

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

TO: NELSON COMMITTEE

DATE: 8TH JUNE, 2020

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To comment on the attached planning application.

REPORT TO NELSON COMMITTEE 8th JUNE 2020

Application Ref: 19/0901/FUL

Proposal: Full: Major: Erection of 114 dwelling units (15 apartments and 99 houses) with associated estate roads (new primary vehicular and pedestrian access off Priory Chase) and ancillary associated infrastructure.

At: Site of Former James Nelson Sports Club, Wickworth Street, Nelson.

On behalf of: M.C. I. Development Ltd, Linkhaven Ltd & Accent Homes Ltd

Date Registered: 6 December 2019

Expiry Date: 06 March 2020

Case Officer: Kathryn Hughes

Site Description and Proposal

The application site formerly occupied by James Nelson Sports Club comprises 2.72 hectares of vacant open grassland located approximately one mile from Nelson Town Centre. The site slopes from east to west

The site lies within the settlement boundary of Nelson. The land is bounded by a modern housing estate on Priory Chase to the north and older terraced housing the south west corner comprising of Wenning Street, Wickworth Street, Hammond Street, Mancknols Street, Messenger Street and Windsor Street. There are allotments along the north west corner, to the south of the site are some houses and allotments as well as a housing estate and allotment gardens to the east.

The current access into the site is from the southern boundary. The proposed access will be via Priory Chase to the north.

The proposed development is a major application for the erection of 114 units 100% affordable housing consisting of a mixture of house types including 2 and 3 bedroomed terraced and semi-detached houses, 4 bedroom detached houses and 2 bed bungalows as well as a block of 15 apartments comprising 1 and 2 bedrooms all with off street parking.

The main access to the development would be from Priory Chase a modern housing estate which is accessed from Clough Road via Barkerhouse Road.

A Planning Statement, Design and Access Statement, Crime Impact Assessment, Topographical Survey, Utilities Statement, Flood Risk Assessment, Transport Statement and Interim Travel Plan, Suds Statement and Ecological Survey have been submitted in support of this application.

Relevant Planning History

13/12/0234P – Major: Erect 104 No. dwelling houses (7.9m high to pitch) with open space, parking and/or garages, associated roads and drainage works (Re-Submission) – Refused 31st July, 2012 subsequently Refused on Appeal 4th April, 2013.

13/11/0619P - Major: Erect 106 no. dwelling houses (7.9m high to pitch) with parking and/or garages, associated road and drainage works - Refused 23rd April, 2012 subsequently Allowed on Appeal 26th February, 2013.

13/09/0228P - Major: Erect 108 houses with access road and landscaping
Withdrawn 24/07/2009.

13/05/0558P - Major: Use of sports pavilion to provide gymnasium, licensed restaurant bar and offices and five apartments and reinstatement of sports facilities -
Approved 12/10/2005.

13104/0859P - Major: Outline residential development (2.8ha) - Refused 10/01/2005.

13/03/0528P - Major: Residential development with access off Bracewell Street -
Withdrawn - 21/10/2003

13/97/0400P - Formation of a mobile home park - Withdrawn 27/08/1997.

Consultee Response

LCC Highways – There is no objection to the proposal subject to the minor amendments to the internal layout and the off-site highway works. There are a number of conditions requested.

Sustainability – The bus service 95 provides a 30 minute service which runs along Barkerhouse Road and connects to Burnley and Colne Bus Stations and large residential areas in-between. The nearest bus stops and food shop are located approx. 500m distance from the centre of the site via Priors Chase and Barkerhouse Road which is an acceptable distance to walk. The nearest school is within 600m via Wickworth Street, Marsden Hall Road South, Tweed Street and Trent Road and this is subject to the layout being amended to provide a link from the site to Wickworth Street. The site is considered to provide alternative options to travel other than the private car.

Wickworth Street is stoned and street lit however the surface is of poor quality with water filled pot holes. The surface of the route between the site and Marsden Hall Road south (approx. 150m) could be improved to provide a quality route for residents to walk to school. The nearest WB bus stop on Barkerhouse Road (close to the junction of Clough Road - 2500IMG2719) requires a DDA compliant bus border kerb and the EB stop (opposite 284 Barkerhouse Road 2500IMG2717) requires a DDA compliant bus border and bus stop road markings.

The bus stop works will be completed under a S278 agreement with Lancashire County Council. These works have been conditioned on application 17.0427.

Service 95 is a LCC subsidised bus service which has been at risk in previous years due to funding cuts. The service is currently secured until March 2021 whereby it will be again reviewed. There are no mainline bus services or any other local services within walking distance of the development site and therefore the continuation of service 95 into the future is critical for the sustainability of the site.

A phased contribution towards the cost of running the service into future years would be requested by LCC to support the sustainability of the site. Without the bus service, the development site does not accord with the sustainable policies in the NPPF. Taking into account the size of the site a phased contribution is recommended with a contribution of £25,000 upon occupation of the 50th dwelling and thereafter an annual contribution of £25,000 for 5 years.

Travel Plan – The framework Travel Plan is acceptable.

Traffic Impact – There should be 5 years growth added to the background traffic to the year 2025 and the committed development traffic for the 200 houses approved at Land at Further Clough Head, Bamford Street under application 17/0427, 14/0499 – 12 dwellings and 19/0601 – 20 dwellings which are approved on Barkerhouse Road should be included.

An Arcady assessment of the mini-roundabout should also be submitted, including growth to 2025, committed development traffic and development included. There is a condition on application 17.0427 to improve the mini-roundabout however details of this have not been submitted, however it is agreed that speed survey data will be collected and a Road Safety Audit will be completed.

During site observations, drivers are regularly driving over the island or on the wrong side of the island when turning right out of Marsden Hall Road. The lack of raised dome encourages this bad practise. Unfortunately the presence of a dome to deter the bad practise would create a problem for buses and other large vehicles travelling on Barkerhouse Road.

In the previous 5 years there have been two collisions at the junction resulting in 2 slight injuries. A request has been received from a County Councillor on behalf of his constituents that the zebra crossing on Barkerhouse Road close to the Children's Centre be upgraded to a signalised crossing for road safety reasons. We would support this request on the grounds of increased vehicle movements on Barkerhouse Road as a result of the development traffic and that the crossing will be used by residents of the development to access the northbound bus stop and the Children's centre.

Site access and off-site highway works – The site access is a continuation of Priory Chase which is adopted highway. It will be necessary to place an additional 2 tarmac round top humps on the adopted highway of Priory Chase (in the vicinity of 27 & 49) to ensure vehicle speeds are kept below 20mph. This is necessary due to the increase in vehicle movements.

The visibility splay of drivers emerging from Clough Road onto Barkerhouse Road is partially obstructed at certain times by vehicles parked on Barkerhouse Road in front of the terraced properties on the west side of Clough Road. To the east side of Clough Road there are daytime parking restrictions on Barkerhouse Road restricting parking.

It will be necessary to propose the marking out of parking bays along the frontage of 184 – 204 Barkerhouse Road to formalise the car parking with hatched areas close to the junctions to maximise visibility splays for drivers emerging from Clough Road, Stafford Street and Bath Street.

The off-site highway works includes the following:-

- Assessment of mini-roundabout junction Barkerhouse Road/Marsden Hall Road including full engineering, drainage, street lighting and approved in writing by the Local Planning Authority. (Conditioned under application 17.0427);
- Upgrade of the WB and EB bus stops on Barkerhouse Road (2500IMG2717 & 2500IMG2719). (Conditioned under application 17.0427);
- Upgrade of zebra crossing on Barkerhouse Road near the Children's Centre to a signalised crossing;
- Installation of parking bays along the frontage of 184-204 Barkerhouse Road to formalise parking and maximise visibility splays at the junctions;
- Installation of 2 tarmac round top humps in the vicinity of 27 & 49 Priory Chase.

Secondary/emergency access – The provision of a secondary access is necessary to maintain access to the development in the event of a planned or emergency closure of Priory Chase which provides sole access. The sole access will serve approximately 224 dwellings (110 dwellings existing and 114 proposed). There is a potential route onto Windsor Street where a pedestrian link is currently proposed. This could be widened to provide a pedestrian, cycle and emergency vehicle

access. The secondary access shall be constructed to adoptable standards, including vehicle access controls (demountable bollards), street lighting and surface water drainage prior to the occupation of the 51st house.

Internal Layout – The layout is acceptable subject to some minor amendments as follows. A 3m wide pedestrian cycle link should be included close to plot 16 to link to Wickworth Street which is a byway open to all traffic. Junction tables close to plot 11 and 40 are required to ensure that the 20mph speed limit is self-enforcing.

Parking – The level of car parking is considered acceptable for an affordable housing site. Each dwelling should have a secure cycle store and an external electric vehicle charging point. The apartment block can have an internal or external secure communal store for at least 15 cycles with at least 1 electric charging point.

Should the Council be minded to approve this application conditions should be added to any approval to ensure a Construction Method Statement, a scheme of off-site works of highway improvement, details of street lighting, drainage and engineering works, an estate phasing plan, an emergency link access road plan with signage details, a street maintenance plan and an Interim Travel Plan are submitted alongside restricting HGV movements at peak travel times and ensuing parking areas are appropriately surfaced and cycle storage and electric vehicle charge points are provided.

LCC (Education) – Requests a contribution towards secondary school places of £169,296.12.

NHS (Contributions) – Requests a contribution of £1,403 per dwelling towards unplanned visits for the NHS Trust. A total of £159,942.

PBC Footpath Officer – The site lies to the north of a byway open to all traffic which provides an opportunity to provide a number of linking paths between the proposed development and this existing public right of way. This would provide for the residents to have access by non-motorised forms of transport to the adjoining residential areas and the extensive network of public rights of way to the south. Creating the links between the proposed development and the existing byway to all traffic may go some way to reducing vehicle use and would bring health benefits by encouraging walking and cycling.

Therefore, it would be valuable to include a condition on any planning permission granted that at the three turning heads proposed on the southern edge of the site that a means of access be provided for access by cyclists, horse riders and pedestrians onto the adjoining byway open to all traffic. Access by cars should be prevented by means of bollards or posts spaced at a width of 1.4 metres wide.

United Utilities – It is the applicant's responsibility to demonstrate the exact relationship between any United Utilities' assets and the proposed development. We recommend the developer contacts United Utilities for advice on identifying the exact location of the water main. It is also the applicant's responsibility to investigate the possibility of any United Utilities' assets potentially impacted by their proposals and to demonstrate the exact relationship between any United Utilities' assets and the proposed development.

Should the Council be minded to approve the application conditions should be added to any approval to ensure foul and surface waters are drained on separate systems.

National Grid (Cadent) – Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works

do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required. All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

LLFA – No objection subject to appropriate conditions relating to final surface water drainage scheme and construction phase surface water management plan.

PBC Conservation Officer – The development has potential to affect the setting of Further Clough Head Cottage, a Grade II listed former farmhouse located to the SE of the site across Wickworth St. The LB is a vernacular farmhouse of the late 17th/early 18thC; and though substantially altered it does retain some feel of its original rural setting with mature trees around it with the wooded valley of Clough Head Beck forming a green backdrop to the building when viewed from Wickworth St.

Modern housing development to the edge of Nelson has already extended close to its northern side, which has compromised and curtailed to some extent its previously rural setting. However the LB is well set back from Wickworth St and at some distance from the development site. There are existing trees along the site boundary to Wickworth Street at this point which enclose the building's immediate setting and provide some visual screening from the site, and it is important that these trees are retained in order to preserve the wooded setting of the building. Reinforcement with additional screen planting here would also be of benefit.

The proposed site boundary to the full length of Wickworth St appears to be a 1.8m timber fence, which has potential to appear out of character in the more rural context at the top end of Wickworth St, and a more traditional boundary such as informal stone walling could be considered at this point. There is an existing tall stone boundary wall at the lower end of Wickworth St relating to the former sports ground buildings, which should be retained to provide a more appropriate edge at this prominent corner of the site. The apartment building to this corner would benefit from straight gables rather than a hipped roof, in order to better reflect the existing terrace blocks adjacent.

PBC Environment Officer – The Arboricultural Impact Assessment (AIA) identifies 6 groups of trees mainly made up of Goat Willow and Silver Birch. All these groups have been classed as C 1-2 under BS 5837:2012 standards. Out of the 6 groups only group 3 and 4 area to remain. The trees are all situated on the boundaries of the site and do offer some screening/softening. Please condition that tree protection fencing will be installed to protect those trees that are to remain as outline in the AIA.

There is very little landscape impact from the development. However, the site consists of a lot of built form with little or no communal areas. Whilst I'm aware that there is play provision close to the site, it is my opinion that there should also be some greenspace communal areas provided within the site. Especially when there are in excess of 100 houses being built and with a large percentage of these being family homes. Parents want to be able to keep an eye on their kids while they are playing out without the provision of greenspaces this could lead to children playing on the street and the anti-social behaviour associated with this. Notwithstanding, the community, mental health, biodiversity benefits that greenspaces provide especially to people that are likely to use affordable housing schemes such as this one.

The boundary treatments are quite harsh with little or no attempt to soften them. These are mainly close boarded fences around the site which will lead to quite a hard edge with nothing growing above them to soften the built form.

I welcome that trees are to be planted throughout the site. However, I could not see a full landscape plan with details of planting schemes and maintenance. Can this be conditioned?

I don't have any particular objection to the scheme but do feel that it would benefit from losing a few houses and creating valuable spaces for people.

PBC Environmental Health Services

Nelson Town Council

Public Response

Site and press notices posted and nearest neighbours notified by letter. Three responses have been received objecting on the following grounds;

- Those issues will be exasperated by other housing developments being undertaken locally;
- The roundabout on Barkerhouse Road is not suitable for the size of development;
- No formal plans have been submitted regarding off-site works of highway improvement;
- The proposed development will generate at least 400 additional traffic movements daily;
- Nelson does not have the required infrastructure of accommodate the proposed development in relation to doctors, dentists, emergency services, school placements and public transport;
- The development will have a negative impact on local wildlife and bat populations;
- The new dwellings will create privacy impacts for existing neighbours;
- There are 3 other housing developments in the area;
- The additional traffic generated will create noise pollution;
- The people making the decisions don't live here;
- The scheme will adversely affect surface water flooding;
- No information has been made public regarding easement for surface waters;
- Replacement of the stone walls with fences will adversely affect the character of the area.

Officer Comments

The main issues to be considered with this application are principle of housing, visual amenity and landscape impact, heritage impact, impact on residential amenity, layout, design and materials, highway safety/parking, ecology, landscaping/open space provision, drainage issues and contribution requests.

1. Relevant Planning Policies

National Policies

National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied and is a material consideration in determining planning applications, particularly where local plans are silent on an issue. Of relevance to this application is that there is a presumption in favour of sustainable development and that it seeks to deliver a wide choice of high quality homes. In addition, the NPPF states that Local Authorities

should approve applications where practical to do so and attach significant weight to the benefits of economic and housing growth.

The NPPF also states: "This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise."

Pendle Borough Council Local Plan Part 1: Core Strategy (2011 – 2030):

Policy SDP2 (Spatial Development Principles) states that proposals to develop outside of a defined settlement boundary (i.e. within the open countryside) will only be permitted for those exceptions identified in the Framework, or policies in a document that is part of the development plan for Pendle;

Policy SDP3 (Housing Distribution) states that the location of new housing should be guided by specific percentages with 70% afforded to the M65 Corridor, including Nelson. The housing requirement figures are set out in Policy LIV1 and should be read in conjunction with this policy;

Policy ENV1 (Protecting and Enhancing our Natural and Historic Environments) seeks to ensure a 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) 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 the wider locality.

Policy ENV4 (Promoting Sustainable Travel) requires new development to have regard to potential impacts that may be caused on the highway network. Where residual cumulative impacts cannot be mitigated, permission should be refused;

Policy ENV5 (Pollution and Unstable Land) states that new development is required to address the risks arising from contaminated land or unstable land, including that arising from mining legacy, through remediation work that makes the site suitable for the proposed end use;

Policy ENV7 (Water Management) states that proposals within a designated flood zone should seek to eliminate or reduce the potential for flooding to occur, by demonstrating that further investigation of the extent of risk, and the feasibility of options for prevention or mitigation, have been considered;

Policy LIV1 (Housing Provision and Delivery) sets out the Councils requirement to deliver new housing at a rate of 298 dwellings per annum. The housing requirement should be delivered in accordance with the distribution set out in Policy SDP3;

Policy LIV4 (Affordable Housing) sets out targets and thresholds for the provision of affordable housing. For the M65 corridor target for 15 or more dwellings is 0%;

Policy LIV5 (Design Better Places to Live) states that the layout and design of new housing should reflect the site surroundings, and provide a quality environment for its residents, whilst protecting the amenity of neighbouring properties. Provision for open space and/or green infrastructure should be made in all new housing developments;

Saved Policy 31 (Parking) of the Replacement Local Plan which sets out appropriate parking standards for new housing developments is also relevant here.

National Planning Policy Framework (NPPF)

Paragraph 11 of the Framework states that plans and decisions should apply a presumption in favour of sustainable development. 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 (including where a local planning authority cannot demonstrate a five year supply of deliverable housing sites), 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 (including policies relating to designated heritage assets); 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 Council's most recent monitoring figures have established a housing supply figure of 5.4 years as of the 10th March, 2020.

2. Principal of Housing

The latest Housing Land Monitoring carried out in March 2020 indicates that there is sufficient land available with planning permission to ensure the delivery of the annual requirement figure.

This proposal is for 114 units and therefore the proposed development would make an acceptable contribution to meeting the Borough's housing needs by increasing the supply of housing land.

This site is previously developed land and has been previously allowed on Appeal for housing and therefore the principle of housing on this site has been established although it has not been allocated as such as the Part 2 Local Plan has not been adopted.

This site is located in Nelson which is a Key Service Centre and is a proposed housing site within the Strategic Housing Land Availability Assessment and therefore housing on this site is acceptable in principal.

3. Visual Amenity and Landscape Impact

The site is located on sloping rural land which rises from Clough Head Beck sloping up to the south east, the most prominent public view across the site would be from Windsor Street / Messenger Street, the approach to the site from the main entrance off Marsden Hall Road South and the public footpaths between the site and Barkerhouse Road to the east. Beyond these points the site would be likely to be completely screened by the existing landform, trees and buildings.

The design of the dwellings would be relatively contemporary and the surrounding housing is a mixture of styles and in this context the proposed design of the development is acceptable.

4. Heritage Impact

The settings of two designated heritage assets are potentially affected by this application. The northern boundary of the development site lies close to the Grade II listed Further Clough Head Cottage, and the eastern site boundary adjoins the Southfield Conservation Area. The Conservation Area at this point consists of open fields which provide a farmland setting for the historic hamlets at the heart of the Conservation Area. There are several listed buildings within these small historic farming hamlets but these are located at some distance from the development site.

The open space area to the north of the site and surrounding trees would act as a buffer and screen views of the development site from the setting of Further Clough Head Cottage which retains some of its rural setting with mature trees and the wooded valley of Clough Head Beck in the backdrop when viewed from Wickworth Street. The development would not result in undue harm to the significance of the Listed Building.

There are existing trees along the site boundary to Wickworth Street which enclose the building's immediate setting and provide some visual screening from the site, and it is important that these trees are retained in order to preserve the wooded setting of the building. Reinforcement with additional screen planting would be of benefit.

The proposed site boundary to the full length of Wickworth St appears to be a 1.8m timber fence, which has potential to appear out of character in the more rural context at the top end of Wickworth Street. A more traditional boundary such as informal stone walling would be more appropriate here. There is an existing tall stone boundary wall at the lower end of Wickworth St relating to the former sports ground buildings, which should be retained to provide an appropriate edge at this prominent corner of the site. The apartment building to this corner would benefit from straight gables rather than a hipped roof, in order to better reflect the existing terrace blocks adjacent. The agent has been requested to address these issues.

5. Residential Amenity

The nearest properties directly affected by this proposal would be 43 - 75 Priory Chase, 2 and 3 Further Clough Cottages, 40 Wenning Street, 34 Windsor Street, 38, 50 and 52 Wickworth Street and 37 Hammond Street

Other properties along Priory Chase and Clough Road would see an increase in traffic past their properties but would not be unduly affected otherwise.

The properties sited along Priory Chase closest to the access point would see an increase in traffic. No.'s 43 - 47 are sited to the east of the access point and would have on coming vehicles facing their properties when approaching the site and turning right. However, these properties are at a higher level than the approach road and therefore would not be unduly affected as the main beam on approaching vehicles would be directed at the wall underneath the main living room window.

No. 53 would have a side gable abutting the rear garden of plot 1 at a distance of 16m from gable to gable. No windows are proposed in the gable of plot 1. This is acceptable.

No. 55 would have a rear elevation abutting the side elevation of plot 114 at a distance of 15m from rear to gable elevation. No windows are proposed in the gable of plot 114. This is acceptable.

No. 57 would also have a rear elevation abutting the rear elevation of plot 114 at a distance of 15m from rear to gable elevation. No windows are proposed in the gable of plot 114. This is acceptable.

No. 59 would have a rear elevation abutting the rear garden of plot 114 at a distance of 9m from rear elevation to rear garden. No windows are proposed in the gable of Plot 114. This is acceptable.

No. 61 would have a rear elevation abutting the rear garden of plot 114 at a distance of 10m. No windows are proposed in the gable of plot 114. This is acceptable.

No. 63 would have a rear elevation abutting the rear garden of plot 90 at a distance of 20m from rear to rear elevations. There are ground and first floor habitable room windows proposed in the rear of plot 90. This is below the required 21m distance to be acceptable.

No. 65 would have a rear elevation abutting the rear garden of plot 90 at a distance of 20m from rear to rear elevations. There are ground and first floor habitable room windows proposed in the rear of plot 90. This is below the required 21m distance to be acceptable.

No. 67 would have a rear elevation abutting the rear garden of plot 89 at a distance of 21m from rear to rear elevations. There are ground and first floor habitable room windows proposed in the rear of plot 89. This is acceptable.

No. 69 would have a rear elevation abutting the rear gardens of plots 89 & 90 at a distance of 12m from rear elevations to rear gardens. This is acceptable.

No. 71 would have a rear elevation abutting the rear garden of plots 87 & 88 at a distance of 21m from rear to rear elevations. There are ground and first floor habitable room windows proposed in the rear of plot 87 and 88. This is acceptable.

No. 73 would have a rear elevation abutting the rear garden of plots 86 & 87 at a distance of 22.5m from rear to rear elevations. There are ground and first floor habitable room windows proposed in the rear of plot 89. This is acceptable.

No. 75 would have a rear elevation abutting the rear garden of plots 85 & 86 at a distance of 23m from rear to rear elevations. There are ground and first floor habitable room windows proposed in the rear of plot 89. This is acceptable.

Further Clough Head Cottages are two properties which form a listed building to the east of the site. Plots 16 and 17 are the closest to these properties. Plot 16 is sited gable on 50m from these properties. Plot 17 is sited rear elevation to front elevation at a distance of 52m. These are more than acceptable in amenity terms the impact on the setting of the listed building is addressed above.

50 and 52 Wickworth Street are located to the south of the site. Plots 36 and 37 are the closest to these properties and are sited 33m from these properties rear to front elevations. There are ground and first floor habitable windows proposed in rear elevations. This is acceptable.

40 Wenning Street is located to the west of the site with a gable elevation 11m from the existing stone boundary wall. This is acceptable.

34 Windsor Street is located to the west of the site with a gable elevation with a front door and first floor window (obscure glazed) sited 15m from the gable of the apartment block. The apartment block has first and second floor windows in this gable which would serve kitchens. As the first floor window is partly obscured and serves a bathroom this distance would be acceptable provided the existing stone wall remains above 1.8m high.

Outline permission has been granted for two detached dwellings on land to the south west of 50 Wickworth Street. Property 1 would face the rear gardens of plots 38 – 42 at a distance of 33m which is acceptable.

With regards to the height of the proposed apartment block in relation to this property. The apartment block has an eaves height of 8m and a ridge height of 10.7m. The land at the west of the site is 2m higher than Windsor Street resulting in a 10m high gable located 15m from the gable of 34 Windsor Street This is acceptable

The gable of 38 Wickworth Street (located to the west of the site) faces onto Upper Wickworth Street and is not, therefore, unduly affected by this proposal in terms of residential amenity.

The gable of 37 Hammond Street (located to the west of the site) faces onto the allotment gardens and therefore is not unduly affected by this proposal in terms of residential amenity.

The impact of the development on residential amenity is therefore acceptable.

The proposed development would not result in any unacceptable impacts on privacy, overbearing impacts or loss of light to adjacent dwellings. An acceptable degree of residential amenity could also be assured for future residents of the proposed dwellings.

6. Layout, Design and Materials

In terms of density the proposed housing development would have a density of 41.9dph and has an appropriate mix of housing size and style providing 45 two bed, 34 three bed, 14 four bed two storey houses, 6 two bed bungalows, 3 one bed and 12 two bed apartments which meets the requirements of policy LIV3.

The previous scheme approved on Appeal was for 106 units the current scheme includes apartments which increases the density, however, this proposal does not include any on-site provision for open space which would result in a layout which consists of a substantial amount of built form with little to alleviate it in the way of green corridors and without any provision for pocket parks which would assist in breaking up the massing this, together with the associated parking and estate roads would result in a poorly laid out scheme. The agent has been requested to address this.

In terms of materials artificial stone walls with feature cills and headers and dark grey concrete roof tiles are proposed for the site which is acceptable subject to acceptable samples being submitted.

With regard to design the proposed house types are acceptable and reflect the mixture of house styles in the location. These house types would enable the proposed estate road from Priory Chase to continue with a contemporary design which is appropriate for this location.

The design and materials of the proposed housing would therefore be in scale and harmony with its surrounding area.

New residential development is required to incorporate satisfactory standards of security to prevent crime.

Local Planning Authorities should seek to identify and assess the particular significance of any element of the historic environment that may be affected by the relevant proposal. In this particular case whilst there are listed buildings in proximity to the site (Further Clough Head sited 40m to the east) this proposal does not adversely affect the setting of these listed buildings and therefore complies with policy ENV1.

In terms of impact on the area the proposal is acceptable subject to appropriate conditions to control materials and an improved landscaping scheme which seeks to provide green infrastructure on the site as well as some open space provision or a contribution towards improvements to existing off-site facilities in the area.

7. Ecology, Landscaping & Open Space Provision

An Ecological Survey has been submitted with the application, this identifies that site clearance and removal of vegetation will need to be undertaken outside of the bird breeding season with trees to be retained where possible.

The development presents an opportunity to improve habitats on site for wildlife including nest boxes and bat boxes.

There is a small patch of cotoneaster on the north west of the site which is an invasive species and will need to be removed from the site as part of the mitigation measures.

The recommended mitigation measures can be controlled by appropriate conditions.

It is important to ensure that the TPO trees on the adjacent allotments are adequately protected during construction. All trees to be retained must be also be protected by the survey recommended tree protection zones in accordance with BS 5837 (2012).

Part of the site was allocated as Outdoor Sports open space on the proposals map of the Replacement Pendle Local Plan (2001-2016). However, the site was removed from the Pendle Open Space Audit (2008) as it was recognised as private open space that was no longer in use and the principle of housing on this site was accepted

Policy LIV5 requires some form of open space to be provided on site where there is a deficiency of open space in that ward and for developments to include green corridors and provide attractive well designed landscaping in order to ensure that sufficient green infrastructure is provided on site.

The Pendle Open Space Audit (2019) considers provision by ward in the first instance (Table 5.6). The analysis also looks at open space provision within the areas administered by each of the borough's five Area Committees (Table 5.7). As noted in paragraph 3.21 this approach helps to provide a clearer overview of open space provision on a wider footprint and to highlight where high or low levels of open space provision within a particular ward may not necessarily be a significant concern (para 3.21).

An analysis of Open Space provision has been submitted by the agent. However, this does not accurately reflect the position for the following reasons:

- The figures in the 2008 and 2019 audits are not directly compatible for the reasons outlined in paragraph 3.18
- Open Space provision is considered within individual typologies. It is not amalgamated to create a total figure.

In this case the concern is regarding the provision of a play area and/or amenity greenspace. The wards closest to the application site are Southfield, Marsden and Cloverhill with the relevant figures and more detailed analysis below:

Ward	Southfield	Marsden	Clover Hill
Play Areas	0.29 ha surplus	0.25 ha deficit	0.22 ha deficit
Amenity Greenspace	0.94 ha deficit	3.50 ha surplus	0.97 ha deficit

Provision of both play areas and amenity greenspace is expected to be made locally (i.e. within the ward). This is in contrast for more formal open space provision, such as parkland or cemeteries, where the area committee analysis is equally valid.

The agent is correct in stating that there are a number of play areas in the vicinity of the proposed development site although the reference to Clough Head as a formal play area is not clear.

The two play areas in Clover Hill ward, closest to the proposed development site, are on Southfield Street (PA062) and in Walverden Park (PA033). The one closest to the proposed development site (PA062) is in need of improvement. Accessed is via a steep slope. Taking a generous measurement, Site PA033 is just over 400m from the application site as the "crow flies". It is approximately 750m distant in terms of walking distance via Wickworth Street, Southfield Street and footpaths within the park. This route requires a strenuous walk (both uphill and downhill in both directions) and is likely to be unattractive to many mothers with young children. The play area at Marsden Hall Road South (PA021) is within the Southfield ward and close to the proposed development site. However, it is not clear how this could be accessed from the proposed development site. PA021, like PA062, is in need of improvement.

Whilst there may be a surplus of amenity greenspace in Marsden, much of this is poorly related to the proposed development site, which is close to the boundary with the Clover Hill ward. Clover Hill, like Southfield has a deficit of amenity greenspace.

The wording in paragraph 5.16 by the agent makes a broad brush statement about open space provision. It should not be used as a site specific reference to the area in the vicinity of the proposed development site.

It is evident from the above statistics and anecdotal evidence presented here, and on the maps in Appendix 2, that additional provision of amenity greenspace and/or a formal play area either on or in close proximity to the proposed development site would be of benefit to the local community.

Policy LIV5 requires that provision for public open space and/or green infrastructure is made in all new housing developments. The proposed layout plan does not include any proposed public areas of open space and there is limited green corridors and planting throughout the site. As it stands the layout would benefit from some form amenity space which would serve the dwellings on site especially as these are proposed to be family units and starter homes.

The landscaping framework proposed for the site does not include any pockets of open space and the agent has been requested to address this in order to accord with policy LIV5

8. Drainage

A Flood Risk Assessment has been submitted which concludes that the site is within Flood Zone 1 and is at low risk of flooding.

The surface water attenuation scheme will achieve a flow rate of 35.5l/s with a 40% allowance for future climate change.

It is proposed to connect the foul drainage to the existing 225mm diameter foul combined sewer on Wickworth Street.

This is acceptable and accords with Policy ENV7 subject to appropriate conditions.

9. Highways and Parking

The main entrance to the site would be accessed from Priory Chase via Clough Road. The estate roads and Priory Chase would be 20mph roads.

In terms of the suitability of Priory Chase as an access to this site this can be assessed as follows. The estate road is 5.5m wide at the point where vehicles would turn into the site and this can easily accommodate two vehicles passing.

Manual for Streets indicates that Emergency vehicles require a 3.7m wide carriageway whilst waste collection vehicles require a minimum width of 5m although smaller widths are acceptable. Again this is accommodated.

For manoeuvring round corners the minimum circular radius at junctions should be 6m in urban areas. LCC Highways encourages smaller corner radii as this reduces pedestrian deviation and helps to slow vehicle speeds. The radii at the cul-de-sac at the termination of the carriageway before the access to the site is 7m.

It is accepted that roads with a carriageway width of 5.5m can serve 300 dwellings at maximum use. In practice residential areas are not used to the maximum and a 5.5m wide carriageway can serve more dwellings. At present from Clough Road to the application site the estate road serves approximately 100 dwellings. This proposal is for a further 114 dwellings. This would comfortably be within the parameters of the number of dwellings that could be served by a road of this width and this has been tested on Appeal.

Since the Appeal was allowed further development in the area has come forward and the committed development traffic for the 200 houses approved at Land at Further Clough Head, 12 houses at Bamford Street and 20 houses approved on Barkerhouse Road also need to be included.

The main access via Priory Chase is acceptable in highway terms subject to appropriate off-site highway improvements.

The nearest bus stops and food shop are located approx. 500m distance from the centre of the site via Priory Chase and Barkerhouse Road which is an acceptable distance to walk. The nearest school is within 600m via Wickworth Street, Marsden Hall Road South, Tweed Street and Trent Road. Therefore the site is considered to provide alternative options to travel other than by private motor vehicle.

The nearest bus service is 95 which is a subsidised bus service currently secured until March 2021. A total contribution towards the service of £150,000 has been requested by LCC to support the sustainability of the site. Without this bus service the development site would not accord with the sustainable policies in the NPPF.

Off-site highway works will also be required for the development to be acceptable. These include the following:

- Assessment of mini-roundabout junction Barkerhouse Road/Marsden Hall Road including full engineering, drainage, street lighting;
- Upgrade of the WB and EB bus stops on Barkerhouse Road (2500IMG2717 & 200IMG2719);
- Upgrade of zebra crossing on Barkerhouse Road near the Children's Centre to a signalised crossing;
- Installation of parking bays along the frontage of 184-204 Barkerhouse Road to formalise parking and maximise visibility splays at the junctions; and
- Installation of 2 tarmac round top humps in the vicinity of 27 & 49 Priory Chase.

Whilst some of these have also been requested for the Further Clough Head site it is important that these are also required to be provided for this site in case the other site does not proceed or this site is completed first. This can be controlled by condition subject to agreement with the agent.

A secondary access is necessary to maintain access to the development in the event of a planned or emergency closure of Priory Chase which provides sole access. This has been shown onto Wickworth Street which is a Byway Open to All Traffic (BOAT) at this point which is acceptable.

The agent has also been requested to confirm that the existing retaining stone wall at the south west corner of Wickworth Street and Windsor Street is to be retained.

In terms of parking, policy 31 of the Local Plan sets the parking standards for new residential developments. The submitted layout plan shows that all the properties have adequate off-street parking provision in the form of driveways and therefore accords with policy 31.

In highway safety and parking terms the proposal would be acceptable subject to appropriate conditions and agreement to the proposed off-site highway works required and bus service contributions.

10 Contributions

S.106 contributions can only be requested in terms of being necessary for the scheme to come forward and have the necessary policy basis. The amount of these are dependent on the scheme being viable and with regard to this the agent has submitted a viability assessment stating that the scheme would not be viable and none of these contributions have been agreed to date. An updated viability assessment is expected which will be fully assessed in terms of contribution capacity.

Highways – £150,000 towards bus services which is required in order to ensure this site is not reliant on private motor vehicles.

Education – A request towards secondary school places for the amount of £169,296.12 has been made. The agent states that the scheme cannot be provided on viability grounds.

Whilst a viability assessment has been submitted this has been made on the basis that the scheme is market housing which is not the basis of the planning application as submitted which is for 100% affordable housing.

NHS – A request for the amount of £159,942 has been made. The agent states that the scheme cannot be provided on viability grounds.

With regards to the NHS request for contribution this is not supported as follows:

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.

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 acute 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 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.

Affordable Housing - Policy LIV4 sets out targets and thresholds for the provision of affordable housing. For Nelson there is therefore no requirement for affordable housing to be provided on this site. The application proposes that all the units on the site would be affordable which is acceptable.

11. Summary

The proposed housing scheme for 114 units is acceptable in terms of highway safety and parking provision and would not adversely impact on residential amenity. The layout, design and materials are acceptable subject to appropriate conditions particularly relating to materials. No provision has been made within the site for open space. Landscaping, protected trees, land contamination, drainage issues can be controlled by appropriate conditions.

Requirements for affordable housing are not required in this particular case.

Contributions towards improvements to bus services, education and the NHS have been sought, however, agreement has not yet been reached with the agent on the levels of contribution the scheme can afford.

Whilst the agent has submitted a viability assessment for this scheme it is based upon market housing and not the 100% affordable scheme which has been applied for here. The assessment is currently being updated to accurately reflect the position and provide further details.

Recommendation

The application is brought before the Area Committee for comment. Those comments will be included in the final report which will make a recommendation to the Policy and Resources Committee. Members are asked therefore to make a resolution incorporating the Committee's comments on the application.