



**REPORT FROM:** PLANNING, ECONOMIC DEVELOPMENT AND  
REGULATORY SERVICES MANAGER

**TO:** BRIERFIELD AND REEDLEY COMMITTEE

**DATE:** 3rd March 2020

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## PLANNING APPLICATIONS

### PURPOSE OF REPORT

To determine the attached planning application.

## REPORT TO BRIERFIELD AND REEDLEY COMMITTEE ON 03 MARCH 2020

**Application Ref:** 19/0900/OUT  
**Proposal:** Outline: Major: Erection of 19 dwellings, access and associated works (access and layout).  
**At:** Land to the east of Bowland View, Brierfield  
**On behalf of:** Cross Construction Ltd  
**Date Registered:** 03/12/2019  
**Expiry Date:** 03/03/2020  
**Case Officer:** Alex Cameron

This application has been brought before Committee as it is a major development.

### **Site Description and Proposal**

The application site is a field located adjacent to the settlement boundary of Brierfield. The land is within the open countryside and of no designation in the Replacement Pendle Local Plan. To the west is the rear of Sunningdale Gardens to the north is open land, to the east is open land and dwellings at Little Tom's Farm and to west are dwellings on Bowland View and Stoneyhurst Height.

Public footpaths 19 and 30 run to the east and south of the site. Whilst there are no public rights of way running through the site on the definitive map there are informal routes running across the site which appear to have been in use for some time.

This is an outline planning application for access and layout only for the erection of 19 dwellings. The proposed layout shows detached and semi-detached dwellings arranged in 2 cul-de-sacs surrounded by green 'biodiversity area' spaces, provision is proposed to provide routes through the site with pedestrian links to through to Footpath 19 to the west and Sunningdale Gardens to the south.

### **Relevant Planning History**

None.

### **Consultee Response**

**LCC Highways** – No objection.

Further to our response dated 7 January 2020 to the above application, and the receipt of a revised Indicative Site Layout Plan (Ref No AV/01 Dwg 02A dated 20.01.20) we make the following, additional comments.

The revised plan has addressed the points we raised regarding the site access, provision of a footway on Bowland View and internal layout.

For the avoidance of doubt, the site access should be constructed as shown on the revised plan, that is, a carriageway width of 5.5m and 2m wide footways either side.

The following, amended conditions and note should be applied to any formal planning permission granted:

- site access construction
- engineering, drainage, street lighting and constructional details of the roads and footways
- construction method statement
- management and maintenance of the proposed roads and footways
- access/estate road construction
- completion of roads
- parking
- electric vehicle charging
- note relating to highway works

**PBC Environmental Health** – Please attach the following conditions: contaminated land, construction method statement including hours of work and deliveries, construction noise and vibration and burning on site.

**LCC Education** – Request a contribution towards the provision of four secondary school places.

**East Lancashire Hospitals NHS Trust** – Request a contribution to provide additional services to meet patient demand in the first year of the occupation of the dwellings projected to be 104 unplanned acute healthcare interventions.

**PBC Public Rights of Way** – There appear to be a number of public rights of way which cross the site of the proposed development. These rights of way are not recorded on the definitive map for Lancashire but the effect of the Highways Act 1980, Section 31 is the presumed dedication of public highway rights by the landowner after public use of 20 years. The evidence of use can be seen in site aerial photographs dating back to 2000 which appear to show a clear network of footpaths through the site. This evidence is currently inconclusive but it is open to any member of the public to apply for a DMMO (definitive map modification order) for these paths to be added to the definitive map. If such an order is made and confirmed then conclusive evidence of the rights of way through the site would exist from the date on which the order is confirmed.

The developer should be concerned about this because any houses built and private gardens set up across proven rights of way (i.e. as from the date confirmation of a DMMO) would be classed as rights of way obstructions. Even if the highway took no action with regards to its statutory duty to keep all such rights of way free of obstruction, any future householder may find it difficult to sell a house with a recorded right of way through it, or to obtain a mortgage on such a property.

In order to overcome the rights of way issues with regards to the current planning application the applicant could acknowledge the existence of the rights of way through the site and make a separate application to the Council for these to be diverted or extinguished to enable the development to be carried out. The Council could then make an order under Section 257 of the Town and Country Planning Act. This would have the added benefit of ensuring that the linking paths shown in the indicative site plan would have the status of public rights of way and the future protection which this affords.

I would be grateful if you could include a note on planning permission if granted that rights of way appear likely to have come into existence on the site and the developer should endeavour to take the steps outlined in the paragraph above.

**United Utilities** – Following our review of the submitted Drainage Strategy (Ref: 19.652, dated August 2019) we can confirm the proposals are unacceptable in principle to United Utilities. This is because sufficient evidence has not been provided to rule out more sustainable sustainable drainage solutions in line with the drainage hierarchy as outlined in paragraph 80 of National Planning Policy Guidance. Therefore, we request the following drainage conditions are attached to

any subsequent approval to reflect the above approach: surface water drainage scheme, foul water drainage.

**Lead Local Flood Authority** – An appropriate site-specific flood risk assessment is required.

### **Public Response**

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

- Roads leading to the site are of insufficient width / capacity to provide safe and suitable access to the development and for construction traffic.
- Roads leading to the site are not gritted in winter.
- Traffic increase on surrounding roads.
- Residential amenity impact of increased traffic and construction traffic / activity.
- Loss of a green space popular for recreational use.
- Impact on the flora present on the site including English bluebell.
- Loss of wildlife habitat used by protected species.
- Adverse impact on public rights of way.
- Potential damage to dry stone walls and livestock.
- Insufficient capacity of schools and medical services in the area.
- Impact on views of the countryside from adjacent dwellings.
- Loss of privacy and overbearing impacts upon adjacent properties.
- Impact on property values.
- Refusal of other applications at land to the north of Higher Saxifield Street, Burnley and land to the east of Moorside Avenue.

### **Officer Comments**

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

#### **Policy**

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

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

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

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

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

Policy ENV2 of the Pendle Local Plan Part 1 identifies the need to protect and enhance the heritage and character of the Borough and quality of life for its residents by encouraging high

standards of quality and design in new development. It states that siting and design should be in scale and harmony with its surroundings.

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

Policy ENV4 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.

Policy ENV7 considers water management. 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.

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

#### Replacement Pendle Local Plan

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

#### National Planning Policy 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”.

Because the Council’s housing supply figure is below five years the tilted balance is applicable to the determination of this application.

Paragraph 79 states that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.

### **Principle of Housing**

The application site falls outside of but directly adjacent to the settlement boundary of Brierfield, taking this into account, it is not an isolated site for the purposes of paragraph 79 of the Framework. The site is a sustainable location for new housing development with adequate access to essential services, facilities and public transport.

Concerns have been raised in relation to general impacts on services. The Council is required to deliver a supply of housing in line with its objectively assessed needs and is not currently meeting that requirement. The Local Plan states that 70% of that need should be met within the M65 corridor. Although specific impacts can be addressed via contributions where identified and sufficiently evidenced, as addressed in the Contributions section, the general impacts on services are a matter for strategic planning by those services. That strategic planning will take into account similar projections of population growth and demographic change as the assessment of housing need the Councils housing supply requirement is based upon.

Therefore, the principle of the proposed housing development in this location is acceptable.

### **Visual Amenity and Landscape Impact**

This application is in outline for access and layout only, the appearance, scale and landscaping of the development would be considered in a separate reserved matters application.

There was an application refused and appeal dismissed for the erection of 70 dwellings on land to the east of Moorside Avenue 230m to the north of this site. The Inspector stated that:

“Impressive long range panoramic views are afforded from the appeal site to the moorlands to the east and south and Pendle Hill to the west. Although they are taken in the context of nearby development, these views are largely unobstructed by neighbouring development due to the site’s topography. Its elevated position above the adjacent urban area also increases the site’s sense of separateness from it and underlines its exposure to the elements and wildness in comparison to the adjacent built up area. As such, the site provides a discernible sense of escape from the urban influences nearby.”

“The site’s accessibility from the urban area, along with its topography, extensive footpaths and linkages and exceptional views, all foster the enjoyment of the countryside. The site’s scenic quality is appreciated by the many users of the footpaths crossing it and I consider that the appeal site has a good deal of recreational and perceptual value.”

The inspector concluded that the proposal would be harmful to the landscape character and appearance of the surrounding area, with specific reference made to the impact on views from and the character of the numerous public rights of way running through the site, including the route of the Pendle Way.

This site is fundamentally different in character to the Moorside Avenue site which was crossed by a number of public rights of way and was in a highly elevated position with a greater degree of perceived separation from the adjacent settlement. This site does not have the same perception of separation from the settlement, existing dwellings on Stoneyhurst Height and Sunningdale Gardens are clearly visible along the boundaries of the site from both the informal routes through the site and from the adjacent public rights of way looking across the site.

The proposed layout would be relatively low density with open spaces maintained around the site. It would appear in the landscape as a natural rounding off of the settlement between Bowland View, Stoneyhurst Height and Sunningdale Gardens.

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

### **Residential Amenity**

The houses adjacent to the boundaries of the site would be a sufficient distance from adjacent properties to ensure that they would not result in an unacceptable loss of privacy or light to those properties and would not result in an overbearing impact upon them. The proposed development is therefore acceptable in terms of residential amenity in accordance with policies ENV2 and LIV5.

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

### **Ecology**

An ecology survey of the site has been submitted with the application. This found that the site has no features capable of supporting bat roosts, protected amphibians and no evidence of badger habitat. The site does have potential to support nesting bats and for foraging by bats ground nesting birds.

The report recommends mitigation measures to ensure that the site can continue to be used for bat foraging and to ensure any vegetation is removed outside of bird breeding season.

In terms of flora, the survey states that plant species recorded on site are common and widespread. The small area of woodland on the site is identified as being a Section 41 Habitat of Principle Importance in England (NERC) Act 2006 and a Lancashire BAP Habitat, although a very poor, small example of its type. It is proposed for the woodland to be retained within the proposed layout.

Part of the northern end of the site falls within the Lancashire Ecological Network: Grassland Network, other than the access, there would be no development of that area and enhancements

to the area can be ensured as part of the landscaping and long term maintenance of the open space.

With conditions to ensure these mitigation measures are adhered to the proposed development is acceptable in terms of its ecology impact in accordance with policy ENV1.

## **Open Space**

Policy LIV5 requires that provision for public open space and/or green infrastructure is made in all new housing developments. The applicant proposes biodiversity areas around the site on land within their control. This would be an acceptable green infrastructure provision in accordance with LIV5. Provisions for the long term maintenance of the areas can be ensured by condition.

Concerns have been raised regarding the loss of the recreational use of this land. The site is private land with no public open space designation, it represents a relatively small area of the wider area of open land and the informal access routes across the site to that open land would be maintained.

## **Drainage and Flooding**

The applicant has submitted a flood risk assessment and drainage strategy for the site, it is proposed that surface water is drained to a surface water sewer at a rate equivalent to the existing greenfield runoff rate. This is being assessed by the Lead Local Flood Authority (LLFA) and their comments are awaited.

United Utilities have raised concerns that sufficient evidence has not been provided to rule out more sustainable drainage solutions. They have advised that a condition be attached requiring a surface water drainage scheme to be submitted and approved.

It is expected that the LLFA's response will be received prior to the Committee meeting, should it not be it is recommended that the determination of the application be delegated subject to there being no objection from the LLFA.

## **Highways**

Concerned have been raised regarding the width of the access route along Bowland View and the impacts of the development on the surrounding highway network to the site.

An amended plan has been submitted which LCC Highways have advised would provide acceptable vehicular and pedestrian access to the site. A transport statement has been submitted with the application and this acceptably demonstrates that the development would not result in any unacceptable highway capacity or safety impacts.

The plans have also be amended to show acceptable car parking and turning provision. The development is therefore acceptable in highway terms in accordance with policies ENV4 and 31.

Concerns have also been raised in relation to winter gritting arrangements. This is a matter for LCC as the highways authority to determine necessary gritting routes on highways, this is separate from the planning process and does not affect the acceptability of the proposed development.

## **Public Rights of Way**

Whilst there appear to be informal footpaths running thought the site, there are no public rights of way recorded on the definitive public rights of way map. It is possible that if an application were to be made that the informal footpaths may be added to the definitive map.



The proposed layout makes provision for those routes to be maintained in a diverted form. A formal application may be required to divert the routes if added to the definitive map, however, this is a separate matter with controlled under the Highways Act that does not affect the acceptability of this planning application.

With an advisory not to make the developer aware of this the proposed development is acceptable in terms of its potential impacts of public rights of way.

## **Contributions**

### Education

An education contribution for the propulsion of 3 secondary school places is necessary to offset the impact of the development on local schools. The applicant has agreed to a condition for a Section 106 contribution for this.

### NHS

A request has been made from East Lancashire Hospitals NHS Trust for a contribution towards the cost of 104 acute healthcare interventions it calculates will be generated by the residents of the 19 dwellings in the first year of their occupation, for which there is a funding gap.

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:

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”

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.

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.

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.

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.

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.

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[er would be paying for services already funded in the standard funding formulae.

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.

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.

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.

## **Planning Balance**

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 commonly referred to as the application of the tilted balance. The tilted balance requires that an application is approved unless 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.

It should be noted that at the time of the Land to the east of Moorside Avenue decision and appeal Pendle did have a five year supply of housing. That application and appeal were considered under a normal planning balance rather than the tilted balance.

The development would result in benefits in terms of its contribution towards the Borough's housing supply and the resulting economic and social benefits.

As detailed in the sections above, subject to no issues being raised in relation to drainage and flooding by the LLFA that cannot be addressed by condition, the development does not result in any unacceptable impacts. The proposed development would fully accord with the Development Plan and considered in a normal planning balance and would be acceptable, applying the tilted balance tips the weight further in favour of approving the development.

## **Summary**

Subject to the drainage and flood risk being determined to be acceptable, the access, layout and principle of the proposed housing development are acceptable in with the Development Plan and Framework.

It is recommended that the approval of the application is delegated to the Planning, Economic Development and Regulatory Services Manager subject to the Lead Local Flood Authority's response and any necessary additional or altered conditions.

## **Reason for Decision**

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed development is compliant with policy, the proposed layout and principle of residential development is acceptable and the proposed access is acceptable in terms of highway safety. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

## **RECOMMENDATION: Delegate Grant Consent**

Subject to the following conditions:

1. An application for approval of the reserved matters (namely the appearance, scale and landscaping of the site) shall be submitted in writing to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted must be begun two years from the date of approval of the last of the reserved matters to be approved.

**Reason:** This condition is required to be imposed by the provisions of Article 3 (1) of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Details of the appearance, landscaping and scale (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

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

3. The development hereby permitted shall be carried out in accordance with the following approved plans: AV/01 Dwg 00, AV/01 Dwg 02A.

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

4. No part of the development hereby approved shall commence until a scheme for the construction of the site access (carriageway 5.5m wide with 2m wide footways both sides, as shown on Plan AV/01 Dwg 02A dated 20.01.20) and the off-site works of highway improvement has been submitted to, and approved by, the Local Planning Authority.

**Reason:** In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site.

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

**Reason:** In the interest of highway safety.

6. No development shall take place, including any works of clearance, unless and until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. It shall provide for:

- i) The parking of vehicles of site operatives and visitors
- ii) The loading and unloading of plant and materials
- iii) The storage of plant and materials used in constructing the development
- iv) The erection and maintenance of security hoarding
- v) Wheel washing facilities and road sweeping provision
- vi) Measures to control the emission of dust and dirt during construction
- vii) A scheme for recycling/disposing of waste resulting from clearance and construction works
- viii) Details of working hours
- ix) Timing of deliveries

x) Measures to ensure that construction and delivery vehicles do not impede access to neighbouring properties.

xi) Construction site noise and vibration.

xii) Burning on site.

**Reason:** In the interest of highway safety and to protect the amenities of occupiers of adjoining and nearby properties.

**7.** No development shall be commenced unless and until details of the proposed arrangements for the future management and maintenance of the proposed roads and footways within the development have been submitted to and approved by the local planning authority. The roads and footways shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

**Reason:** To ensure that the estate road and footways serving the development are completed and thereafter maintained to an acceptable standard in the interest of residential/highway safety.

**8.** The new access/estate road for the residential development shall be constructed in accordance with Lancashire County Council's 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.

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

**9.** Prior to the occupation of each dwelling the estate roads providing access to that dwelling shall be completed to at least base course level.

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

**10.** Prior to the occupation of each dwelling any associated parking and garage serving the dwelling shall be constructed, laid out and surfaced in bound porous materials in accordance with the approved plan. The parking areas and garages shall thereafter always remain free from obstruction and available for the parking of vehicles.

**Reason:** In order to ensure satisfactory levels of off-street parking are achieved within the site to prevent parking on the highway to the detriment of highway safety.

**11.** Electric vehicle charging points to be provided in accordance with a scheme to be approved by the Local Planning Authority and the vehicle charging points to be provided in accordance with the approved plan, prior to first occupation of any residential unit.

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

**12.** Foul and surface water shall be drained on separate systems. No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:

(i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;

- (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
- (iii) A timetable for its implementation.

The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

**Reason:** To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

**13.** No development shall commence unless and until a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:

- a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
- b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

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

**14.** The development shall be carried out in strict compliance with the mitigation recommendations set out in the Preliminary Ecological Appraisal received 03/12/2019.

**Reason:** To ensure protection of the habitat of species.

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

**Reason:** In the interest of crime prevention.

**16.** A scheme for the management and maintenance of the biodiversity areas shown on the approved plans shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the first dwelling. The management arrangements shall be implemented in accordance with approved scheme before the first dwelling is occupied and the biodiversity areas shall thereafter be manage in accordance with the approved scheme.

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

**17.** The development shall not commence unless and until 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 has been submitted to and approved in writing by the Local Planning Authority. The method statement shall detail how:-

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

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

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

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

Advisory Notes:

(i) Where land identified as having the potential to be contaminated is undergoing redevelopment, a copy of the leaflet entitled 'Information for Developers on the investigation and remediation of potentially contaminated sites' will be available to applicants/developers from the Council's Contaminated Land Officer. The leaflet will be sent to the developer by request.

(ii) Three copies of all contaminated land reports should be sent to the Local Planning Authority.

(iii) This condition is required to be fully complied with before development is commenced. Failure to comply with the condition prior to commencement of work may result in legal action being taken.

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

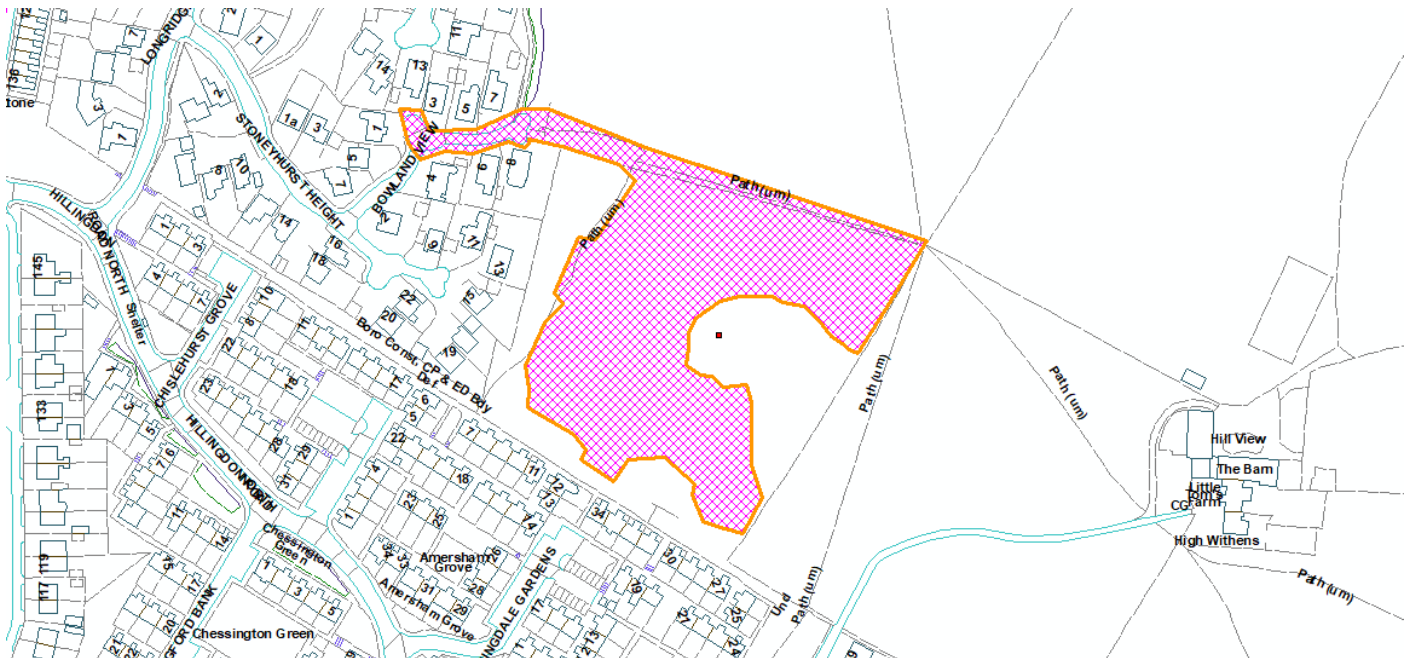
**18.** The development shall not commence unless and until a Planning Obligation pursuant to section 106 of the Town & Country Planning Act, 1990 (or any subsequent provision equivalent to that section) has been made with the Local Planning Authority. The said obligation shall provide for a contribution to towards the provision of four secondary school places.

**Reason:** In order to ensure that adequate provision is made for to offset the impact of the development on education services.

Note:

There appear to be a number of public rights of way which cross the site of the proposed development. These rights of way are not recorded on the definitive map for Lancashire but the effect of the Highways Act 1980, Section 31 is the presumed dedication of public highway rights by the landowner after public use of 20 years.

The developer is advised to contact the council's Countryside Access Officer [tom.partridge@pendle.gov.uk](mailto:tom.partridge@pendle.gov.uk) 01282 661059 to discuss diversion of the public rights of way.



**Application Ref:** 19/0900/OUT

**Proposal:** Outline: Major: Erection of 19 dwellings, access and associated works (access and layout).

**At:** Land to the east of Bowland View, Brierfield

**On behalf of:** Cross Construction Ltd

## LIST OF BACKGROUND PAPERS

Planning Applications

NW/MP

Date: 18<sup>th</sup> January 2020