

<b>REPORT FROM:</b>	<b>PLANNING, ECONOMIC DEVELOPMENT AND REGULATORY SERVICES MANAGER</b>
<b>TO:</b>	<b>SPECIAL POLICY AND RESOURCES COMMITTEE</b>
<b>DATE:</b>	<b>30<sup>th</sup> January 2020</b>

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## **PLANNING APPLICATIONS**

### **PURPOSE OF REPORT**

To determine the attached planning applications.

## **REPORT TO Policy & Resources Committee 30<sup>th</sup> January 2020**

**Application Ref:** 19/0801/FUL  
**Proposal:** Full: Erection of 79 houses and associated external works  
**At:** Land off Harrison Drive, Colne  
**On behalf of:** Pearl Together Limited  
**Date Registered:** 26th November 2019  
**Expiry Date:** 25<sup>th</sup> February 2020  
**Case Officer:** Neil Watson

### **Site Description and Proposal**

The application is made in full for the erection of 79 affordable houses. The site is broadly rectangular and is an unmanaged grass area. It slopes in a generally north west to south east direction with the highest north western section on ground that rises steeply towards the boundary.

There are pedestrian access points in each corner except the southern one which has a pedestrian access further east on Harrison Drive.

Access into the site is proposed via the demolition of one dwelling on Harrison Drive – number 62.

Under the constitution of the Council an application for housing which comprises of 60 or more units falls to be determined by the Policy & Resources Committee. The application is brought to Committee in order for Committee to be able to pass their comments and/or recommendations to Policy & Resources Committee for consideration.

### **Relevant Planning History**

None

### **Consultee Response**

LCC Highways –

Colne Town Council: We welcome this proposal and strongly support. We would wish to see permeable surfaces introduced.

Lancashire Constabulary: Refers to prevailing policy and legislation relating to crime and planning. Main points:

- Site should promote natural surveillance. Deep porches should be avoided.
- Open spaces are important but there should be natural surveillance. There is a concern about the footpath which would have little natural surveillance.
- A plan for the boundary treatment should be provided.
- Link footpaths to cul-de-sacs should be avoided.
- Back to back gardens will help to keep the area more secure.
- Avoid windowless elevations
- Landscaping to avoid obscuring light sources
- Parking spaces to be located in the curtilage of dwellings
- Fit intruder alarms
- Doors to be PD6662.2017 and glazing to BS EN 356 2000.
- Advice on securing the site in the construction phase.
- Blocked pipes have resulted in human waste flooding a property

### **Public Response**

Comments received up to the point of writing this report

- Need to address congestion on Harrison Drive. Should be assessed in morning and night time rush hours.
- Congestion on Harrison Drive
- Calming methods exaggerate the problems
- There has been recent flooding with human sewage running down Harrison Drive. There needs to be a larger diameter pipe
- Destruction of wildlife habitat for endangered species including hedgehog, toads and bats
- Demolition of an existing family house
- Additional noise, air and light pollution
- Concern that the development would devalue houses by at least 20%.
- Attending to assess traffic on a weekday lunch is inadequate and it should be assessed in rush hour periods at morning and night.
- The Pendle open space audit published in February 2019 shows on table 4.1 that Pendle is below average for open green space, this is yet to further reduce if this planning is granted.
- The aforementioned traffic report is invalid as a one hour timeframe is not enough to conclude on traffic on a residential road. A survey of a wider timeframe, incorporating weekends, evenings and rush hour traffic would be ideal to get a real figure of the traffic problems faced in this area. The developers should be forced to come up with a traffic solution and pay for the changes before planning is granted. An addition of 70+ cars would create gridlock, increase pollution in the atmosphere and cause further congestion along north valley road.

- The area on which these houses is to be built would be better suited for development that increases its use. A park or allotments to provide a community space not just for the houses that surrounds it but the wide community.
- The style of the houses to be built does not match the style of the houses that surrounds it, thus looking out of place in the area. Any new housing developments should use the same materials and decoration as the outside of the surrounding properties. Failing this the surrounding properties should be given redevelopment work to put them in the same standard as the new houses.
- The wide scale disruption, ecological and environmental damage is not worth it for extra houses.

A 65 signature petition has been received. The petition states: “We, the undersigned OBJECT to the PROPOSED building of houses on the common land, playing field area between Harrison Drive, Tennyson Road and Slater Avenue, Colne.”

### **Officer Comments**

The application site is an area of grass that is surrounded by housing on all four sides. It has in the past been used for informal recreation as well as football matches. The formal use of the site ceased circa 12 years ago. The site has since not been used for any formal activities but has been used for informal recreation.

The site is not designated for any purpose in the Local Plan but is defined as Open Space.

### **Planning Policy**

The starting point for any planning application is the development plan for the area which in this case is the adopted Part 1 Local Plan – Core Strategy. The Planning & Compulsory Purchase Act 2004 requires that in making decisions on applications the decision should be made in accordance with the development plan unless material considerations indicate otherwise.

Policy SDP 1 sets out the overall position in making decisions and that there will be a positive presumption in favour of sustainable development.

Policy SDP2 sets out the overall spatial distribution of development in the Borough. The M65 corridor is the location that should receive the majority of growth with the towns of Barnoldswick, Nelson and Colne designated as Key Service Centres.

Policy SDP 3 looks at overall levels of housing distribution with the M65 Corridor having 70% of the overall housing identified as being delivered in it.

Policy ENV 1 considers the protection and enhancement of the natural and historic environments. It states that existing open spaces will be protected from development except in accordance with the National Planning Policy Framework (“the Framework”) in

the former paragraph 74. Paragraph 74 has been replaced by paragraph 97 of the revised Framework.

Policy ENV2 considers design and design quality. It seeks to achieve the highest possible standard of design reflecting the history and development of place.

ENV 4 seeks the promotion of sustainable patterns of travel.

Policy ENV 5 considers pollution and unstable land. Emissions and public exposure to pollution are required to be minimised.

Water management is considered in ENV 7. It sets out a sequential approach to site selection for flooding and the use of sustainable urban drainage systems. Surface water run off systems have to mimic the natural discharge process.

Policy LIV 1 sets out the minimum level of housing the Borough should achieve over the life of the Plan. It sets a minimum of 298 units to be delivered each year.

Policy LIV 4 sets out affordable housing targets. There is no requirement of affordable housing in the M65 corridor.

### **National Planning Policy Framework (“the Framework”)**

The Framework sets out the overall policy framework for planning in England. It sets out that there are 3 overall objectives to sustainable development environmental, social and economic aspects.

There is a presumption in favour of sustainable development as set out at paragraph 11:

For **decision-taking** this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>7</sup>, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The Framework re-emphasises the law in indicating that the starting point for assessing development is the development plan.

Section 5 is devoted to delivering a sufficient supply of homes.

Paragraph 73 requires LPAs to have sufficient land to deliver a five year supply of land including the relevant buffer (20%). The latest figures are that there is a 4.6 year supply in Pendle. That is assessed against the annual requirement of 298 units per annum.

There is a presumption in favour of sustainable development as set out in paragraph 11. Applications that conform to the development plan should be approved. Where policies are out of date development should be approved unless the policies in the Framework provide a clear reason for refusing (the policies which apply are set out in footnote 6) or any adverse impacts of approving would significantly and demonstrably outweigh the benefits. This is commonly referred to as “the tilted balance”.

In broad terms a five year supply of housing is calculated by assessing how many units are required per annum, adding or subtracting houses delivered or under delivery, adding in the appropriate buffer for under delivery and then assessing how many houses can be brought forward within 5 years on sites. Pendle currently has a 4.6 years supply of land. The tilted balance is therefore applicable to housing schemes. Paragraphs 54- 57 consider viability and contributions from developments. Paragraph 57 states:

“Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.”

Open space is referred to at paragraphs 96 to 101.

Paragraph 97 states:

97. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of *quantity and quality in a suitable location*; or
- c) *the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.*

## Highways

Section 9 looks at national policies on transport. The emphasis is to promote sustainable methods of transport and manage patterns of growth accordingly.

108. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Section 12 seeks to achieve well-designed places with developments functioning well and add to the quality of the area and be visually attractive.

## Open Space Audit

The OSA was updated and agreed by the Policy and Audit Committee in May 2019.

Harrison Drive is identified as being amenity greenspace but of poor quality with a high need of enhancement. Vivary Bridge is shown to have lost 19.88 ha of open space between the 2008 OSA and the 2019 OSA. However that has been the result of double counting of woodland and is not reflective of the actual position.

The number of open space sites between the two OSAs has remained at 52. In terms of the amount of open space there is surplus of 3.33 ha in Vivary Bridge above the norm for all Wards in Pendle.

## Consultee Comments

Highways Authority:

Town Council: Strongly support the application. Wish to see permeable surfaces introduced

Lancashire Constabulary: A detailed response has been received which looks at a number of design issues. These include:-

- Door recesses for natural surveillance
- Natural surveillance of open spaces
- Back to back garden redesign
- Windowless elevations
- Parking to be within curtilages
- Appropriate boundary treatments
- Concealed bin alleyways
- Individual dwelling security

Airdale NHS Foundation Trust: Detailed comments which indicate that the Trust plans for long term population growth but cannot cater for unanticipated growth in the medium and short term. They are required to provide a service in line with the NHS Standard Contract which is agreed annually. The contract includes population growth but that does not include ad-hoc housing development. The request indicates that the contribution is being sought not to support a government body but to provide services needed by the occupants of the new development. The development is indicated to directly affect the ability to provide a health service required for those who live in the development.

The Trust commissions acute and other services to meet the needs of their population and agrees service level agreements. They cannot however refuse to deal with anyone who presents themselves for treatment. In accordance with the formulae provided there is a request for £6,121.71. In accordance with the formulae provided there is a request for £6,121.71. This is based on a 5.25% activity rate of people using Airdale acute care from within the East Lancs Trust Area.

East Lancashire Hospitals NHS Trust; Detailed comments which indicate that the Trust plans for long term population growth but cannot cater for unanticipated growth in the medium and short term. They are required to provide a service in line with the NHS Standard Contract which is agreed annually. The contract includes population growth but that does not include ad-hoc housing development. The request indicates that the contribution is being sought not to support a government body but to provide services needed by the occupants of the new development. The development is indicated to directly affect the ability to provide a health service required for those who live in the development.

The Trust commissions acute and other services to meet the needs of their population and agrees service level agreements. They cannot however refuse to deal with anyone who presents themselves for treatment.

A contribution of £110,864 is requested. The request is that this is received on implementation of the planning permission.

LCC Schools Planning Team: The assessment indicates that there will be a need for another 5 secondary school places resulting from this development but there will not be a requirement for and primary school places. The request is for a contribution of £120,925.80 from the development.



United Utilities: Foul and surface effluent to be drained to a separate system. Following the FRA UU have no objections to the scheme subject to conditions.

### **Comments from Members of the Public**

A 66 person petition has been received titled: "We, the undersigned OBJECT to the PROPOSED building of houses on the common land, playing field between Harrison Drive, Tennyson Road and Slater Avenue, Colne."

At the time of writing this report 3 individual letters of objection have been received objecting on the following grounds:

- An increase in the amount of traffic
- There could be more than 90 carts and the entrance into the site is poor.
- A house has to be demolished that has a family living in it and they must not be forced out of their house
- Not enough has been done to reduce congestion on Harrison Drive. Existing traffic calming leads to congestion.
- Recent flooding has led to human sewage from a blocked pipe resulting in flooding form Tennyson Road. Unless a larger diameter pipe is installed further flooding will occur

### **Officer Comments**

- 1.1 The application seeks to erect 79 houses on an open space site located in the settlement of Colne. A new access would be formed with the loss of existing housing to provide the land to form it. Whilst all material issues need to be considered highways, design, loss of open space, drainage and requested contributions form key issues to be considered. The Council cannot demonstrate a five year supply of land and as such consideration needs to be given to paragraph 11 of the Framework in coming to a conclusion on the merits of allowing or refusing the application.

#### **Highway Issues**

- 1.2 The development proposes to provide 200 car parking spaces. This is an average of 2.5 spaces per dwelling with all dwellings having a minimum of two individual parking spaces. The parking is predominantly provided between the front gardens and carriageway. Spaces should be specifically designated for each property.
- 1.3 The proposed access would be directly onto Harrison Drive through the garden of a demolished house. A 5.5m wide access road is proposed and that would have 1.8m wide footways on either side. The submitted drawings show that a visibility spay of 27.1m can be provided. However the visibility from the access would be much more extensive than this as there are no physical obstructions to visibility except for street trees. These do not provide a barrier to visibility that would hinder a driver being able to adequately see oncoming pedestrians or motorists in either direction.

- 1.4 Traffic speeds are restricted by a series of speed humps which will assist in keeping vehicles speeds down on Harrison Drive.
- 1.5 The Transport Statement uses the nationally accepted TRICS database to establish the level of traffic that would be generated by the development. Peak morning and peak afternoon trip generations are 29 two way traffic movements. The highway network can adequately cope with that level of addition vehicle movements.
- 1.6 The comments from the highways authority have not been received at the time of writing this report. Any issues arising from those comments will be reported to committee in an update.

### Design and Visual Impact

- 1.7 The site sits in an urban area. It slopes generally from a north to south direction with the northern part of the site lying on steeper more elevated ground. The site is seen from the south from street locations. The street pattern of terraced properties from the town centre to the south means that there are intermittent views of the site. These views are influenced by the houses surrounding the site.
- 1.8 The proposal is to have a linear pattern of development which will run in parallel to the housing surrounding. The visual impact of the development would be low as the development would fit into the existing urban grain of the settlement on a site that is not prominent in landscape terms. There are no objections to the scheme from a visual impact and landscape perspective.
- 1.9 The general design of the houses surrounding is uniform comprising of blocks of four houses which are two storey under a terracotta roofs. There are properties with slate grey roofs but the predominance is terracotta. The largest general impact in terms of design will be the roofs of the new dwellings as this is what will be seen from outside of the site. It is important that all of the new houses have the same roof tiles as otherwise, in combination with the variations on some of the houses surrounding, there would be a disjointed appearance to the detriment of the townscape of the area. The proposal is to have slate grey coloured roof colouring which would fit into the general landscape of the area.
- 1.10 The designs individually proposed are a combination of render and stone for the walls under a slate grey roof. The design within the site would be acceptable and with the surrounding houses effectively enclosing the development there'd be little public design impact from outside of the site. Specific design comments are made on security in the next section.

- 1.11 The proposed new houses will be 21m distant from the rear of the existing houses. Due to topography of the site there will be slight variations in the finished floor levels of houses to the existing ground levels. The height changes are however responses to making the plots level and do not impact on the relationship between the proposed on existing houses.

### Security

- 1.12 The security concerns expressed by Lancashire Constabulary have been discussed with the applicant. Changes to the scheme have been made consisting of:
- Removal of path at the back of the central section of properties
  - Windows added to gable elevations for better natural surveillance
  - Insertion of side windows to improve overlooking of communal areas
  - Provision of lighting to footpaths
  - Redesign of the footpath to the rear of the central houses and putting a secure footway in for bin servicing
- 1.13 There have not been changes to the layout to remove the recreation space on the north of the site as we do not agree that there is a justification on security grounds for a redesign. This area will be lit, is elevated above the adjoining houses and will be visible for the rear of the properties. The design of the recessed porches have also not been removed as we do not accept that these are a specific security risk and they provide a good design feature.

### Drainage and Flooding

- 1.14 A flood risk assessment has been submitted with the application. The site is at low risk of fluvial flooding and low risk with all other forms of flooding except for ground water. With the removal of material from the site and the implementation of surface water disposal system that would reduce the risk of groundwater flooding to a minimum.
- 1.15 The greenfield run off rate (1 in 100 year storm event + 40% for climate change) is calculated to be 24.15l/s. To achieve this as a run off rate 506m<sup>3</sup> of attenuation would be needed.
- 1.16 No comments have yet been received from the statutory consultees on the drainage strategy. On the basis that the greenfield run off rate has been correctly calculated the information submitted is acceptable. A condition requiring further details of the final scheme and limiting the run off rate would adequately address any drainage concerns.

### Open Space

- 1.17 The site formerly was used for organised football but that ceased over 10 years ago. It is classified as open space in the last Open Space Audit and is now used for informal recreation, mainly by dog walkers. The land itself consists of unkempt overgrown grass but has a number of informal paths crossing it. There are styles in three out of the four corners allowing people to walk across the land.

- 1.18 The site is identified as being 2.765 ha of amenity greenspace in the Vivary Bridge Ward. Vivary Bridge has 52 areas of open space in it with no loss between the 2008 and 2019 open space audits (“OSA”). There are 5.68 ha of amenity greenspace in Vivary Bridge. The OSA identifies that Vivary Bridge has a surplus of 3.33ha of amenity greenspace when set against the average for every ward.
- 1.19 There is a general presumption in policy not to reduce green spaces without compensatory measures elsewhere or justifying that the open space is no longer needed. The site sits in close proximity to Alkincoats Park and the sports pitches associated with Cone Football and Rugby Clubs. The land has not been identified as being needed for sports purposes in the Pendle Playing Pitch Strategy produced jointly including with Sport England. The land is overgrown, and mainly used for either walking across or for exercising dogs. It does not serve a specific purpose and is surplus to current requirements.

#### Contributions

- 1.20 Contributions have been requested from Lancashire County Council as education Authority and two NHS Trusts.
- 1.21 In terms of health service contributions there are a number of concerns about the request and justification for those requests. Planning legislation allows for conditions to be placed on developments to make them acceptable. It also provides for the possibility of payments being made through section 106 agreements for infrastructure affected by a development. The law surrounding this is as follows:

- 1.22 Section 106 of the 1990 Act provides as follows:

(1) Any person interested in land in the area of a local planning authority may, by agreement or otherwise, enter into an obligation (referred to in this section and sections 106A and 106C as “a planning obligation”), enforceable to the extent mentioned in subsection (3)—

- (a) restricting the development or use of the land in any specified way;
- (b) requiring specified operations or activities to be carried out in, on, under or over the land;
- (c) requiring the land to be used in any specified way; or
- (d) requiring a sum or sums to be paid to the authority (or, in a case where section 2E applies, to the Greater London Authority) on a specified date or dates or periodically.

(2) A planning obligation may—

- (a) be unconditional or subject to conditions;

(b) impose any restriction or requirement mentioned in subsection (1) (a) to (c) either indefinitely or for such period or periods as may be specified; and  
(c) if it requires a sum or sums to be paid, require the payment of a specified amount or an amount determined in accordance with the instrument by which the obligation is entered into and, if it requires the payment of periodical sums, require them to be paid indefinitely or for a specified period....”

The relevant parts of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (“the CIL Regulations”) are as follows:

(1) This regulation applies where a relevant determination is made which results in planning permission being granted for development.

(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

Section 216(1) of the Planning Act 2008 together with Regulation 59 of the CIL Regulations requires charging authorities to apply CIL payments to “supporting development by funding the provision, improvement, replacement, operation or maintenance of infrastructure”.

Section 216(2) defines “infrastructure” as follows:

“infrastructure” includes—

- (a) roads and other transport facilities,
- (b) flood defences,
- (c) schools and other educational facilities,
- (d) medical facilities,
- (e) sporting and recreational facilities, and
- (f) open spaces”

1.23 The request for contributions for health care services does in my view overall fit into a category of infrastructure that could, if necessary to make the development acceptable, fall within a category of infrastructure that can be funded through a section 106 agreement. However that does not mean to say that the contribution being requested meets the tests set out in the CIL Regulations detailed above.

1.24 Case law is clear that planning permissions cannot be bought or sold hence any sum to be paid to a planning authority must be for a planning purpose which should in some way be connected with the land in which the developer is interested.

- 1.25 The issue for Committee is whether the funding has a direct connection to the development and whether this would be fairly and reasonably related in scale and kind to the development.
- 1.26 Robust evidence is required to support a request for a contribution. In London for example a model has been produced which attempts to provide robust and up to date evidence on the need for a contribution. The model is referred to as the HUDU model. This looks at the specific circumstances of each development in its own location reflecting the population characteristics of the area.
- 1.27 The requests are there to deal with a one year contribution to deal with services that need to be provided over a one year period. After that the population growth from the development will be known and can be planned for. There is no accounting in wither response for the time it would take to build a development. Sites take time to develop out and build rates are normally at 25-30 units per annum as a maximum. After a year the NHS would be in a position to have accounted for the population growth in their standard contract. This is not taken into account in the contribution request and should be as any contribution must be necessary to make the development acceptable. Any contribution for services outside of the one year contract would not be necessary.
- 1.28 The evidence supplied with this request does not in my view go far enough to support the view that the impacts of the individual development is directly related to healthcare deficiencies. A flat rate is applied to all developments which will inevitably result in some developers over providing and some underproviding. The model does not factor in demographic modelling of the area and does not for example look at any percentage of the population that may move into the developments and that they are already resident in the area thus not increasing the demand on services.
- 1.29 We have also raised a concern about the timing of funding and that developments can take several years in order to come to fruition. From the information supplied to us it appears that once a development is known about then financing is included in the next budgetary year. The issue therefore is that if developments take several years to come forward and they are included in financial planning after year 1 then the develop[per would be paying for services already funded in the standard funding formulae.
- 1.30 Whilst more accurate evidence could be provided were the model to be finessed as it stands it is not sufficiently robust to prove the level of contribution fairly reflects the impact the development would have on services.
- 1.31 This is an important issue that will arise in other developments in the Borough. In order to get an independent view on this we have obtained Counsel's opinion on this.

That advice is legally privileged but supports the view that the evidence is not sufficiently robust to be able to support a requirement for the contribution requested.

- 1.32 The development is for 100% affordable units and will be a joint development between several partners including Together Housing Group. The developer has produced a development appraisal. This shows a 4.76% return on the gross development value. This is significantly below the government recommended developer profit levels of between 15-20%.
- 1.33 Requiring a contribution would impact on the viability of the scheme which is already significantly below the nationally set levels of return.
- 1.34 Committee are therefore recommended not to require a contribution to the NHS as the evidence is not robust enough to confirm that the funding is directly enough related to the development and is fairly and reasonably related in scale and kind to the development. The level of contribution would also undermine the already low level of profitability and would jeopardise whether or not the scheme would proceed. The provision of affordable housing is a major need within Pendle and significant weight should be attached to providing that housing.
- 1.35 In terms of an education contribution it is important that adequate facilities are provided for the education of our population. However it is clear that the level of contribution here would have an impact on the viability of the scheme which is already at an extremely challenging level. Providing much needed affordable housing is an important benefit to the scheme alongside the other supply chain benefits that providing housing has. The requirement for an education contribution would mean that the scheme would not go forward and in balancing the requirement for education against delivery of the scheme it is recommended that no contribution be required.

#### Five Year Housing Supply

- 1.36 Pendle currently does not have a five year supply of housing. As such consideration needs to be given to paragraph 11 of the Framework. This is quoted above but is commonly referred to as the application of the tilted balance. As with all applications the development needs to be assessed against the development plan and then the tilted balance needs to be taken into consideration. The tilted balance indicates that where policies most relevant for the determination of the application are out of date approving the application unless the any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 1.37 For this application the development would conform to the development plan and the recommendation is to approve it. The tilted balance would add weight to this as the benefits would outweigh any disbenefits.

## **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 application submitted accords with Local Planning Policy and 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**

- 1 The proposed development hereby permitted shall be begun before the expiration of three years from the date on 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: Location Plan, Proposed Site Layout Rev G, A01 Plans Rev B, A02 – 2D Elevations Rev B, A01 – 2D Elevations Rev B, A01 – 4 Plans Rev A, A02 -3 Plans Rev B, A02 – 3C Elevations Rev B, A02 – 2 Plans Rev B, A02 – 2B Elevations Rev B, A02 – 4A Elevations Rev A, A02 – 4D Elevations Rev A, A03 – 2 Plans Rev A, A03 – 2C Elevations Rev A, A01 – 4D Elevations Rev A, A01 – 4E Elevations Rev A, A02 – 4 Plans Rev A, A02 – 2A Elevations Rev A, A02 2C Elevations Rev A.

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

- 3 Prior to the commencement of any above ground works a scheme for the phasing of the development of including provision of roads, sewers and other infrastructure shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be undertaken in strict accordance with the approved scheme.

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

- 4 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 prior to the occupation of any dwelling. The approved scheme shall thereafter be complied with at all times unless an alternative is agreed in writing by the local planning authority and thereafter the alternative scheme shall at all times be



complied with.

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

- 5 The first works on site shall be the formation of the access into the site for a distance of 30m from the running edge of public highway. The access shall be completed to base course level.

Reason: In order to ensure the site is serviced by a safe access in the interests of public highway safety.

- 6 The access shall be so constructed that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the adjoining edge of carriageway, to points 1.05 metres above ground level at the edge of the adjoining carriageway and 45 metres distant in each direction measured from the centre of the access along the nearside adjoining edge of carriageway prior to the commencement of any other works on site and thereafter be permanently retained.

Reason: In order to ensure satisfactory visibility splays are provided in the interests of highway safety.

- 7 No dwelling shall be occupied unless and until it is connected to a surface and foul water disposal scheme. Details of the scheme shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. The scheme shall provide for separate systems for the disposal of foul and surface effluent. The surface water shall discharge from the site at a maximum rate of 24.15l/s. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

Reason: To ensure that the proposed development can be adequately drained and to ensure that there is no flood risk on or off the site resulting from the proposed development.

- 8 No development shall commence unless and until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall include details of the location of site compounds, the hours of work on site, the method of ensuring that the local highway network is kept free of mud arising from the development, the suppression of dust and the measures to ensure residents are not disturbed by delivery vehicles waiting to enter the site. The development shall at all times thereafter be carried out in strict accordance with the approved method statement.

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

- 9 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.

- 10 The floor levels of the dwellings shall be as set out on approved plan A1825 90-003C or alternatives to be agreed in writing by the Local Planning Authority.

Reason: The levels proposed are acceptable in order to safeguard the amenity of adjoining residential properties.

- 11 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 to each plot before any development commences on that plot. The final wearing course shall be completed to each plot within 2 years of the substantial completion of each plot or within one week of the substantial completion of the final house on site whichever shall occur first unless another timescale is agreed in writing by the Local Planning Authority. If an alternative timescale is agreed the completion of the highway shall be undertaken in strict accordance with the agreed timescale.

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

- 12 Prior to the occupation of any dwelling a plan detailing the provision of car parking spaces and the allocation of those to individual houses shall be submitted to and approved in writing by the Local Planning Authority. The car parking shall thereafter be provided and completed in accordance with the approved plan and the spaces shall be retained for the parking of cars associated with each dwelling.

Reason: In order to ensure that each dwelling is provided with adequate off road parking in the interests of public highway safety.

- 13 Prior to the occupation of each dwelling it shall have an electric vehicle charging point provided to service it.

Reason: To ensure that the development provides for sustainable modes of travel.

- 14 Prior to the commencement of development details of the materials to be used

on all external surfaces on the development shall be submitted to and have been approved in writing by the local planning authority. The development shall thereafter at all times be undertaken using the approved materials.

Reason: To ensure a satisfactory form of development in the interest of visual amenity of the area.

- 15 Windows and doors shall be set back from the external face of the walls of the units by at least 75mm in depth.

Reason: To ensure a satisfactory form of development.

- 16 Prior to the first occupation of any dwelling details of the landscaping for the site shall have been submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be implemented in its entirety within the first planting season following the substantial completion of the development. Any tree or other planting that is lost, felled, removed, uprooted, dead, dying or diseased, or is substantially damaged within a period of five years thereafter shall be replaced with a specimen of similar species and size, during the first available planting season following the date of loss or damage.

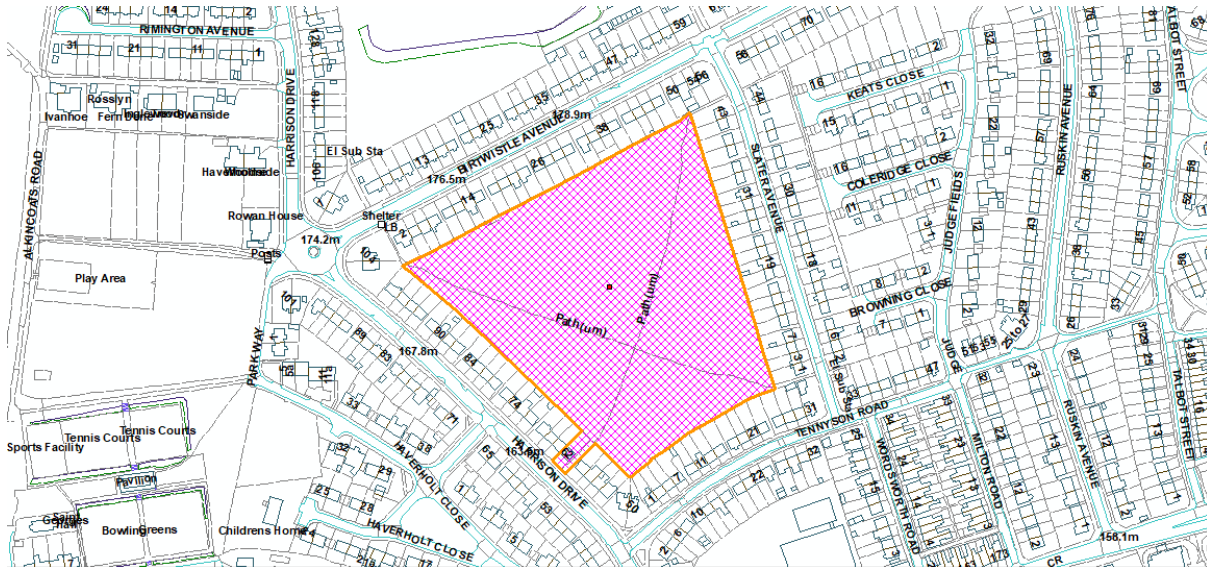
Reason: To ensure that the development is adequately landscaped so as to integrate with its surroundings

- 17 Before a dwelling unit is occupied waste containers shall be provided on each plot.

Reason: To ensure adequate provision for the storage and disposal of waste.

- 18 The footpaths around the site shall be lit in accordance with the approved layout scheme in accordance with a phasing scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to provide a safe environment.



**Application Ref:** 19/0801/FUL

**Proposal:** Ful: Major: Erection of 79 dwelling houses and associated external works.

**At:** Recreation Ground, Harrison Drive, Colne

**On behalf of:** PEARL Together Ltd

**Date Registered:** 26/11/2019