

<b>REPORT FROM:</b>	<b>PLANNING, BUILDING CONTROL AND LICENSING SERVICES MANAGER</b>
<b>TO:</b>	<b>NELSON COMMITTEE</b>
<b>DATE:</b>	<b>26th March 2018</b>

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## **PLANNING APPLICATIONS**

### **PURPOSE OF REPORT**

To determine the attached planning applications

## REPORT TO NELSON COMMITTEE ON 26 MARCH 2018

**Application Ref:** 18/0021/FUL

**Proposal:** Full: Installation of security shutters in the front elevation (part retrospective), fire exit door and flue to side elevation, replacement of a door with a window and insertion of vents in the rear elevation.

**At:** 115 Manchester Road, Nelson

**On behalf of:** Mr M. Arif

**Date Registered:** 02/02/2018

**Expiry Date:** 30/03/2018

**Case Officer:** Alex Cameron

This application has been brought before Committee at the request of a Councillor.

### **Site Description and Proposal**

The application site is a retail premises with planning permission for retail and café/restaurant use located within both the St Mary's Conservation Area and the wider Whitefield Conservation Area. To the front across Manchester Road is the Grade 2 Listed St. Mary's Church, to the south side is an attached dwelling, to the north side is a lane with the garden of a dwelling opposite, to the rear is the back lane and rear of dwellings on Hope Street.

This application is for external alterations comprising:

- The retention of a perforated roller shutter blind installed to the main entrance.
- The installation of perforated roller shutter blinds to the ground floor shop windows and side entrance in the front elevation.
- The insertion of a fire exit door in the side elevation.
- The insertion of an external flue in the side elevation.
- Replacement of an existing door with a window in the rear elevation.
- Insertion of two small vents in the rear elevation.

The installation of roller shutters to the shop window openings would require the replacement of the existing timber shop windows. The proposed design and materials of the replacement shop windows and those of the lobby to be formed behind the main entrance shutter are not shown on the submitted plans, however the proposed materials for doors is steel and for windows are uPVC and timber.

## **Relevant Planning History**

13/01/0638P - alterations to frontage - Approved 13/85/0793P - change of use from warehouse to fireplace showroom – Approved

13/12/0168P - Certificate of Lawfulness (Existing Use) Use as general retail (A1) - Approved

13/15/0282P - Change of use from retail (A1) to shop (A1) and hot food takeaway (A5) at ground floor and 2 x 3 bed flats at first floor including external alterations - Refused

13/15/0519P - Sub-division of existing retail (A1) unit at ground floor to create retail unit and hot food takeaway (A5) with alterations to shop front, installation of flue and creation of 2 flats at first floor level – Approved

16/0396/FUL - Sub-division of existing retail (A1) unit at ground floor to create retail unit and café/restaurant (A3) with alterations to shop front, installation of flue to rear roof slope – Refused and Appeal Allowed.

## **Consultee Response**

PBC Conservation - The property is prominent along Manchester Road within the Whitefield Conservation Area. It was the subject of a heritage grant scheme in recent years and received English Heritage and Pendle Council funding for the careful reinstatement and repair of the timber shopfronts, windows and doors, using evidence from old photographs. It is important that the historic appearance of the property is maintained, in order to preserve the character and appearance of the Conservation Area at this point, but also to protect the Council's and English Heritage considerable investment in the building.

It is not clear from the plans what changes are proposed to the existing timber shopfronts and doors - the detail on the plans are obscured by the shutters. The application form mentions upvc and steel as proposed materials. The important original elements of the shopfront should be retained; these comprise the timber fascia, console brackets and all pilasters, and the recessed area to the right hand side containing two original timber doors.

More details are needed in order to properly assess the proposed changes and their impact on the character and appearance of the CA. The treatment to the central recessed shop entrance behind the installed roller shutter should also be clarified. The door recess was previously secured by folding timber boarded doors; it appears that these have been removed. There appears to be no justification for the additional roller shutters, which would 'deaden' the appearance of the front elevation, and would be contrary to guidance in the CA SPD. Other solutions should be sought if there is a clear need for additional security.

There is no objection to the vents to the rear elevation, also the flue to the side - in a suitable finish and subject to the removal of the existing redundant flues. The new door to the side elevation should be in timber in an appropriate style.

With the creation of two separate shop units, it is important that consideration is given to the position and type of possible signage to each unit, in order to retain the balanced appearance of the frontage.

LCC Highways - As the security shutters proposed on the front elevation of the site would not project into, or over, the adjacent adopted highway these raise no highway safety concerns. Regarding the installation of a fire exit door on the side elevation, the applicant should ensure that this door opens inwards and not over the adjacent footway. This footway is narrow (approximately 1m wide) and we have noted that vehicles regularly park adjacent to this elevation. These may prevent the door from being fully opened in the event of an emergency evacuation of the premises.

Colne Town Council

### **Public Response**

Press and site notices posted and nearest neighbours notified, the publicity period ends 28<sup>th</sup> March – One response received objecting on the following grounds:

I note that the Applicant has already installed security shutters prior to obtaining Planning permission so is obviously retrospectively apply for permission. Are the shutters in line with conservation requirements?

The size/scale of the proposed flue seems a bit excessive for a business supposed to be operating as an A3 (Café). As long as it does not affect residents' car parking space due to the height of where the flue starts on the side elevation.

The back elevation shows two windows for airflow to the bins. This is unacceptable as clearly the smells will radiate into the back alley. Residents' cars are parked there.

As long as the fire exit does not obstruct resident's waste removal at that site on collection days, no comment. It needs to be kept away from the back street.

Concerns also raised in relation to the previous appeal decision and opening hours which are not relevant to this application.

### **Officer Comments**

#### **Policy**

The site is located within the Albert Road Conservation Area, and so there is a duty under section 72(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990

to pay special attention to the desirability of preserving or enhancing the character and appearance of that area.

Policy ENV1 states that the historic environment and heritage assets of the borough (including Listed Buildings, Conservation Areas, Scheduled Monuments, non-designated assets and archaeological remains), including and their settings, will be conserved and where appropriate should be enhanced.

Policy ENV2 states that all new development should seek to deliver the highest possible standards of design, in form and sustainability, and be designed to meet future demands whilst enhancing and conserving heritage assets.

The Conservation Area Design and Development Guidance SPD offers additional guidance in support of these policies.

In relation to uPVC windows the SPD states that uPVC windows cannot replicate the proportions, detailing and pleasing aesthetic qualities of timber windows and will not normally be appropriate in Conservation Areas.

In relation to shopfront security it states that the fitting of external security shutter to shopfronts will not normally be appropriate in Conservation Areas.

External ventilation flues should be located inconspicuously on less prominent elevations or roof slopes.

Policy ENV5 (Pollution and Unstable Land) seeks to minimise air, water, noise, odour and light pollution.

#### National Planning Policy Framework

Paragraph 134 states that 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.

#### **Design and Conservation Area Impact**

The building is a well preserved retail premises located opposite St. Mary's Church and contributes to the significance of the Conservation Area with its attractive timber shopfronts and detailing.

The existing roller shutter is to the main entrance, this was previously timber panel doors. The roller shutter box is recessed behind the surrounding stonework and, subject to a condition for acceptable details of the proposed lobby with timber framed curtain walls and doors, the retention of the existing shutter to this doorway does not harm the significance of the Conservation Area and is acceptable.

However, the proposed roller shutters to the shop windows and side entrance would harm the proportions, detailing and appearance of the windows and surrounding timber and would unacceptably 'deaden' the frontage and create a fortress-like effect in the streetscene after business hours. This would harm the character and appearance of the Conservation Area. The harm to the significance of the Conservation Area resulting from the proposed roller shutters would be less than substantial but would not be outweighed by public benefits. These shutters are therefore unacceptable and a condition is necessary to remove those shutters from an approval.

The proposed flue would be located on the side elevation, which is not prominent and as such would not harm the significance of the Conservation Area or visual amenity of the area.

The other alterations to the side and rear would also not result in harm to the significance of the Conservation Area and are acceptable in terms of visual amenity.

With a condition to remove the proposed window and side door shutters from the approval and require submission of full details of the proposed lobby the proposed development accords with policies ENV1 and ENV2, the guidance set out in the Conservation Area Design and Development Guidance SPD.

### **Amenity**

The impact of a flue to the rear roof slope was assessed as part of the previous application / appeal and it was concluded that this would not raise any unacceptable residential amenity impacts subject to a condition for a scheme for the extraction, treatment and dispersal of fumes and odours. With a similar condition attached the proposed flue would not result in unacceptable residential amenity impacts.

The proposed bin storage vents would not result in unacceptable residential amenity impacts.

The proposed insertion of a window in place of a door in the upper floor rear elevation would not raise any unacceptable additional privacy impacts when taking into account the existing windows in the rear elevation of the building.

The proposed development is therefore acceptable in terms of residential amenity in accordance with policies ENV2 and ENV5.

### **Highways**

The proposed alterations would not result in unacceptable highway safety or parking issues.

## Summary

Subject to a condition removing the proposed shutters to the windows and side entrance of the front elevation the proposed external alterations are acceptable in accordance with the Pendle Local Plan Part 1: Core Strategy and Conservation Area Design and Development SPD. It is therefore recommended that the approval of the application is delegated to the Planning, Building Control and Licencing Manager subject to the expiry of the publicity period.

## 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 would accord with Local Planning Policy and would be compliant with the guidance set out in the Framework, subject to compliance with planning conditions. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

## RECOMMENDATION: Delegate Grant Consent

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: 01, 03 Rev A, 04.

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

3. Notwithstanding any indication in the submitted plans no approval is granted for the proposed installation of external roller shutter blinds to the windows and side entrance of the front elevation.

**Reason:** In order to preserve the character and appearance of the Conservation Area.

4. Prior to the installation of the lobby doors and glazed curtain walls, window and fire door hereby approved details of the materials, finish and design of the doors and frames shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out and maintained thereafter in strict accordance with the approved details.

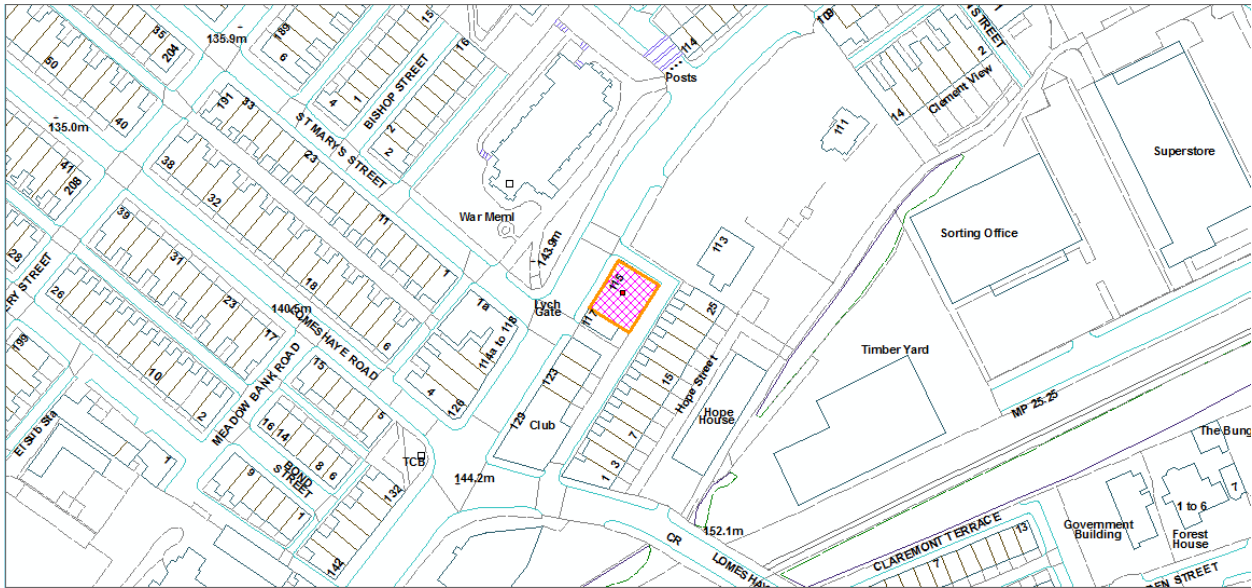
**Reason:** In order to preserve the character and appearance of the Conservation Area.

5. The operation of the extraction flue hereby approved shall not commence unless and until a scheme for the extraction, treatment and dispersal of fumes and odours has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
- a. the provision of odour filters
  - b. the siting and finished design of any external ventilation stack; and,
  - c. details of any measures which are necessary to attenuate noise from the ventilation stack

The approved scheme shall be implemented prior to the use commencing and shall thereafter be operated and maintained in accordance with the agreed details and the manufacturers specifications and be retained for so long as the use continues. No preparation of hot food shall be carried out on the site except during such times as the approved extraction and treatment equipment is operational and effective to the level of the approved scheme.

**Reason:** In order to ensure the adequate treatment and dispersal of fumes and odours and attenuation of noise in the interests of residential amenity.





**Application Ref:** 18/0021/FUL

**Proposal:** Full: Installation of security shutters in the front elevation (part retrospective), fire exit door and flue to side elevation, replacement of a door with a window and insertion of vents in the rear elevation.

**At:** 115 Manchester Road, Nelson

**On behalf of:** Mr M. Arif

## REPORT TO NELSON AREA COMMITTEE ON 26<sup>TH</sup> MARCH 2018

**Application Ref:** 18/0024/HHO  
**Proposal:** Full: Erection of roof dormers on front and rear roof slopes.  
**At:** 10 Newport Street, Nelson  
**On behalf of:** Mr M Hasnaat  
**Date Registered:** 12.01.2018  
**Expiry Date:** 09.03.2018  
**Case Officer:** Charlotte Pinch

### **Site Description and Proposal**

The application is brought to Committee as it was called in by a Councillor.

The application site is a two storey terraced dwellinghouse, located within a residential area of Nelson.

The proposal is for the erection of two flat roof dormers to the front and rear of the dwellinghouse. This development would result in an additional two bedrooms and bathroom at second floor level.

Both dormers would be constructed of slate cladding and a grey ply membrane roof.

### **Relevant Planning History**

None relevant.

### **Consultee Response**

LCC Highways

No objections.

### **Public Response**

No response.

### **Officer Comments**

#### **Policy**

Pendle Local Plan Part 1: Core Strategy

Policy SDP1 (Presumption in Favour of Sustainable Development) takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) of the Pendle Local Plan Part 1 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 (Achieving Quality in Design and Conservation) 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.

### Replacement Pendle Local Plan

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

### 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.

The Design Principles Supplementary Planning Document (SPD) applies to householder extensions and sets out the aspects required for good design.

### **Visual Amenity**

The Design Principles SPD states that dormers should not be so large as to dominate the roof slope, resulting in a property which appears unbalanced.

The host dwelling is a narrow, two storey terraced property, with a small roof area. The proposed dormers would dominate the roof slope and be at odds to the adjacent uniform terraced properties, which have no roof alterations.

More specifically the SPD states, that dormers on the front of a roof slope will not be acceptable unless they are a feature of other similar houses in the locality, or the dormer would otherwise be appropriate in visual design terms. Furthermore, the

guidelines require that flat roof dormers will not be acceptable on front elevations, or any elevation clearly visible from a public vantage point.

Newport Street is made up of narrow, uniform terraced properties, none of which have any front dormers. Therefore, front dormers are not a feature of other similar houses in the locality. In addition, the front dormer is of a flat roof design and would be readily visible from many properties and the highway of Newport Street. Therefore, it does not comply with the guidance in the Design Principles SPD.

Although the rear dormer is also of a flat roof design, this backs immediately onto the rear of an adjacent row of properties and therefore is not readily visible from the highway or public vantage points.

As a result, the proposed development is not acceptable in relation to design or visual amenity and as such does not comply with Policies ENV1, ENV2 and the Design Principles SPD.

### **Residential Amenity**

The proposed front dormer would face directly south west onto Newport Street. Given the siting of properties on the south western side of the road, the dormer would look to the east of No.9 onto a communal parking area. As a result, this would not cause detrimental overlooking to neighbouring occupiers.

The proposed rear dormer would face north east, towards the rear of properties on Rutland Street. This would result in a separation distance of 13 metres from the rear elevation of the closest neighbouring properties.

The Design SPD states that regard must be given to existing street patterns and the existing interface distance between properties characteristic in the area. Given these are rows of compact terraced properties and the proposed rear dormer would not decrease the separation distance between them as existing, it would comply with the street patterns of the area and not have a detrimental impact on residential amenity over and above the existing situation.

One window in the rear dormer is shown to serve a bathroom, a condition can be applied to the permission to ensure that this is obscure glazed.

Therefore, the proposed development is acceptable in terms of residential amenity in accordance with Policy ENV2 and the Design Principles SPD.

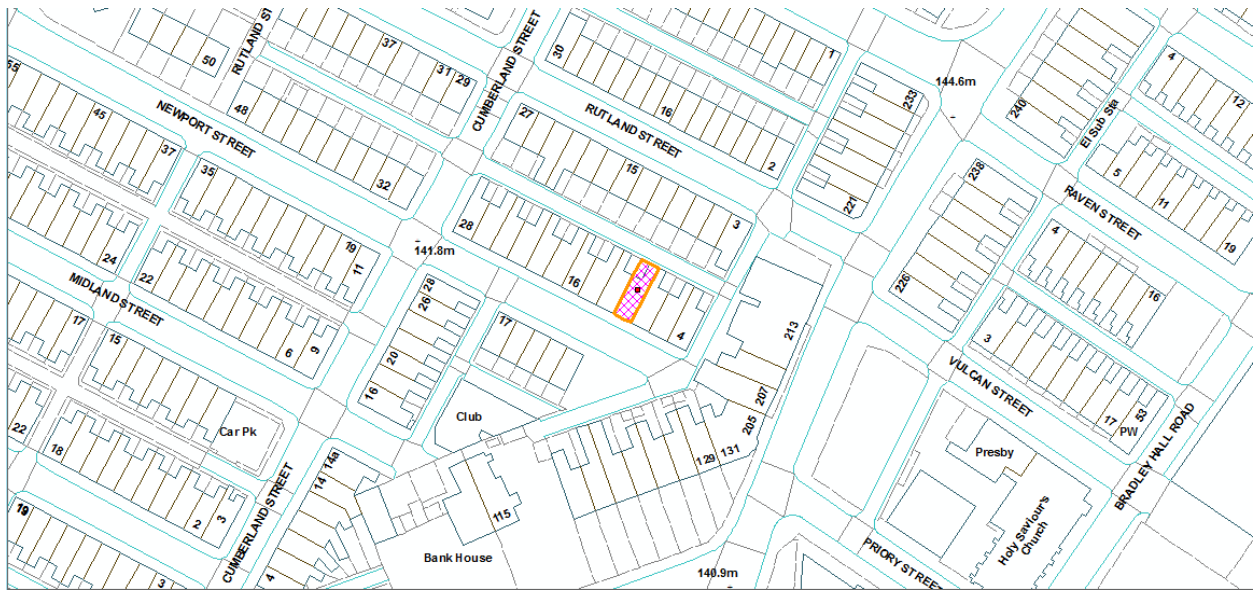
### **Highways**

The proposed development would result in an increase from two to four bedrooms at the property, therefore requiring three on plot parking spaces in accordance with Saved Policy 31.

However given the highly accessible location of the site, close to public transport links and town centre facilities a reduction from the maximum parking standards is acceptable.

**RECOMMENDATION: Refuse**

The visual impacts of the front dormer when related to the existing street scene are unacceptable. The front dormer is incongruous in terms of its flat roof design and large scale when related to the dwellinghouse and the area as a whole. The structure is therefore detrimental to the character of the area. As such the development fails to comply with Policy ENV2 of the adopted Pendle Local Plan Part 1: Core Strategy and the National Planning Policy Framework Paragraph 64.



**Application Ref:** 18/0024/HHO  
**Proposal:** Full: Erection of roof dormers on front and rear roof slopes.  
**At:** 10 Newport Street, Nelson  
**On behalf of:** Mr M Hasnaat

## **REPORT TO NELSON COMMITTEE 26 MARCH 2018**

**Application Ref:** 18/0047/HHO  
**Proposal:** Full: Erection of a first floor extension to the rear.  
**At:** 51 LOWTHWAITE DRIVE NELSON BB9 0SU  
**On behalf of:** Mrs S Ansar  
**Date Registered:** 17/02/2018  
**Expiry Date:** 14/03/2018  
**Case Officer:** Alex Cameron

### **Site Description and Proposal**

This application was deferred from the previous Nelson Committee meeting.

The application site is a semi-detached dormer bungalow style house located within the settlement of Nelson surrounded by similar properties. The land the house is sited on slopes steeply down from front to rear and the rear boundary of the garden abuts the side boundary of 11 The Warings, Kelswick Drive. The materials of the existing house are brick walls, timber clad dormers, concrete tile roof and upvc fenestration.

The proposed development is first floor extension to the rear. This would be built over an existing two storey split level extension to the side and rear, this application would add a second storey onto the rear extension of the existing extension.

### **Relevant Planning History**

13/15/0466P - Full: Demolition of garage and erection of two storey extension to side, single storey extension to rear and creation of parking space to front. Approved.

16/0446/HHO - Full: Demolition of garage and erection of a split level 2 storey extension to the side and 2 storey extension to the rear (resubmission) (part retrospective). Approved.

16/0626/HHO - Full: Demolition of garage and erection of a split level 2 storey extension to the side and 3 storey extension to the rear. Refused.

### **Consultee Response**

LCC Highways

Nelson Town Council

## **Public Response**

Nearest neighbours notified – Responses received objecting to the development on the following grounds:

- Loss of privacy.
- The building is an eyesore.
- The proposed development is the same scale as the previously refused application.

## **Officer Comments**

### **Policy**

#### Pendle Local Plan Part 1: Core Strategy

Policy ENV2 of the Pendle Local Plan Part 1: Core Strategy states that all new development will be required to meet high standards of design, this is expanded upon in relation to domestic extensions by the Design Principles SPD.

#### National Planning Policy Framework

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.

### **Design**

In determining the previous application it was concluded that the flat roofed design of the large and prominent rear extension would represent poor design contrary to paragraph 64 of the National Planning Policy Framework and policy ENV2.

In this application the flat roof has been replaced with a pitched roof. This pitched roof is in keeping with the existing building and surrounding area. Although the proposed development would result in a large extension which would be visible from parts of Lowthwaite Drive and Kelswick Drive, its scale and prominence alone would not be such that it would result in an unacceptable impact upon the character and visual amenity of the area. The proposed development is acceptable in terms of visual amenity in accordance with policy ENV2 of the Pendle Local Plan Part 1: Core Strategy.

### **Amenity**

The proposed bedroom window in the rear elevation would overlook the rear garden of 11 The Warings, Kelswick Drive separated by just 5m. This would result in an unacceptable loss of privacy of that garden. This could not be resolved with an obscure glazing condition, as with the ground floor and basement windows, because it would

leave the bedroom with no outlook, which would not be an acceptable living environment for its occupants. In addition, this could not be resolved by relocating the window to a side elevation because this would unacceptably impact upon the privacy of the gardens of the dwellings to each side.

The first floor bedroom window proposed in the side of the extension would face the roof of the detached garage of the adjacent house which would obscure direct views to habitable windows in the side of No. 49b and be at a sufficient angle from private areas to the rear to ensure that it would not unacceptably impact upon the privacy of those areas.

The height and position of the patio door in the side of the rear extension and the level of the proposed decking is the same as that approved in the previous application. The privacy impact of the decking and patio was assessed in determining the previous application and found to be acceptable.

The extension would be 5m from the side and rear boundaries, this is sufficient to ensure that it would not result in an unacceptable loss of light or overbearing impact of the adjacent properties.

The proposed development would result in an unacceptable loss of privacy to the resident of 11 The Warings, Kelswick Drive contrary to policy ENV2 and the guidance of the Design Principles SPD.

## **Highways**

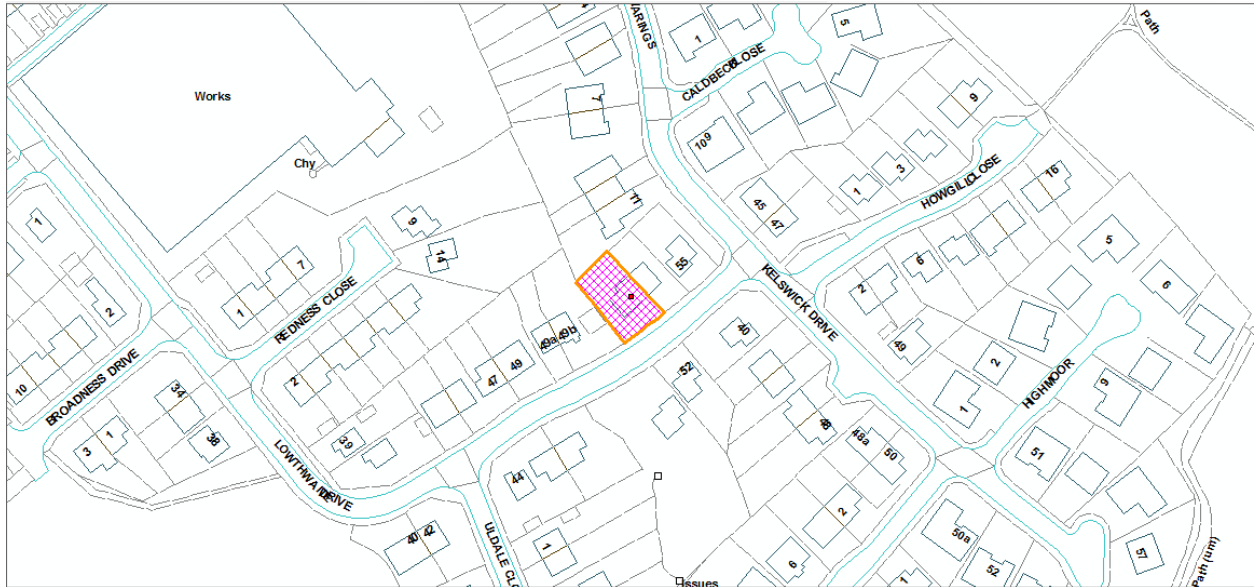
An acceptable level of off-street car parking provision is proposed and adequate drainage of the proposed parking area could be ensured with a condition. Therefore, the development is acceptable in terms of highway safety.

## **RECOMMENDATION: Refuse**

Subject to the following conditions:

1. The proposed rear extension would result in an unacceptable impact upon the privacy of the rear garden of 11 The Warings, Kelswick Drive to the detriment of the residential amenity of occupants of that property contrary to policy ENV2 of the adopted Pendle Local Plan Part 1: Core Strategy, the guidance of the adopted Design Principles SPD.





**Application Ref:** 18/0047/HHO

**Proposal:** Full: Erection of a first floor extension to the rear.

**At:** 51 LOWTHWAITE DRIVE NELSON BB9 0SU

**On behalf of:** Mrs S Ansar

## REPORT TO NELSON COMMITTEE 26<sup>th</sup> MARCH, 2018

**Application Ref:** 18/0096/VAR

**Proposal:** Variation of condition: Removal of condition 5 (Section 106 Agreement) of Planning Permission 13/15/0404P.

**At:** Land at the Junction with Bath Street, Bracewell Street, Nelson

**On behalf of:** Smith & Love Planning Consultants

**Date Registered:** 12 February 2018

**Expiry Date:** 14 May 2018

**Case Officer:** Kathryn Hughes

### **Site Description and Proposal**

The application site is a 0.98 ha piece of land off Bracewell Street in Nelson. The site has permission for residential development.

This application seeks to remove condition 5 to remove the requirements for a S.106 Agreement for an Education contribution.

### **Relevant Planning History**

13/07/0853P - Erect Nursing Home - 0.78 hect. - ( Outline ) - Granted February, 2008

13/08/0337P - Erect 96 place nursing home split level (6500sq.m floorspace) – Granted, September 2009.

13/11/0448P - Full: Major: Extension of Time: Extend time limit for implementation of Planning Permission 13/08/0337P to erect 96 place nursing home split level (6500m<sup>2</sup> floorspace) - Approved 29th November, 2011.

13/15/0404P - Outline: Major: Residential development (0.98ha) of upto 39 dwelling houses - Access only (from Priory Chase) – Approved 22<sup>nd</sup> December, 2015.

### **Consultee Response**

LCC Education – As the original assessment of the impact on school places by the development (app 13/15/0404) was based on a worst case scenario as no bedroom mix was provided at outline stage, LCC noted in the response that the requirement will be reassessed once a bedroom mix is provided. The original response claimed a secondary place requirement of 6 places based on an all 4 bed mix. This totaled £108,758. An education contribution was required as a condition of that application through an s106 agreement. As is required by our methodology, we will always

reassess based on updated bedroom mix and if an s106 had been sealed prior to RM stage as per all other applications this would have been reflected in the agreement.

The RM for app 13/15/0404 provides a mix of 20 x 2 bed and 19 x 3 bed. I have attached this assessment based on the current information. As the bedroom mix is reduced, the requirement for Secondary places to mitigate the impact of this development is now 2 places - £42,846.54. This response therefore replaces our initial assessment and should be the final total entered into the s106 agreement.

LCC request an Education contribution to mitigate the direct impact of the development on local school places and this is why your members have agreed this in the decision notice. Without the contribution the proposed development would be contrary to Policies SDP 1, SDP 6, SUP 1 and SUP 3 of the Pendle Core Strategy and also Paragraph 14 of the NPPF, in that the proposed development will not provide for the required education contribution to provide accessible local services that reflect the community need that results directly from the development.

I would be grateful if you could consider this response as a representation to the s73 removal of condition application (18/0096/VAR).

### **Public Response**

Site and press notices posted and nearest neighbours notified by letter without response.

### **Officer Comments**

The only issue for consideration here is the requirement for the developer to contribute towards education provision within the area. All other matters are as approved for the Outline and Reserved Matters applications.

#### **1. Compliance with Policy**

The relevant adopted Pendle Local Plan policies for this proposal are:

Policy SDP3 sets out the location of new housing in the Borough in conjunction with policies SDP2 and LIV1.

Policy ENV1 requires developments to make a positive contribution to the protection, enhancement, conservation and interpretation of our natural and historic environments.

Policy ENV2 states that all new development should seek to deliver the highest possible standards of design, in form and sustainability, and be designed to meet future demands whilst enhancing and conserving heritage assets.

Policy LIV1 sets out the requirement for housing to be delivered over the plan period. This policy allows for non-allocated sites within the Settlement Boundary as well as sustainable sites outside but close to a Settlement Boundary.

Policy LIV3 encourages and supports a range of residential accommodation and together with policies LIV4 and LIV5 has regard to the size, type and tenure of housing to meet an identified need.

Policy LIV4 sets out the relevant targets for contributions.

Policy LIV5 requires all new housing to be designed and built in a sustainable way. New development should make the most efficient use of land and built at a density appropriate to their location taking account of townscape and landscape character. Provision for open space and/or green infrastructure should be made in all new housing developments.

The following saved Replacement Pendle Local Plan policies are also relevant to this application:

Policy 16 'Landscaping in New Development' requires all development proposals to include a scheme of landscaping sympathetic to the site's character and vicinity. This issue is addressed under the Landscaping/Protected Trees section.

Policy 31 'Parking' supports car parking in new developments in line with the Maximum Car and Cycle Parking Standards. All new parking provisions should be in line with these standards unless this would compromise highway safety.

The National Planning Policy Framework (NPPF) provides guidance on housing requirements, design, sustainable development and viability which are relevant to this proposal.

### S.106 Contributions

LCC Education initially requested a contribution towards 6 secondary school places of £108,758. This was accepted provided that it did not result in the scheme being unviable.

The agent at the time responded that they would undertake to pay a contribution in principle provided that the figure was in line with the number of proposed bedrooms once a detailed scheme has been approved and that it did not lead to the scheme becoming unviable.

LCC Education has responded to this proposal to remove the contribution and have stated that as the Reserved Matters application provides a mix of 20 x 2 bed and 19 x 3 bed the requirement for Secondary places would be 2 places reducing the required contribution to £42,846.54.

Whilst the Education contribution would mitigate the direct impact of the development on local school places it was clear as part of the outline permission that this would be acceptable provided it did not adversely affect the viability of this site.

Calico has now been identified as the end user has now been identified as a social provider who seeks to deliver home ownership opportunities supported by a significant grant from the Homes and Communities Agency. As Calico is not profit driven their main aim is to deliver 39 locally affordable houses in challenging circumstances to existing families within the area as well as those seeking to relocate. Therefore the flexibility to absorb wider contribution requests on the complex site cannot be sustained

A viability statement has been submitted as part of this application.

The assessment concludes that the site would be unviable if the education contribution was to be included as part of the costs of the scheme and would prevent the delivery of this scheme. As a not for profit organisation the viability is essential.

This is mainly due to the abnormal site constraints which include:

- Significant ground level works;
- Sewer protection;
- Retaining structures.

Para 173 of the National Planning Policy Framework (NPPF) makes it clear that development should not be subject to obligations which would jeopardise the viability and para 205 states that where obligations are being sought or revised Local Planning Authorities should take account of changes in market conditions and where appropriate be sufficiently flexible in order to prevent planned development from being stalled.

In this case although the contribution has been reduced to take into account the approved housetypes this would still result in the scheme not be able to be delivered and notwithstanding the comments from LCC Education the provision of 39 local affordable houses is key concern especially taking into account the length of time the site has been vacant and would make a positive contribution towards the Borough's housing requirements.

It is therefore recommended that condition 5 requiring the education contribution be removed.

### Summary

The principle of residential units has been accepted in this location and the proposal would not adversely impact on residential amenity subject to appropriate conditions. The removal of the requirement to provide an education contribution would allow the

scheme to be delivered in a timely manner and accords with policies of the Local Plan Part 1: Core Strategy and the National Planning Policy Framework.

**RECOMMENDATION: Approve**

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

sa 4661/02, SSL:16606:200:1:1 & indicative layout plan.

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

3. Within one month/two weeks of the commencement of development, a plan and written-brief detailing the proposed phasing of the site shall have been submitted to and agreed in writing by the Local Planning Authority. 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.

4. The new estate road for the 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 other development takes place within the site and shall be extended to each property before occupation.

**Reason:** To ensure that satisfactory access is provided to the site before development commences and that each completed property has a satisfactory access prior to occupation.

5. 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.

**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.

6. A scheme for the disposal of foul and surface water shall be submitted to and approved in writing by the Local Planning Authority within two weeks of the commencement of development. The scheme shall provide for separate systems for foul and surface waters and be constructed and completed in accordance with the approved plans before the first dwelling is occupied.

**Reason:** To control foul and surface water flow disposal and prevent flooding.

7. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) Land off Bracewell Street, Nelson July 2015, reference number FRA312, by Betts Associates and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off generated by the 1 in 100 year (+30) critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

2. Further details of the provision of compensatory flood storage as mentioned in paragraph 5.3.5 of the FRA.

3. Identification and provision of safe route(s) into and out of the site to an appropriate safe haven.

The mitigation measures shall be fully implemented prior to occupation and subsequently 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:** 1. To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site.
2. To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.
  3. To ensure safe access and egress from and to the site.
  4. To reduce the risk of flooding from blockages to the existing drainage ditch
  5. To reduce the risk of flooding to the proposed development and future occupants.
8. No development shall commence until details of the design, based on sustainable drainage principles, and implementation of an appropriate surface water sustainable drainage scheme have been submitted to and approved in writing by the local planning authority.

Those details shall include, as a minimum:

- a) Information about the lifetime of the development, design storm period and intensity (1 in 30 & 1 in 100 year +30% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, 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.
- b) The drainage strategy should demonstrate that the surface water run-off must not exceed the pre-development greenfield runoff rate which has been calculated at 7.4 litres per second for the 1 in 1 year storm and 17.8 litres per second for the 1 in 100 year storm. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
- c) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts, headwalls or ditches or removal of unused culverts where relevant);
- d) Flood water exceedance routes, both on and off site;
- e) A timetable for implementation, including phasing as applicable;
- f) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates;
- g) Details of water quality controls, where applicable.

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

- Reason:** 1. To ensure that the proposed development can be adequately drained.



2. To ensure that there is no flood risk on or off the site resulting from the proposed development

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

**Reason:** 1. To ensure that the drainage for the proposed development can be adequately maintained.

2. To ensure that there is no flood risk on- or off-the site resulting from the proposed development or resulting from inadequate the maintenance of the sustainable drainage system.

10. No development shall commence 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:** 1. To ensure that appropriate and sufficient funding and maintenance mechanisms are put in place for the lifetime of the development

2. To reduce the flood risk to the development as a result of inadequate maintenance

3. To identify the responsible organisation/body/company/undertaker for the sustainable drainage system.

11. No development shall commence until details of the finished floor levels have been submitted to, and approved in writing by, the local planning authority. The development shall be constructed in accordance with the approved details.

**Reason:** For the avoidance of doubt, to comply with the requirements of the Flood Risk Assessment (FRA) Land off Bracewell Street, Nelson July 2015, reference number FRA312, by Betts Associates and to ensure a satisfactory standard of development.

12. All attenuation basins and flow control devices/structures are to be constructed and operational prior to the commencement of any other development and prior to any development phase.

**Reason:** 1. To ensure site drainage during the construction process does not enter the watercourses at un-attenuated rate.

2. To prevent a flood risk during the construction of the development

13. No part of the development shall be commenced unless and until a Construction Code-of-Practice 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 of wheel-washing facilities including location
  - f) Details, including likely vibration and noise levels at site boundaries, of the piling operations.
  - g) Measures related to construction and demolition waste management
  - h) Pollution prevention to include odour suppression, temporary drainage measures, control on re-fuelling activities and measures such as cut-off trenches to control gas migration.
  - i) Soil resource management including stock-pile management
  - j) Compliance with BS5228: Part 1 1997 to minimise noise
  - k) Measures to ensure that vehicle access of adjoining access points are not impeded.
  - l) Measures to ensure that there is no burning of waste.
  - n) Location and details of site compounds
  - o) Hoarding details during construction
  - p) An overall Construction Monitoring programme, to include reporting mechanisms and appropriate redress if targets/standards breached
  - q) Vibration monitoring to be carried out for the construction period.
  - r) Noise-monitoring to be carried out for the construction period.
  - s) A Construction Waste minimisation Strategy.
  - t) A Construction-Risks Education plan/programme

- u) Parking area(s) for construction traffic and personnel
- v) Routeing of construction vehicles

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).

14. No part of the development hereby permitted shall be commenced until details of the proposed ground levels have been submitted to and approved in writing by the Local Planning authority. The submitted details shall include a number of sections across the site, which shall indicate existing and proposed ground levels, together with the floor levels of any proposed dwelling/buildings through which the sections run and shall extend beyond the site boundaries to include any surrounding, adjacent properties. The development shall thereafter be implemented in accordance with the approved details.

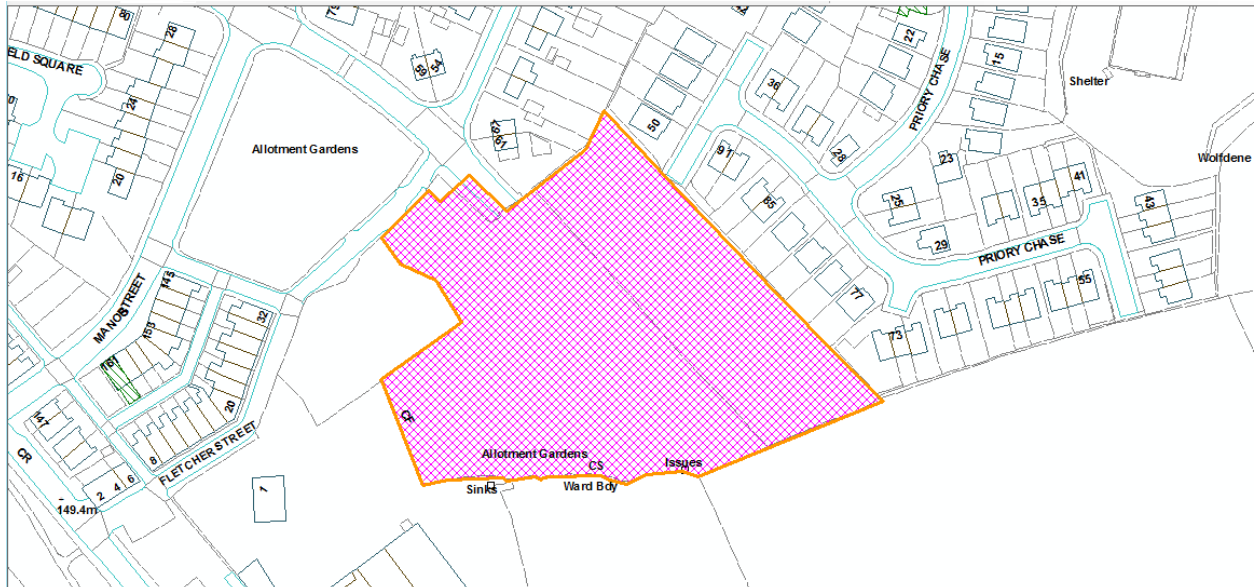
**Reason:** To enable the Local Planning Authority to assess how the development will accommodate the varied land levels and control the final form.

15. No work shall be undertaken during the bird breeding/nesting season unless provision has been made to ensure that no birds are nesting on site.

**Reason:** In order to prevent disturbance to nesting birds.

**Note:**

1. The alterations to the existing highway as part of the new works may require changes to the existing street lighting at the expense of the client/developer. 2. It is assumed that Lancashire County Councils Highways Maintenance will be consulted regarding the approval of street works details. 3. This consent does not give approval to a connection being made to the County Council's highway drainage system. 4. The submitted Flood Risk Assessment, paragraph 4.3.4 indicates that the applicant intends to build within 8 metres of the open watercourse. Construction within 8 metres of an open watercourse is not advised as access for maintenance purposes is restricted and it has the potential to pose an undue flood risk to structures should fluvial flooding occur. It is advised that the applicant modifies the proposed site layout to ensure that no structures are constructed within 8 metres of the top of the banks of the watercourse.



**Application Ref:** 18/0096/VAR

**Proposal:** Variation of condition: Removal of condition 5 (Section 106 Agreement) of Planning Permission 13/15/0404P.

**At:** Land at the Junction with Bath Street, Bracewell Street, Nelson

**On behalf of:** Smith & Love Planning Consultants

## **LIST OF BACKGROUND PAPERS**

Planning Applications

**NW/MP/CPB**

**Date: 16th March 2018**