

**REPORT FROM:** PLANNING, BUILDING CONTROL AND LICENSING SERVICES  
MANAGER

**TO:** DEVELOPMENT MANAGEMENT COMMITTEE

**DATE:** 27<sup>th</sup> May 2015

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## PLANNING APPLICATIONS

### PURPOSE OF REPORT

To determine the attached planning applications

## REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE ON 27 MAY 2015

**Application Ref:** 13/14/0580P

**Ref:** 18457

**Proposal:** Outline: Major: (Access only from Skipton Old Road and Windermere Avenue) Erection of up to ninety dwellinghouses including estate roads, footways and open space provision

**At:** LAND EAST OF WINDERMERE AVENUE COLNE BB8

**On behalf of:** Junction Property Limited

**Date Registered:** 18 December 2014

**Expiry Date:** 12 February 2015

**Case Officer:** Neil Watson

### **Site Description and Proposal**

The application was considered by Colne and district Area Committee at its meeting on the 14<sup>th</sup> May 2015. It was resolved to refuse the application based on the following issues:

- Prematurity
- Impact on the designated heritage asset of the conservation area
- Impact on ecology
- Impact on the highway network

These issues are dealt with in detail in the report.

The application site is a 4 hectare area of agricultural land located between Skipton Old Road, Favordale Road and Windermere Avenue, on the north east side of Colne. The site falls within the settlement boundary of Colne and is also designated as an area of Settlement Character in the adopted Replacement Pendle Local Plan (RPLP). A circa 50m wide strip of the land, following the boundary with Skipton Old Road, falls within the Lidgett and Bents Conservation Area. Public footpath No.139 runs adjacent to the eastern boundary of the site from the field gate on Skipton Old Road

This application is an outline application with only access being applied for at this stage. The proposed development is a residential development of up to 90 dwellings. Vehicular access to the development would be taken from Windermere Avenue. The application originally proposed a second vehicular access on Skipton Old Road, however, the plans have been amended to remove this and make it a pedestrian/cycle access. Although merely indicative at this stage the layout plan shows the site split into 2 distinct parcels of housing separated by landscaped open space.

### **Relevant Planning History**

13/94/0084P - Outline: Application for Residential Development (9.8 acres). Refused 25/04/1994. Appeal Dismissed, 21/12/1994.

13/95/0031P - Outline: Erect 87 detached dwellings (9.8 acres). Withdrawn, 24/02/1995.

13/98/0407P - Erect 78 houses and associated access roads. Withdrawn, 13/04/1999.

13/99/0026P - Outline: Erect 78 houses and associated access roads. Refused, 04/03/1999.

## **Consultee Response**

**PBC Conservation** - The revised Heritage Statement is very comprehensive and addresses our concerns about the lack of information provided initially on the heritage assets affected and their settings. The revisions fully set out and analyse the significance of the assets affected (in particular the nearest listed buildings at No 3 Lidgett and at Standroyd, and the Lidgett and Bents Conservation Area) and they satisfactorily assess the likely impact of the scheme on that significance.

Following on from this analysis, the proposed amendments have addressed concerns about the impact of the scheme on the listed buildings and conservation area and their settings. In particular I had concerns about the impact of the scheme on the setting of the listed house at Standroyd, which can be viewed across Skipton Old Road from the public footpath within the site. The amendments have addressed this by pulling back proposed housing and landscaping so that open views of the building should be preserved. With respect to the character and appearance of the conservation area at this point, the special historic character of Skipton Old Road would have been harmed by the proposed access road, and this is now proposed to be deleted from the scheme. Additionally the setting back of the proposed housing from the road and provision of a 'buffer' landscaping zone at the top of the slope and to the rear of the cottages on Lidgett should mean that any harm caused to the character and appearance of the conservation area would be minor. Much will depend on the quality of landscaping and the detailed design of dwellings and this will need to be fully addressed at the detailed application stage.

**PBC Landscape Officer** - TPO's No. 1, 1963; No. 8, 1999; No. 15, 1998 and No. 8, 1981 extant on and adjacent to the site along the boundaries. The south portion of the site is within the Lidgett and Bents conservation area which will afford protection to any trees over 75 mm diameter.

The TPO trees are on the boundaries of the site and outside the area indicatively shown to be the proposed development parcel. Consequently, all can be retained and should be protected through the development process in accordance with BS 5837 (2012).

The ecology survey report details that the site is low quality grazing land with no significant biodiversity value. Development on such grade of land is in accordance with NPPF which requires such land to be used in preference to that of higher quality (paragraph 112). Adverse effects on protected species and UK BAP Priority Species are 'reasonably discounted'. All recommendations at section 5 of the ecology report are stated to have been incorporated into the scheme and shall be conditioned to be retained as such.

Japanese Knotweed and Himalayan Balsam should be treated as per report (paragraph 5.5).

The proposed POS/green corridors around and through the site mostly along the routes of the two PROW are welcome as they will provide important green infrastructure, biodiversity and recreational routes with links to the countryside beyond. Also, to the west and south where they are proposed to serve as buffer zones to the houses adjacent. The planting will have to be carefully specified as the houses currently have a generally open aspect across the site and excessive planting or too large species may cause light and/or shade issues or may be oppressively dominant. The scheme should also comprise native species to maintain and enhance biodiversity and habitat. The detail can be agreed later through reserved matters.

The LVIA states that the construction phase will be 6 to 7 years and I suggest it would therefore be appropriate that as much of the POS/green infrastructure and its planting as possible is

implemented during the first available planting season after work starts on site. Certainly the minimum should be the outer boundary limits but more may be feasible. The LVIA acknowledges that the new planting will take 10 to 15 years to establish and become effective (para 1.54), providing weight to the requirement for early planting.

The issue of future on-going maintenance of such open space needs to be resolved. This is important and is acknowledged in the LVIA paragraph 1.43.

The access detail off Castle Road necessitates the removal of a section of the hedgerow which has been identified in the ecology study report (paragraph 4.2.3) as being an Important Hedgerow as defined in The Hedgerow Regulations 1997. As such it is important that as much of the hedgerow is retained as possible and brought back into suitable management. The proposed access point into the site from Windermere Avenue will not affect any TPO trees.

The proposed SUDS areas are welcome being beneficial to both the management of water and as a biodiversity habitat creation.

The LVIA has made assessments from eight viewpoints, two of which are from longer distance from the south. The results are summarised at Table 2 on page 37. The overall conclusion is that the proposal will have an effect at site level due to fundamental change from grazing to residential but will be mitigated by the local topography restricting views and by the buffer planting zone. In the wider landscape, the site will only be visible from higher ground to the south. Again, the planting will assist in mitigation.

It is noted in the LVIA that soil profiling will be needed with on-site soil heaps etc. I am concerned that such work will have an impact upon trees and hedgerows which are stated as being retained. Raising or reducing levels near or adjacent to such features to be retained could result in them either being damaged or lost or leave them on incongruous ridges or in dips. No such work should be commenced until a tree impact assessment and protection plan in accordance with BS 5837 (2012) has been submitted, approved and implemented on the site so as to avoid the risk of damage by such operations to hedges and protected trees due for retention.

In response to concerns received relating to the ecology assessment:

Issues raised:

- Net gain in nature not delivered as required by NPPF.
- Survey date 2 October not seasonally appropriate.
- Survey inadequate (LERN site not up to date).
- Newts.

The essence of ecological networks are the core sites which are the designated international, national and local sites along with the corridors and stepping stones which link them. The site at Windermere Avenue has been surveyed by an appropriately qualified and competent ecologist. The results therefore have to be given due weight.

LERN (Lancashire Environment Record Network) is a regularly maintained and updated ecological resource for the Lancashire County providing record of information on the important and protected sites that have been identified for their significance in Lancashire.

No part of the site is designated internationally, nationally or locally and therefore would only ever be a component of a corridor or stepping stone. It is noted that the scheme maintains significant

corridors/habitats through the site which are improved with new tree and other planting along with the creation of wetland habitats as a component of SUDS.

The ecology report itemises the proposals (page 3 xv; and section 5.0 page 21 onward) on the site which will achieve a gain for biodiversity.

It has to be acknowledged that no mention is made in the ecology survey report of Newts and the report author could be asked to provide a statement on this.

**PBC Engineering (drainage)** - The development must include SUDS, this has been noted in the FRA submitted. The proposed houses at the top of the site must be protected from run off from higher land. The design must include drainage protection for the existing properties from the proposed development. It is believed that there are springs in this land which the design must take account of. Any culvert that will receive any discharge from this development must be surveyed using CCTV camera to ensure its suitability. Any defects must be remedied prior to connection. Temporary drains must be installed to protect all the existing properties before the any of the site is soil stripped. It should be noted that any culverting works of a watercourse now needs the approval of LCC (Lead Local Flood Authority).

**PBC Public Rights of Way** – The proposal affects footpaths 139 and 216, Colne. If the paths are retained on their current alignment, as appears to be the case from the outline plans, then consideration should be given to these running across a wide strip of landscaped land so that they can continue to provide an attractive environment for pedestrians.

I welcome the proposal to include a linking footpath from Windermere Avenue to footpath 216 as part of the development. When the development is complete the public rights of way will provide an integral path network for a sizable population. The development should provide for the maintenance of the new footpath created and substantial improvements to the existing path network including surfacing and drainage improvements. The works should be included in a Section 106 agreement.

The proposed development will affect a wider network of public rights of way in the surrounding area because of the increased local population. The Section 106 should provide for a sum of money to be set aside for rights of way improvements works within 1km of the site to withstand the higher usage.

If planning permission is granted a note should be included to advise that the grant of planning permission does not include and rights to obstruct any footpaths.

**PBC Environmental Health** - The proposed contribution to the Air Quality Action Plan is acceptable to offset the air quality impact of the development. Attach the following standard conditions: contaminated land, construction code of practice, dust control, burning on site.

### **Lancashire Constabulary Architectural Liaison**

**United Utilities** - No objection subject to a condition requiring the submission of foul and surface water details. There is an easement crossing the site and the developer should contact United utilities to ensure that the easement would not be affected.

**Environment Agency** - No objection subject to a condition requiring the submission and agreement of a surface water drainage scheme before the development commences.

**LCC Flood Risk Management** - Object to the proposed development. The Flood Risk Assessment fails to take account of the greenfield runoff rate post-development for the site as a whole and fails to understand the existing hydrological conditions within the boundary of the site.

The FRA states that the existing greenfield site is relatively impermeable. However this is contradicted by assuming that, for surface water runoff purposes, the site is permeable. Land Drainage Consent will be required for the proposed works to the drainage ditches.

The LLFA strongly promote Sustainable Drainage Systems (SuDS) to be incorporated within the design of a drainage strategy for any proposed development, applying the SuDS management train. Paragraph 103 of the National Planning Policy Framework (NPPF) prioritises the use of SuDS for areas at risk of flooding. The LLFA encourages that site surface water drainage is designed in line with the current draft National SuDS Standards, including restricting developed discharge of surface water to greenfield runoff rates making suitable allowances for climate change and urban creep, managing surface water as close to the surface as possible and prioritising infiltration as a means of surface water disposal where possible. Regardless of the site's status as greenfield or brownfield land, LCC encourages that surface water discharge from the developed site should be as close to the greenfield runoff rate as is reasonably practicable.

Prior to designing the site surface water drainage, a full ground investigation should be implemented to fully explore the option of ground infiltration to manage the surface water in preference to discharging to a surface water body or public sewer system. LCC also strongly encourage that the developer should take into account designing drainage systems for exceedance working with the natural topography for the site.

The LLFA is pleased to see that the accompanying flood risk assessment refers to and has considered the Draft National Standards for SuDS. 5.1 notes potential sources of discharge. Discharge of surface water drainage should be considered in order of hierarchy outlined in the Draft National SuDS Standards. In light of this, discharge to a public sewer should only be permitted should earlier options prove to be unviable and evidence submitted to demonstrate this.

**LCC Highways** - LCC Highways comments are summarised as follows:

In terms of the NPPF, section 32, '... Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe...'  
I do not consider this to be the case with this development proposal (ie. I do not consider there is a severe impact which cannot be mitigated). However, there are various traffic and highways issues that should be mitigated through works in the highway. If these works are not carried out, then I would have an objection to this application.

#### Vehicular access to the site via The Lidgett

I considered that the proposed development would have a severe impact upon The Lidgett, which was not shown to be capable of mitigation. The severe impact concerned unacceptable delays which would give rise to frustration for drivers and unsafe conditions on the highway. My objection to this development on the grounds of a severe impact on the highway has been avoided by the amendments to the access arrangements.

#### Windermere Avenue

The access off Windermere Avenue is simply an extension of Windermere Avenue into the site using the existing alignment of the road. The extension will need to cross a small ditch which drains the fields to the east. Traffic leaving the residential development will proceed to the junction of Windermere with Venables Avenue. The TA indicates that this junction has plenty of capacity to accommodate the additional traffic.

#### Castle Road

I accept the principle of the proposed narrowing of the Castle Road carriageway at number 122

Castle Road as a result of the need to construct a footway along the carriageway here.

However the detail of the proposal needs to be considered. The highway southern boundary (shown as a red line on the drawing on page 56 of the TA) should not encroach into the driveway of 122, which is private property.

The layout of the junction of the estate road with Castle Road needs to be refined to ensure that suitable visibility is provided for vehicles driving out of the estate road left on to Castle Road. I would suggest that the proposed access road into the development from Castle Road should be 70m east of the boundary of number 122 Castle Road. From this position vehicles driving on to Castle Road would have a clear view of the chicane and would have space to decide whether it was safe to proceed through the chicane.

Please ask the developer to provide a more detailed drawing showing the visibility possible for vehicles (travelling in both directions) on Castle Road and for vehicles emerging from the new junction.

### Mitigation works

The following mitigation works will be required.

Castle Road - Priority one way working in Castle Road.  
A detailed drawing should be submitted to LCC for approval.

Oak Street.

The works I would ask for would be mainly a change in priority at the Oak St/ Vincent St junction. Vincent Street should be the minor road to give way to traffic on Oak Street. Oak Street is a long straight road with a 30mph speed limit, and to avoid excessive vehicle speeds here, I would recommend that a junction table should be constructed.

Byron Road / Venables Avenue

I would request a mini-roundabout should be constructed here to make it easier for traffic driving out of Venables Avenue during peak periods.

Byron Road and Keighley Road near roundabout.

I would request a puffin pedestrian crossing here to assist pedestrian traffic wishing to go to and from the shops on the other side of Keighley Rod and the Colne town centre.

Venables Avenue / Snell Grove junction.

This junction is used by many school children walking to school from the west. Crossing Venables Avenue is difficult and potentially hazardous because parents dropping off children stop their cars near this junction and this results in poor visibility along Venables Avenue. Consequently I would ask for waiting restrictions at the bellmouth of this junction to be active during school drop off and pick up periods. Please ask the developer to prepare a drawing showing these restrictions and submit them for approval.

### Sustainability

I disagree with the conclusions of the TA with respect to the accessibility of the site. The accessibility questionnaire in LCC's SPG 2005 indicates that the site has a very low accessibility (I estimate an accessibility score of 12). This gives a developer contribution for transport of £2 200 per property. For 270 dwellings a total contribution of £594 000 could be requested from the developer.

### Improvements to sustainable transport

## Buses

Accessibility to bus services could be improved by re-routing the bus service 95A. This is presently routed along Venables Avenue, Oak Street, Vincent Street, Fern Street and back to Venables Avenue. It is proposed to alter the route to include Windermere Avenue, then through the proposed development to Castle Road, then past the end of Venables Avenue. This would miss out the northern part of Venables Avenue past Park School (the route of school buses would not be affected). This new route through the proposed development would improve the accessibility for bus services for the new residents.

I would ask for four new bus stops to be constructed to DDA (quality bus) standards. These should be on Venables Avenue between Fern Street and Windermere Avenue (two bus stops) and on Castle Road near to the junction with Venables Avenue (two bus stops). The location of the bus stops on Castle Road would need to be investigated to decide the location where they could fit in with the road layout and cause least disruption to local residents. The locations to be considered would be within about 120m of the junction (either east or west of the junction).

An amount of £20 000 per annum is requested over a five year period to help pay for this change in the service. This financial arrangement is appropriate if the bus service is continued to be provided by LCC. If a private bus service provider is to be used within the five year period, then the developer would have to pay for the full cost of the bus service to Colne town centre. It is not possible to predict how the provision of these bus services is to be organised, and consequently I would ask for a flexible funding arrangement for this improved bus service, if possible.

## Cycling

The facilities for cycling in this part of Colne is poor, and the nearest cycle route is more than 1km distant.

Please ask the developer to consider the establishment of a cycle route along Byron Road to the Sainsbury's shop on Windsor Street. This will necessitate placing the cycle track off the carriageway and routing next to the carriageway through land that is undeveloped, although not part of the highway.

From the end of The Lidgett the track could be routed as follows:

- through the grounds of the Favordale Home
- through the open space west of the Morris Dancers pub.
- Through the social centre and the youth centre

Please ask the developer to investigate this cycle track and make proposals for constructing it.

## Pedestrian routes

From the Skipton Old Road pedestrian access, the attractions for pedestrians would be the shops on Keighley Road and then along Keighley Road towards the town centre and Park Primary School. During peak periods, the heavy traffic here makes the crossing of this road by pedestrians difficult. Consequently, I would ask for a pedestrian puffin crossing here, as close as possible to the pedestrian desire line.



## Comments on proposed layout

The revised sketch layout showing vehicular accesses from Windermere Avenue and Castle Road, indicates a revised internal road layout. This proposes two alternative locations for a bus gate – A and B. I prefer alternative B. This alternative extends the bus route deeper into the layout and the bus gate would be preferred as a location for two bus stops. I would request that two DDA compliant bus stops are provided at this bus gate. The bus gate should be signed only and there should not be any physical barriers to other traffic (for example rising bollards).

As discussed above, the junction of the estate road with Castle Road should be moved so that it is approximately 70m east of the boundary of 122 Castle Road.

With the agreed closure of the proposed access for vehicles on to The Lidgett, it is now proposed that this access should be used for cycle and pedestrian access. There is a suggestion that this access should also be designed for emergency vehicle access. However, this is not yet confirmed and the details of the design of this access should be resolved later when the emergency services can come to a decision. Please use a condition to ensure that this issue is resolved at the stage of reserved matters application.

The road along the Castle Road frontage of the site should be improved. West of 122 Castle Road, the carriageway is about 7m wide and east of this property the carriageway is about 6m wide. At the eastern end of the Castle Road frontage of this development site, the carriageway width reduces to about 4.5m to 5m. I would ask for a 7m wide carriageway with a 2m wide footway for the full site frontage on Castle Road. This improvement is to be at the expense of the developer and will require the adoption of the new strip of widened highway. Some of the construction work will be within the existing adopted highway, and this will require a S278 agreement.

## Travel Plan

The Framework Travel Plan submitted with the planning application meets LCC's submission criteria for a Framework Travel Plan. Please attach a Travel Plan condition to any permission.

As both proposed developments are in excess of our S106 contribution threshold we would request a contribution of £18 000. This contribution would be used to enable Lancashire County Councils Travel Planning Team to provide a range of services as outlined below.

## S278 works

The following works are required to be carried out at the expense of the developer.

- Priority one way working in Castle Road, including a footway along the length of this feature, signing and lining.

Between no 122 Castle Road and the eastern end of the site, widen the carriageway of Castle Road to 7m and construct a 2m footway along the site frontage.

A new mini roundabout at the junction of Venables Avenue with Byron Road.

A Puffin Crossing of Keighley Road just east of the roundabout

Four number DDA compliant bus stops in Venables Avenue and Castle Road.

## S106 contributions requested

For the Travel Plan preparation, I would ask for a sum of £18 000.

For bus services:

Assuming LCC continues to provide the bus service, I would ask for a sum of £100 000 spread

over five years.

If LCC no longer provides the service, I would ask for an amount to pay for the provision of a bus service to Colne town centre. The amount required here is to be determined later.

For cycle track provision as discussed above a sum of £40 000, to cover the off-highway construction costs plus land acquisition.

### Conditions.

Conditions should be imposed with respect to the construction of the development limiting:

- the times of delivery and carting away of plant and materials, particularly with respect to the operation of the primary school in Red Lane,
- parking of operatives and site staff vehicles,
- places for offloading plant and materials
- site vehicles waiting on the public highway.

A condition is required to ensure that new residents are made aware of the hail and ride bus service, as discussed above.

Please add the following conditions to any planning consent you may decide to grant: wheel wash, construction traffic access, estate road construction, visibility splays, off site highway works.

### Additional comments received 28th April:

The County Council has previously indicated that it feels both developments can be supported, albeit with a number of traffic and highways mitigation works. Details of these mitigation works have been supplied to the local planning authority in previous correspondence. These comments remain valid.

However the County Council believes there is an opportunity to strengthen the support for the proposed development through the introduction of a number of community infrastructure measures along the North Valley Road corridor, which directly relates to the proposed development. These proposals have been discussed with the developer's representative who feels they are fair and reasonable in scale and kind.

To that end please see below additional comments which the County Council would ask to be considered and made as conditions of any consent issued with regards these developments.

These comments relate to both application 13/14/0580P and 13/14/0581P and should be treated as an addendum to those comments already supplied by Lancashire County Council in its role as the highway and traffic authority.

The County Council believes traffic flow, both vehicular and pedestrian, can be improved along the North Valley Road corridor, which relates to the proposed development site due to proximity and through being the primary strategic route in the area. In order to help achieve this goal we would seek additional provision, which would strengthen support for the development, and would ask for the following legal agreements to be included as conditions of planning approval.

For application Nr 13/14/0580P of 90 units we would seek the following section 278 agreement (highways Act 1980) with works being implemented prior to the occupation of the 1<sup>st</sup> unit:-

a) Upgrade of the existing Pelican crossing (N5023) located on Byron Road near to Rutland Street to a modern Puffin/Toucan crossing. (Approximate cost of £40k). The crossing forms part of the pedestrian desire line to the primary school, youth centre and community centre. Puffin/Toucan crossing gives efficiencies to vehicular traffic flow and would help improve vehicle flows along the north valley corridor route whilst also improving pedestrian access.

b) Lining changes around the north valley road gyratory roundabout (Approximate cost of £10k). This is in order to provide Keep Clear / Yellow box markings and other subtle changes to the road markings to maximise traffic flow and circulation through the area.

In addition to items a) and b) as detailed above the County Council would seek a further contribution through a section 106 agreement (1990 Town and Country Planning Act) for the provision of the following to be implemented prior to the occupation of a 91<sup>st</sup> unit (relevant to application Nr 13/14/0581P of 270 units) - c) £30K for the introduction of a signage and street furniture de-clutter and renewal program. This is in order to further support a consistent and clear signing message as an aid to driver decision making and consequently improve traffic flow. Furthermore reducing street furniture will give the additional benefit of improving footway conditions for pedestrians.

d) £20K for the provision of Journey time monitoring. This will provide real time monitoring of the journey time along the complete North Valley Road corridor. This will provide useful data in order to fine tune the existing traffic control technology (over time).

**Colne Town Council** - Object on the following grounds:

1. That the development would lead to an increase in traffic on already busy or narrow roads. Also, that there is concern over the accuracy of the consultants' report published, as it seems to contain some inaccurate information and needs to be clarified.
2. The area concerned is within a conservation area that is deemed so because of its openness and ruralness, this would be lost if the development were to go ahead.
3. Environmentally this site has an abundance of flora and fauna that would be lost or adversely affected by such a development.
4. The Council have concerns about the drainage of the area. Work is currently being done near to this site which acknowledges that there are issues with poor drainage and Council feel it could be made worse by this proposed development.
5. Air pollution: This area is already of concern for the level of air pollution and the increase of traffic, housing and development that is proposed can only add to this situation.

### **Public Response**

Press and site notices were posted and 118 neighbours notified - Approximately 400 responses have been received objecting to the proposed development. The objections are summarised as follows:

- The development is unsustainable.
- The land is subject to flooding and struggles to disperse rainwater.
- The development would lead to an increase in traffic congestion in the area.
- Colne isn't able to cope with the current volume of traffic.

- Skipton Old Road and Lidgett cannot cope with current traffic flows. Castle Road has narrow and difficult sections and is heavily used by agricultural vehicles.
- Windermere Avenue and Venables Avenue are not capable of accommodating the additional traffic the proposal would generate.
- The proposed accesses to the development will cause chaos to local roads.
- The highways department cannot cope with maintaining the roads in the area.
- The Windermere Avenue access affect Park High School where there is already too much traffic parking at opening and closing times.
- The traffic flow modelling undertaken by the developer should include the traffic flows expected after the Glen Mill development is completed.
- The developer should make a significant contribution to the construction of the bypass.
- Adverse impact on wildlife on the site and in the surrounding area.
- The submitted ecological survey is woefully inadequate.
- The timing of the survey contravenes common wisdom and guidance on when is most suitable to carry out such a survey.
- The development will destroy old well established hedgerows. This will eradicate the wild verity of wildlife that inhabit the area.
- The land is protected from development in the Local Plan until 2016.
- Brownfield sites should be developed before greenfield.
- There is a surplus of housing in Colne and across East Lancashire. While empty houses remain and funding is available to help turn brownfield sites into housing, these should be used rather than greenfield sites.
- The development will interrupt a popular public right of way.
- There would be significant disruption to local residents during the construction period.
- The proposal would have a detrimental effect on the Lidgett and Bents Conservation Area.
- The development will increase pressure for services such as schools, doctors, dentists and hospitals which are already oversubscribed.
- Farmers have a problem with dogs attacking sheep, the development would result in a lager increase in the dog population in the area.
- The footpaths through the site is used as a gateway to the countryside.
- The land is a valuable recreation resource for the east of Colne.
- The development would undermine the special character of Colne.
- Existing planning permissions should be developed before accepting further proposals.

- The construction phase will probably never end due to lack of demand and current residents will be left living amongst a building site.
- The development will result in increased traffic on Belt Lane and increase the risk of accidents due to its narrow width.
- The area will lose its sense of community.
- How will residents of Lidgett access their back gardens?
- Will Colne's elderly sewerage system be able to take the strain of the development?
- Air pollution from traffic congestion.
- The amendments to the plans will increase traffic on Windermere Avenue and Castle Road. This will exacerbate the highway safety issues around those accesses and increase disruption to residents.
- Who would check that the emergency access is only used by emergency vehicles?
- The proposed new traffic measures at Castle Road will result in queuing traffic which will restrict access to properties on Castle Road. The proposed pavement will cut across the driveway of No.122 restricting access to that property.
- The estimates for traffic are completely unrealistic and while the speed limit is 30mph on Castle Road, many vehicles travel at an average speed of over 40mph.
- Where will construction traffic park during the early stages?
- Residents would be unlikely to walk into Colne.
- Dedicated cycle ways will be required for cyclists within the development.
- The Minister for Education recently refused funding for an improvement / extension scheme to local schools. If this developer goes ahead maybe the developer should pay the £6m required for the scheme out of the profits.
- The cost the development will have on the quality of lives to the people of Colne would outweigh the New Homes Bonus the council would receive.
- Local residents will have a minimum of 8-10 years of disruption during construction.
- The position of the proposed houses would restrict natural sunlight into my garden and house.
- The development will devalue existing properties by a minimum of 25%
- The public footpaths will be effectively off limits to walkers during construction.
- Radon gas has been a problem in Lidgett in the recent past.
- Any major disturbance on the site could disturb the foundations of properties on Favordale Road.
- Colne should have house we all need somewhere to live.

Comments have also been received from the Campaign to Protect Rural England objecting to the applications on the following basis:

- Brownfield land should be brought back into use in advance of greenfield land being needlessly developed.
- The proposed development does not constitute sustainable development and is therefore contrary to the NPPF.
- The Core Strategy is currently at examination and the issue of prematurity arises as granting permission for these major developments may adversely impact on the effectiveness of the Local Plan use policies.
- Extant permission in Pendle exists for 934 dwellings that have not yet started on site. For the planning system to work properly developers must complete existing permission to avoid land banking and needless bulldozing of the countryside.
- The proposed development would result in unacceptable sprawling, ribbon development from Colne.
- Adverse impact to visual amenity and on the landscape, particularly from long range views, such as from the ridge of Boulsworth Hill.
- Traffic congestion is already negatively impacting the area as is evidenced by poor air quality and further development at such a large scale would have a detrimental impact. Unsustainable transport patterns will be caused as people have to travel by car to access basic services at a distance from the development.
- The proposals would not provide adequate community facilities to support the development of the scale suggested.
- Development of this site would lead to adverse impact to heritage assets and a Conservation Area
- We understand from the Environment Agency that there is a significant Flood Risk to Cotton Tree if the site is developed.

### **Relevant Planning Policy**

<b>Code</b>	<b>Policy</b>
LP 10	Areas of Special Architectural or Historic Interest
LP 12	Maintaining Settlement Character
LP 13	Quality and Design of New Development
LP 14	Trees, Woodland and Hedgerows
LP 16	Landscaping in New Development
LP 20	Quality Housing Provision
LP 21	Provision of Open Space in New Housing Development
LP 31	Parking
LP 3A	Protected Areas
LP 4D	Natural Heritage - Wildlife Corridors, Species Protection and Biodiversity
LP 6	Development and Flood Risk

LP 8	Contamination and Pollution
LP 9	Buildings of Special Architectural or Historic Interest

## **Officer Comments**

This is a major application for Colne on a piece of land that has been the subject of considerable scrutiny in successive Local Plans. The issues involved relate not only to the physical impacts of the development but also involve the approach Pendle has taken to addressing the recent under performance in the delivery of housing. These are important issues for the Borough and the determination of the application is inextricably linked to the Core Strategy and the wider approach to delivery of the development that is needed in Pendle over the Plan period.

### **1. Policy**

The starting point for consideration of any planning application is the development plan. Policies which are up to date and which conform to the provisions of the National Planning Policy Framework (“the Framework”) must be given full weight in the decision making process. Other material considerations may then be set against the Local Plan policies so far as they are relevant.

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.

#### **National Planning Policy Framework**

Paragraph 47 of the Framework requires local planning authorities to identify a supply of deliverable housing sites to provide five years’ worth of land to meet their housing requirements. The Strategic Housing Land Availability Assessment (SHLAA) was updated in support of the publication of the Core Strategy. This is dealt with in detail below.

The Framework expects that Councils meet their full objectively assessed housing needs and to annually update their supply of specific deliverable sites to meet a five year supply. Where there has been persistent under delivery a 20% buffer needs to be added to the 5 year supply.

Section 7 of the Framework deals with design and makes it clear that design is a key aspect of sustainable development. Paragraph 64 of the Framework states that "permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions".

Paragraph 85 of the Framework states that Local Authorities should make clear that safeguarded land is not allocated for development at the present time. Planning permission for the development of safeguarded land should only be granted following a Local Plan review which proposes the development.

In relation to development affecting Conservation Areas paragraph 131 of the NPPF states that in determining planning applications, local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 132 requires that “when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation.” However, paragraph 134 states “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”

## Replacement Pendle Local Plan

The Local Plan is nearing the end of its period of coverage. The policies in it are being re-considered through the LDF process. Weight should only be afforded to the policies in accordance to whether and how much they are in conformity with the Framework.

Policy 4D (Natural Heritage - Wildlife Corridors, Species Protection and Biodiversity) states that development proposals that would adversely impact or harm, directly or indirectly, legally protected species will not be permitted, unless shown to meet the requirements of The Conservation (Natural Habitats, &c.) Regulations 1994.

Policy 6 (Development and Flood Risk) does not allow for development that would be at risk of flooding or would increase the risk of flooding elsewhere.

Policy 8 (Contamination and Pollution) states that development will be permitted where there is likely to be no harmful pollution or contamination or a proposed remedial action is sufficient to reduce the risk of pollution.

Policy 9 (Buildings of Special Architectural or Historic Interest) states that the Council will seek to preserve statutory listed buildings and conserve buildings of historic or architectural importance.

Policy 10 (Areas of Special Architectural or Historic Interest) seeks to ensure a high design standard that preserves or enhances the character and appearance of the area and its setting. The requirements of this policy are expanded upon by the Conservation Area Design and Development Guidance SPD.

Policy 12 (Maintaining Settlement Character) states that the development of land which contributes to the openness, character and local amenity of a settlement will not be permitted, unless the development proposal is for the enhancement or improvement of existing on site facilities.

Policy 13 (Quality and Design of New Development) states that the Council will protect and enhance the heritage and character of the Borough and the quality of life for its residents by encouraging high standards of quality and design in new development.

Policy 16 (Landscaping in New Development) requires that all development proposals which involve new building include a landscaping scheme sympathetic to the site's character.

Policy 20 (Quality Housing Provision) requires that layout and design reflects the site and surroundings and provides a quality environment for its residents, whilst protecting the amenity of neighbouring properties.

Policy 21 (Open Space) requires that housing proposals of 10 units or more provide an area of open space within the site for play with or without equipment to be conveyed to the Council for future maintenance. Where it is impractical to provide space on a development the policy allows a sum per unit to be required by the authority for off-site provision.

Policy 30 (Sustainable Travel Modes) supports cycling and the Pendle Cycle Network.

Policy 31 (Parking) requires that new developments provide parking in line with the levels set out in Appendix 1 of the RPLP.

## **2. Principle of Development**

The principle of the development of the site is affected by a number of interlinked and sometimes



competing issues, all of which are referred to in detail in this section of the report.

### Housing Supply

The Framework expects LPAs to have a 5 year supply of deliverable sites (para. 49) that provide for a full range of market and affordable housing, with an additional buffer of 5%. The buffer should be increased to 20% for authorities who have persistently under delivered against their targets and, although there is some debate regarding what constitutes "persistent under delivery" The Council falls within this category as there has been consistent under delivery since the start of the recession. Prior to that the Council had over delivered set against its housing targets.

The site is included in the Strategic Housing Land Availability Assessment (SHLAA) as a site that will contribute to the provision of housing to meet the needs of the Borough.

The SHLAA has been regularly reviewed to ensure it reflects the most up to date position on the available supply of housing. The housing requirement was reviewed in 2013 with a Strategic Housing Market Assessment (SHMA) being commissioned. This has also been updated in 2014 with the publication of further information on population projections.

The figures that were emerging in 2013 were that the supply of developable sites that were in existing settlement boundaries would not be sufficient to provide the 5 year supply that is required under the Framework. This includes the requirement for sites to be viable which is an important element in Pendle. As is therefore required under paragraph 47 of the Framework an updated assessment of available land was incorporated into the revised SHLAA. Each of the sites was individually appraised set against detailed criteria.

The Council has published the Core Strategy and details of the current position in terms of a five year supply of housing land. Pendle is relying on the additional sites identified in the SHLAA to make up the shortfall it would have if they were excluded in order to make up the five year supply. If these additional sites are excluded from the SHLAA the Council would not have a five year supply.

There has been a recent improvement in the number of long term empty homes that have been brought back into use in the Borough. The view the Council is taking is that these should count towards the under delivery of housing in the Borough.

The situation in Pendle is complex and finely balanced. If sites outside of the existing settlement boundary are excluded from the SHLAA a five year supply of land cannot be demonstrated. If that situation were to exist then applications for housing development would be assessed against the policies of the Framework. Taking into consideration the position set out in this section of the report there would be no policy justification for refusing the application simply because it partially lies outside of a settlement boundary, particularly as the Council's formal position on this as set out in the Core Strategy is that some additional sites outside of settlement boundaries are needed.

Colne lies in the M65 corridor which is the area in which the Council is seeking to build the majority of its houses. This makes it a sustainable place in which to locate the additional market and affordable housing required. Furthermore the site is well related to the existing residential developments, shops, schools, bus routes and local employment areas and thus would represent a sustainable form of housing development in terms of travel patterns and relationship to the major settlement of Colne.

### Protected Area and Maintaining Settlement Character Status

The site is designated as a Maintaining Settlement Character area (Policy 12) and also falls within the settlement boundary of Colne.

The intention of the Maintaining Settlement Character policy is to protect informal open spaces from development that would adversely impact upon their openness and character. Policy 12 is not to be replaced in the Core Strategy.

The development needs of the Borough and the need to bring more housing forward needs to be balanced against the impact on the area of settlement character. Again referring to the comments of the Inspector in designating the land in the Local Plan the area is not of recreational value but was designated due to its role as a green area on the edge of Colne. This issue needs to be considered alongside the design of the scheme, the landscape and visual assessment that has been undertaken and must also be set against the housing needs of the Borough.

The advice to Committee is that with a well-designed and laid out scheme, as is set out in the supporting information accompanying the application, that the site can be developed respecting the urban fringe. With a sensitive development the overall needs of the Borough for housing would outweigh the loss of the site as an area of settlement character.

*Pendle Strategic Housing Land Availability Assessment Review 2014* includes the entire site in its additional site 0-5 year period. The Framework requires local planning authorities to prepare a SHLAA, which is a key evidence-based document which supports the policies in the Local Plan. The Framework (paragraph 159) states that:

*“Local Planning Authorities should have a clear understanding of the housing needs in their area. They should: prepare a Strategic Housing Land Availability Assessment to establish realistic assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the plan period.”*

The SHLAA is usually updated annually and can be a fluid evidence base in the current climate. It is an important document for the Council to demonstrate a five year housing supply of sites. The Council has underperformed in reaching housing supply numbers in recent years and this is reflected in the clear need to bring additional sites forward including some in Protected Areas.

Paragraph 85 of the Framework indicates that protected sites should not be brought forward unless it is part of a local plan review. The paragraph indicates that they should not but does not preclude such sites being brought forward.

The Council has taken a holistic view of the development needs of the area in terms of the Core Strategy and has considered via the SHLAA and the strategic housing site proposed how best to meet the five year housing supply necessary for the Borough. A fundamental part of this is the inclusion of some sites that have been protected in the extant Local Plan for consideration for future development to meet the existing housing needs of the Borough.

The housing position is that without these sites the Council would not be able to meet its five year needs, in those circumstances the housing Land supply policies of the Local Plan would be out of date and the Framework would take primacy. This in effect creates a 'catch 22' situation whereby the impact on the housing supply position of resisting the principle of this development on Local Plan policy grounds would undermine those same Local Plan policies.

There are therefore clearly planning circumstances that would weigh against refusing this application on a matter of policy principle in terms of its protected status in the existing Local Plan. To refuse on that basis would also undermine the approach to development taken by Council in its Core Strategy and the Council's ability to provide a five year supply of deliverable sites.

In the prevailing circumstances the delivery of this site would play an integral part in delivering the

housing needs of the Borough taken together the significant needs of the Borough and the under delivery experienced since 2008/9 the development of this site would in principle fulfil the definition of sustainable development set out in the Framework and be a justified departure from policy. It would need to be referred as a departure from the development plan.

### **3. Affordable Housing Provision and Viability**

The Framework maintains the principle of creating sustainable, inclusive and mixed communities and calls for local planning authorities to set policies for meeting identified affordable housing needs on site unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (para. 50). The Strategic Housing Market Assessment identifies that 40% of the housing needed in the Borough should be affordable. However the Framework also requires that Councils do not impose affordable housing requirements that would result developments not being viable. To establish what level of affordable units could be provided on site the developer has undertaken a viability assessment.

The viability assessment concludes that the scheme can provide 9 out of the 90 dwellings as affordable housing. The viability assessment acceptably demonstrates that the proposed level of affordable housing is appropriate and can be provided without undermining viability. The provision of such housing can be secured with a planning condition.

### **4. Visual Amenity and Conservation Area Impact**

As this is an outline application with all matters but access reserved the submitted layout plans are merely indicative and this stage. Layout and detailed design would be considered in a reserved matters application. Within this application all that can be considered is the principle whether the proposed development could be accommodated on this site without fundamentally unacceptable impacts on the visual amenity of the area and on the significance of the designated heritage asset it sits within/adjacent to (the Lidgett and Bents Conservation Area).

A landscape and visual impact assessment and heritage statement were submitted with the application and have subsequently been augmented to ensure that they fully address the potential landscape and heritage asset impacts of the proposed development. Following discussions with the Council's Conservation Officer the indicative layout plan has also been amended to create a buffer of open land between the proposed development and Skipton Old Road.

The primary public visual impacts of the proposed development would be passing the site along Skipton Old Road, views over the site from the opposite side of the valley and the footpaths approaching and passing the site.

There is a steep bank immediately to the side of Skipton Old Road where it meets the site, it is proposed that this would be retained and an open buffer maintained beyond it with landscaping providing additional screening of the housing. This will result in the housing being largely hidden from view of pedestrians and vehicles travelling along Skipton Old Road and maintain the open semi-rural character of this part of the Conservation Area.

In longer distance views the site would appear as a natural extension of the urban form to the west with winding main thoroughfares following the contours of the land and cul-de-sacs leading off them. The indicated density and network of green spaces throughout the site would also allow the development to merge with both the higher density urban form to the west to the rural setting to the east without stark contrast.

The character of the site would inevitably fundamentally change when viewed from the public footpaths which pass the site. However, the submitted plans indicate that the footpaths would predominantly pass landscaped areas and open views would be maintained to the east.

Taking this into account, in principle, the proposed development would acceptably sustain the significance of the Lidgett and Bents Conservation Area heritage asset and would be acceptable in terms of visual amenity.

## **5. Impact on Listed Buildings**

Standroyd is a Grade II Listed farmhouse sitting opposite the site of Skipton Old Road. The building would be approximately 90m from the housing indicated on the layout plan separated by dense, hedgerows and mature trees either side of the road, and from the road, by steep banking. Taking this into account, the proposed development would not result in an unacceptable impact upon the setting of the significance of the heritage asset Standroyd.

Other listed buildings in the immediate vicinity include No.3 Lidgett (Grade II) and Craven Cottage (Grade II). The rear elevation of No.3 Lidgett would be approximately 70m from the housing indicated on the layout plan with a large area of landscaped space between. Taking this into account, the proposed development would not result in an unacceptable impact upon the significance of the of heritage assets No.3 Lidgett or Craven Cottage on the opposite side of Skipton Old Road.

## **6. Residential amenity**

The submitted layout plan indicates that the proposed development could be acceptably accommodated on the site without unacceptably impacting upon the residential amenity of surrounding properties in accordance with policies 13 and 20. The impact of the final detailed layout would be assessed in a subsequent reserved matters application.

## **7. Ecology**

Policy 4D of the Local Plan refers to the safeguarding of legally protected species. Paragraph 118 of the Framework requires LPAs to conserve and enhance biodiversity by refusing planning permission where significant harm resulting from a development cannot be avoided, mitigated or compensated for.

The application is supported by an ecological survey and assessment and an addendum report on great crested newts.

Concerns have been raised regarding the timing of the site survey, carried out 2nd October 2014, that the LERN database referred to in the assessment is not up to date and that a net gain in nature would not be delivered and that the impact on the Lancashire Ecological Network has not been adequately taken into account.

The survey was carried out outside of the bird nesting season, however, the report acceptably assesses the site for its suitability for use by nesting birds. It finds that ground nesting birds are unlikely to use the site at anything but a very low density owing to the exposed nature of the site, grazing by sheep and regular use of the site by walkers with unleashed dogs. The report finds that the hedgerows along the north and north east boundaries of the site are most likely to support birdlife; these hedgerows would be enhanced by additional native planting.

The survey was carried out at an appropriate time to establish the presence of bat roosts. No roosts were identified, however, some trees within the site were identified as having potential to support roosts and foraging by bats along the watercourse that runs through the site is likely. However, the proposed enhancement of the vegetation along the watercourse would be likely to encourage foraging by bats and mitigation measures are proposed to protect and enhance the potential for roosting.

LERN (Lancashire Environment Record Network) is a regularly maintained and updated ecological resource for the Lancashire County providing record of information on the important and protected sites that have been identified for their significance in Lancashire.

The essence of ecological networks are the core sites which are the designated international, national and local sites along with the corridors and stepping stones which link them. No part of the site is designated internationally, nationally or locally and therefore would only ever be a component of a corridor or stepping stone. The indicative layout would maintain significant corridors/habitats through the site which are improved with new tree and other planting along with the creation of wetland habitats as a component of SUDS.

The ecology assessment acceptably demonstrates that, though retention and enhancement of vegetation and wetland and the provision of opportunities for bird nesting and bat roosting, the proposed development would achieve a gain for biodiversity.

Concerns have also been raised that the site is a habitat for newts. An addendum report to the ecology survey has been submitted to address this concern. The report details no features on or within 500m of the site which could support a habitat for newts or result in newts crossing the site.

The ecology assessment finds no other evidence of use of the site by protected species. Therefore, with a condition to require that the mitigation and habitat enhancement recommendations of the report are carried out, the proposed development is acceptable in terms of ecology in accordance with policy 4D.

## **8. Trees and Landscaping**

Details of landscaping are reserved for consideration in a subsequent reserved matters application. The details submitted with the application indicate that the development would lead to an overall enhancement of the existing hedgerows on the site.

## **9. Flood Risk, Foul and Surface Water and Water Supply**

Policy 6 of the Replacement Pendle Local Plan does not allow development that would be at unacceptable risk of flooding or would unacceptably increase the risk of flooding elsewhere. The Framework sets out a strategy for dealing with flood risk in paragraphs 93-108 inclusive. This strategy involves the assessment of site specific risks with proposals aiming to place the most vulnerable development in areas of lowest risk and ensuring appropriate flood resilience and resistance; including the use of SUDs drainage systems. In this case the site is located within Flood Zone 1 (low risk).

A Flood Risk Assessment (FRA) was submitted with the application and following an initial response from the Environment Agency and LCC Flood Risk Management an addendum to the FRA has been submitted with additional information regarding runoff rates. The Environment Agency have responded to the additional details stating that they are satisfied that the development is acceptable subject to a condition requiring a surface water drainage scheme for the site.

Concerns have been raised regarding the ability of the local sewerage system to accommodate the development, however, the operator United Utilities, has raised no objection to the development subject to a standard drainage condition. They have also noted that an easement crossing the site, this is something which the applicant should take into account in preparing the final layout for a reserved matters application.

At the April Committee Members raised concerns regarding flooding of the North Valley Culvert.

The Council's engineering section has confirmed that the land drains to Colne Water at Cotton Tree rather than the culvert.

There were also concerns that there would be greater runoff from the land following development. The development would include any surface water attenuation necessary to ensure that runoff rates do not increase, this would be ensured by the condition discussed above.

## **10. Contaminated Land**

A Desk Study Report was submitted with the application and concludes that there would be a low risk of contamination on the site. However, in line with Environmental Health Services advice a land contamination condition should be attached to carry out further intrusive investigation work is necessary.

## **11. Air Quality**

The applicant submitted an Air Quality Assessment. The conclusion states that vehicle exhaust emissions are predicted to have a negligible impact on local air quality at all receptor locations.

The Council declared an Air Quality Management Area within the Borough (Colne) in April 2011 due to measured exceedances of the NO<sub>2</sub> annual mean air quality objective. The AQMA includes properties along Windsor Street and Skipton Road, between the junction with Windsor Street/Byron Road and Temple Street/Oak Street and Townley Street. The AQMA is some 900m from the entrance to the site, however, there is a strong likelihood that residents of the housing development would use these routes to other destinations going east on Windsor Street/Byron Road or west via North Valley Road.

The developer has agreed to make a contribution to the Air Quality Management Action Plan of £3,000 and the Council's Environmental Health section are satisfied that this is sufficient to offset any increase in emissions resulting from the development. The contributed can be ensured by condition.

## **12. Highways**

This is a significant concern expressed in public responses in relation to the potential highway impacts of the development at and around the proposed access junctions and the wider highway implications of an increase in the number of households in this location.

A number of policies are relevant to the access, parking and highway design of residential proposals. The Framework through paragraph 35 requires that:

“developments should be located and designed where practical to [amongst other things] give priority to pedestrian and cycle movements, and have access to high quality public transport facilities; and should be located and designed where practical to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones”.

A Transport Assessment (TA) was submitted with the application and this has been appraised by LCC Highways. Although, LCC Highways agree that the Windermere Avenue and Castle Road junctions do have the capacity to accommodate the development they have questioned some of the conclusions of the TA in relation to the impact on the local road network. A number of mitigation works have been suggested to offset the impact on the highway network. These are:

Castle Road - Priority one way working.

Oak Street - A change in priority at the Oak St/ Vincent St junction. Vincent Street should be the minor road to give way to traffic on Oak Street. To avoid excessive vehicle speeds here, a junction table should be constructed.

Byron Road / Venables Avenue - A mini-roundabout should be constructed here to make it easier for traffic driving out of Venables Avenue during peak periods.

Byron Road and Keighley Road near roundabout - A puffin pedestrian crossing to assist pedestrian traffic wishing to go to and from the shops on the other side of Keighley Rod and the Colne town centre.

Venables Avenue / Snell Grove junction - Waiting restrictions at the bellmouth of this junction to be active during school drop off and pick up periods.

LCC Highways have also requested the proposed position of Castle Road junction be revised to improve visibility.

A number of contributions have also been requested to provide appropriate improvements to the local pedestrian and cycle networks, provision of bus services and for the provision of a travel plan. These off site highway works and contributions are summarised below:

#### S278 works

The following works are required to be carried out at the expense of the developer.

- Priority one way working in Castle Road, including a footway along the length of this feature, signing and lining between no 122 Castle Road and the eastern end of the site, widen the carriageway of Castle Road to 7m and construct a 2m footway along the site frontage.
- A new mini roundabout at the junction of Venables Avenue with Byron Road.
- A Puffin Crossing of Keighley Road just east of the roundabout .
- Four number DDA compliant bus stops in Venables Avenue and Castle Road.

#### S106 contributions

- For the Travel Plan preparation support £18,000.
- For bus services: a sum of £100,000 spread over five years for the diverted bus route.
- For cycle track provision a sum of £40,000 as a contribution to the wider scheme lead and designed by LCC.

In response to concerns raised by Committee in April a further review of the impact of the proposed development on North Valley has been submitted by the Applicant. This review supports the original stance of LCC that the impact on North Valley did not require detailed assessment due to the small scale of the projected impact of the development (0.6% to 1.5% increase in traffic flows).

Following discussions with the Applicant LCC Highways have suggested the following additional contributions and off site highway works to offset this minor impact on North Valley:

- Upgrade of the pelican crossing on Byron Road near Rultand Street to a modern Puffin/Toucan crossing to increase the efficiency of traffic flow. To be carried out under S278.
- Lining changes around the gyratory roundabout to provide a keep clear/yellow box and other changes to maximise traffic flow and circulation. To be carried out under S278.

However, LCC's original advice was that the highway impacts of the development would be acceptable, subject to the original contributions and conditions set out above. The assessment of the potential impact on North Valley only appears to add support to LCC's original comments. Taking this into account it is clear that it would not be reasonable or necessary to require that the developer provide these additional highway works.

Concerns have been raised regarding how access from Skipton Old Road would be controlled. A bollard is shown on the proposed Skipton Road access to restrict access to emergency vehicles only, detailed particulars of the design of this would be considered in a reserved matters application.

Therefore, with the conditions and original contributions requested by LCC Highways, the proposed development is acceptable in terms of highway safety both in terms of its immediate and wider impact on the highway network.

### **13. Open Space**

The site is located within Horsefield Ward in the Council's Open Space audit, within this ward there is a deficiency in all open space typologies other than playing fields. Therefore, policy 21 requires that adequate provision must be made for new open space on the site. An equipped children's play area is proposed in addition to a network of open spaces throughout the site. The exact details of the open space provision would be dealt with at the reserved matters stage. A condition is required to ensure the long term maintenance of those areas.

### **14. Public Rights of Way**

Many concerns have been raised regarding the impact of the proposed development on the use of the site as a public amenity space for walking, walking dogs, children playing etc. However, the site is private land which and not designated as open space. The only formal public amenity function of the land is as a public right of way and this is limited to the routes of the footpaths, the remainder of the site is private land to which the public have no specific rights of continued access to, it could be fenced off tomorrow without express permission being required. Access to and along the footpaths would be maintained.

The Council's Footpaths Officer has requested a contribution towards the maintenance of the proposed new footpath linking Windermere Avenue to the existing footpath through the site and towards the wider footpath network. The maintenance of the footpaths within the site would be ensured by a general maintenance agreement condition for the whole site. The developer has not offered any contribution toward the wider footpath network, it is unlikely that occupants of the development would need to use that network to access nearby services and facilities and so it would not be reasonable to require a contribution for this in addition to the contributions offered towards public transport and cycle paths.

### **14. Infrastructure Impact**

Numerous concerns have been raised regarding the impact of the proposed development on local infrastructure and services such as schools, doctors, dentists and hospitals, with many responses stating that these services are already at capacity and could not accommodated additional



residents in the area.

As part of the evidence base for the Core Strategy the Council has prepared and had approved by Members a Strategic Housing Market Assessment (SHMA) and an Infrastructure Strategy. The SHMA predicts the housing needs of the borough based upon a range of housing, economic and demographic factors, trends and forecasts. The Infrastructure Strategy assesses the quality and capacity of existing infrastructure provision and takes account of the need for new strategic infrastructure such as schools and hospitals.

The SHMA identifies a need for new housing in the borough which the proposed development would contribute towards the provision of and is included within the SHLAA. The impact of this new housing provision is therefore taken into account in future provision of local infrastructure and services and thus there is no basis to resist this application in terms of increased use of local infrastructure and services.

## **15. Prematurity**

The Framework confirms that the approach to be taken to making decisions on planning applications is that they should be taken in accordance with the development plan. If policies in those Plans are not up to date then applications should be taken in accordance with the presumption in favour of sustainable development as set out in the Framework. For planning purposes sustainable development is taken to be the policies in paragraphs 28-219 of the Framework.

The Local Plan for Pendle comprises of the adopted Replacement Pendle Local Plan 2001 – 2016 which was adopted in May 2006. The policies relating to housing supply are out of date in that they do not conform to the requirements of the Framework and are based on out of date population projections.

The Core Strategy (“CS”) will replace the Local Plan. This is at an advanced stage and its policies should be given some weight, although until it is formally adopted the CS will not have statutory status and should not be afforded full weight.

The CS has been published. The development proposed is in general conformity with the CS which seeks to increase house building rates to achieve the level of housing needed to meet the Borough’s objectively assessed need. This involves the need to provide a wider portfolio of sites than are presently available on the settlement limits identified in the adopted Local Plan.

The CS identifies the M65 as being the area that will see the majority of growth in the Borough. 70% of all new housing is targeted as being located in the M65. In turn the major areas of growth in the M65 would be focussed on the Key Service Centres which are Nelson and Colne. This site has not been identified as being of strategic importance to the housing needs of the Borough or its growth needs. The planning application does not conflict with the strategic policies of the CS. Its development would be broadly in line with the CS.

The National Planning Practice Guidance contains advice on how to interpret the Framework, although it is not itself planning policy. It refers to prematurity as follows:

*Annex 1 of the National Planning Policy Framework explains how weight may be given to policies in emerging plans. However in the context of the Framework and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies*

*in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:*

*a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and*

*b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

*Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.*

There is a community aspiration to develop a Neighbourhood Plan for east Colne. This has however not been through any formal processes nor has it got any formal backing from the Parishes that would be involved. It can be given no weight in making this decision.

The planning application does not conflict with the emerging development plan. It is in fact broadly in line with the emerging CS. The scale of development would be in line with the general development needs identified in the CS. It would not therefore have an undermining impact on the scale and location of development so as to undermine the plan making process.

There are no planning grounds to support the view that this development should be refused as it is premature in terms of the adoption of the development plan for the area.

## **16. Other Issues**

Concerns have been raised regarding access to the rear of gardens of Lidgett. This application is in outline and so the layout is merely indicative, however, the area to the rear of Lidgett is shown as open land in the indicative plan and it does not appear that access would be restricted.

Numerous responses state that brownfield sites should be developed in preference to greenfield sites. Whilst there are many undeveloped brownfield sites within the Borough their location, cost of remediation and other factors result in many of them not being financially viable for developers. The Framework requires that developments are viable and deliverable and that Councils do not impose restrictions upon developers either in plan making or decision taking that prevent developers from achieving competitive returns to enable the development to be deliverable. Given the Council's housing supply position, there is no mechanism available to the Council to require that brownfield land is developed in preference to other land.

Although the development, as any housing development would, may cause some disruption to local residents during construction, it can be ensured with a construction methodology condition that any disruption would be acceptably controlled and minimised.

## 17. Conclusion

This outline application for access only is acceptable in terms of policy and highway safety. The development is also acceptable in principle in terms of flood risk, ecology, landscape, visual amenity, Conservation Area and residential amenity impacts. The application is therefore recommended for approval.

### Reason for Decision

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed housing development would accord with Local Planning Policy and would be compliant with the guidance set out in the Framework, subject to compliance with planning conditions. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

### RECOMMENDATION: Approve

Subject to the following conditions:

1. An application for approval of the reserved matters (namely the appearance, layout, scale and landscaping of the site) shall be submitted in writing to the Local Planning Authority 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 Article 3 (1) of the Town and Country Planning (General Development Procedure) Order 1995 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. Details of the appearance, landscaping, layout and scale (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

**Reason:** In order to comply with the requirements of Section 92 of the Town & Country Planning Act 1990.

3. The development hereby permitted shall be carried out in accordance with the following approved plans: 754.000A, 754.400A Rev 1, 754.500A Rev 1, J344 Skipton Old Road Fig 1, J344 Windermere Ave Access.

**Reason:** For the avoidance of doubt and in the interests of proper planning.

4. Prior to commencement of development, a plan and written-brief detailing the proposed phasing of the site shall have been submitted to and approved in writing by the Local Planning Authority. Development shall not commence unless and until the scheme has been submitted and approved. Such detailing shall include details of the works involved in each phase and how each phase is to be completed in terms of the completion of roads, building operations, foul and surface water sewers and landscaping, and each phase shall be substantially completed before the next successive phase of the development is commenced. The approved scheme shall thereafter be carried out in strict accordance with the plan and brief.

**Reason:** To secure the proper development of the site in an orderly manner.

5. A scheme for the management (including maintenance) of the open space areas, shall be submitted to and approved in writing by the Local Planning Authority within two weeks of the commencement of development. The approved scheme shall be carried out in full accordance with the agreed scheme before the first dwelling is occupied.

**Reason:** To ensure the site is properly maintained and managed in the interests of visual amenity.

6. Prior to the commencement of development the applicant shall have submitted to and have agreed in writing by the Local Planning Authority a method statement which sets out in detail the method, standards and timing for the investigation and subsequent remediation of any contamination which may be present on site. The method statement shall detail how:-

a) an investigation and assessment to identify the types, nature and extent of land contamination affecting the application site together with the risks to receptors and potential for migration within and beyond the site will be carried out by an appropriately qualified geotechnical professional (in accordance with a methodology for investigations and assessments which shall comply with BS 10175:2001) will be carried out and the method of reporting this to the Local Planning Authority; and

b) A comprehensive remediation scheme which shall include an implementation timetable, details of future monitoring and a verification methodology (which shall include a sampling and analysis programme to confirm the adequacy of land decontamination) will be submitted to and approved in writing by the Local Planning Authority.

All agreed remediation measures shall thereafter be carried out in accordance with the approved implementation timetable under the supervision of a geotechnical professional and shall be completed in full accordance with the agreed measures and timings, unless otherwise agreed in writing by the Local Planning Authority.

In addition, prior to commencing construction of any building, the developer shall first submit to and obtain written approval from the Local Planning Authority a report to confirm that all the agreed remediation measures have been carried out fully in accordance with the agreed details, providing results of the verification programme of post-remediation sampling and monitoring and including future monitoring proposals for the site.

Advisory Notes:

- (i) Where land identified as having the potential to be contaminated is undergoing redevelopment, a copy of the leaflet entitled 'Information for Developers on the investigation and remediation of potentially contaminated sites' will be available to applicants/developers from the Council's Contaminated Land Officer. The leaflet will be sent to the developer by request.
- (ii) Three copies of all contaminated land reports should be sent to the Local Planning Authority.
- (iii) This condition is required to be fully complied with before development is commenced. Failure to comply with the condition prior to commencement of work may result in legal action being taken.

**Reason:** In order to protect the health of the occupants of the new development and/or in order to prevent contamination of the controlled waters.

7. No part of the development shall be commenced unless and until a Construction Code-of-Practice method statement has been submitted to and approved in writing by the Local Planning Authority. The code shall include details of the measures envisaged during construction to manage and mitigate the main environmental effects of the relevant phase of the development. The submitted details shall include within its scope but not be limited to:
- a) A programme of works including phasing, hours of operation and measures for the control of traffic to and from the site, and within the site, during construction.
  - b) The areas and methods of loading and unloading of plant and materials.
  - c) The areas for the storage of plant and materials.
  - d) Methods for dust control and suppression including asbestos controls and undertaking of regular dust monitoring including when dust monitoring and dust control/suppression are to be implemented.
  - e) Details, including likely vibration and noise levels at site boundaries, of the piling operations.
  - f) Compliance with BS5228: Part 1 1997 to minimise noise
  - g) Measures to ensure that there is no burning of waste.
  - h) Location and details of site compounds
  - i) An overall Construction Monitoring programme, to include reporting mechanisms and appropriate redress if targets/standards breached
  - j) Noise-monitoring to be carried out for the construction period.
  - k) Parking area(s) for construction traffic and personnel
  - L) Details of the provision and use of wheel washing on the site

The Construction Code-of-Practice should be compiled in a coherent and integrated document and should be accessible to the site manager(s), all contractors and sub-contractors working on site. As a single point of reference for site environment management, the CCP should incorporate all agreed method statements, such as the Site Waste Management Plan and Demolition Method Statement. All works agreed as part of the plan shall be implemented during an agreed timescale and where appropriate maintained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure that adequate measures are in place to protect the environment during the construction phase(s).

8. No construction work shall be carried out on the site outside the hours of 8:00 and 17:00 on weekdays and 8:00 - 12:00 on Saturdays.

**Reason:** In the interests of residential amenity and to safeguard local residents from noise and disturbance.

9. Notwithstanding any indication on the approved plans, no development approved shall commence unless and until a scheme for the disposal of foul and surface waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme for the site shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development and should demonstrate the surface water run-off will not exceed 155 l/s. Surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems. The development shall be completed, maintained and managed in accordance with the approved details before the development is completed.

**Reason:** To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding

10. Before the construction work commences facilities shall be provided within the site by which means the wheels of vehicles may be cleaned before leaving the site.

**Reason:** To avoid the possibility of the public highway being affected by the deposit of mud and/or loose

11. No part of the development shall be commenced unless and until all the highway works have been constructed in accordance with a scheme which shall be submitted to and approved by the Local Planning Authority.

**Reason:** To enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users.

12. The new estate road shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any other construction work takes place within the site.

**Reason:** To ensure that satisfactory access is provided to the site before construction of the development hereby permitted commences.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 there shall not at any time in connection with the development hereby permitted be erected or planted or allowed to remain upon the land hereinafter defined any building, wall, fence, hedge, tree, shrub or other device. The visibility splay to be the subject of this condition shall be that land in front of a line drawn from a point 2.4m measured along the centre line of the proposed access road from the continuation of the nearer edge of the carriageway of Castle Road to points measured 43m in each direction along the nearer edge of the carriageway of Castle Road, from the centre line of the access, and shall be constructed and maintained at footway/verge level in accordance with a scheme to be agreed by the Local Planning Authority.

**Reason:** To ensure adequate visibility at the street junction or site access.

14. No part of the development shall be commenced unless and until the off-site highway works shown in the following plans have been constructed: J344 Veneables Mini Fig 4, J344 Puffin Crossing Fig 3, J344 Castle Road Fig 2, J344 bus stops fig 5.

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

15. The development shall be carried out in accordance with the recommended mitigation and ecological enhancement measures set out in the Ecological Survey and Assessment ref: 2014\_263 and Addendum Report on Great Crested Newts ref: 2014\_263c.

**Reason:** To ensure protection of the habitat of species protected under the Wildlife & Countryside Act, 1981.

16. A scheme for the management (including maintenance) of the open space area, shall be submitted to and approved in writing by the Local Planning Authority within two weeks of the commencement of development. The approved scheme shall be carried out in full accordance with the agreed scheme before the first dwelling is occupied.

**Reason:** To ensure the site is properly maintained and managed in the interests of visual

amenity.

17. The development shall not begin unless and until a scheme for the provision of 10% of the housing to be affordable housing has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it.

**Reason:** In order for the development to contribute to the supply of affordable housing in accordance with the need identified in the Strategic Housing Market Assessment and the National Planning Policy Framework.

18. No part of the development shall take place unless and until a Planning Obligation pursuant to section 106 of the Town & Country Planning Act, 1990 (or any subsequent provision equivalent to that section) has been made with the Local Planning Authority. The said obligation shall provide for:

- The provision of affordable housing in line with the requirements of condition 17.
- Preparation and support of a Travel Plan.
- Diverted bus services for a period of five years.
- Cycle track provision as a contribution to the wider scheme lead and designed by Lancashire County Council.
- A contribution to the Council's Air Quality Action Plan to offset the impact of emissions from traffic generated by the development.

**Reason:** In order for the development to contribute to the supply of affordable housing, ensure the provision of an accessible bus service and offset the impacts of the development on the highway network and air quality.

**Note:**

Construction: Construction projects should always be carried out in accordance with the Council's 'Code of Practice for Construction and Demolition'. Dust Control: This development is located in a built-up area close to residential properties. Demolition and construction operations frequently cause short-term dust problems and Pendle Borough Council receives many complaints about such problems. The applicant is requested to ensure that:

1. dust generation is considered prior to site works, and
  2. dust control measures are provided such as sheeting of work areas and water dampening of stockpiles and roadways. Periods of dry weather are the most frequent cause of unforeseen problems. Please ensure that suitable water supplies and equipment are available at short notice. Burning on site. The development site is located in a built-up area with neighbouring occupiers. Pendle Borough Council receives many complaints about smoke from bonfires, which are inappropriate in built-up areas. The practice of burning wastes on site is an old-fashioned practice, which normally constitutes an offence under the Duty of Care provisions of the Environmental Protection Act 1990. The applicant is cautioned against permitting any bonfire to take place during demolition, site clearance or construction. For further information contact Environmental Health at Pendle Borough Council by telephoning (01282) 661199.
- Highways: This consent requires the construction, improvement or alteration of an access to the public highway. Under the Highways Act 1980 Section 184 the County Council as Highway Authority must specify the works to be carried out. Only the Highway Authority or a contractor approved by the Highway Authority can carry out these works and therefore before any access works can start you must contact the Customer Services at [highways@lancashire.gov.uk](mailto:highways@lancashire.gov.uk) and on 0300 1236780.
- Footpaths: The grant of planning permission does not include the right to either permanently or temporarily obstruct or interfere with the right of way. The position and width of the right of way may not be obvious and therefore advice from a suitably qualified rights of way practitioner should be sought before any works which may affect the right of way start. If part or all of the public right of way needs to be permanently or temporarily closed or diverted to allow the development to

be carried out then a formal order made by the Council will first need to come into operation in accordance with the appropriate legislation. Details of how to apply for a permanent or temporary closure are available from the Countryside Access Officer.



**Application Ref:** 13/14/0580P

**Ref:** 18457

**Proposal:** Outline: Major: (Access only from Skipton Old Road and Windermere Avenue) Erection of up to ninety dwellings including estate roads, footways and open space provision

**At:** LAND EAST OF WINDERMERE AVENUE COLNE BB8

**On behalf of:** Junction Property Limited



## REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE ON 27 MAY 2015

**Application Ref:** 13/14/0581P

**Ref:** 18456

**Proposal:** Outline: Major: (Access only from Skipton Old Road and Castle Road)  
Erection of up to 270 dwelling houses including estate roads, footways and open space provision.

**At:** LAND OFF WINDERMERE AVENUE COLNE BB8

**On behalf of:** Junction Property Limited

**Date Registered:** 18 December 2014

**Expiry Date:** 12 February 2015

**Case Officer:** Neil Watson

### **Site Description and Proposal**

The application was considered by Colne and district Area Committee at its meeting on the 14<sup>th</sup> May 2015. It was resolved to refuse the application based on the following issues:

- Prematurity
- Impact on the designated heritage asset of the conservation area
- Impact on ecology
- Impact on the highway network

These issues are dealt with in detail in the report.

The application site is a 13.36 hectare area of agricultural land located between Skipton Old Road, Favordale Road and Castle Road, on the north east side of Colne. An area of 4 hectares in the south west corner of the site falls within the settlement boundary of Colne and is also designated as an area of Settlement Character in the adopted Replacement Pendle Local Plan (RPLP), the remainder of the land falls outside of the settlement boundary and is designated as a Protected Area in the RPLP. A circa 50m wide strip of the land, following the boundary with Skipton Old Road, falls within the Lidgett and Bents Conservation Area. Two public rights of way cross the site, footpath No.139 which runs from the field gate on Skipton Old Road up to Castle Road and No.216 which runs along the eastern boundary of the site.

This application is an outline application with only access being applied for at this stage. The proposed development is a residential development of up to 270 dwellings. Vehicular access to the development would be taken from Windermere Avenue and Castle Road. The application originally proposed a third vehicular access on Skipton Old Road, however, the plans have been amended to remove this and make it a pedestrian/cycle access. Although merely indicative at this stage the layout plan shows the site split into 7 distinct parcels of housing separated by green corridors running through the site, these green corridors would follow the routes of the existing public footpaths through the site, access to which would be maintained.

### **Relevant Planning History**

13/94/0084P - Outline: Application for Residential Development (9.8 acres). Refused 25/04/1994. Appeal Dismissed, 21/12/1994.

13/95/0031P - Outline: Erect 87 detached dwellings (9.8 acres). Withdrawn, 24/02/1995.

13/98/0407P - Erect 78 houses and associated access roads. Withdrawn, 13/04/1999.

## **Consultee Response**

**PBC Conservation** - The revised Heritage Statement is very comprehensive and addresses our concerns about the lack of information provided initially on the heritage assets affected and their settings. The revisions fully set out and analyse the significance of the assets affected (in particular the nearest listed buildings at No 3 Lidgett and at Standroyd, and the Lidgett and Bents Conservation Area) and they satisfactorily assess the likely impact of the scheme on that significance.

Following on from this analysis, the proposed amendments have addressed concerns about the impact of the scheme on the listed buildings and conservation area and their settings. In particular I had concerns about the impact of the scheme on the setting of the listed house at Standroyd, which can be viewed across Skipton Old Road from the public footpath within the site. The amendments have addressed this by pulling back proposed housing and landscaping so that open views of the building should be preserved. With respect to the character and appearance of the conservation area at this point, the special historic character of Skipton Old Road would have been harmed by the proposed access road, and this is now proposed to be deleted from the scheme. Additionally the setting back of the proposed housing from the road and provision of a 'buffer' landscaping zone at the top of the slope and to the rear of the cottages on Lidgett should mean that any harm caused to the character and appearance of the conservation area would be minor. Much will depend on the quality of landscaping and the detailed design of dwellings and this will need to be fully addressed at the detailed application stage.

**PBC Landscape Officer** - TPO's No. 1, 1963; No. 8, 1999; No. 15, 1998 and No. 8, 1981 extant on and adjacent to the site along the boundaries. The south portion of the site is within the Lidgett and Bents conservation area which will afford protection to any trees over 75 mm diameter.

The TPO trees are on the boundaries of the site and outside the area indicatively shown to be the proposed development parcel. Consequently, all can be retained and should be protected through the development process in accordance with BS 5837 (2012).

The ecology survey report details that the site is low quality grazing land with no significant biodiversity value. Development on such grade of land is in accordance with NPPF which requires such land to be used in preference to that of higher quality (paragraph 112). Adverse effects on protected species and UK BAP Priority Species are 'reasonably discounted'. All recommendations at section 5 of the ecology report are stated to have been incorporated into the scheme and shall be conditioned to be retained as such.

Japanese Knotweed and Himalayan Balsam should be treated as per report (paragraph 5.5).

The proposed POS/green corridors around and through the site mostly along the routes of the two PROW are welcome as they will provide important green infrastructure, biodiversity and recreational routes with links to the countryside beyond. Also, to the west and south where they are proposed to serve as buffer zones to the houses adjacent. The planting will have to be carefully specified as the houses currently have a generally open aspect across the site and excessive planting or too large species may cause light and/or shade issues or may be oppressively dominant. The scheme should also comprise native species to maintain and enhance biodiversity and habitat. The detail can be agreed later through reserved matters.

The LVIA states that the construction phase will be 6 to 7 years and I suggest it would therefore be appropriate that as much of the POS/green infrastructure and its planting as possible is implemented during the first available planting season after work starts on site. Certainly the

minimum should be the outer boundary limits but more may be feasible. The LVIA acknowledges that the new planting will take 10 to 15 years to establish and become effective (para 1.54), providing weight to the requirement for early planting.

The issue of future on-going maintenance of such open space needs to be resolved. This is important and is acknowledged in the LVIA paragraph 1.43.

The access detail off Castle Road necessitates the removal of a section of the hedgerow which has been identified in the ecology study report (paragraph 4.2.3) as being an Important Hedgerow as defined in The Hedgerow Regulations 1997. As such it is important that as much of the hedgerow is retained as possible and brought back into suitable management. The proposed access point into the site from Windermere Avenue will not affect any TPO trees.

The proposed SUDS areas are welcome being beneficial to both the management of water and as a biodiversity habitat creation.

The LVIA has made assessments from eight viewpoints, two of which are from longer distance from the south. The results are summarised at Table 2 on page 37. The overall conclusion is that the proposal will have an effect at site level due to fundamental change from grazing to residential but will be mitigated by the local topography restricting views and by the buffer planting zone. In the wider landscape, the site will only be visible from higher ground to the south. Again, the planting will assist in mitigation.

It is noted in the LVIA that soil profiling will be needed with on-site soil heaps etc. I am concerned that such work will have an impact upon trees and hedgerows which are stated as being retained. Raising or reducing levels near or adjacent to such features to be retained could result in them either being damaged or lost or leave them on incongruous ridges or in dips. No such work should be commenced until a tree impact assessment and protection plan in accordance with BS 5837 (2012) has been submitted, approved and implemented on the site so as to avoid the risk of damage by such operations to hedges and protected trees due for retention.

In response to concerns received relating to the ecology assessment:

Issues raised:

- Net gain in nature not delivered as required by NPPF.
- Survey date 2 October not seasonally appropriate.
- Survey inadequate (LERN site not up to date).
- Newts.

The essence of ecological networks are the core sites which are the designated international, national and local sites along with the corridors and stepping stones which link them. The site at Windermere Avenue has been surveyed by an appropriately qualified and competent ecologist. The results therefore have to be given due weight.

LERN (Lancashire Environment Record Network) is a regularly maintained and updated ecological resource for the Lancashire County providing record of information on the important and protected sites that have been identified for their significance in Lancashire.

No part of the site is designated internationally, nationally or locally and therefore would only ever be a component of a corridor or stepping stone. It is noted that the scheme maintains significant corridors/habitats through the site which are improved with new tree and other planting along with the creation of wetland habitats as a component of SUDS.

The ecology report itemises the proposals (page 3 xv; and section 5.0 page 21 onward) on the site which will achieve a gain for biodiversity.

It has to be acknowledged that no mention is made in the ecology survey report of Newts and the report author could be asked to provide a statement on this.

**PBC Engineering (drainage)** - The development must include SUDS, this has been noted in the FRA submitted. The proposed houses at the top of the site must be protected from run off from higher land. The design must include drainage protection for the existing properties from the proposed development. It is believed that there are springs in this land which the design must take account of. Any culvert that will receive any discharge from this development must be surveyed using CCTV camera to ensure its suitability. Any defects must be remedied prior to connection. Temporary drains must be installed to protect all the existing properties before the any of the site is soil stripped. It should be noted that any culverting works of a watercourse now needs the approval of LCC (Lead Local Flood Authority).

**PBC Public Rights of Way** – The proposal affects footpaths 139 and 216, Colne. If the paths are retained on their current alignment, as appears to be the case from the outline plans, then consideration should be given to these running across a wide strip of landscaped land so that they can continue to provide an attractive environment for pedestrians.

I welcome the proposal to include a linking footpath from Windermere Avenue to footpath 216 as part of the development. When the development is complete the public rights of way will provide an integral path network for a sizable population. The development should provide for the maintenance of the new footpath created and substantial improvements to the existing path network including surfacing and drainage improvements. The works should be included in a Section 106 agreement.

The proposed development will affect a wider network of public rights of way in the surrounding area because of the increased local population. The Section 106 should provide for a sum of money to be set aside for rights of way improvements works within 1km of the site to withstand the higher usage.

If planning permission is granted a note should be included to advise that the grant of planning permission does not include and rights to obstruct any footpaths.

**PBC Environmental Health** - The proposed contribution to the Air Quality Action Plan is acceptable to offset the air quality impact of the development. Attach the following standard conditions: contaminated land, construction code of practice, dust control, burning on site.

#### **Lancashire Constabulary Architectural Liaison**

**United Utilities** - No objection subject to a condition requiring the submission of foul and surface water details. There is an easement crossing the site and the developer should contact United utilities to ensure that the easement would not be affected.

**Environment Agency** - No objection subject to a condition requiring the submission and agreement of a surface water drainage scheme before the development commences.

**LCC Flood Risk Management** - Object to the proposed development. The Flood Risk Assessment fails to take account of the greenfield runoff rate post-development for the site as a whole and fails to understand the existing hydrological conditions within the boundary of the site. The FRA states that the existing greenfield site is relatively impermeable. However this is contradicted by assuming that, for surface water runoff purposes, the site is permeable.

Land Drainage Consent will be required for the proposed works to the drainage ditches.

The LLFA strongly promote Sustainable Drainage Systems (SuDS) to be incorporated within the design of a drainage strategy for any proposed development, applying the SuDS management train. Paragraph 103 of the National Planning Policy Framework (NPPF) prioritises the use of SuDS for areas at risk of flooding. The LLFA encourages that site surface water drainage is designed in line with the current draft National SuDS Standards, including restricting developed discharge of surface water to greenfield runoff rates making suitable allowances for climate change and urban creep, managing surface water as close to the surface as possible and prioritising infiltration as a means of surface water disposal where possible. Regardless of the site's status as greenfield or brownfield land, LCC encourages that surface water discharge from the developed site should be as close to the greenfield runoff rate as is reasonably practicable.

Prior to designing the site surface water drainage, a full ground investigation should be implemented to fully explore the option of ground infiltration to manage the surface water in preference to discharging to a surface water body or public sewer system. LCC also strongly encourage that the developer should take into account designing drainage systems for exceedence working with the natural topography for the site.

The LLFA is pleased to see that the accompanying flood risk assessment refers to and has considered the Draft National Standards for SuDS. 5.1 notes potential sources of discharge. Discharge of surface water drainage should be considered in order of hierarchy outlined in the Draft National SuDS Standards. In light of this, discharge to a public sewer should only be permitted should earlier options prove to be unviable and evidence submitted to demonstrate this.

**LCC Highways** - LCC Highways comments are summarised as follows:

In terms of the NPPF, section 32, '... Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe...'  
I do not consider this to be the case with this development proposal (ie. I do not consider there is a severe impact which cannot be mitigated). However, there are various traffic and highways issues that should be mitigated through works in the highway. If these works are not carried out, then I would have an objection to this application.

#### Vehicular access to the site via The Lidgett

I considered that the proposed development would have a severe impact upon The Lidgett, which was not shown to be capable of mitigation. The severe impact concerned unacceptable delays which would give rise to frustration for drivers and unsafe conditions on the highway. My objection to this development on the grounds of a severe impact on the highway has been avoided by the amendments to the access arrangements.

#### Windermere Avenue

The access off Windermere Avenue is simply an extension of Windermere Avenue into the site using the existing alignment of the road. The extension will need to cross a small ditch which drains the fields to the east. Traffic leaving the residential development will proceed to the junction of Windermere with Venables Avenue. The TA indicates that this junction has plenty of capacity to accommodate the additional traffic.

#### Castle Road

I accept the principle of the proposed narrowing of the Castle Road carriageway at number 122 Castle Road as a result of the need to construct a footway along the carriageway here.

However the detail of the proposal needs to be considered. The highway southern boundary (shown as a red line on the drawing on page 56 of the TA) should not encroach into the driveway

of 122, which is private property.

The layout of the junction of the estate road with Castle Road needs to be refined to ensure that suitable visibility is provided for vehicles driving out of the estate road left on to Castle Road. I would suggest that the proposed access road into the development from Castle Road should be 70m east of the boundary of number 122 Castle Road. From this position vehicles driving on to Castle Road would have a clear view of the chicane and would have space to decide whether it was safe to proceed through the chicane.

Please ask the developer to provide a more detailed drawing showing the visibility possible for vehicles (travelling in both directions) on Castle Road and for vehicles emerging from the new junction.

### Mitigation works

The following mitigation works will be required.

Castle Road - Priority one way working in Castle Road.  
A detailed drawing should be submitted to LCC for approval.

Oak Street.

The works I would ask for would be mainly a change in priority at the Oak St/ Vincent St junction. Vincent Street should be the minor road to give way to traffic on Oak Street. Oak Street is a long straight road with a 30mph speed limit, and to avoid excessive vehicle speeds here, I would recommend that a junction table should be constructed.

Byron Road / Venables Avenue

I would request a mini-roundabout should be constructed here to make it easier for traffic driving out of Venables Avenue during peak periods.

Byron Road and Keighley Road near roundabout.

I would request a puffin pedestrian crossing here to assist pedestrian traffic wishing to go to and from the shops on the other side of Keighley Rod and the Colne town centre.

Venables Avenue / Snell Grove junction.

This junction is used by many school children walking to school from the west. Crossing Venables Avenue is difficult and potentially hazardous because parents dropping off children stop their cars near this junction and this results in poor visibility along Venables Avenue. Consequently I would ask for waiting restrictions at the bellmouth of this junction to be active during school drop off and pick up periods. Please ask the developer to prepare a drawing showing these restrictions and submit them for approval.

### Sustainability

I disagree with the conclusions of the TA with respect to the accessibility of the site. The accessibility questionnaire in LCC's SPG 2005 indicates that the site has a very low accessibility (I estimate an accessibility score of 12). This gives a developer contribution for transport of £2 200 per property. For 270 dwellings a total contribution of £594 000 could be requested from the developer.

### Improvements to sustainable transport

#### Buses

Accessibility to bus services could be improved by re-routing the bus service 95A. This is

presently routed along Venables Avenue, Oak Street, Vincent Street, Fern Street and back to Venables Avenue. It is proposed to alter the route to include Windermere Avenue, then through the proposed development to Castle Road, then past the end of Venables Avenue. This would miss out the northern part of Venables Avenue past Park School (the route of school buses would not be affected). This new route through the proposed development would improve the accessibility for bus services for the new residents.

I would ask for four new bus stops to be constructed to DDA (quality bus) standards. These should be on Venables Avenue between Fern Street and Windermere Avenue (two bus stops) and on Castle Road near to the junction with Venables Avenue (two bus stops). The location of the bus stops on Castle Road would need to be investigated to decide the location where they could fit in with the road layout and cause least disruption to local residents. The locations to be considered would be within about 120m of the junction (either east or west of the junction).

An amount of £20 000 per annum is requested over a five year period to help pay for this change in the service. This financial arrangement is appropriate if the bus service is continued to be provided by LCC. If a private bus service provider is to be used within the five year period, then the developer would have to pay for the full cost of the bus service to Colne town centre. It is not possible to predict how the provision of these bus services is to be organised, and consequently I would ask for a flexible funding arrangement for this improved bus service, if possible.

### Cycling

The facilities for cycling in this part of Colne is poor, and the nearest cycle route is more than 1km distant.

Please ask the developer to consider the establishment of a cycle route along Byron Road to the Sainsburys shop on Windsor Street. This will necessitate placing the cycle track off the carriageway and routing next to the carriageway through land that is undeveloped, although not part of the highway.

From the end of The Lidgett the track could be routed as follows:

- through the grounds of the Favordale Home
- through the open space west of the Morris Dancers pub.
- Through the social centre and the youth centre

Please ask the developer to investigate this cycle track and make proposals for constructing it.

### Pedestrian routes

From the Skipton Old Road pedestrian access, the attractions for pedestrians would be the shops on Keighley Road and then along Keighley Road towards the town centre and Park Primary School. During peak periods, the heavy traffic here makes the crossing of this road by pedestrians difficult. Consequently, I would ask for a pedestrian puffin crossing here, as close as possible to the pedestrian desire line.

### Comments on proposed layout

The revised sketch layout showing vehicular accesses from Windermere Avenue and Castle Road, indicates a revised internal road layout. This proposes two alternative locations for a bus gate – A and B. I prefer alternative B. This alternative extends the bus route deeper into the layout and the bus gate would be preferred as a location for two bus stops. I would request that two DDA compliant bus stops are provided at this bus gate. The bus gate should be signed only and there should not be any physical barriers to other traffic (for example rising bollards).

As discussed above, the junction of the estate road with Castle Road should be moved so that it is approximately 70m east of the boundary of 122 Castle Road.

With the agreed closure of the proposed access for vehicles on to The Lidgett, it is now proposed that this access should be used for cycle and pedestrian access. There is a suggestion that this access should also be designed for emergency vehicle access. However, this is not yet confirmed and the details of the design of this access should be resolved later when the emergency services can come to a decision. Please use a condition to ensure that this issue is resolved at the stage of reserved matters application.

The road along the Castle Road frontage of the site should be improved. West of 122 Castle Road, the carriageway is about 7m wide and east of this property the carriageway is about 6m wide. At the eastern end of the Castle Road frontage of this development site, the carriageway width reduces to about 4.5m to 5m. I would ask for a 7m wide carriageway with a 2m wide footway for the full site frontage on Castle Road. This improvement is to be at the expense of the developer and will require the adoption of the new strip of widened highway. Some of the construction work will be within the existing adopted highway, and this will require a S278 agreement.

### Travel Plan

The Framework Travel Plan submitted with the planning application meets LCC's submission criteria for a Framework Travel Plan. Please attach a Travel Plan condition to any permission.

As both proposed developments are in excess of our S106 contribution threshold we would request a contribution of £18 000. This contribution would be used to enable Lancashire County Councils Travel Planning Team to provide a range of services as outlined below.

### S278 works

The following works are required to be carried out at the expense of the developer.

- Priority one way working in Castle Road, including a footway along the length of this feature, signing and lining.

Between no 122 Castle Road and the eastern end of the site, widen the carriageway of Castle Road to 7m and construct a 2m footway along the site frontage.

A new mini roundabout at the junction of Venables Avenue with Byron Road.

A Puffin Crossing of Keighley Road just east of the roundabout

Four number DDA compliant bus stops in Venables Avenue and Castle Road.

### S106 contributions requested

For the Travel Plan preparation, I would ask for a sum of £18 000.

For bus services:

Assuming LCC continues to provide the bus service, I would ask for a sum of £100 000 spread over five years.

If LCC no longer provides the service, I would ask for an amount to pay for the provision of a bus service to Colne town centre. The amount required here is to be determined later.

For cycle track provision as discussed above a sum of £40 000, to cover the off-highway construction costs plus land acquisition.

### Conditions.

Conditions should be imposed with respect to the construction of the development limiting:



- the times of delivery and carting away of plant and materials, particularly with respect to the operation of the primary school in Red Lane,
- parking of operatives and site staff vehicles,
- places for offloading plant and materials
- site vehicles waiting on the public highway.

A condition is required to ensure that new residents are made aware of the hail and ride bus service, as discussed above.

Please add the following conditions to any planning consent you may decide to grant: wheel wash, construction traffic access, estate road construction, visibility splays, off site highway works.

Additional comments recieved 28th April:

The County Council has previously indicated that it feels both developments can be supported, albeit with a number of traffic and highways mitigation works. Details of these mitigation works have been supplied to the local planning authority in previous correspondence. These comments remain valid.

However the County Council believes there is an opportunity to strengthen the support for the proposed development through the introduction of a number of community infrastructure measures along the North Valley Road corridor, which directly relates to the proposed development. These proposals have been discussed with the developer's representative who feels they are fair and reasonable in scale and kind.

To that end please see below additional comments which the County Council would ask to be considered and made as conditions of any consent issued with regards these developments.

These comments relate to both application 13/14/0580P and 13/14/0581P and should be treated as an addendum to those comments already supplied by Lancashire County Council in its role as the highway and traffic authority.

The County Council believes traffic flow, both vehicular and pedestrian, can be improved along the North Valley Road corridor, which relates to the proposed development site due to proximity and through being the primary strategic route in the area. In order to help achieve this goal we would seek additional provision, which would strengthen support for the development, and would ask for the following legal agreements to be included as conditions of planning approval.

For application Nr 13/14/0580P of 90 units we would seek the following section 278 agreement (highways Act 1980) with works being implemented prior to the occupation of the 1<sup>st</sup> unit:-

a) Upgrade of the existing Pelican crossing (N5023) located on Byron Road near to Rutland Street to a modern Puffin/Toucan crossing. (Approximate cost of £40k). The crossing forms part of the pedestrian desire line to the primary school, youth centre and community centre. Puffin/Toucan crossing gives efficiencies to vehicular traffic flow and would help improve vehicle flows along the north valley corridor route whilst also improving pedestrian access.

b) Lining changes around the north valley road gyratory roundabout (Approximate cost of £10k). This is in order to provide Keep Clear / Yellow box markings and other subtle changes to the road markings to maximise traffic flow and circulation through the area.

In addition to items a) and b) as detailed above the County Council would seek a further contribution through a section 106 agreement (1990 Town and Country Planning Act) for the provision of the following to be implemented prior to the occupation of a 91<sup>st</sup> unit (relevant to

application Nr 13/14/0581P of 270 units) - c) £30K for the introduction of a signage and street furniture de-clutter and renewal program. This is in order to further support a consistent and clear signing message as an aid to driver decision making and consequently improve traffic flow. Furthermore reducing street furniture will give the additional benefit of improving footway conditions for pedestrians.

d) £20K for the provision of Journey time monitoring. This will provide real time monitoring of the journey time along the complete North Valley Road corridor. This will provide useful data in order to fine tune the existing traffic control technology (over time).

**Colne Town Council** - Object on the following grounds:

1. That the development would lead to an increase in traffic on already busy or narrow roads. Also, that there is concern over the accuracy of the consultants' report published, as it seems to contain some inaccurate information and needs to be clarified.
2. The area concerned is within a conservation area that is deemed so because of its openness and ruralness, this would be lost if the development were to go ahead.
3. Environmentally this site has an abundance of flora and fauna that would be lost or adversely affected by such a development.
4. The Council have concerns about the drainage of the area. Work is currently being done near to this site which acknowledges that there are issues with poor drainage and Council feel it could be made worse by this proposed development.
5. Air pollution: This area is already of concern for the level of air pollution and the increase of traffic, housing and development that is proposed can only add to this situation.

### **Public Response**

Press and site notices were posted and 118 neighbours notified - Approximately 400 responses have been received objecting to the proposed development. The objections are summarised as follows:

- The development is unsustainable.
- The land is subject to flooding and struggles to disperse rainwater.
- The development would lead to an increase in traffic congestion in the area.
- Colne isn't able to cope with the current volume of traffic.
- Skipton Old Road and Lidgett cannot cope with current traffic flows. Castle Road has narrow and difficult sections and is heavily used by agricultural vehicles.
- Windermere Avenue and Venables Avenue are not capable of accommodating the additional traffic the proposal would generate.
- The proposed accesses to the development will cause chaos to local roads.
- The highways department cannot cope with maintaining the roads in the area.
- The Windermere Avenue access affect Park High School where there is already too much traffic parking at opening and closing times.
- The traffic flow modelling undertaken by the developer should include the traffic flows expected after the Glen Mill development is completed.
- The developer should make a significant contribution to the construction of the bypass.
- Adverse impact on wildlife on the site and in the surrounding area.
- The submitted ecological survey is woefully inadequate.
- The timing of the survey contravenes common wisdom and guidance on when is most suitable to carry out such a survey.

- The development will destroy old well established hedgerows. This will eradicate the wild verity of wildlife that inhabit the area.
- The land is protected from development in the Local Plan until 2016.
- Brownfield sites should be developed before greenfield.
- There is a surplus of housing in Colne and across East Lancashire. While empty houses remain and funding is available to help turn brownfield sites into housing, these should be used rather than greenfield sites.
- The development will interrupt a popular public right of way.
- There would be significant disruption to local residents during the construction period.
- The proposal would have a detrimental effect on the Lidgett and Bents Conservation Area.
- The development will increase pressure for services such as schools, doctors, dentists and hospitals which are already oversubscribed.
- Farmers have a problem with dogs attacking sheep, the development would result in a lager increase in the dog population in the area.
- The footpaths through the site is used as a gateway to the countryside.
- The land is a valuable recreation resource for the east of Colne.
- The development would undermine the special character of Colne.
- Existing planning permissions should be developed before accepting further proposals.
- The construction phase will probably never end due to lack of demand and current residents will be left living amongst a building site.
- The development will result in increased traffic on Belt Lane and increase the risk of accidents due to its narrow width.
- The area will lose its sense of community.
- How will residents of Lidgett access their back gardens?
- Will Colne's elderly sewerage system be able to take the strain of the development?
- Air pollution from traffic congestion.
- The amendments to the plans will increase traffic on Windermere Avenue and Castle Road. This will exacerbate the highway safety issues around those accesses and increase disruption to residents.
- Who would check that the emergency access is only used by emergency vehicles?
- The proposed new traffic measures at Castle Road will result in queuing traffic which will restrict access to properties on Castle Road. The proposed pavement will cut across the driveway of No.122 restricting access to that property.
- The estimates for traffic are completely unrealistic and while the speed limit is 30mph on Castle Road, many vehicles travel at an average speed of over 40mph.
- Where will construction traffic park during the early stages?
- Residents would be unlikely to walk into Colne.
- Dedicated cycle ways will be required for cyclists within the development.
- The Minister for Education recently refused funding for an improvement / extension scheme to local schools. If this developer goes ahead maybe the developer should pay the £6m required for the scheme out of the profits.
- The cost the development will have on the quality of lives to the people of Colne would outweigh the New Homes Bonus the council would receive.
- Local residents will have a minimum of 8-10 years of disruption during construction.
- The position of the proposed houses would restrict natural sunlight into my garden and house.
- The development will devalue existing properties by a minimum of 25%
- The public footpaths will be effectively off limits to walkers during construction.
- Radon gas has been a problem in Lidgett in the recent past.
- Any major disturbance on the site could disturb the foundations of properties on Favordale Road.
- Colne should have house we all need somewhere to live.

Comments have also been received from the Campaign to Protect Rural England objecting to the

applications on the following basis:

- Brownfield land should be brought back into use in advance of greenfield land being needlessly developed.
- The proposed development does not constitute sustainable development and is therefore contrary to the NPPF.
- The Core Strategy is currently at examination and the issue of prematurity arises as granting permission for these major developments may adversely impact on the effectiveness of the Local Plan use policies.
- Extant permission in Pendle exists for 934 dwellings that have not yet started on site. For the planning system to work properly developers must complete existing permission to avoid land banking and needless bulldozing of the countryside.
- The proposed development would result in unacceptable sprawling, ribbon development from Colne.
- Adverse impact to visual amenity and on the landscape, particularly from long range views, such as from the ridge of Boulsworth Hill.
- Traffic congestion is already negatively impacting the area as is evidenced by poor air quality and further development at such a large scale would have a detrimental impact. Unsustainable transport patterns will be caused as people have to travel by car to access basic services at a distance from the development.
- The proposals would not provide adequate community facilities to support the development of the scale suggested.
- Development of this site would lead to adverse impact to heritage assets and a Conservation Area
- We understand from the Environment Agency that there is a significant Flood Risk to Cotton Tree if the site is developed.

### **Relevant Planning Policy**

<b>Code</b>	<b>Policy</b>
LP 1	Development in the Open Countryside
LP 10	Areas of Special Architectural or Historic Interest
LP 12	Maintaining Settlement Character
LP 13	Quality and Design of New Development
LP 14	Trees, Woodland and Hedgerows
LP 16	Landscaping in New Development
LP 20	Quality Housing Provision
LP 21	Provision of Open Space in New Housing Development
LP 31	Parking
LP 3A	Protected Areas
LP 4D	Natural Heritage - Wildlife Corridors, Species Protection and Biodiversity
LP 6	Development and Flood Risk
LP 8	Contamination and Pollution
LP 9	Buildings of Special Architectural or Historic Interest

### **Officer Comments**

This is a major application for Colne on a piece of land that has been the subject of considerable scrutiny in successive Local Plans. The issues involved relate not only to the physical impacts of the development but also involve the approach Pendle has taken to addressing the recent under performance in the delivery of housing. These are important issues for the Borough and the determination of the application is inextricably linked to the Core Strategy and the wider approach to delivery of the development that is needed in Pendle over the Plan period.

## 1. Policy

The starting point for consideration of any planning application is the development plan. Policies which are up to date and which conform to the provisions of the National Planning Policy Framework (“the Framework”) must be given full weight in the decision making process. Other material considerations may then be set against the Local Plan policies so far as they are relevant.

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.

### National Planning Policy Framework

Paragraph 47 of the Framework requires local planning authorities to identify a supply of deliverable housing sites to provide five years’ worth of land to meet their housing requirements. The Strategic Housing Land Availability Assessment (SHLAA) was updated in support of the publication of the Core Strategy. This is dealt with in detail below.

The Framework expects that Councils meet their full objectively assessed housing needs and to annually update their supply of specific deliverable sites to meet a five year supply. Where there has been persistent under delivery a 20% buffer needs to be added to the 5 year supply.

Section 7 of the Framework deals with design and makes it clear that design is a key aspect of sustainable development. Paragraph 64 of the Framework states that “permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”.

Paragraph 85 of the Framework states that Local Authorities should make clear that safeguarded land is not allocated for development at the present time. Planning permission for the development of safeguarded land should only be granted following a Local Plan review which proposes the development.

In relation to development affecting Conservation Areas paragraph 131 of the NPPF states that in determining planning applications, local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 132 requires that “when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation.” However, paragraph 134 states “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”

### Replacement Pendle Local Plan

The Local Plan is nearing the end of its period of coverage. The policies in it are being re-considered through the LDF process. Weight should only be afforded to the policies in accordance to whether and how much they are in conformity with the Framework.

Policy 3A (Protected Areas) states that no development will be permitted which would prejudice the open character of the area or its potential for long term development, during the plan period up to 2016. This has however to be reviewed in the context of the 5 year supply of land position.

Policy 4D (Natural Heritage - Wildlife Corridors, Species Protection and Biodiversity) states that

development proposals that would adversely impact or harm, directly or indirectly, legally protected species will not be permitted, unless shown to meet the requirements of The Conservation (Natural Habitats, &c.) Regulations 1994.

Policy 6 (Development and Flood Risk) does not allow for development that would be at risk of flooding or would increase the risk of flooding elsewhere.

Policy 8 (Contamination and Pollution) states that development will be permitted where there is likely to be no harmful pollution or contamination or a proposed remedial action is sufficient to reduce the risk of pollution.

Policy 9 (Buildings of Special Architectural or Historic Interest) states that the Council will seek to preserve statutory listed buildings and conserve buildings of historic or architectural importance.

Policy 10 (Areas of Special Architectural or Historic Interest) seeks to ensure a high design standard that preserves or enhances the character and appearance of the area and its setting. The requirements of this policy are expanded upon by the Conservation Area Design and Development Guidance SPD.

Policy 12 (Maintaining Settlement Character) states that the development of land which contributes to the openness, character and local amenity of a settlement will not be permitted, unless the development proposal is for the enhancement or improvement of existing on site facilities.

Policy 13 (Quality and Design of New Development) states that the Council will protect and enhance the heritage and character of the Borough and the quality of life for its residents by encouraging high standards of quality and design in new development.

Policy 16 (Landscaping in New Development) requires that all development proposals which involve new building include a landscaping scheme sympathetic to the site's character.

Policy 20 (Quality Housing Provision) requires that layout and design reflects the site and surroundings and provides a quality environment for its residents, whilst protecting the amenity of neighbouring properties.

Policy 21 (Open Space) requires that housing proposals of 10 units or more provide an area of open space within the site for play with or without equipment to be conveyed to the Council for future maintenance. Where it is impractical to provide space on a development the policy allows a sum per unit to be required by the authority for off-site provision.

Policy 30 (Sustainable Travel Modes) supports cycling and the Pendle Cycle Network.

Policy 31 (Parking) requires that new developments provide parking in line with the levels set out in Appendix 1 of the RPLP.

## **2. Principle of Development**

The principle of the development of the site is affected by a number of interlinked and sometimes competing issues, all of which are referred to in detail in this section of the report.

### Housing Supply

The Framework expects LPAs to have a 5 year supply of deliverable sites (para. 49) that provide for a full range of market and affordable housing, with an additional buffer of 5%. The buffer should be increased to 20% for authorities who have persistently under delivered against their targets and, although there is some debate regarding what constitutes "persistent under delivery" The

Council falls within this category as there has been consistent under delivery since the start of the recession. Prior to that the Council had over delivered set against its housing targets.

The site is included in the Strategic Housing Land Availability Assessment (SHLAA) as a site that will contribute to the provision of housing to meet the needs of the Borough.

The SHLAA has been regularly reviewed to ensure it reflects the most up to date position on the available supply of housing. The housing requirement was reviewed in 2013 with a Strategic Housing Market Assessment (SHMA) being commissioned. This has also been updated in 2014 with the publication of further information on population projections.

The figures that were emerging in 2013 were that the supply of developable sites that were in existing settlement boundaries would not be sufficient to provide the 5 year supply that is required under the Framework. This includes the requirement for sites to be viable which is an important element in Pendle. As is therefore required under paragraph 47 of the Framework an updated assessment of available land was incorporated into the revised SHLAA. Each of the sites was individually appraised set against detailed criteria.

The Council has published the Core Strategy and details of the current position in terms of a five year supply of housing land. Pendle is relying on the additional sites identified in the SHLAA to make up the shortfall it would have if they were excluded in order to make up the five year supply. If these additional sites are excluded from the SHLAA the Council would not have a five year supply.

There has been a recent improvement in the number of long term empty homes that have been brought back into use in the Borough. The view the Council is taking is that these should count towards the under delivery of housing in the Borough.

The situation in Pendle is complex and finely balanced. If sites outside of the existing settlement boundary are excluded from the SHLAA a five year supply of land cannot be demonstrated. If that situation were to exist then applications for housing development would be assessed against the policies of the Framework. Taking into consideration the position set out in this section of the report there would be no policy justification for refusing the application simply because it partially lies outside of a settlement boundary, particularly as the Council's formal position on this as set out in the Core Strategy is that some additional sites outside of settlement boundaries are needed.

Colne lies in the M65 corridor which is the area in which the Council is seeking to build the majority of its houses. This makes it a sustainable place in which to locate the additional market and affordable housing required. Furthermore the site is well related to the existing residential developments, shops, schools, bus routes and local employment areas and thus would represent a sustainable form of housing development in terms of travel patterns and relationship to the major settlement of Colne.

#### Protected Area and Maintaining Settlement Character Status

The north and east of the site is designated a protected area (Policy 3A) and the south west side of the site is designated as a Maintaining Settlement Character area (Policy 12), this area also falls within the settlement boundary of Colne.

The intention of the Protected Areas policy is to retain the openness of the area during the plan period, presenting a choice for possible development to meet future long term requirements. The policy is nearing the end of its life span as the Local Plan is planned up to 2016. The timing of the publication of the Framework in March 2012 and the housing needs that the Council faces, which has increased with another year of under delivery, places significant weight in bringing forward this site for development to meet the housing needs of the Borough.

The site was previously in the development limits for Colne in the predecessor to the current Local Plan. The Inspector's binding report into the Local Plan concluded that there was no need for the site to be allocated for housing at the time as the Council had oversupplied its housing and had enough sites to deliver its housing requirement. The Inspector concluded that the site would however be appropriate for future development and should be safeguarded to meet any long term development needs. The development would come forward ahead of a formal review of the Plan having been concluded but there is a clear need for additional land to come forward to meet the objectively assessed housing needs of the Borough.

The *Core Strategy* advises that Protected Areas designation will be replaced in a *Local Plan Part 2: Site Allocations and Development Policies* document.

The intention of the Maintaining Settlement Character policy is to protect informal open spaces from development that would adversely impact upon their openness and character. Policy 12 is not to be replaced in the Core Strategy.

The development needs of the Borough and the need to bring more housing forward needs to be balanced against the impact on the area of settlement character. Again referring to the comments of the Inspector in designating the land in the Local Plan the area is not of recreational value but was designated due to its role as a green area on the edge of Colne. This issue needs to be considered alongside the design of the scheme, the landscape and visual assessment that has been undertaken and must also be set against the housing needs of the Borough.

The advice to Committee is that with a well-designed and laid out scheme, as is set out in the supporting information accompanying the application, that the site can be developed respecting the urban fringe. With a sensitive development the overall needs of the Borough for housing would outweigh the loss of the site as an area of settlement character.

*Pendle Strategic Housing Land Availability Assessment Review 2014* includes the entire site in its additional site 0-5 year period. The Framework requires local planning authorities to prepare a SHLAA, which is a key evidence-based document which supports the policies in the Local Plan. The Framework (paragraph 159) states that:

*“Local Planning Authorities should have a clear understanding of the housing needs in their area. They should: prepare a Strategic Housing Land Availability Assessment to establish realistic assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the plan period.”*

The SHLAA is usually updated annually and can be a fluid evidence base in the current climate. It is an important document for the Council to demonstrate a five year housing supply of sites. The Council has underperformed in reaching housing supply numbers in recent years and this is reflected in the clear need to bring additional sites forward including some in Protected Areas.

Paragraph 85 of the Framework indicates that protected sites should not be brought forward unless it is part of a local plan review. The paragraph indicates that they should not but does not preclude such sites being brought forward.

The Council has taken a holistic view of the development needs of the area in terms of the Core Strategy and has considered via the SHLAA and the strategic housing site proposed how best to meet the five year housing supply necessary for the Borough. A fundamental part of this is the inclusion of some sites that have been protected in the extant Local Plan for consideration for future development to meet the existing housing needs of the Borough.

The housing position is that without these sites the Council would not be able to meet its five year



needs, in those circumstances the housing Land supply policies of the Local Plan would be out of date and the Framework would take primacy. This in effect creates a 'catch 22' situation whereby the impact on the housing supply position of resisting the principle of this development on Local Plan policy grounds would undermine those same Local Plan policies.

There are therefore clearly planning circumstances that would weigh against refusing this application on a matter of policy principle in terms of its protected status in the existing Local Plan. To refuse on that basis would also undermine the approach to development taken by Council in its Core Strategy and the Council's ability to provide a five year supply of deliverable sites.

In the prevailing circumstances the delivery of this site would play an integral part in delivering the housing needs of the Borough taken together the significant needs of the Borough and the under delivery experienced since 2008/9 the development of this site would in principle fulfil the definition of sustainable development set out in the Framework and be a justified departure from policy. It would need to be referred as a departure from the development plan.

### **3. Affordable Housing Provision and Viability**

The Framework maintains the principle of creating sustainable, inclusive and mixed communities and calls for local planning authorities to set policies for meeting identified affordable housing needs on site unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (para. 50). The Strategic Housing Market Assessment identifies that 40% of the housing needed in the Borough should be affordable. However the Framework also requires that Councils do not impose affordable housing requirements that would result developments not being viable. To establish what level of affordable units could be provided on site the developer has undertaken a viability assessment.

The viability assessment concludes that the scheme can provide 27 out of the 270 dwellings as affordable housing. The viability assessment acceptably demonstrates that the proposed level of affordable housing is appropriate and can be provided without undermining viability. The provision of such housing can be secured with a planning condition.

### **4. Visual Amenity and Conservation Area Impact**

As this is an outline application with all matters but access reserved the submitted layout plans are merely indicative and this stage. Layout and detailed design would be considered in a reserved matters application. Within this application all that can be considered is the principle whether the proposed development could be accommodated on this site without fundamentally unacceptable impacts on the visual amenity of the area and on the significance of the designated heritage asset it sits within/adjacent to (the Lidgett and Bents Conservation Area).

A landscape and visual impact assessment and heritage statement were submitted with the application and have subsequently been augmented to ensure that they fully address the potential landscape and heritage asset impacts of the proposed development. Following discussions with the Council's Conservation Officer the indicative layout plan has also been amended to create a buffer of open land between the proposed development and Skipton Old Road.

The primary public visual impacts of the proposed development would be passing the site along Skipton Old Road and Castle Road, views over the site from the opposite side of the valley and the footpaths approaching and passing through the site.

There is a steep bank immediately to the side of Skipton Old Road where it meets the site, it is proposed that this would be retained and an open buffer maintained beyond it with landscaping providing additional screening of the housing. This will result in the housing being largely hidden from view of pedestrians and vehicles travelling along Skipton Old Road and maintain the open

semi-rural character of this part of the Conservation Area.

From Castle Road the housing fronting the road would follow on from the line of the existing housing on Castle Road and, it would be softened by the hedgerow, which it is proposed would be enhanced with additional planting and would not have an unacceptable visual impact in principle.

In longer distance views the site would appear as a natural extension of the urban form to the west with winding main thoroughfares following the contours of the land and cul-de-sacs leading off them. The indicated density and network of green spaces throughout the site would also allow the development to merge with both the higher density urban form to the west to the rural setting to the east without stark contrast.

The character of the site would inevitably fundamentally change when viewed from the public footpaths within the site. However, the submitted plans indicate that the footpaths would predominantly pass along the network of green spaces running through the site and this would result in a pleasant, visually appealing passage through the site for footpath users.

Taking this into account, in principle, the proposed development would acceptably sustain the significance of the Lidgett and Bents Conservation Area heritage asset and would be acceptable in terms of visual amenity.

## **5. Impact on Listed Buildings**

Standroyd is a Grade II Listed farmhouse sitting opposite the site of Skipton Old Road. The building would be approximately 45m from the housing indicated on the layout plan separated by dense, hedgerows and mature trees either side of the road, and from the road, by steep banking. Taking this into account, the proposed development would not result in an unacceptable impact upon the setting of the significance of the heritage asset Standroyd.

Other listed buildings in the immediate vicinity include No.3 Lidgett (Grade II) and Craven Cottage (Grade II). The rear elevation of No.3 Lidgett would be approximately 70m from the housing indicated on the layout plan with a large area of landscaped space between. Taking this into account, the proposed development would not result in an unacceptable impact upon the significance of the of heritage assets No.3 Lidgett or Craven Cottage on the opposite side of Skipton Old Road.

## **6. Residential amenity**

The submitted layout plan indicates that the proposed development could be acceptably accommodated on the site without unacceptably impacting upon the residential amenity of surrounding properties in accordance with policies 13 and 20. The impact of the final detailed layout would be assessed in a subsequent reserved matters application.

## **7. Ecology**

Policy 4D of the Local Plan refers to the safeguarding of legally protected species. Paragraph 118 of the Framework requires LPAs to conserve and enhance biodiversity by refusing planning permission where significant harm resulting from a development cannot be avoided, mitigated or compensated for.

The application is supported by an ecological survey and assessment and an addendum report on great crested newts.

Concerns have been raised regarding the timing of the site survey, carried out 2nd October 2014, that the LERN database referred to in the assessment is not up to date and that a net gain in

nature would not be delivered and that the impact on the Lancashire Ecological Network has not been adequately taken into account.

The survey was carried out outside of the bird nesting season, however, the report acceptably assesses the site for its suitability for use by nesting birds. It finds that ground nesting birds are unlikely to use the site at anything but a very low density owing to the exposed nature of the site, grazing by sheep and regular use of the site by walkers with unleashed dogs. The report finds that the hedgerows along the north and north east boundaries of the site are most likely to support birdlife; these hedgerows would be enhanced by additional native planting.

The survey was carried out at an appropriate time to establish the presence of bat roosts. No roosts were identified, however, some trees within the site were identified as having potential to support roosts and foraging by bats along the watercourse that runs through the site is likely. However, the proposed enhancement of the vegetation along the watercourse would be likely to encourage foraging by bats and mitigation measures are proposed to protect and enhance the potential for roosting.

LERN (Lancashire Environment Record Network) is a regularly maintained and updated ecological resource for the Lancashire County providing record of information on the important and protected sites that have been identified for their significance in Lancashire.

The essence of ecological networks are the core sites which are the designated international, national and local sites along with the corridors and stepping stones which link them. No part of the site is designated internationally, nationally or locally and therefore would only ever be a component of a corridor or stepping stone. The indicative layout would maintain significant corridors/habitats through the site which are improved with new tree and other planting along with the creation of wetland habitats as a component of SUDS.

The ecology assessment acceptably demonstrates that, though retention and enhancement of vegetation and wetland and the provision of opportunities for bird nesting and bat roosting, the proposed development would achieve a gain for biodiversity.

Concerns have also been raised that the site is a habitat for newts. An addendum report to the ecology survey has been submitted to address this concern. The report details no features on or within 500m of the site which could support a habitat for newts or result in newts crossing the site. The ecology assessment finds no other evidence of use of the site by protected species.

An addendum to the ecology statement has also been received addressing the impact of the proposed highway works and relocated access on Castle road on the section of hedgerow to the east of the proposed access. The formation of the proposed footway alongside the highway would necessitate the removal of a 40m long section of the hedgerow. The report recommends that a replacement hedge is formed behind the footway and that this would ensure that the habitat connectivity function of the hedgerow is conserved.

Whilst this is acceptable, it would be preferable for the footpath to be routed behind the existing hedge so that it can be largely retained. The developer has indicated that, if feasible, this would be likely to be an acceptable solution. The details of this would be assessed at the reserved matters stage.

Therefore, with a condition to require that the mitigation and habitat enhancement recommendations of the ecology report are carried out, the proposed development is acceptable in terms of ecology in accordance with policy 4D.

## **8. Trees and Landscaping**

Details of landscaping are reserved for consideration in a subsequent reserved matters application. The details submitted with the application indicate that the development would lead to an overall enhancement of the existing hedgerows on the site.

## **9. Flood Risk, Foul and Surface Water and Water Supply**

Policy 6 of the Replacement Pendle Local Plan does not allow development that would be at unacceptable risk of flooding or would unacceptably increase the risk of flooding elsewhere. The Framework sets out a strategy for dealing with flood risk in paragraphs 93-108 inclusive. This strategy involves the assessment of site specific risks with proposals aiming to place the most vulnerable development in areas of lowest risk and ensuring appropriate flood resilience and resistance; including the use of SUDs drainage systems. In this case the site is located within Flood Zone 1 (low risk).

A Flood Risk Assessment (FRA) was submitted with the application and following an initial response from the Environment Agency and LCC Flood Risk Management an addendum to the FRA has been submitted with additional information regarding runoff rates. The Environment Agency have responded to the additional details stating that they are satisfied that the development is acceptable subject to a condition requiring a surface water drainage scheme for the site.

Concerns have been raised regarding the ability of the local sewerage system to accommodate the development, however, the operator United Utilities, has raised no objection to the development subject to a standard drainage condition. They have also noted that an easement crossing the site, this is something which the applicant should take into account in preparing the final layout for a reserved matters application.

At the April Committee Members raised concerns regarding flooding of the North Valley Culvert. The Council's engineering section has confirmed that the land drains to Colne Water at Cotton Tree rather than the culvert.

There were also concerns that there would be greater runoff from the land following development. The development would include any surface water attenuation necessary to ensure that runoff rates do not increase, this would be ensured by the condition discussed above.

## **10. Contaminated Land**

A Desk Study Report was submitted with the application and concludes that there would be a low risk of contamination on the site. However, in line with Environmental Health Services advice a land contamination condition should be attached to carry out further intrusive investigation work is necessary.

## **11. Air Quality**

The applicant submitted an Air Quality Assessment. The conclusion states that vehicle exhaust emissions are predicted to have a negligible impact on local air quality at all receptor locations.

The Council declared an Air Quality Management Area within the Borough (Colne) in April 2011 due to measured exceedances of the NO<sub>2</sub> annual mean air quality objective. The AQMA includes properties along Windsor Street and Skipton Road, between the junction with Windsor Street/Byron Road and Temple Street/Oak Street and Townley Street. The AQMA is some 900m from the entrance to the site, however, there is a strong likelihood that residents of the housing development would use these routes to other destinations going east on Windsor Street/Byron

Road or west via North Valley Road.

The developer has agreed to make a contribution to the Air Quality Management Action Plan of £11,000 and the Council's Environmental Health section are satisfied that this is sufficient to offset any increase in emissions resulting from the development. The contributed can be ensured by condition.

## **12. Highways**

This is a significant concern expressed in public responses in relation to the potential highway impacts of the development at and around the proposed access junctions and the wider highway implications of an increase in the number of households in this location.

A number of policies are relevant to the access, parking and highway design of residential proposals. The Framework through paragraph 35 requires that:

"developments should be located and designed where practical to [amongst other things] give priority to pedestrian and cycle movements, and have access to high quality public transport facilities; and should be located and designed where practical to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones".

A Transport Assessment (TA) was submitted with the application and this has been appraised by LCC Highways. Although, LCC Highways agree that the Windermere Avenue and Castle Road junctions do have the capacity to accommodate the development they have questioned some of the conclusions of the TA in relation to the impact on the local road network. A number of mitigation works have been suggested to offset the impact on the highway network. These are:

Castle Road - Priority one way working.

Oak Street - A change in priority at the Oak St/ Vincent St junction. Vincent Street should be the minor road to give way to traffic on Oak Street. To avoid excessive vehicle speeds here, a junction table should be constructed.

Byron Road / Venables Avenue - A mini-roundabout should be constructed here to make it easier for traffic driving out of Venables Avenue during peak periods.

Byron Road and Keighley Road near roundabout - A puffin pedestrian crossing to assist pedestrian traffic wishing to go to and from the shops on the other side of Keighley Rod and the Colne town centre.

Venables Avenue / Snell Grove junction - Waiting restrictions at the bellmouth of this junction to be active during school drop off and pick up periods.

LCC Highways have also requested the proposed position of Castle Road junction be revised to improve visibility.

A number of contributions have also been requested to provide appropriate improvements to the local pedestrian and cycle networks, provision of bus services and for the provision of a travel plan. These off site highway works and contributions are summarised below:

### S278 works

The following works are required to be carried out at the expense of the developer.

- Priority one way working in Castle Road, including a footway along the length of this feature, signing and lining between no 122 Castle Road and the eastern end of the site, widen the carriageway of Castle Road to 7m and construct a 2m footway along the site frontage.
- A new mini roundabout at the junction of Venables Avenue with Byron Road.
- A Puffin Crossing of Keighley Road just east of the roundabout .
- Four number DDA compliant bus stops in Venables Avenue and Castle Road.

### S106 contributions

- For the Travel Plan preparation support £18,000.
- For bus services: a sum of £100,000 spread over five years for the diverted bus route.
- For cycle track provision a sum of £40,000 as a contribution to the wider scheme lead and designed by LCC.

In response to concerns raised by Committee in April a further review of the impact of the proposed development on North Valley has been submitted by the Applicant. This review supports the original stance of LCC that the impact on North Valley did not require detailed assessment due to the small scale of the projected impact of the development (1.7% to 4.3% increase in traffic flows).

Following discussions with the Applicant LCC Highways have suggested the following additional contributions and off site highway works to offset this minor impact on North Valley:

- Upgrade of the pelican crossing on Byron Road near Rultand Street to a modern Puffin/Toucan crossing to increase the efficiency of traffic flow. To be carried out under S278.
- Lining changes around the gyratory roundabout to provide a keep clear/yellow box and other changes to maximise traffic flow and circulation. To be carried out under S278.
- Sign/street furniture de-cluttering and removal to aid driver decision making and improve traffic flow. To be carried out with a S106 contribution of £30,000 prior to the occupation of the 91st unit.
- Journey time monitoring to help traffic engineers to fine tune the technology to improve traffic management. To be carried out with a S106 contribution of £20,000 prior to the occupation of the 91st unit.

However, LCC's original advice was that the highway impacts of the development would be acceptable, subject to the original contributions and conditions set out above. The assessment of the potential impact on North Valley only appears to add support to LCC's original comments. Taking this into account it is clear that it would not be reasonable or necessary to require that the developer provide these additional contributions and highway works.

Concerns have been raised regarding continued vehicular access to existing properties on Castle Road and how access from Skipton Old Road would be controlled.

Although the proposed new section of footway on Castle Road crosses a residential driveway access a dropped kerb would ensure that access is maintained. The proposed priority for oncoming vehicles would be from the west and so any queued traffic would be on the east side of the narrowed section, away from the accesses to houses to the west.

A bollard is shown on the proposed Skipton Road access to restrict access to emergency vehicles only, detailed particulars of the design of this would be considered in a reserved matters application.

Therefore, with the original contributions and conditions requested by LCC Highways, the proposed development is acceptable in terms of highway safety both in terms of its immediate and wider impact on the highway network.

### **13. Open Space**

The site is located within Horsefield Ward in the Council's Open Space audit, within this ward there is a deficiency in all open space typologies other than playing fields. Therefore, policy 21 requires that adequate provision must be made for new open space on the site. An equipped children's play area is proposed in addition to a network of open spaces throughout the site. The exact details of the open space provision would be dealt with at the reserved matters stage. A condition is required to ensure the long term maintenance of those areas.

### **14. Public Rights of Way**

Many concerns have been raised regarding the impact of the proposed development on the use of the site as a public amenity space for walking, walking dogs, children playing etc. However, the site is private land which and not designated as open space. The only formal public amenity function of the land is as a public right of way and this is limited to the routes of the footpaths, the remainder of the site is private land to which the public have no specific rights of continued access to, it could be fenced off tomorrow without express permission being required. Access to and along the footpaths would be maintained within the proposed development and would be likely to be offer improved accessibility over what is currently a predominantly unmarked footpath across land susceptible to being waterlogged.

The Council's Footpaths Officer has requested a contribution towards the maintenance of the proposed new footpath linking Windermere Avenue to the existing footpath through the site and towards the wider footpath network. The maintenance of the footpaths within the site would be ensured by a general maintenance agreement condition for the whole site. The developer has not offered any contribution toward the wider footpath network, it is unlikely that occupants of the development would need to use that network to access nearby services and facilities and so it would not be reasonable to require a contribution for this in addition to the contributions offered towards public transport and cycle paths.

### **14. Infrastructure Impact**

Numerous concerns have been raised regarding the impact of the proposed development on local infrastructure and services such as schools, doctors, dentists and hospitals, with many responses stating that these services are already at capacity and could not accommodated additional residents in the area.

As part of the evidence base for the Core Strategy the Council has prepared and had approved by Members a Strategic Housing Market Assessment (SHMA) and an Infrastructure Strategy. The SHMA predicts the housing needs of the borough based upon a range of housing, economic and demographic factors, trends and forecasts. The Infrastructure Strategy assesses the quality and capacity of existing infrastructure provision and takes account of the need for new strategic infrastructure such as schools and hospitals.

The SHMA identifies a need for new housing in the borough which the proposed development would contribute towards the provision of and is included within the SHLAA. The impact of this new housing provision is therefore taken into account in future provision of local infrastructure and services and thus there is no basis to resist this application in terms of increased use of local infrastructure and services.

## 15 Prematurity

The Framework confirms that the approach to be taken to making decisions on planning applications is that they should be taken in accordance with the development plan. If policies in those Plans are not up to date then applications should be taken in accordance with the presumption in favour of sustainable development as set out in the Framework. For planning purposes sustainable development is taken to be the policies in paragraphs 28-219 of the Framework.

The Local Plan for Pendle comprises of the adopted Replacement Pendle Local Plan 2001 – 2016 which was adopted in May 2006. The policies relating to housing supply are out of date in that they do not conform to the requirements of the Framework and are based on out of date population projections.

The Core Strategy (“CS”) will replace the Local Plan. This is at an advanced stage and its policies should be given some weight, although until it is formally adopted the CS will not have statutory status and should not be afforded full weight.

The CS has been published. The development proposed is in general conformity with the CS which seeks to increase house building rates to achieve the level of housing needed to meet the Borough’s objectively assessed need. This involves the need to provide a wider portfolio of sites than are presently available on the settlement limits identified in the adopted Local Plan.

The CS identifies the M65 as being the area that will see the majority of growth in the Borough. 70% of all new housing is targeted as being located in the M65. In turn the major areas of growth in the M65 would be focussed on the Key Service Centres which are Nelson and Colne. This site has not been identified as being of strategic importance to the housing needs of the Borough or its growth needs. The planning application does not conflict with the strategic policies of the CS. Its development would be broadly in line with the CS.

The National Planning Practice Guidance contains advice on how to interpret the Framework, although it is not itself planning policy. It refers to prematurity as follows:

*Annex 1 of the National Planning Policy Framework explains how weight may be given to policies in emerging plans. However in the context of the Framework and in particular the [presumption in favour of sustainable development](#) – arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:*

*a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging [Local Plan](#) or [Neighbourhood Planning](#); and*

*b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

*Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on*



*grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.*

There is a community aspiration to develop a Neighbourhood Plan for east Colne. This has however not been through any formal processes nor has it got any formal backing from the Parishes that would be involved. It can be given no weight in making this decision.

The planning application does not conflict with the emerging development plan. It is in fact broadly in line with the emerging CS. The scale of development would be in line with the general development needs identified in the CS. It would not therefore have an undermining impact on the scale and location of development so as to undermine the plan making process.

There are no planning grounds to support the view that this development should be refused as it is premature in terms of the adoption of the development plan for the area.

## **16. Other Issues**

Concerns have been raised regarding access to the rear of gardens of Lidgett. This application is in outline and so the layout is merely indicative, however, the area to the rear of Lidgett is shown as open land in the indicative plan and it does not appear that access would be restricted.

Numerous responses state that brownfield sites should be developed in preference to greenfield sites. Whilst there are many undeveloped brownfield sites within the Borough their location, cost of remediation and other factors result in many of them not being financially viable for developers. The Framework requires that developments are viable and deliverable and that Councils do not impose restrictions upon developers either in plan making or decision taking that prevent developers from achieving competitive returns to enable the development to be deliverable. Given the Council's housing supply position, there is no mechanism available to the Council to require that brownfield land is developed in preference to other land.

Although the development, as any housing development would, may cause some disruption to local residents during construction, it can be ensured with a construction methodology condition that any disruption would be acceptably controlled and minimised.

## **17. Conclusion**

This outline application for access only is acceptable in terms of policy and highway safety. The development is also acceptable in principle in terms of flood risk, ecology, landscape, visual amenity, Conservation Area and residential amenity impacts. The application is therefore recommended for approval.

### **Reason for Decision**

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed housing development would accord with Local Planning Policy and would be compliant with the guidance set out in the Framework, subject to compliance with planning conditions. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

## **RECOMMENDATION: Approve**

Subject to the following conditions:

1. An application for approval of the reserved matters (namely the appearance, layout, scale and landscaping of the site) shall be submitted in writing to the Local Planning Authority 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 Article 3 (1) of the Town and Country Planning (General Development Procedure) Order 1995 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. Details of the appearance, landscaping, layout and scale (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

**Reason:** In order to comply with the requirements of Section 92 of the Town & Country Planning Act 1990.

3. The development hereby permitted shall be carried out in accordance with the following approved plans: 754.000B, 754.400B Rev 1, 754.500B Rev 3, J344 Castle Road Fig 2, J344 Skipton Old Road Fig 1, J344 Windermere Ave Access.

**Reason:** For the avoidance of doubt and in the interests of proper planning.

4. Prior to commencement of development, a plan and written-brief detailing the proposed phasing of the site shall have been submitted to and approved in writing by the Local Planning Authority. Development shall not commence unless and until the scheme has been submitted and approved. Such detailing shall include details of the works involved in each phase and how each phase is to be completed in terms of the completion of roads, building operations, foul and surface water sewers and landscaping, and each phase shall be substantially completed before the next successive phase of the development is commenced. The approved scheme shall thereafter be carried out in strict accordance with the plan and brief.

**Reason:** To secure the proper development of the site in an orderly manner.

5. A scheme for the management (including maintenance) of the open space areas, shall be submitted to and approved in writing by the Local Planning Authority within two weeks of the commencement of development. The approved scheme shall be carried out in full accordance with the agreed scheme before the first dwelling is occupied.

**Reason:** To ensure the site is properly maintained and managed in the interests of visual amenity.

6. Prior to the commencement of development the applicant shall have submitted to and have agreed in writing by the Local Planning Authority a method statement which sets out in detail the method, standards and timing for the investigation and subsequent remediation of any contamination which may be present on site. The method statement shall detail how:-

a) an investigation and assessment to identify the types, nature and extent of land contamination affecting the application site together with the risks to receptors and potential for migration within and beyond the site will be carried out by an appropriately qualified

geotechnical professional (in accordance with a methodology for investigations and assessments which shall comply with BS 10175:2001) will be carried out and the method of reporting this to the Local Planning Authority; and

b) A comprehensive remediation scheme which shall include an implementation timetable, details of future monitoring and a verification methodology (which shall include a sampling and analysis programme to confirm the adequacy of land decontamination) will be submitted to and approved in writing by the Local Planning Authority.

All agreed remediation measures shall thereafter be carried out in accordance with the approved implementation timetable under the supervision of a geotechnical professional and shall be completed in full accordance with the agreed measures and timings, unless otherwise agreed in writing by the Local Planning Authority.

In addition, prior to commencing construction of any building, the developer shall first submit to and obtain written approval from the Local Planning Authority a report to confirm that all the agreed remediation measures have been carried out fully in accordance with the agreed details, providing results of the verification programme of post-remediation sampling and monitoring and including future monitoring proposals for the site.

#### Advisory Notes:

- (i) Where land identified as having the potential to be contaminated is undergoing redevelopment, a copy of the leaflet entitled 'Information for Developers on the investigation and remediation of potentially contaminated sites' will be available to applicants/developers from the Council's Contaminated Land Officer. The leaflet will be sent to the developer by request.
- (ii) Three copies of all contaminated land reports should be sent to the Local Planning Authority.
- (iii) This condition is required to be fully complied with before development is commenced. Failure to comply with the condition prior to commencement of work may result in legal action being taken.

**Reason:** In order to protect the health of the occupants of the new development and/or in order to prevent contamination of the controlled waters.

7. No part of the development shall be commenced unless and until a Construction Code-of-Practice method statement has been submitted to and approved in writing by the Local Planning Authority. The code shall include details of the measures envisaged during construction to manage and mitigate the main environmental effects of the relevant phase of the development. The submitted details shall include within its scope but not be limited to:
- a) A programme of works including phasing, hours of operation and measures for the control of traffic to and from the site, and within the site, during construction.
  - b) The areas and methods of loading and unloading of plant and materials.
  - c) The areas for the storage of plant and materials.
  - d) Methods for dust control and suppression including asbestos controls and undertaking of regular dust monitoring including when dust monitoring and dust control/suppression are to be implemented.
  - e) Details, including likely vibration and noise levels at site boundaries, of the piling operations.
  - f) Compliance with BS5228: Part 1 1997 to minimise noise
  - g) Measures to ensure that there is no burning of waste.
  - h) Location and details of site compounds
  - i) An overall Construction Monitoring programme, to include reporting mechanisms and appropriate redress if targets/standards breached
  - j) Noise-monitoring to be carried out for the construction period.

- k) Parking area(s) for construction traffic and personnel
- L) Details of the provision and use of wheel washing on the site

The Construction Code-of-Practice should be compiled in a coherent and integrated document and should be accessible to the site manager(s), all contractors and sub-contractors working on site. As a single point of reference for site environment management, the CCP should incorporate all agreed method statements, such as the Site Waste Management Plan and Demolition Method Statement. All works agreed as part of the plan shall be implemented during an agreed timescale and where appropriate maintained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure that adequate measures are in place to protect the environment during the construction phase(s).

- 8. No construction work shall be carried out on the site outside the hours of 8:00 and 17:00 on weekdays and 8:00 - 12:00 on Saturdays.

**Reason:** In the interests of residential amenity and to safeguard local residents from noise and disturbance.

- 9. Notwithstanding any indication on the approved plans, no development approved shall commence unless and until a scheme for the disposal of foul and surface waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme for the site shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development and should demonstrate the surface water run-off will not exceed 155 l/s. Surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems. The development shall be completed, maintained and managed in accordance with the approved details before the development is completed.

**Reason:** To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding

- 10. Before the construction work commences facilities shall be provided within the site by which means the wheels of vehicles may be cleaned before leaving the site.

**Reason:** To avoid the possibility of the public highway being affected by the deposit of mud and/or loose materials thus creating a potential hazard to road users.

- 11. No part of the development shall be commenced unless and until the off-site highway works shown in the following plans have been constructed: J344 Veneables Mini Fig 4, J344 Puffin Crossing Fig 3, J344 Castle Road Fig 2, J344 bus stops fig 5.

**Reason:** To enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users.

- 12. The new estate road for each phase shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any other construction work associated with that phase takes place within the site.

**Reason:** To ensure that satisfactory access is provided to the site before construction of the development hereby permitted commences.

- 13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 there shall not at any time in connection with the development

hereby permitted be erected or planted or allowed to remain upon the land hereinafter defined any building, wall, fence, hedge, tree, shrub or other device. The visibility splay to be the subject of this condition shall be that land in front of a line drawn from a point 2.4m measured along the centre line of the proposed access road from the continuation of the nearer edge of the carriageway of Castle Road to points measured 43m in each direction along the nearer edge of the carriageway of Castle Road, from the centre line of the access, and shall be constructed and maintained at footway/verge level in accordance with a scheme to be agreed by the Local Planning Authority.

**Reason:** To ensure adequate visibility at the street junction or site access.

14. No part of the development hereby approved shall be occupied unless and until all the off-site highway works have been constructed in accordance with a scheme which shall be submitted to and approved by the Local Planning Authority.

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

15. The development shall be carried out in accordance with the recommended mitigation and ecological enhancement measures set out in the Ecological Survey and Assessment ref: 2014\_263 and Addendum Report on Great Crested Newts ref: 2014\_263c.

**Reason:** To ensure protection of the habitat of species protected under the Wildlife & Countryside Act, 1981.

16. A scheme for the management (including maintenance) of the open space area, shall be submitted to and approved in writing by the Local Planning Authority within two weeks of the commencement of development. The approved scheme shall be carried out in full accordance with the agreed scheme before the first dwelling is occupied.

**Reason:** To ensure the site is properly maintained and managed in the interests of visual amenity.

17. The development shall not begin unless and until a scheme for the provision of 10% of the housing to be affordable housing has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it.

**Reason:** In order for the development to contribute to the supply of affordable housing in accordance with the need identified in the Strategic Housing Market Assessment and the National Planning Policy Framework.

18. No part of the development shall take place unless and until a Planning Obligation pursuant to section 106 of the Town & Country Planning Act, 1990 (or any subsequent provision equivalent to that section) has been made with the Local Planning Authority. The said obligation shall provide for:

- The provision of affordable housing in line with the requirements of condition 17.
- Preparation and support of a Travel Plan.
- Diverted bus services for a period of five years.
- Cycle track provision as a contribution to the wider scheme lead and designed by Lancashire County Council.
- A contribution to the Council's Air Quality Action Plan to offset the impact of emissions from traffic

generated by the development.

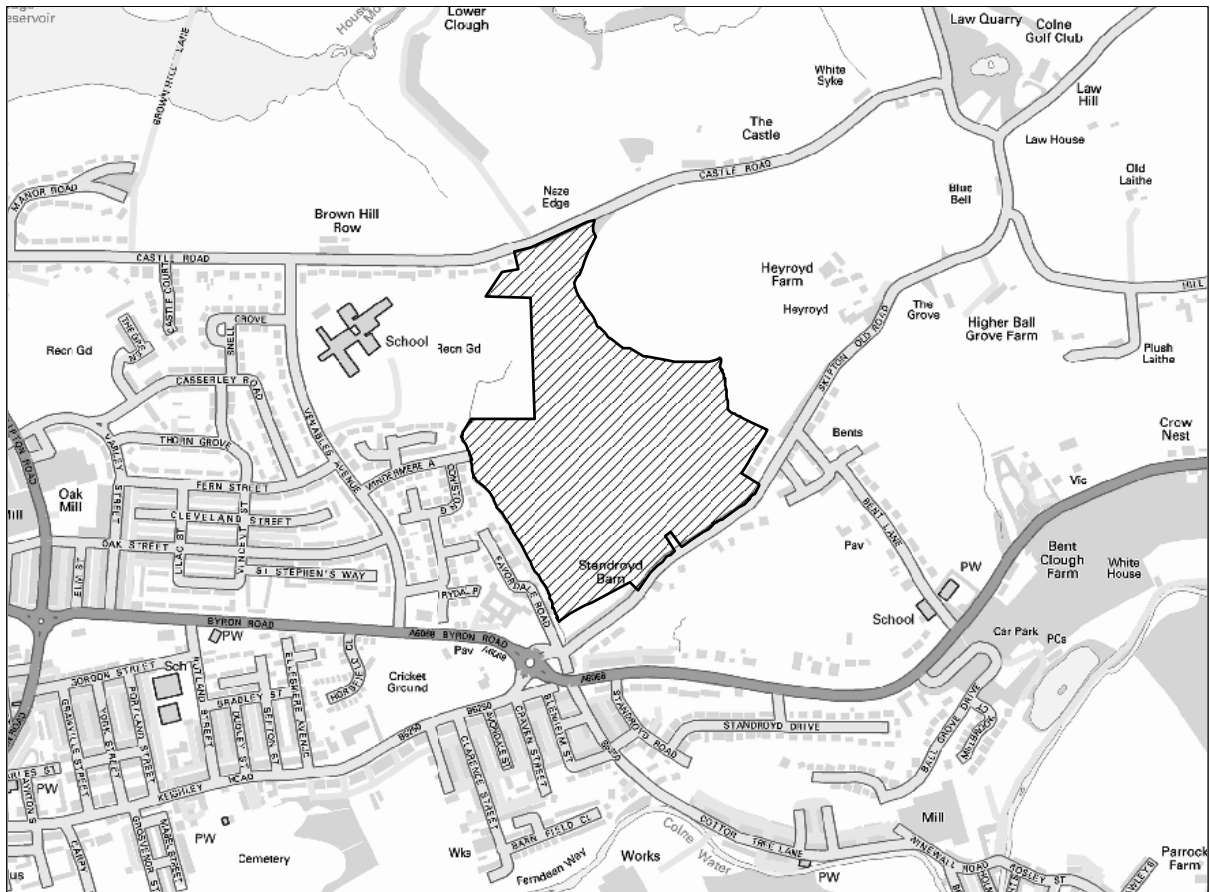
**Reason:** In order for the development to contribute to the supply of affordable housing, ensure the provision of an accessible bus service and offset the impacts of the development on the highway network and air quality.

**Note:**

**Construction:** Construction projects should always be carried out in accordance with the Council's 'Code of Practice for Construction and Demolition'. **Dust Control:** This development is located in a built-up area close to residential properties. Demolition and construction operations frequently cause short-term dust problems and Pendle Borough Council receives many complaints about such problems. The applicant is requested to ensure that:

1. dust generation is considered prior to site works, and
2. dust control measures are provided such as sheeting of work areas and water dampening of stockpiles and roadways.

Periods of dry weather are the most frequent cause of unforeseen problems. Please ensure that suitable water supplies and equipment are available at short notice. **Burning on site:** The development site is located in a built-up area with neighbouring occupiers. Pendle Borough Council receives many complaints about smoke from bonfires, which are inappropriate in built-up areas. The practice of burning wastes on site is an old-fashioned practice, which normally constitutes an offence under the Duty of Care provisions of the Environmental Protection Act 1990. The applicant is cautioned against permitting any bonfire to take place during demolition, site clearance or construction. For further information contact Environmental Health at Pendle Borough Council by telephoning (01282) 661199. **Highways:** This consent requires the construction, improvement or alteration of an access to the public highway. Under the Highways Act 1980 Section 184 the County Council as Highway Authority must specify the works to be carried out. Only the Highway Authority or a contractor approved by the Highway Authority can carry out these works and therefore before any access works can start you must contact the Customer Services at [highways@lancashire.gov.uk](mailto:highways@lancashire.gov.uk) and on 0300 1236780. **Footpaths:** The grant of planning permission does not include the right to either permanently or temporarily obstruct or interfere with the right of way. The position and width of the right of way may not be obvious and therefore advice from a suitably qualified rights of way practitioner should be sought before any works which may affect the right of way start. If part or all of the public right of way needs to be permanently or temporarily closed or diverted to allow the development to be carried out then a formal order made by the Council will first need to come into operation in accordance with the appropriate legislation. Details of how to apply for a permanent or temporary closure are available from the Countryside Access Officer.



**Application Ref:** 13/14/0581P

**Ref:** 18456

**Proposal:** Outline: Major: (Access only from Skipton Old Road and Castle Road)  
Erection of up to 270 dwelling houses including estate roads, footways and open space provision.

**At:** LAND OFF WINDERMERE AVENUE COLNE BB8

**On behalf of:** Junction Property Limited

## REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE ON 27 MAY 2015

**Application Ref:** 13/15/0144P

**Ref:** 18652

**Proposal:** Full: Removal of Condition: Remove Condition 8 of Planning Permission 13/14/0209P to allow property to be used as a dwelling house all year round.

**At:** DAM HEAD BARN DAM HEAD FARM ROUGHLEE NELSON BB9 6NX

**On behalf of:** Mrs M Mortimer

**Date Registered:** 24 March 2015

**Expiry Date:** 19 May 2015

**Case Officer:** Lee Greenwood

### **Site Description and Proposal**

This matter is brought to Development Management Committee as Members of the Barrowford and Western Parishes Committee sought to refuse the application, which seeks to remove a condition limiting the use of an outbuilding (known as 'The Studio') at Dam Head Barn, to allow it to be used as a dwelling.

The building was originally granted consent back in 2010 (ref - 13/10/0375P) for ancillary bed and breakfast accommodation in relation to the main dwelling. Application 13/14/0209P subsequently granted permission last year to change the building to a self-contained holiday cottage, with associated external alterations.

Condition 8 states the following;

The building shall be occupied for holiday/bed and breakfast purposes only;

(1) the building shall not be occupied as a person's sole or main place of residence.

(2) the owner/operator shall maintain an up-to-date register of the names of the occupiers of the building and their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: In order to ensure the proper control of the use of the holiday unit and to prevent the establishment of permanent residency.

The application seeks to remove this limitation, so that it can be used as a private dwelling. Whilst the main dwelling (which is Grade 2 Listed) is just within the settlement boundary of Roughlee, the application site is some 10m outside this designation and lies within the AONB.

### **Relevant Planning History**

**13/14/0209P** - Extension and change of use of garage/ancillary B & B accommodation to form a holiday cottage - **Approved**

**13/10/0375P** - Erect detached building for use as garage and bed & breakfast accommodation - **Approved**



## **Consultee Response**

**LCC Highways;** no objections.

**PBC Environment & Conservation;** removal would not impact on Listed Building.

**PBC Trees;** no objections.

**LCC AONB;** no comments received.

**Environment Agency;** no comments required.

**PBC Drainage;** no comments received.

**PBC Rights of Way;** no comments received.

**Roughlee Booth Parish Council;** no comments received.

**Barley Parish Council;** concerned that applications for tourism are being used to gain permission for dwellings.

## **Public Response**

**Six neighbours notified, press notice also displayed;** no comments received.

## **Relevant Planning Policy**

<b>Code</b>	<b>Policy</b>
LP 1	Development in the Open Countryside
LP 2	Area of Outstanding Natural Beauty

## **Officer Comments**

The main issue to consider in this application is whether the proposed removal of condition is acceptable in terms of Policy.

### **Policy**

Policy 1 of the Replacement Pendle Local Plan 'Development in the Open Countryside' advises that new dwellings in the countryside are generally not permitted, unless an essential need exists (agricultural or forestry worker for example, or the re-use/conversion of an existing, traditional building).

Policy 2 'Area of Outstanding Natural Beauty' advises that development in the AONB should not be seen to dominate existing buildings in terms of shape, height or materials. Developments should not result in a loss of amenity for neighbours, nor should they include materials, components or finishes which are alien to the architectural style or setting of the building.

Paragraph 49 of the National Planning Policy Framework (NPPF) states that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 55 seeks to avoid isolated new homes in the countryside and paragraphs 56 and 64 advise that good design is a key component to the achievement of sustainable development.

The alterations to the building and the subsequent impacts on the AONB were considered as part of application 13/14/0209P and found to be acceptable. Therefore these issues will not be revisited during this report.

## **Principle of Development**

A recent Appeal decision in Barley (Croft Barn - 13/14/0285P) has established a significant precedent when dealing with new homes in the countryside. The development, also within the AONB, sought to extend an existing barn conversion, then sub-divide to create two dwellings.

The Council had argued that the development effectively constituted the erection of a new dwelling as the works consisted entirely of additions to the barn since its original conversion. It was also argued that the site was not in a sustainable location, contrary to both Policy 1 and the NPPF.

However, in upholding the Appeal, the Inspector found that Policy 1 was not up to date and therefore not compliant with the NPPF, due to the fact that Pendle must look to sustainable sites outside established settlements to meet the requirement to provide a five year housing land supply. In establishing whether the site was sustainable, he held that the provision of a bus service in close proximity was a sufficient threshold in terms of accessibility to support the scheme.

The site is outside of, but within 10m of the settlement boundary of Roughlee, significantly closer to an established settlement than Croft Barn. For the purposes of paragraph 55, the site would not be isolated in terms of its location, due to its proximity to the established settlement and the provision of a local bus service.

The original reasons for adding the occupancy conditions related to the creation of a new dwelling being contrary to Policy. However in light of the aforementioned appeal decision and the subsequent interpretation it provides, the Council must consider the provision of new homes in the countryside solely on the basis of sustainability and design.

This building and the more recently approved extensions have been found to have an acceptable impact on the AONB, regardless of their use. Based on the provisions of the NPPF, the only unequivocal counterweight to the pursuit for sustainable development would be poor design. As this is not a factor in this case and the sustainability credentials of the site meet the thresholds detailed by the Inspector, the removal of the restriction is acceptable and compliant with national policy.

## **Other Matters**

The applicant has included a plan showing the extent of the curtilage that would be associated with the new dwelling. It would be prudent to remove permitted rights to ensure any future development at the site can be controlled.

The change to a dwelling raises no adverse amenity issues for existing residents, with previously approved separation distances retained.

There would be little impact on the adjacent highway network and parking is provided within the site, as previously approved and are subject to a specific condition.

In terms of justification for the change, the applicants have detailed recent planning approvals within the locality (the Bay Horse, the Barley Mow and a site of Ridge Lane) for the creation of tourist accommodation. In light of these developments which would provide direct competition for their business, they are reluctant to invest in the creation of a holiday cottage.

## Summary

In light of the issues above, the development would be compliant with national policy. The application to remove the condition is therefore recommended for approval.

### Reason for Decision

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed development is in a sustainable location, acceptable in terms of design, amenity and highway safety and would preserve the character and appearance of the AONB. The proposal therefore complies with the aims of the National Planning Policy Framework and the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

### RECOMMENDATION: Approve

Subject to the following conditions:

1. The proposed development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason:** Required to be imposed by Section 91 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 shall be carried out in accordance with the following approved plans: 1:1250 location plan (as amended 11/7/2014), 1:200 site plan (as amended 25/6/2014), proposed elevations and floor plans (as amended 25/6/2014).

**Reason:** For the avoidance of doubt and in the interests of proper planning.

3. The external facing and roofing materials shall match those of the existing building in terms of type, size, form, texture, colour, coursing and pointing and there shall be no variation without the prior consent of the Local Planning Authority.

**Reason:** In order to ensure that new material matches the existing and preserves the setting of the adjacent Listed Building.

4. Any proposed or altered windows, doors and guttering shall be constructed to match the existing in term of appearance, materials and style and there shall be no variation without the prior consent of the Local Planning Authority.

**Reason:** In order to ensure that new material matches the existing and preserves the setting of the adjacent Listed Building.

5. Unless approved in writing by the Local Planning Authority no ground clearance, construction work, development or development-related activity of any description, including the deposit of spoil or the storage of materials shall take place within a 12m radius of TPO No.9, 2001.

**Reason:** In order to ensure protection of the tree during construction.

6. Plans and particulars showing a scheme of foul sewers and surface water drains, shall be submitted to, and approved in writing by the Local Planning Authority, and development shall

not be commenced before these details have been approved, unless otherwise agreed in writing. Such works shall be carried out concurrently with the rest of the development and in any event shall be finished before extended building is first occupied.

**Reason:** In order that the Local Planning Authority may be satisfied with the details of the proposal and to avoid flooding.

7. The approved scheme for the car parking spaces and manoeuvring areas, as shown on the 1:200 proposed site plan dated 30th June 2014, shall be laid out before the first use of the dwelling hereby permitted and shall thereafter be retained and available for the parking of vehicles as shown.

**Reason:** In order to allow for the effective use of the parking areas.

8. The curtilage of the dwelling hereby approved shall be as shown on the site plan submitted to the Local Planning Authority on the 16th April 2015.

**Reason:** In the interests of clarity.

9. Notwithstanding the provisions of Article 3 and parts 1 and 2 of the second Schedule of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no development as specified in Classes A, C, D, D, E, F, G and H of Part 1 and Classes A and C of Part 2 of Schedule 2 of that Order shall be carried out without express planning permission first being obtained from the Local Planning Authority.

#### Part 1

A) no extensions shall be erected

B+C) no alterations to the roof of the building shall be carried out

D) no porches shall be erected

E(a)) no buildings, enclosures, swimming or other pools shall be erected or constructed within the curtilage of the building(s)

E(b)) no containers for the storage of oil or gas for domestic heating purposes shall be installed within the curtilage of the building(s)

F) no hard surface shall be provided within the curtilage of the building(s)

G) no installation or replacement of a chimney, flue or soil and vent pipes.

H) no installation or replacement of microwave antenna

#### Part 2

A) no gates, fence or wall structures shall be erected within the curtilage of the building(s)

C) the exterior of the building shall not be painted

**Reason:** To enable the Local Planning Authority to control any future development on the site in order to safeguard the character and amenity of the area and impacts on neighbouring properties.



**Application Ref:** 13/15/0144P

**Ref:** 18652

**Proposal:** Full: Removal of Condition: Remove Condition 8 of Planning Permission 13/14/0209P to allow property to be used as a dwelling house all year round.

**At:** DAM HEAD BARN DAM HEAD FARM ROUGHLEE NELSON BB9 6NX

**On behalf of:** Mrs M Mortimer

## LIST OF BACKGROUND PAPERS

Planning Applications

**NW/CPB**

**Date: 18<sup>th</sup> May 2015**