

UPDATE REPORT

**FOR DEVELOPMENT CONTROL COMMITTEE
MEETING OF 28 FEBRUARY 2017**

Item B1: 2016/0563 – Dark Lane

The recommendation has been amended as follows:

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
- c) Relevant conditions

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 31st May 2017.

Consultation responses

Since publication of the report, a letter of support has been received from the Head Teacher of Newchurch St.Nicholas Primary School stating that the condition of the current site is a concern as it is used by youngsters for play. It goes on to state that if the application was approved it would provide some security to the currently vulnerable school site. The provision of a children's recreational area in the plans is also welcomed.

Additional Comments from Lancashire County Council Highways

Footpath links

Lancashire County Council Highways has identified two informal, unmapped but well-used pedestrian links which lead from the site to the formal public rights of way, which provide routes to both Burnley Road East and Bacup Road (please see map below, shown in red). Both routes provide important links from this residential area to shops and services within Waterfoot, and to the mainline bus services.



The majority of the land on which the links are located is owned by Rossendale Borough Council, however there is a section of unregistered land between the rear of the Queensway and Springfield Drive properties. This is the route which provides a direct link to Waterfoot Town Centre and mainline bus services. It is recommended that the S106 Agreement includes the following obligations:

- A commuted sum (approximate costings to be confirmed) to upgrade the informal footpath link from the site to FP 203 (which leads to Bacup Road); and
- To work with the Council to investigate the potential to improve the informal footpath link from site to FP 169 (which leads to Burnley Road East).

The applicant has confirmed a willingness to provide funds for such works and this will be progressed further through the S106 Agreement.

Traffic Impact Assessment

Lancashire County Council Highways has confirmed that the additional information supplied satisfies the Highway Authority that the impact of the development traffic can be accommodated on the surrounding network without any severe effects.

Dark Lane / Staghills Road junction

The drawing VN60610-102 provides a satisfactory visibility splay at the junction of Dark Lane and Staghills Road to accommodate the development traffic and it

will be necessary to ensure that the visibility splay is clear of any physical boundaries or obstructions over 900mm in height by condition.

The Highway Engineer has requested that the drawing be amended to show a footway crossover arrangement at the driveway of 118 Staghills Road and omit the tactile paving at this point. A footway should be shown across the site frontage (currently it has a radius kerbed arrangement partly along the frontage). The applicant has been provided with a sketch to confirm the locations. Officers will liaise with the applicant to seek these amendments and will amend the list of approved drawings at Condition 2 accordingly.

Viability

The applicant has now agreed to provide the following contributions / obligations:

- £136,000 towards open space and play provision
- 20% affordable housing
- £130,755 as required for a replacement pitch at Marl Pits
- Ecological enhancement plan in relation to Staghills Wood.

As set out in the report, the VOA concluded that the development can afford to provide these contributions whilst making a reasonable profit. Officers are satisfied with this agreement and no changes are proposed to the positive recommendation. Officers and the applicant have agreed to a time extension until 31 May 2017 to enable S106 discussions and drafting to be completed.

Additional conditions

The following additional highway-related conditions have been requested by Lancashire County Council:

1. Any applications for approval of reserved matters shall be accompanied by full details of a pedestrian link to be installed from the internal estate road on both the south-east boundary of the site, to the rear of 39-43 Queensway, and on the south-west boundary. Approximate locations are shown on the Footpath Map indicated by a red "X". This will enable the link to the existing informal rights of way to be maintained. The links shall be made available in accordance with the approved details prior to occupation of any of the dwellings hereby approved.

Reason: The application is in outline only, and in the interests of pedestrian links and sustainability.

2. Any applications for approval of reserved matters shall be accompanied by full details of secure covered cycle stores which shall be provided at each dwelling. The development thereafter shall be carried out in

accordance with the approved details and the cycle stores shall be in place prior to first occupation of the dwellings.

Reason: To ensure that the development provides sustainable transport options.

3. Either as part of the first reserved matters application or prior to the commencement of the development a scheme for the site access Dark Lane / Staghills Road and off-site highway works shall be submitted to and approved in writing by the Local Planning Authority. None of the dwellings shall be occupied until the works have been carried out in accordance with the approved details.

Reason: To ensure that the final details of the highway scheme/works are acceptable before work commences on site.

4. Prior to first occupation of any of the dwellings hereby permitted, a Travel Plan shall be submitted to, and approved in writing by, the Local Planning Authority. The Travel Plan shall include (but not be limited to) the provision of and improvements to pedestrian, cycle and bus infrastructure in and around the site, electric vehicle charging points and cycle parking and welcome packs for each dwelling with information on local bus services, walking and cycling routes. The provisions of the Travel Plan shall be then implemented and operated in accordance with the timetable contained therein unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the development provides sustainable transport options.

5. For the duration of the construction period vehicular and pedestrian access to St. Nicholas Primary School staff car park and the pupil pedestrian access point shall be maintained at all times.

Reason: In the interests of highway and pedestrian safety.

6. No dwelling hereby permitted shall be occupied until that part of the service road which provides access to it from the public highway has been constructed in accordance with the approved plans.

Reason: In the interests of highway and pedestrian safety.

7. Prior to first occupation of any of the dwellings hereby approved, the garages, driveways and communal parking areas shall be constructed in a bound porous material and made available for use and maintained for that purpose for the as long as the development is occupied.

Reason: To ensure sufficient car parking remains available for the duration of the development.

INFORMATIVES

Please Note: 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 Footpath/Bridleway No.205 crosses the site.

Approximate costings for footpath improvements

Lancashire County Council Highways has provided the following approximate costings for improvements to the informal footpaths in the vicinity of the site:

As a rough estimate the costs are likely to be in the region of £160/m for a compacted stone and edged path 2 metres wide and £225/m for a tarmac surfaced and edged path 2 metres wide. No lighting costs are included. Therefore the following costs could be included as follows, there is a 20% contingency included:

- The section within RBC ownership from the eastern side of the site towards the rear of Queensway 90 metres long = £17,280 stoned /£24,300 tarmac. This does not include the unregistered piece of land between Queensway and Springfield Drive which is a further 140m = £27,720 stoned/ £37,800.
- The section within RBC ownership along the south western boundary of the site 70 metres long = £13,440 stoned/£18,900 tarmac. There is a further 120m (approx.) to connect to the footpath at Top Barn Lane = £23,040 stoned/£32,400 tarmac.

Officers will discuss these costings further with the applicant / agent in conjunction with the Lancashire County Council Highways and Public Rights of Way Officer during the on-going discussions over the S106 Agreement.

Response from Public Rights of Way Officer

Comments from Lancashire County Council's PROW Officer have been received this afternoon (28 February 2017) and are summarised below:

- Concerns raised over whether Dark Lane will be brought to adoptable standards, without which, an objection would be raised.

Officer's response – the development includes widening the lane, installing a footway and bringing to adoptable standards. No objection is raised by the Highway Authority in this regard.

- Concerns regarding the use of the second vehicular access off Dark Lane. It appears to be on a tight bend and with poorliness of visibility. Object to this part of the proposal on safety grounds.

Officer's response – the second access point from Dark Lane into the application site is for secondary purposes only. The majority of vehicles will use the first access point, further north on Dark Lane. No objection has been raised by the Highway Authority in this regard.

- It is not clear if vehicles will be excluded from using the remainder of Dark Lane (after the school). Pedestrian access along this section should be provided to a minimum width of 1.8 metres as a pavement open to the estate road.

Officer's response – this is not to be used by vehicles as part of the proposed development. It is a pedestrian footway only and this can be secured by planning condition.

- Public Footpath 205 Rawtenstall continues down the historic route of Dark Lane. I have not had the opportunity to visit the site to look at the condition of this section but the Lancashire County Council would object to any proposal to extinguish this historic route.

Officer response - the application does not propose to distinguish this right of way. A planning condition is recommended which requires details of pedestrian links to be submitted.

- The proposed development will increase the demand for the public to use the public footpath from FP 205 to Bacup Road. The developer should carry out improvement works to bring this section of path up to a standard to reflect the increased use. I have not had the opportunity to visit this site and would welcome the opportunity to further comment.

Officer response – discussions are ongoing with the Local Planning Authority, the applicant, and Lancashire County Council with regards to footpath improvements in order to find the most appropriate solution.

Item B2: 2016/0187 – Unit 3, Shawclough Road, Whitewell Bottom

The following points have been forwarded by the agent for the application:

Highways matters

- The applicant obtained the general approval in principle to the proposed development some time ago- surprise that an objection has now been submitted.
- A highways report has been submitted which states that the necessary parking spaces can be provided on site (ignoring the availability of extra spaces on the car park opposite) and vehicles can enter and leave the car park in forward gear.
- The proposed plans show a separate off road pedestrian link round the back of the building leading to the bottom of Shawclough road
- The proposed plans include a new footpath on the boundary of the site on Shawclough Road itself.

These comments have been forwarded to the Highway Engineer at LCC and a response to awaited.

Design

- The existing building has a height of 5.4m whereas the proposed replacement building has a height of 7.19m, an increase of only 1.79m- this is hardly excessive
- The proposed materials will result in a building which is much superior to the metal –clad existing building, to the benefit of the character and appearance of the area- this can be conditioned

Following the receipt of the amended Site Layout Plan, which shows an additional area of hardstanding is to be formed at the eastern end of the application site, the Highway Engineer at LCC has made the following comments:

- Now satisfied that sufficient off-street parking spaces are to be provided within the site, together with the hard-surfaced area to enable them to turn and exit the site in forward gear.
- No longer recommends refusal of the application on highway safety grounds.

However, in seeking to address the highway safety concern of the Highway Authority the following further issues have arisen:

- The additional area of hardstanding extends beyond the red-edged site of the originally submitted application (though not encroaching upon any third-parties land).
- To form this additional area of hardstanding will necessitate significant reduction in the level of the land rising-up from the Shawclough Road frontage, removal of mature trees, and construction of a retaining wall to the rear which may itself have implications for the health/retention of further trees.
- The Applicant has not submitted drawings/documentation to show the height/appearance of the retaining wall which will now be required, or a Tree

Report and/ or Ecology Report to detail the impact of this change in the scheme for the trees and ecology.

- The removal of this bank and the trees upon it will significantly increase the extent to which the greater height/bulk of the proposed building will impact on the character and appearance of Countryside as the site is approached from the east along Shawclough Road its curvature and frontage planting no longer serving to screen the site and building upon it from public view until the site is reached.
- The Highway Authority having advised that adequate parking/servicing facilities are to be provided on-site to meet the needs of the proposed live-work unit occupiers/visitors will not be reliant on the overflow car park to the south side of Shawclough Road / approx. 40m west of the site entrance and, consequently, not have to walk in the carriageway when traversing between this car park and site. However, it remains the case that occupiers of the live-work unit, and their visitors, wishing to access the site on foot from bus stops/services on Burnley Road will have to walk in the carriageway of Shawclough Road. The Applicant's intention to provide a flight of steps from the site up to the garden of Bowness Bungalow, a path that skirts the southern boundary of its garden and then enables people to descend by steps/the drive of Bowness Bungalow to Shawclough Road at a point where it possesses a footway leading to the main road is not considered to be the most 'realistic' option for future occupants of the dwelling nor would this be adequate to make for 'sustainable development' of safe / inclusive design.

Having regard to the above, Officers remain of the view that the application should be refused, but the Reasons for Refusal should be amended to read as follows:

1. The proposed building, by reason of its bulk / height, materials and design, will cause unacceptable harm to the character and distinctiveness of the Countryside.

The amendments to provide a vehicle turning area will result in the removal of the adjacent bank and the trees which will significantly increase the extent to which the height/bulk of the proposed building will impact on the character and appearance of Countryside, most particularly as the site is approached from the east along Shawclough Road, its curvature and the frontage planting no longer serving to screen the site and building upon it from public view until the site is reached.

The proposed development is considered to be contrary to Section 7 of the National Planning Policy Framework and Policies 1 / 21 / 23 of the Council's adopted Core Strategy that seek to ensure that all new development is of the highest standard of design that respects and responds to local context, distinctiveness and character.

2. The amended Site Layout Plan (LWU/Pr 01 rev D received 17/2/17) will :
 - Extend beyond the application site
 - Result in land level changes, tree removal and the construction of a retaining wall

Insufficient information has been submitted to enable full consideration of the amended proposals in the following regards:

- the height/appearance of the retaining wall now required and
 - the impact of this change in the scheme for trees and ecology.
3. Occupiers of the live-work unit, and their visitors, wishing to access the site on foot from bus stops/ services on Burnley Road East, will have to walk in the carriageway of Shawclough Road which does not represent sustainable development of safe or inclusive design. Accordingly, the proposed development is considered contrary to the principles of 'sustainable development' and Sections 4, 7 & 11 of the National Planning Policy Framework and Policies 1 / 18 / 21 / 23 of the Council's Adopted Core Strategy.

Item B3: 2016/0601 – Holly Mount Way

Since publication of the officer's report, the applicant's agent has expressed objection to three of the proposed conditions as follows:

In response to proposed condition 8 (provision of a cycle store for each dwelling) – the applicant's agent states *"I do not agree with condition no. 8 re a cycle store for every dwelling. These days it is just as easy and more convenient to use a fold up cycle which can be placed in a cupboard, under the stairs or in a car boot. Any such store, as proposed, is highly unlikely to be used for the purposes of storing a cycle."*

It accordance with the consultation response received from the Local Highway Authority, it is considered that the provision of cycle stores at the proposed dwellings is necessary to ensure that future occupants have the ability to safely and conveniently store all types of cycles, and that such provision would enhance the sustainability credentials of the development. Fold-up cycles are not necessarily suitable for all cyclists, and it is not considered that future occupants of the dwellings should have their choice of cycles restricted due to there being no satisfactory storage facilities in place.

In response to proposed conditions 9 (provision of a surface water drainage scheme based on the hierarchy of drainage options in the National Planning Practice Guidance, and in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015)), and 10 (provision of a sustainable drainage management and maintenance plan for the lifetime of the development) – the applicant's agent does not agree that sustainable drainage systems can be required for schemes of less than ten dwellings, and states *"I cannot see that if this matter was to be put to appeal that you could reasonably defend an application for costs when the matter is contrary to the Ministerial statement and which is quite specific in its contents."*

Conditions 9 and 10 were suggested by United Utilities in their consultation response on the application to ensure that the most sustainable drainage solution for the development is in place. In a borough such as Rossendale where high volumes of rainfall and a prevalence of sloping land can lead to significant volumes of surface water run-off, it is considered necessary to ensure where necessary that surface water drainage solutions are in place (and properly maintained and managed) to ensure that flooding does not occur as a result of developments. Policy 19 of the Core Strategy seeks to address such matters and provides a policy basis for the Council to require that all developments are sustainably drained where appropriate. Following receipt of the agents comments further clarification has been sought from United Utilities and Members will be updated prior to Committee.

United Utilities have confirmed that the request has been forwarded to the Developer Engineer however no further comments have been received. Condition 9 requires the developer to consider possible drainage options for this site to demonstrate whether or not a SuDS system would be suitable.

Notwithstanding the fact that SuDS are only mandatory for major schemes it is acknowledged that SuDS are still prioritised in areas at risk of flooding irrespective of the size of the development to ensure that flood risk is not increased by a new development. Within a Borough like Rossendale we are keen to ensure that flood risk is not increased and will seek, for all minor applications, evidence that sustainable drainage (SuDS) have at least been considered.

Condition 9 requires SuDS to be at least considered however if SuDS cannot be achieved for the site and a more standard drainage solution is proposed then condition 10 may not be applicable. As such it is recommended that condition 9 is retained as originally drafted and condition 10 amended as follows:

10. In accordance with the previous condition in the event that a Sustainable Urban Drainage System (SuDS) can be secured at this site prior to the commencement of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the Local Planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:

- a. The arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a Resident's Management Company; and
- b. Arrangements concerning appropriate funding mechanisms for its ongoing maintenance of all elements of the sustainable drainage system (including mechanical components) and will include elements such as ongoing inspections relating to performance and asset condition assessments, operation costs, 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.
The development shall subsequently be completed, maintained and managed in accordance with the approved plan