



REPORT FROM: PLANNING, BUILDING CONTROL AND LICENSING SERVICES
MANAGER

TO: DEVELOPMENT MANAGEMENT COMMITTEE

DATE: 26 JUNE 2017

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications

Application Ref: 17/0008/OUT
Proposal: Outline: Major: Erection of 70 dwelling houses with access off Moorside Avenue with ancillary works (Access and Layout only).
At: Land To The East Of Moorside Avenue, Brierfield
On behalf of: Admergill SASS Avalon SASS
Date Registered: 10/03/2017
Expiry Date: 09/06/2017
Case Officer: Alex Cameron

This application has been brought before Development Management Committee as it is a housing development of more than 60 houses.

Site Description and Proposal

The application site is a field located adjacent to the settlement boundary of Brierfield. The land is within the open countryside and of no designation in the Replacement Pendle Local Plan. To the west is the rear of Waverley Close, to the south is open land, to the east is Nelson Golf Course and to the north is open land with the rear of Heather Close approximately 80m beyond. The land slopes up from west to east and south to north and is crossed by five public footpaths Nos. 19, 21, 22, 29 and 30.

This is an outline planning application for access and layout only for the erection of 70 dwellings. The proposed layout is for detached and semi-detached linked by garages dwellings arranged in 5 cul-de-sacs around a central estate road with extensive green spaces between, the routes of the existing footpaths would run through those green spaces.

This application was previously brought before Committee in March, since the previous meeting amended plans have been received revising the boundary of the application site and addressing issues relating to the Wildlife Trust comments.

Relevant Planning History

None.

Consultee Response

PBC Environmental Health – Please attach standard contaminated land condition.

LCC Education - The latest information available at this time was based upon the 2016 School Census and resulting projections. Based upon the latest assessment, taking into account all approved applications, LCC will be seeking a contribution for 13 primary and 6 secondary school places.

Calculated at the current rates, this would result in a claim of: 13 primary places (£175,168.89) and 6 secondary places (£121,821.54).

Lancashire Constabulary Architectural Liaison - The number of public footpaths within the site gives serious cause for concern in the setting of a housing development. There are 5 public footpaths entering the site which then split to form numerous routes within – this is appropriate to open land used for walking however not appropriate for within a housing development. Crime risks are increased where a development is too permeable – the number of access and escape routes available make this a comfortable environment for an offender to target and this is further complicated as these routes are concealed footpaths only, not roads with passing traffic. Due to the number of footpaths within this site and the crime and anti-social behaviour risk they pose to the new development, on behalf of Lancashire Constabulary I object to planning permission being granted for the development in its current form, as it is in conflict with Policy ENV2 of the Pendle Core Strategy, National Planning Policy Framework and Section 17 of the Crime and Disorder Act.

Despite my objections, should Pendle Borough Council decide to grant planning permission for this application, I ask that the following conditions are attached to the decision; construction site security and CCTV, public footpath planting, boundary treatments.

PBC Public Rights of Way – The application site contains 5 public rights of way including the route of the Pendle Way. As a result of the impacts of the development on the footpaths the developer should be required to enter into an agreement either to carry out works on the footpaths or pay a sum of £11,950 towards works to them. A condition should be included that no hedge or tree is planted within 2m of the centre of the footpaths and a note should be included regarding obstruction of the footpaths.

Wildlife Trust – The Ordnance Survey map of the area (South Pennines OL21) shows a pond in the southeastern corner of the field and the ecological report accompanying the application identifies a small area of heathland on the site. Both of these habitats are habitats of principal importance in England (also known as ‘priority habitats’) and, if the Council is minded to approve the application, should be conserved and enhanced, or reinstated, as part of the landscaping of the site.

United Utilities – No objection subject to foul and surface water drainage and sustainable urban drainage management conditions.

Lead Local Flood Authority – No objection subject to the following conditions:

Reserved Matters to include an appropriate surface water drainage scheme.
Surface Water Lifetime Management and Maintenance Plan.

Public Response

Press and site notices has been posted and nearest neighbours notified – Numerous responses have been received objecting to the development on the following grounds:

Moorside Avenue is unsuitable access for the proposed development and for construction traffic and will result a detrimental impact upon exiting residents and an adverse highway safety impact.

Moorside Avenue is not gritted and can become inaccessible during bad winter weather.

Noise and disruption during construction will adversely impact upon the amenity of residents.

The additional traffic generated by the development would adversely impact upon air quality in the area.

Brownfield sites should be developed before greenfield sites such as this.

Concerns that the proposed development will lead to an increased risk of surface water flooding of adjacent properties.

The development would increase the risk of crime in the area.

The development will have a major impact on local services. Existing schools and medical services are over-subscribed.

The development will result in the loss of existing recreational greenfield land and would reduce access to the open countryside.

The footpaths through the site include the route of the Pendle Way and are extensively used by walkers. The footpaths will effectively be off limits during construction and the development would result in walkers having to cross the roads within the development which will lead to danger for the walkers.

The proposed development will result in the loss of habitats for birds, bats and other wildlife

The development will result in additional light pollution.

The proposed development would result in an unacceptable impact upon the landscape.

The development would adversely impact upon views from adjacent properties.

The development would adversely impact upon the privacy of adjacent properties.

The development would result in loss of light to adjacent properties.

The land is not allocated for housing in the Local Plan.

The development conflicts with the guidance of the Development in the Open Countryside SPG.

The site is within the green belt.

Burnley and Pendle have a surplus of housing.

The development could open the flood gates for future development of the area.

The public open space areas within the site would require extensive maintenance. The developer should be required to undertake a 20 year maintenance plan.

Houses backing onto the golf course are likely to attract stray golf balls and result in complaints and claims from residents.

I am interested to know if the 70 proposed properties will now be linked to potential development at the adjacent golf course.

Officer Comments

The issues for consideration are compliance with policy, principle of housing, impact on amenity, ecology, drainage and highways issues.

Policy

Pendle Local Plan Part 1: Core Strategy

Policy SDP1 takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy SDP2 sets out the roles each settlement category will play in future growth. Nelson (including Brierfield) is defined as a one of the Key Service Centres which will provide the focus for future growth in the borough and accommodate the majority of new development.

Policy SDP3 identifies housing distribution for the M65 Corridor as 70%, the amount of development proposed here is not disproportionate to the level of housing development Brierfield would be expected to provide, as a minimum, over the plan period.

Policy ENV1 of the Replacement Pendle Local Plan seeks to ensure a particularly high design standard that preserves or enhances the character and appearance of the area and its setting. It states that the impact of new developments on the natural environment, including biodiversity, should be kept to a minimum.

Policy ENV2 of the Pendle Local Plan Part 1 identifies the need to protect and enhance the heritage and character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that siting and design should be in scale and harmony with its surroundings.

Policy ENV7 does not allow development where it would be at risk of flooding and appropriate flood alleviation measures will be provided and/or would increase the risk of flooding elsewhere.

Policy LIV1 sets out the housing requirement identified in Policy SDP3 above. At the present time sites have not yet been allocated in The Pendle Local Plan Part 2: Site Allocations and Development Policies.

Policy LIV4 sets out targets and thresholds for the provision of affordable housing. For the M65 Corridor the requirement for developments of 15+ dwellings is 0% affordable housing.

Policy LIV5 states that layout and design should reflect the site surroundings, and provide a quality environment for its residents, whilst protecting the amenity of neighbouring properties.

Replacement Pendle Local Plan

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 31 of the Replacement Pendle Local Plan sets out the maximum parking standards for development.

Development in the Open Countryside SPG

This document has been highlighted in some neighbour responses. This guidance document was published in 2002 and was prepared under previous government guidance which has since been superseded by the National Planning Policy Framework. Under previous planning policy and guidance housing development beyond settlement boundaries was generally unacceptable unless it met specific exceptions, this is no longer the case. Although the SPG is still of some weight in decision making, its weight is limited and more applicable agricultural developments etc. Its guidance holds very limited weight in determining an edge of settlement housing development such as this.

National Planning Policy Framework

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 Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Housing supply

Paragraph 47 of the Framework requires local planning authorities to identify a supply of deliverable housing sites to provide five years' worth of their housing requirements.

Paragraph 55 of the Framework states that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.

Principle of Housing

The application site abuts the settlement boundary of Brierfield, taking this and its proximity of services and facilities in nearby Barrowford into account, it is not an isolated site for the purposes of paragraph 55 of the Framework. Therefore, in location terms and in terms of

the development's contribution to the economic role of sustainable development the proposed development accords with the Framework.

The site is adjacent to the settlement boundary of Brierfield, in a sustainable location. Pendle Borough Council has demonstrated in the Strategic Housing Land Availability Assessment a five-year supply of deliverable housing sites. This site had been included in this assessment as an additional site in the 6-15 year period. Taking into account the contribution the proposed development would make to the delivery of the Council's five year housing land supply, it being brought forward at this stage is acceptable.

Visual Amenity

This application is in outline for access and layout only, the design scale and landscaping of the development would be considered in a separate reserved matters application. The proposed layout would be relatively low density with large open green spaces between the proposed housing.

The site is located on sloping rural land which rises up above the existing residential development to the west. The land not designated or within the setting of any landscape or heritage designations. The landscape impacts of the development would be largely limited localised to views from within and immediately adjacent to the site, however the development would be unlikely to be visible from Higher Reedley Road or Kings Causeway or beyond. There could possibly be distant views of the site from opposite side of the valley towards Pendle Hill, however, these would be at a significant distance and, if visible, the proposed development would appear as a natural continuation of the existing development to the north and west.

Taking these factors into account the proposed development would not result in an unacceptable impact upon the landscape character or visual amenity of the area and is in accordance with policies ENV1, ENV2 and LIV5.

Residential Amenity

The houses adjacent to the boundaries of the site that abut existing residential properties would be a sufficient distance from those properties to ensure that they would not result in an unacceptable loss of privacy or light to those properties and would not result in an overbearing impact upon them.

Concerns have been raised relating to the amenity of properties on Hillsborough Avenue, however, these are separated by more than 80m from the boundary of the site.

Concerns have also been raised regarding the impact of the development on private views from nearby dwellings, provided that a development would not result in unacceptable loss of light or overbearing impacts, the impact on private view is not a material consideration in a planning application.

The proposed development is therefore acceptable in terms of amenity in accordance with policies ENV2 and LIV5.

Ecology

An ecology survey of the site has been submitted with the application. This found that the site has no features capable of supporting bat roosts, protected amphibians and no evidence of badger or water vole habitat and is unlikely to be used by ground nesting birds. It does however have good potential value for bat foraging. The report recommends mitigation measures to ensure that the site can continue to be used for bat foraging and to ensure any vegetation is removed outside of bird breeding season. With a condition to ensure these mitigation measures are implemented the proposed development is acceptable in terms of its ecology impact in accordance with policy 4D.

The wildlife trust have identified that the heathland and pond/ditch to the south east of the site should be maintained. The proposed layout plan has been amended to preserve these areas.

Open Space

Policy LIV5 requires that provision for public open space and/or green infrastructure is made in all new housing developments. The applicant proposes open green corridors throughout the site. This would provide acceptable an open space contribution in accordance with LIV5. Provisions for the long term maintenance of the open spaces would be ensured by condition.

Concerns have been raised regarding the loss of the recreational use of this land. The site is private land with no public open space designation and there are no public rights of access to the land beyond the routes of the public footpaths.

Drainage and Flooding

The applicant has submitted a flood risk assessment for the site. This concludes that the site is not at unacceptable risk of flooding and the increase in surface water runoff from impermeable areas within the site can be attenuated with a sustainable urban drainage system. With conditions to requiring the submission and agreement of details of details of the drainage system and ensure its long term maintenance the proposed development is acceptable in terms of drainage and flood risk.

Education

An education contribution of 13 primary school and 6 secondary school places is necessary to offset the impact of the development on local schools. The applicant has agreed to provide a Section 106 contribution to meet the cost of the school places.

Highways

Moorland Drive and Moorside Avenue are at least 5.5m wide, 4.8m would typically be the minimum width for an estate road, this is therefore a sufficient width for an access to the development.

A transport statement has been submitted with the application which demonstrates that the junction of Moorland Drive has sufficient capacity to accommodation the increase in traffic that would result from the proposed development. LCC have assessed the transport

impacts of the development and advised that it is acceptable subject to the following off-site highway works:

- Replacing the highway verge to the front of 6 Moorside Avenue (approximately 3m in length) with a footpath to ensure a continuous footpath to serve the site.
- Giveaway markings at all junctions onto Moorland Drive and Moorside Avenue
- An additional giveaway sign at the junction of Moorland Drive with Higher Reedley Road.
- A centre line marking around the bend at No.1 Moorside Avenue.

An acceptable level of car parking provision is proposed, as this provision includes the proposed garages a condition is necessary to ensure that they are retained for car parking.

LCC Highways have requested a condition for a survey of Moorland Drive and Moorside Avenue before and after the construction of the development and for the developer to return the road to its pre-construction condition. This would not be a reasonable condition to attach as it could not be ensured that any damage to the road is as a direct result of the development rather than other general wear and tear and as such would fail the tests of an acceptable planning condition set out in the Framework.

Public Rights of Way

The public footpaths crossing the site have been accommodated with the proposed layout. Works and additional signage are required to offset the impact of the development upon them, the developer has agreed to make a contribution to provide the works and signage.

Crime Prevention

Concerns have been raised by Lancashire Constabulary Architectural Liaison that the five footpaths running through the site could make the development vulnerable to crime. This could issue could be mitigated with conditions to control details of the landscaping and boundary treatments.

Summary

The proposed housing development is acceptable in policy terms and in terms of landscape impact, residential amenity, drainage, ecology, crime prevention and highway safety. It is therefore recommended that the application be approved.

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 compliant with policy, the proposed layout and principle of residential development is acceptable and the proposed access is acceptable in terms of highway safety. 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, 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 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: .

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

4. The layout of the development shall include provisions to enable vehicles to enter and leave the highway in forward gear. The parking and turning areas shown in the approved plan OG/06/ Dwg 02B shall be laid out, surfaced and made available for use before the dwelling/s they serve are occupied and maintained free from obstruction and available for parking and manoeuvring purposes at all times thereafter.

Reason: to ensure that an adequate level of car parking provision and that vehicles can turn and exit in forward gear in the interest of highway safety.

5. The garages of the development hereby approved shall not be used for any purpose that would preclude their use for car parking.

Reason: to ensure that an adequate level of car parking provision is maintained in the interest of highway safety.

6. The new estate road for the approved development shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level up to the entrance of the site compound before any development takes place within the site and shall be further extend before any development commences fronting the new access road.

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

7. Within two weeks of the commencement of the development a scheme for off-site works of highway improvement shall be submitted to the Local Planning Authority and approved in writing. The off-site highway works shall include:

Replacing the highway verge to the front of 6 Moorside Avenue with a 2m wide footpath.

Giveway markings at all junctions onto Moorland Drive and Moorside Avenue

An additional giveway sign at the junction of Moorland Drive with Higher Reedley Road.

A centre line marking around the bend at No.1 Moorside Avenue.

No part of the development hereby approved shall be occupied unless and until the off-site works have been constructed and completed in accordance with the approved scheme.

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

8. The development shall not commence unless and until a Traffic Management Plan for the construction works has been submitted to and approved in writing by the Local Planning Authority department. This shall include:-

- The parking of vehicles of site operatives and visitors;
- Loading and unloading of plant and materials used in the construction of the development;
- Storage of such plant and materials;
- Wheel washing facilities;
- Periods when plant and materials trips should not be made to and from the site (mainly peak hours but the developer to identify times when trips of this nature should not be made)
- Routes to be used by vehicles carrying plant and materials to and from the site;
- Measures to ensure that construction and delivery vehicles do not impede access to adjoining properties.

The development shall be carried out in strict accordance with the approved Traffic Management Plan.

Reason: to protect existing road users.

9. No development shall be commenced unless and until an Estate Street Phasing and Completion Plan has been submitted to and approved in writing by the Local Planning Authority. The Estate Street Phasing and Completion Plan shall set out the development phases and the standards that estate streets serving each phase of the development will be completed. The Estate Street Phasing and Completion Plan shall set out dates for entering of the section 38 agreement of the Highways Act 1980 and/or the establishment of a private management and Maintenance Company.

Reason: To ensure that the estate streets serving the development are completed and thereafter maintained to an acceptable standard in the interest of residential financial security and highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the development; and to safeguard the visual amenities of the locality and users of the highway.

10. No dwelling shall be occupied unless and until the estate street fronting that property has been completed in accordance with the Estate Street Phasing and Completion Plan.

Reason: To ensure that the estate streets serving the development are completed and maintained to an acceptable standard, and are available for use by the occupants, and other users of the development, in the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway

11. No development shall be commenced unless and until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.

Reason: To ensure that the estate streets serving the development are completed and maintained to an acceptable standard.

12. No development shall be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

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

13. Foul and surface water shall be drained on separate systems. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly. The development shall be completed in accordance with the approved details.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. This condition is imposed in light of policies within the NPPF and NPPG.

14. No development shall commence unless and until details of an appropriate management and maintenance plan for the sustainable drainage system for the lifetime of the development have been submitted which, as a minimum, shall include:

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

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

Reason: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.

15. As part of any reserved matters application and prior to the commencement of any development, the following details shall be submitted to, and approved in writing by, the local planning authority. Surface water drainage scheme which as a minimum shall include:

- a) Information about the lifetime of the development design storm period and intensity (1 in 30 & 1 in 100 year + allowance for climate change – see EA advice <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>), discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance and easements where applicable, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses, and details of flood levels in AOD;
- b) The drainage scheme should demonstrate that the surface water run-off must not exceed the existing pre-development greenfield runoff rate. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
- c) Any works required on or off-site to ensure the adequate discharge of surface water without causing flooding or pollution (which should include the refurbishment or removal of any existing watercourses, culverts, headwalls or unused culverts where relevant);

- d) Flood water exceedance routes, both on and off site;
- e) A timetable for implementation, including phasing where applicable;
- f) Site investigation and test results to confirm infiltrations rates;
- g) Details of water quality controls, where applicable.
- h) Details of finished floor levels.

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

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

16. The development shall be carried out in strict compliance with the mitigation recommendations set out in the Extended Phase 1 Habitat Survey Report received 06/01/2017.

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

17. Within two weeks of the commencement of the development details of residential curtilage boundary fences/walls shall be submitted to and agreed in writing by the Local Planning Authority. The fences/walls for each property shall be erected in accordance with the approved details prior to the occupation of that dwelling.

Reason: In the interest of crime prevention.

18. No development shall take place unless and until a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (or any subsequent provision equivalent to that Section) relating to the land has been made and lodged with the Local Planning Authority and the Local Planning Authority has notified the person(s) submitting the said planning obligation in writing that it is to the Local Planning Authority's approval. The said planning obligation will provide for:

1. An education contribution of £296,990.43 (index linked).
2. A public footpath contribution of £11,950 (index linked).

Reason: To offset the impacts of the development on education services in the area and the local public footpath network.

LIST OF BACKGROUND PAPERS

Planning Applications

NPW

Date: 16 June 2017