4 October 2016 between 4 and 7 pm consulting on a scheme for 105 units.
- 282 residents were invited.
- 33 people attended.
- 32 written responses were received. The responses can be read in full within the Planning Statement.
- Consultation took place with Ward Councillors.

The applicant states that the design evolution has taken on board the feedback received and where possible design solutions have been adopted to address concerns. Most particularly, 5no. units have been removed from the scheme. Officers are satisfied that the applicant has undertaken an appropriate level of community consultation prior to the submission of the application and it is noted that the following the Local Planning Authority's consultation of the planning application, only 8 letters of objection have been received. Where objections have been received by residents, the applicant has provided responses to Officers and the issues raised are set out in the various earlier sections within this report.

Planning Contributions and viability

Policy 22 of the Core Strategy relates to planning obligations and states that where developments will create additional need for improvements / provision of services or facilities, contributions will be sought to ensure that the appropriate improvements are made. Policy 4 of the Core Strategy requires a minimum of 30% affordable housing to be provided on greenfield sites where over 8 dwellings are proposed.

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

- £136,000 towards open space and play provision.
- 30% affordable housing in accordance with Policy 4 of the Core Strategy.
- £130,755 as required for a replacement pitch at Marl Pits.
- Ecological enhancement plan in relation to Staghills Wood.

The applicant submitted an Economic Viability Appraisal prepared by Tim Claxton Property Limited, the purpose of which is to assess whether the proposed residential development can support the Council's policy requirements for affordable housing and S106 contributions. The applicant's appraisal assumes an affordable housing requirement of 23% which is below the 30% requirement contained within Policy 4. In terms of education, at the time the report was prepared, an assumption was made as to the likely education contribution, based upon recent requests on other similar schemes, and a figure of £250,000 was included. Using these figures the report concludes that the development is not viable to deliver either affordable housing or planning obligations.

Lancashire County Council was consulted on the planning application and on 13 January 2017 it was confirmed that a contribution of £13,474.53 was required, which equates to one primary school place. However, this figure was dependent upon the status of other pending planning applications within the Borough and once Lancashire County Council were informed of the latest position with regards to these, the requirement for one primary place was withdrawn. This was confirmed in a response dated 24 January 2017.

The Council has instructed the VOA to independently review Tim Claxton's report. At the time the VOA produced their report, Lancashire County Council Education had confirmed there is no requirement for an education contribution. Therefore education and the affordable housing figure are two of the differences between the two reports. The findings of the VOA are summarised below:

- A planning compliant scheme of 30% affordable housing provision plus S106 contributions is not viable.
- The scheme has then been tested with 20% affordable housing provision plus S106 contributions. This makes the scheme a profit of 17.75% on GDV. This is viable.

The Council's legal team is currently drafting the legal agreement and negotiations are on-going with Officers and the applicant regarding the VOA's report. Members will be updated accordingly as to the final position on this matter.

9. RECOMMENDATION

That planning permission be minded to grant planning permission subject to:

- a) A Section 106 Agreement to secure payment of contributions towards a replacement pitch, public open space, ecological enhancement and affordable housing;
- b) A Memorandum of Understanding; and
- b) The Conditions set out below.

It is recommended that delegated authority is given to the Planning Manager to refuse planning permission in the event that the S106 Agreement is not signed by 28 March 2017.

10. CONDITIONS

Please note the highway and access related conditions will be provided within the Update Report.

1. An application for approval of the reserved matters (namely the landscaping, layout, scale, and appearance) 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 the Town and Country Planning (General Development Procedure) Order 2015 and 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 development hereby permitted for up to 100 residential units shall be carried out in accordance with the following approved plans unless otherwise required by the conditions below:

Drawing Title	Drawing Number	Received
Site Location Plan (shown on the Site Plan Existing)	10000 B	12 December 2016
Indicative Site Plan Proposed in so far as it relates to access only	20000 C	12 December 2016

Reason: To accord with the permission sought and granted.

3. As part of the first reserved matters application full details of the central Local Equipped Area of Play (LEAP) and areas of amenity open space within the site, including details of proposed arrangements for their future management and maintenance shall be provided. The open space areas shall thereafter be provided in accordance with the approved plans prior to the completion of the development and maintained in accordance with the approved management and maintenance details until such time as a private management and maintenance company has been established.

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

4. Prior to the marketing of the site full details of the marketing documentation/ publications as far as it relates to the status of the central Local Equipped Area of Play (LEAP) shall be submitted to and approved in writing by the Local Planning Authority. This part of the marketing information shall include full details of the approved LEAP including an annotated plan detailing the approved siting. Prior to the occupation of the dwellings sited within 25 metres of the LEAP the future occupants shall be provided with a copy of marketing documentation detailing the approved siting and specification of the LEAP and evidence from the vendor shall be submitted to and approved in writing by the Local Planning Authority that the purchasers for each property within 25 metres of the LEAP are aware of the play space provision. Thereafter the LEAP shall be constructed and completed in accordance with the approved plans prior to the completion of the development.

Reason: To ensure the provision of equipped play space to benefit the future occupiers of the site

5. Any applications for approval of reserved matters shall be accompanied by a Materials Plan detailing all proposed materials to be used on the site (dwelling elevations, roofing materials, windows, heads, sills, doors, garage doors, rainwater goods, downspouts, and all external hard surfaces). The development thereafter shall be carried out in accordance with 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 with regard to visual amenity.

6. Any applications for approval of reserved matters shall be accompanied by full details of existing and proposed ground levels and proposed building finished floor levels for the area covered by that application, the details shall include any changes in ground levels, earthworks and excavations (all relative to ground levels adjoining the site). The details shall include cross sections which show the relationship between the proposed dwellings and existing dwellings on Dark Lane and Queensway. The development shall only be carried out in conformity with the approved details.

Reason: The application is in outline only, and in the interests of visual and neighbour amenity.

7. The first reserved matters application shall be accompanied by a Site Investigation report. The investigation shall address the nature, degree and distribution of land contamination on site and shall include an identification and assessment of the risk to receptors focusing primarily on risks to human health and the wider environment; and

The details of any proposed Remedial Works shall be submitted to, and approved in writing by the Local Planning Authority. Such Remedial Works shall be incorporated into the development during the course of construction and completed prior to occupation of the development; and

Prior to first occupation a Verification Report shall be submitted to, and approved in writing by, the Local Planning Authority. The Verification Report shall validate that all remedial works undertaken on site were completed in accordance with those agreed by the Local Planning Authority. If, during any works on site, contamination is suspected or found, or contamination is caused, the Local Planning Authority shall be notified immediately. Where required, a suitable risk assessment shall be carried out and/or any remedial action shall be

carried out in accordance to an agreed process and within agreed timescales in agreement with the Local Planning Authority.

Reason: To safeguard the health of future occupants of the land in the interests of public health and to safeguard watercourses.

8. The first reserved matters application shall be accompanied by a method statement detailing protection measures for Staghills Wood and for the trees along the boundary with Dark Lane from accidental incursions by machinery, pollution, dust and debris. The development shall then be undertaken in accordance with the approved measures for the duration of the construction period.

Reason: To conserve and enhance biodiversity and to ensure that any bats are protected.

9. Prior to the felling of Tree T3 an inspection of the cavities of the tree shall be undertaken by a licensed bat ecologist immediately. The results shall be submitted to the Local Planning Authority and T3 shall not be felled until such time that written approval from the Local Planning Authority is given. Felling shall only take place under the supervision of the licensed ecologist.

Reason: To conserve and enhance biodiversity and to ensure that any bats are protected.

10. Should the demolition of the buildings / structures hereby approved not take place before 30 April 2018, immediately prior to their demolition a further survey of the buildings / structures for the presence of bats should be undertaken and the results of which (together with proposals for mitigation/compensation, if required) submitted to and approved in writing by the Local Planning Authority. Any approved measures for the protection of bats shall be implemented in full.

Reason: To conserve and enhance biodiversity and to ensure that any bats are protected.

11. The first reserved matters application shall be accompanied by an updated badger survey of the site and within 30 metres of the southern and eastern boundaries. This shall be undertaken by an experienced ecological consultant and the report shall include full details of the findings and any necessary compensation or mitigation measures. The necessary compensation or mitigation measures shall thereafter be implemented in accordance with the approved details.

Reason: To conserve and enhance biodiversity and to ensure that any badger setts are protected.

12. No removal of or works to any vegetation or works to or demolition of buildings or structures that may be used by breeding birds shall take place during the main bird breeding season 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority for approval.

Reason: To conserve and enhance biodiversity and to protect breeding birds.

13. The first reserved matters application shall be accompanied by a method statement detailing the eradication and/or control and/or avoidance measures for rhododendron and cotoneaster. The approved method statement shall be adhered to and implemented in full.

Reason: To conserve and enhance biodiversity.

14. The landscaping of the site shall be designed to incorporate the recommendations for biodiversity opportunities provided within the submitted Ecological Assessment dated January 2017 (points 5.9 to 5.13).

Reason: To conserve and enhance biodiversity.

15. As part of any reserved matters application or prior to the commencement of any development the following details shall be submitted to, and approved in writing by the Local Planning Authority, in consultation with the Lead Local Flood Authority:

Surface water drainage scheme which as a minimum shall include:

a) Information about the lifetime of the development design storm period and intensity (1 in 30 & 1 in 100 year + allowance for climate change – see EA advice 'Flood risk assessments: climate change allowances'), discharge rates; and volumes (both pre and post development), temporary storage facilities, means of access for maintenance and easements where applicable, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses, and details of floor levels in AOD;

b) The drainage scheme should demonstrate that the surface water run-off must not exceed the existing greenfield rate. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

c) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);

d) Flood water exceedance routes, both on and off site;

e) A timetable for implementation, including phasing where applicable;

f) details of water quality controls, where applicable.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To reduce the risk of flooding to the proposed development, elsewhere and to future users. To ensure that water quality is not detrimentally impacted by the development proposal.

16. No development hereby permitted shall be occupied until the sustainable drainage scheme for the site has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

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

17. No development hereby permitted shall be occupied until details of an appropriate management and maintenance plan for the sustainable drainage system for the lifetime of the development have been submitted which, as a minimum, shall include:

- a) The arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company.
- b) Arrangements concerning appropriate funding mechanisms for its on-going maintenance of all elements of the sustainable drainage system (including mechanical components) and will include elements such as:
 - i. on-going inspections relating to performance and asset condition assessments
 - ii. operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime;
- c) Means of access for maintenance and easements where applicable.

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

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

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

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

19. Either with any reserved matters application or prior to the commencement of the development a Construction Method Statement shall have been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- the parking of vehicles of site operatives and visitors
- hours of operation (including deliveries) during construction
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- siting of cabins
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- wheel washing facilities
- measures to control the emission of dust and dirt during construction
- a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: In the interests of highway safety and to protect the amenities of the nearby residents.

20. Either with any reserved matters application or prior to the commencement of the development full details of the alignment, height and appearance of all fences and walls and gates to be erected on the site, including to the site boundaries along with a timetable for their erection shall have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until all fences and walls shown in the

approved details to bound its plot have been erected in conformity with the approved details. Non-curtilage boundary treatments shall be completed in accordance with both the approved details and the approved timetable.

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

21. Either as part of the first reserved matters application or prior to the commencement of the development details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason: To ensure that the estate streets serving the development are maintained to an acceptable standard in the interest of residential/highway safety.

22. Either with the first reserved matters application or prior to the commencement of the development full engineering, drainage, street lighting and constructional details of the streets proposed for adoption shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway.

INFORMATIVES

1. The grant of planning permission will require the applicant to enter into a Section 278 Agreement, with the County Council as Highway Authority. The Highway Authority hereby reserves the right to provide the highway works within the highway associated with this proposal. Provision of the highway works includes design, procurement of the work by contract and supervision of the works. The applicant should be advised to contact Lancashire County Council, Highway Development Control email – lhscustomerservice@lancashire.gov.uk in the first instance to ascertain the details of such an agreement and the information to be provided.
2. The grant of planning permission does not entitle a developer to obstruct a right of way and any proposed stopping-up or diversion of a right of way should be the subject of an Order under the appropriate Act.
3. Whilst the building to be demolished has been assessed as low risk for bats, the applicant is reminded that under the Habitat Regulation it is an offence to disturb, harm or kill bats. If a bat is found during demolition all work should cease immediately and a suitably licensed bat worker employed to assess how best to safeguard the bat(s).