



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

**TO:** COLNE & DISTRICT COMMITTEE

**DATE:** 09<sup>th</sup> July, 2020

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## PLANNING APPLICATIONS

### PURPOSE OF REPORT

To determine the attached planning applications.

## REPORT TO COLNE & DISTRICT COMMITTEE 09<sup>th</sup> JULY, 2020

**Application Ref:** 19/0893/FUL

**Proposal:** Full: Demolition of part of Hall (40cu.m.); Change of use of Langroyd Hall from Public House (Use Class A4) to Extra Care Residential Institution (Use Class C3); Erection of four new build units to form 32 no. Extra Care apartments with ancillary gymnasium, hairdressers and associated car parking.

**At:** Langroyd Hall, Langroyd Road, Colne.

**On behalf of:** EH Capital 1

**Date Registered:** 9<sup>th</sup> December 2019

**Expiry Date:** 3<sup>rd</sup> February 2020

**Case Officer:** Kathryn Hughes

### **Site Description and Proposal**

The application site is a Grade II Listed Public House, currently vacant, located within the settlement boundary of Colne. Access to it is via a private driveway from Langroyd Road.

The proposed development is to convert the existing building into residential use and erect four detached buildings which in total will form 32 extra care apartments with an ancillary gymnasium and hairdressers. Associate works for bin and cycle storage, car parking provision and landscaping are also included. A Warden's accommodation is also proposed.

The site includes number of trees some of which are protected under TPO. No. 3, 1990 as well as TPO.No.16, 1996 Red Lane adjacent to the site.

Block A is the existing Grade II Listed Hall; Block B is a small two storey unit to the rear of the Hall; Block C is a large three storey unit sited to the North East of the site; Block D is a part two storey and part single storey unit sited to the East of the site whilst Block E is a part two storey and part single storey unit sited to the South West.

A Planning Statement, Design and Access Statement, Heritage Statement, Drainage Strategy, Transport Statement, Arboricultural Impact Assessment and Ecological Survey and Contamination Report have been submitted in support of this application.

A Listed Building Consent has been submitted under 19/0894/LBC which has been granted for alterations to the Hall only.

### **Relevant Planning History**

19/0894/LBC - Listed Building Consent: Demolition of part of Hall (40cu.m.); Erection of two single storey extensions; removal of rear rooflink; restatement of original staircase; replacement windows; replacement of roof slates; internal alterations to remove and install internal walls – Approved.

13/08/0712P – LBC: Re-position entrance gate pier to provide widen access to driveway – Approved.

13/08/0708P – Full: Alterations to access – widen entrance to Langroyd Road – Approved.

13/08/0475P – Advertisement Consent: New signage scheme for premises - externally illuminated fascia sign and post sign and non-illuminated information signs (4) (Re-Submission) – Approved.

13/06/0268P – Full: Advertisement Consent: Display externally illuminated freestanding sign in car park – Refused.

13/04/0824P – Advert: Display externally illuminated free standing entrance sign & fascia signs – Approved.

13/95/0388P – Sign to frontage adjacent south gable – Refused. Erection of fascia sign adjacent entrance doorway and double sided sign against driveway – Approved.

13/95/0342P – Full: Internal and external alterations, provide play area and bin store – Approved.

13/95/0341P – LBC: Internal and external alterations, provide play area and bin store – Approved.

13/93/0375P – LBC: Replacement windows – Approved.

13/93/0075P – Alterations and extend lounge – Approved.

13/93/0074P – LBC: External alterations, demolish outbuilding and extend lounge – Approved.

13/92/0510P – LBC: Demolish outbuilding and boilerhouse and erect beer store, conservatory and alteration – Approved.

13/92/0509P – Erect beer store and conservatory – Approved.

### **Consultee Response**

United Utilities - Following our review of the submitted Drainage Strategy Document Ref: 12773-Drainage Strategy-01, Rev: 01, Dated: 28.11.2019 by Waterco we can confirm the proposals are unacceptable in principle to United Utilities. As we do not believe the drainage hierarchy has been sufficiently assessed. Whilst there is an existing connection to the combined sewer, there is a potential opportunity to drain the proposed site in a more sustainable way in line with the hierarchy as outlined within Paragraph 80 of the National Planning Policy Framework.

We request drainage conditions are attached to any subsequent approval to reflect the above approach.

Historic England – advises to seek views of Conservation Officer.

Cadent Gas – advised to check apparatus in area.

LCC Highways – The highway authority supports the proposed improvements to the site access, including a pedestrian link to the surrounding adopted highway network. Any resurfacing works to the access within the site, including the new pedestrian opening, should be properly constructed to tie into the rear edge of the adopted highway network and should be clearly delineated on site. Any works within the adopted highway in the access apron would need permission from Lancashire County Council as the highway authority.

Comments weremade on the original layout. The following comments were made follwig amended plans.

### **Amended Plans:**

Having considered the amended and additional information submitted for the above application, including the Transport Statement – Addendum (dated 18 April 2020) and the Proposed Site Layout Plan (Drawing PL07 Rev D), the Highway Development Support Section makes the following further comments.

We note the reduction in the number of residential units from 33 to 32 and the removal from the scheme of the on-site café.

### **Car and cycle parking**

There are still concerns regarding the level of on-site parking proposed, given that the Use Class applied for is C3 (residential) and not C2 (Nursing Home) or C3 (sheltered housing). Consideration must be given not only to the use applied for but also any future use permitted within the same Use Class, where parking requirements may be significantly different.

Twenty cycle storage spaces are now proposed (paragraph 11 of the Transport Statement, although only two cycle storage areas are shown on the revised Proposed Site Layout Plan, providing storage for eight cycles. The applicant should clarify the total number to be provided and either show these on a revised site plan, or their provision can be controlled by condition.

As advised in our previous response dated 8 January 2020, the proposed disabled parking bays are not laid out in accordance with the national guidance for the layout and design for disabled parking bays.

### **Waste collection**

A revised swept path analysis plan has been submitted (Appendix B - Drawing SCP/190637/ATR01/A), which is now acceptable.

A number of bin collection points have also been provided within the site, allowing waste bins to be moved more acceptable distances by both residents or refuse collectors.

The applicant has indicated that the previously proposed highway-related conditions and note are acceptable (Transport Statement para 18).

Whilst the highway authority still has concerns regarding the level of parking proposed, if the local planning authority is minded to approve this application conditions should be attached relating to off-site highway works, access and footway improvements, parking areas, cycle storage and control of ancillary facilities.

LLFA – The Lead Local Flood Authority has no objection to the proposed development, subject to appropriate planning conditions.

### **Lead Local Flood Authority advice:**

#### **Surface water drainage scheme:**

The surface water drainage scheme outlined in the applicant's drainage strategy report (report: 12773-Drainage Strategy-01, by Waterco, Dated 28 November 2019) is only a preliminary issue and may be subject to change following further detailed design and investigation. The applicant will therefore be expected to provide a final surface water drainage scheme for the development once all detailed design and investigation work has been completed.

#### **Sustainable Drainage Systems:**

The LLFA encourages the applicant to maximise the use of sustainable drainage systems (SuDS) when designing the surface water drainage scheme for the development site.

### **Construction Phase including enabling works:**

It is critical that flood risk is appropriately managed during the construction phase(s) of the development. Compaction of the soil is likely to speed up the run-off rate whilst the site is cleared and the permanent drainage systems and/or attenuation systems are constructed and brought into use.

The developer should identify the flood risk associated with this phase of the development and provide details of how surface water will be managed during construction, including any mitigation. The LLFA is satisfied that these details can be secured through the inclusion of the above recommended planning condition.

### **Highway Drainage / Highway Adoption:**

This response does not cover highway drainage, matters pertaining to highway adoption (s38 Highways Act 1980) and/or off-site highway works (s278 Highways Act 1980).

Architectural Liaison Unit – requires details of security measures for the site including CCTV and external lighting and recommends the site is secured throughout the construction phase.

NHS Trust – Request a contribution of approximately £585 per unit resulting in a total of £19,296.

PBC Conservation Officer – My original comments on the application are set out below; these relate essentially to the heritage significance and setting of Langroyd Hall, and the impact of the massing and layout of the new blocks on this significance. Amended plans have been submitted which address many of the initial concerns expressed, and I have added additional comments in respect of these.

### **Significance**

Langroyd Hall is listed at Grade II as a good example of a large and high status 17th century house, built in local stone, which has been altered and added to over the years as its use changed from residential to maternity home and subsequently a private club and restaurant. Large two-storey additions were built to the side and rear in the 18th and 19th centuries. Later 20th century single storey extensions and infilling to the side and rear relate to its most recent use as a public house and restaurant. The Hall has remained vacant over the last few years and is in need of urgent repairs and a viable new use in order to preserve it for the future.

The submitted Heritage Assessment is comprehensive and details the evolution of the building from its 17th century origins. The main heritage significance lies in the front portion of the building with its impressive façade, where the two storeyed porch, prominent stone gables and fine stone detailing of the 17th century building are seen to best effect. There is some particularly fine architectural detailing in its carved stonework, including moulded stone window surrounds, chimney stacks, copings, kneelers and finials which add definition and variety to the facades and roofline. These are seen to particularly good effect on the front elevation of the building, where the elaborate stone finials emphasise the tall gabled forms of the double height porch and the cross wing to the right hand side. The windows to the original building have been altered and enlarged, most likely in the C18th when sashes were introduced, many of these being tall cross-windows with stone mullions and transoms. The impressive height of these adds to the vertical emphasis and grandeur displayed in the facades. The oldest parts of the house are ranged around the porch at the front and have impressive finely-cut stonework, the stone being taken from local quarries.

### **Amended plans:**

Full comments were made on the initial scheme. The following are comments on the amended plans.

## **Setting**

The amended plans have indicated the retention of some of the trees along this boundary, which would enable sufficient screening to preserve the settings of both listed buildings. The adjacent stone wall and gatepost to the driveway would also be retained as part of the landscaping scheme at this important arrival point to the site. The impressive view of the hall frontage would still be seen against its existing backdrop framing of trees, with views of the open countryside to the N being afforded through the space purposely left between the Hall and the new Block C.

Following pre-application discussions, the siting of the 4 new apartment blocks was considered to be broadly appropriate bearing in mind the need to preserve the main elements of significance of the Hall and its setting. The creation of an open courtyard to the Hall frontage, enclosed by new apartment blocks to each side, would still enable appreciation of the hall from the driveway approach whilst allowing it to retain its dominant position on the site. Subsequent amendments to massing, modelling and design of the blocks have reduced their perceived scale, addressing concerns about the impact on the setting and visual dominance of the hall.

### **Block B – to the rear of the Hall**

The simple form and detailing of this block would be appropriate, and with high quality materials to match those of the hall, would preserve the setting. Amended plans show the bin store relocated away from the visible side of the building.

### **Block C – north east of the Hall**

The amended plans show Block C redesigned to address the above concerns, with reductions in its overall scale, height, massing and footprint. The flat roofs and set-back upper floors would reduce the bulk and enable a stepping-down in height and hierarchy towards the Hall, preserving its dominance on the site and enabling open views between the two buildings. The design is contemporary, yet simple in materials and detailing, with the vertical emphasis and shadow effects of the openings, some with simple stone mullions, reflective of that of the Hall. The visual impact of the upper floor would be minimised by the use of zinc panels and glazing which should have a more recessive appearance when seen against the landscape beyond. More modelling has been introduced to the facades, and it would be useful to request some updated 3D visuals to demonstrate this, as the elevational drawings do not clearly indicate the extent of modelling and setbacks to the various parts of the building. Provided that the stonework and other cladding materials are of good quality and well detailed, with simple framing details for the aluminium windows and doors, the building should respect the setting of the Hall.

### **Block D – east of the Hall across the courtyard**

The footprint, height and scale of this block has been reduced in the amended plans, with the bulky and prominent pitched roof replaced with a flat roof over a well-recessed zinc-clad upper floor. The design idiom and style would match that of Block C. The setting back of the S side of the building further from the driveway would minimise its encroachment on views of the hall from the approach. Again, the provision of 3D visuals would show this more clearly, and also assist in appreciating the modelling of the building and its relationship with the Hall. Some trees are now proposed to be retained behind this block, which would afford a better relationship with Langroyd Farm to the rear.

### **Block E – south of the Hall**

The 2-storey element of Block E is well set back from the frontage of the Hall, and is seen adjacent to the hall in views from the approach. The pitched roof of this section would relate well to the Hall, however the proposed screen wall to the staircase on the frontage would project too far towards

the hall, minimising the area of open space between the buildings. This element should be omitted completely at first floor level, and cut back at ground floor level, in order to leave more separation and reduce clutter around the Hall. The bin storage could still be concealed behind a reduced screen wall.

Whilst acknowledging that there is considerable scope to improve on the existing expanse of tarmac car park around the hall, it will be particularly important to achieve a good design and layout for the central courtyard. With the necessity for the circular forecourt design to accommodate some car parking there is potential for it to appear cluttered, which could detract from appreciation of the hall. A simplified palette of good quality natural paving materials and some green landscaping to soften and screen the edges would assist in retaining a more spacious feel, as would keeping areas of new walling, ramps, kerbs, lighting, bin stores etc. to a minimum. The central tree would be best kept fairly low in height so as not to obstruct views of the hall in the long term.

The amended plans show reduced footprints and massing for Blocks C and D, which were the major areas of concern with relation to the setting of the Hall. In addition, the number of apartments has been reduced, enabling the retention of more trees on the site.

Whilst the relatively open setting of the Hall would undoubtedly be altered, the effect on the overall significance of the listed building would not be seriously harmful, subject to the final amendments and details outlined above. The harm that would arise would be outweighed by the public benefit of securing the well-considered conservation of the heritage asset with a viable future use.

Whilst the scale and form of the proposed new buildings have now been improved, it is particularly important that their detailed implementation achieves the necessary high quality of contemporary design to secure their successful relationship with the listed building.

Conditions are advised as follows:

- Full materials palette for stone, slate and cladding/glazing systems; samples to be agreed
- Scheme for design and detailing of roofs, eaves, verges, parapet, cornices, etc.
- Scheme for framing design and finish details for new windows and doors
- Details of rainwater goods; design, materials, finish; samples to be agreed
- Details of vents, grilles, flues, lighting and any other fittings to external elevations
- Details of any repair/alteration to boundary walls and gateposts; design of new screen walls, ramps, retaining walls
- Scheme for design and materials for hard surfacing, including lighting
- Ongoing maintenance scheme, particularly for sedum roofs
- Restoration of the Hall to be secured in advance of new development in grounds (phasing condition)

PBC Environment Officer – The revised layout means that the trees on the boundary can now be retained screening the listed property and soften the view from the adjacent Open Countryside. If we can secure some tree planting as offered within the adjacent land owned by PBC then that would go a long way to softening that block on the boundary. The tree protection plan and AIA is fine. There is no mention of the rest of the planting scheme, ground preparations and maintenance. As a result, we would need to condition and landscape and landscape maintenance plans. I still have some concerns about the parking area on the approach in.

Colne Town Council – Object to the proposed works as they will result in a significant overdevelopment of the site and will cause substantial harm to the original property by detracting from the listed building, due to the close proximity. The turning circle and the parking arrangements also lead to a visual clutter of the main façade of the building.

## **Public Response**

Site and press notices posted and nearest neighbours notified by letter. 6 responses received raising the following issues:

- Please do not allow Langroyd Hall to be altered in any way. For a residential care home to allow new builds would be sacrilege. We are losing all our heritage and beautiful buildings in Colne;
- It has been sad to see the deterioration of the Hall over the last 12 months and the vandalism which has taken place;
- It is welcome news that something is planned for the site and the four units should be an asset to the site in general, however, one of those units is planned immediately to the rear of our property which we strongly object to as it would reduce light to both 2 and 3 Lynwood Close. Surely there is sufficient land to the far grassed area overlooking the upper reservoir to be able to accommodate this unit. It is the only unit which affects the existing residents in this way;
- We accept and welcome that after 12 months of neglect there should be some changes made to the fabric and surroundings we object to the application and the impact this will have on the existing residents;
- Firstly, the plans show Block E to the North of 1, 2 & 3 Lynwood Close which will impinge on privacy, available light and, in our opinion, unnecessarily close to the properties. We feel strongly that existing residents have not been considered in this aspect. Properties on Lynwood Close are mostly single storey and these are being overshadowed by the proposed new buildings;
- Secondly the overall density to the north with Block C which is three storey and not appropriate;
- We live in a Grade II barn in front of the Hall which was once the farm buildings for the Hall. We have grave concerns over the scale and massing with Building D a three storey high building in particular. The gable end of that building is just a few yards from our fence and we feel this building will be very imposing especially as the developers want to cut down all the trees on this border;
- The building runs the full length of the north bank of the site and would block views of the Hall from Langroyd Country park, one of the iconic views of Colne;
- Building C is close to our fence and the trees which give privacy are being cut down some trees are under TPO and should be preserved
- Part of the land where the trees are is understood to be no man's land and the developers seem to have claimed this;
- Are the proposed outbuildings sympathetic to the character of the Hall?
- I support the need for extra care for adults, however, the developers have not met with residents to explain what this means. Is it for the elderly, people with mental needs or for the rehabilitation of drug use?
- Depending on the use this may have an adverse reaction on local house prices and as such this should be brought into consideration;
- The removal of the roof may have caused impact on the wildlife habitat;
- The removal of large trees is uncalled for and to replace with young saplings is ludicrous. To remove trees within Langroyd park must not take place as it's outside the boundary and nothing to do with this development;
- There has been no discussion with residents over increased road traffic and footfall to the premises nor how construction noise will be kept to a minimum;
- The roundabout is a very busy junction close to a primary school;
- What will be the gain for the local community will they be able to use the café or gym? It is difficult to see how the community will benefit from the development other than the loss of an historic building;



- The detached apartment block c and café on three floors will obscure and dwarf the Listed Building. The layout and density seems to focus on maximum optimisation rather than achieving a sensible balance and fit with the local area;
- There is bound to be noise and disturbance which will impact on residents and users of adjoining roads and footpaths and it likely to far outweigh that which arose from the public house. The developers need to look again at the number of apartments and adequacy of parking spaces for residents, staff and visitors;
- Langroyd Hall adjoins an area of natural beauty and residents should not have their views of Langroyd Country Park and the two reservoirs obscured by the proposed development;
- Any encroachment onto Green Belt land should not be permitted; and
- In making its decision Pendle Council needs to address whether My Space Housing are proposing to meet an existing need or forging ahead and hoping tenant will materialise in the future.

#### Comments received on amended plans:

- Pleased to note the trees are being retained for the boundary adjacent to the listed properties on The Croft to offer privacy and benefit the environment;
- We have been informed by bird experts that ne trees should be felled until September as this is going to harm the birds;
- We are lucky to see many bird species in our area some of which are endangered species;
- We note that the sycamore trees (L and M) which are in our garden are proposed to be removed as they are damaged and close to Block D which is close to our fence. We are not happy with these being felled as we shall then be overlooked by Block D;
- We noticed in February that the bat people removed the bats from the hall roof and since then they fly around the area at twilight. We hope suitable bat boxes are installed to accommodate them;
- We see that Block D remains two storey and the proposed building has significantly detrimental impact on the Grade II listed properties to the West on The Croft. The revised scheme now incorporates a flat roof which will dominate the character of the area as these properties traditional have sloping roofs. It is not clear as the to the actual overall height as there are no dimensions or scale bars on the plans;
- We see that Block C has been scaled back, however the revised plans indicate a corner window on the south east aspect first floor which will have a clear line of site into the properties on The Croft leading to a significant loss of privacy;
- We note the Heritage Statement does not assess the impact of the revised proposal on The Croft given the properties significant connection with the Hall beyond minor sweeping comments;
- We note there are no elevations which provide a contextual understanding of the proposals to The Croft giving that the northern and southern aspects of Blocks C and D would have allowed a more informed understanding of both the massing, setting and context and impacts impact on the Grade II listed properties of The Croft;
- Any changes appear to be minor and our previous objections still hold as none have been addressed;
- It is obvious that we would lose our view across the local countryside and the two reservoirs;
- Given that potential residents are going to be in the key at risk and vulnerable groups the concerns raised in the NHS response have been magnified and this must be addressed by the service provider and assess in detail by PBC in consultation with the NHS;
- We think there have been some changes in the height of the proposed development though this is difficult to assess. We are disappointed in the pictures giving an impression of the look of the buildings as these do not fit with the Listed Building at all and resemble a penal institution more than a residential home. The layout and density of the buildings and car parking continues to focus on optimisation of the site rather than achieving a sensible

balance and fit with the local area. Our points about noise and disturbance to local resident remain;

- We note the small adjustments to the plans for trees. However, the Covid 19 pandemic is placing increased emphasis on the importance of greenery/planting and has raised awareness of the importance of green space in health and well-being. Has this been properly assessed by the appropriate parties? It is still essential that residents do not have their views of Langroyd Country Park obscured and that any encroachment onto green belt should not be permitted; and
- PBC should evaluate whether My Space Housing are proposing to meet an existing service need and be assured that they have sufficient financial and human resources to deliver and run this proposal on a long term basis;

## **Officer Comments**

The main considerations for this application are principle of use, impact on residential amenity, impact on the heritage asset, layout, design and materials, highways/parking provision, drainage, landscaping and protected trees, ecology and contribution requests.

### 1. Policy

#### **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 Colne. 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;

The following Saved Replacement Local Plans Policies are also relevant:

Policy 4D (Biodiversity) seeks to retain and enhance biodiversity as part of a development.

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 ("the Framework")

The Framework is the single composite national policy on planning matters in England. It replaced all previous national planning policy documents.

The Framework sets out that the purpose of planning is to contribute to achieving sustainable development. This comprises of three dimensions: social, environmental and economic. The Framework continues to place Local Plans at the heart of decision making.

Good design is seen as an important element in the built environment. Paragraph 130 states that planning permission should be refused for development of poor design.

The role the historic environment plays in society and in planning is principally dealt with in Part 16 of the Framework. Opportunities should be taken for sustaining and enhancing the significance of heritage assets (HA) and the social, cultural and environmental benefits that conserving the historic environment brings is recognised.

The Framework sets out the mechanism for how heritage assets need to be assessed in planning applications. Applicants must assess the significance of the heritage asset with the detail being proportionate to the importance of the asset. The particular significance of the asset needs to be assessed.

In making a decision on the application account needs to be taken of:

- The desirability of sustaining and enhancing the significance of the assets and putting them to a viable use consistent with their conservation.
- The positive contribution assets can make to sustainable communities
- The desirability of new development making a positive contribution to local character and distinctiveness

Great weight should be given to be given to the asset's conservation when the impact on the significance of a designated asset is considered. The more important the asset the greater that weight should be.

Harm to assets is not precluded from happening but this needs clear and convincing justification. If there is substantial harm or loss of a grade II listed building the justification for that should be exceptional.

Less than substantial harm is set out in para 196 of the NPPF.

There would be public benefit to the development in terms of economic activity and potentially securing the future use of the listed building.

## 2. Principle of Use

The site is a previously developed site located within the settlement boundary of Colne. The principle of residential use is acceptable subject to compliance with other Local Plan policies.

The ancillary Gymnasium and Hairdressers are acceptable provided that these are not available to visiting members of the public.

## 3. Impact on Residential Amenity

The nearest properties directly affected by this proposal would be 2 – 8 Red Lane, 2 – 6 Lynwood Close, The Coach House (Grade II Listed) 2 The Croft and Croft Cottage.

Other properties along Red Lane and Langroyd Road would see and hear the construction and activity on the site but would not be unduly affected otherwise.

The properties sited along Red Lane closest to the access point would have vehicles passing the rear of their properties but this would not any greater impact than the previous use as a public house.

No. 2 Lynwood Close is a bungalow on an elevated plot located to the South West of the site which back onto the site and has the rear elevation and garden facing the site onto the rear elevation of Block E which is a part two storey and part single storey unit at a distance of 11.5m from rear to rear. Due to the elevated height of the bungalow and the single storey element of Block B at this point this is acceptable.

No. 3 Lynwood Close is a bungalow on an elevated plot located to the South West of the site which back onto the site and has the rear elevation and garden facing the site onto the rear elevation of Block E which is a part two storey and part single storey unit at a distance of 13m from rear to rear. Due to the elevated height of the bungalow and the single storey element of Block B at this point this is acceptable.

No. 4 Lynwood Close is a bungalow on an elevated plot located to the South West of the site which back onto the site and has the rear elevation and garden facing the site at a distance of 10m overlooking the car park area at an elevated position this is acceptable.

No. 5 Lynwood Close is a bungalow on an elevated plot located to the South West of the site which back onto the site and has the rear elevation and garden facing the site at a distance of 7.5m from rear extension overlooking the car park area at an elevated position this is acceptable. This property has existing boundary treatments which effectively screen it from the site.

No. 6 Lynwood Close is a bungalow on an elevated plot located to the South West of the site which back onto the site and has the rear elevation and garden facing the site onto the access road. This property has existing boundary treatments which effectively screen it from the development.

The Coach House is part of a group of Grade II listed buildings to the East of the site which used to be associated with the Hall as Farmhouse and outbuilding. The Farmhouse is sited the furthest away with the former barns in the middle and The Coach House nearest to the site. Block D is located the closest to this property and is sited 11m from this property at the closest point rear elevation to gable. There are windows proposed in the rear of Block D which serve habitable rooms, however, the gable of The Coach House has no first floor windows and therefore this is

acceptable in terms of privacy. The retention of the trees will afford some privacy and screening of this development. This is acceptable in amenity terms the impact on the setting of the listed building is addressed below.

2 The Croft is located to the East of the site with the existing access road to the South East. This is acceptable.

Croft Cottage is also located to the East of the site with the existing access road to the South East. This is acceptable.

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 units. Although some first floor bathroom and kitchen windows in Block E are only 8m from existing first floor windows in the Hall which serve bedrooms. A condition to require obscure glazing in the first floor windows of Block E on the northern elevation to prevent potential overlooking.

#### 4. Layout, Design and Materials

The proposed housing development would have an appropriate mix of housing providing a total of 29 one bed and 3 two bed apartments which meets the requirements of policy LIV3.

The creation of an open courtyard to the Hall frontage, enclosed by new apartment blocks to each side, would still enable appreciation of the hall from the driveway approach whilst allowing it to retain its dominant position on the site. The massing, modelling and design of the blocks have reduced their perceived scale and addresses previous concerns about the impact on the setting and visual dominance of the hall.

The plans indicate the retention of some of the trees together with replacement and replanting of additional trees both on and off the site which would enable sufficient screening to soften the development and preserve the settings of both listed buildings. The impressive view of the hall frontage would still be seen against its existing backdrop framing of trees, with views of the open countryside to the North through the space purposely left between the Hall and Block C.

With regard to design of the proposed units:

##### Block B

This block is small scale and tucked behind the rear of the Hall would not be readily visible. The simple form and detailing of this block would be appropriate with high quality materials to be controlled by condition this is acceptable.

##### Block C

This is the larger three storey unit sited to the North of the site and which has been redesigned to address previous concerns with reductions in its overall scale, height, massing and footprint. The flat roofs and set-back upper floors help to reduce the bulk and height. The design is contemporary, simple in materials and detailing, with the vertical emphasis and shadow effects of the openings, some with simple stone mullions.

The visual impact of the upper floor would be minimised by the use of zinc panels and glazing which should have a more recessive appearance when seen against the landscape beyond.

Subject to samples of the stonework and other cladding materials and with details of the aluminium windows and doors this is acceptable.

#### Block D

This part two storey and part single storey unit is sited to the East of the site. The footprint, height and scale of this block has been reduced in the amended plans, with the bulky and prominent pitched roof replaced with a flat roof over a well-recessed zinc-clad upper floor. The design and style match that of Block C. The setting back of the South side of the building further away from the entrance driveway reduces its encroachment on views of the hall from the approach. Trees are proposed to be retained to the rear of this block which provide more effective screening with the adjacent properties to this boundary.

#### Block E

This part two storey and part single storey unit is sited to the South West of the site. The 2-storey element is well set back from the frontage of the Hall and pitched roof of this section relates well to the Hall. The proposed screen wall to the staircase on the frontage would project too far towards the hall, minimising the area of open space between the buildings. This element should be omitted completely at first floor level, and cut back at ground floor level, in order to leave more separation and reduce clutter around the Hall. The agent has been requested to address this.

The amended plans show reduced footprints and massing for Blocks C and D, which were the major areas of concern with relation to the setting of the Hall. In addition, the number of apartments has been reduced, enabling the retention of more trees on the site which together with replacement planting will afford more effective screening.

In terms of materials stone elevations with feature cills and headers and dark grey concrete roof tiles and zinc panelling to some of the units are proposed which is acceptable subject to acceptable samples being submitted.

Whilst the relatively open setting of the Hall would be altered, the effect on the overall significance of the listed building would not be seriously harmful, subject to the final amendments and details outlined above.

The amended plans have indicated the retention of some of the trees along this boundary, which would enable sufficient screening to preserve the settings of both listed buildings. The adjacent stone wall and gatepost to the driveway would also be retained as part of the landscaping scheme at this important arrival point to the site. The impressive view of the hall frontage would still be seen against its existing backdrop framing of trees, with views of the open countryside to the N being afforded through the space purposely left between the Hall and the new Block C.

The design and materials of the proposed units 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 there is the Grade II listed Hall as well as the former associated farm buildings approximately (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.

In terms of impact on the area the proposal is acceptable subject to appropriate conditions to control materials, protect trees to be retained on the site and an improved landscaping scheme.

## 5. Highways/Parking Provision

The proposed improvements to the site access including a pedestrian link to Langroyd Road.

The submitted plans show provision for 24 car parking spaces would be provided which is less than the maximum requirement of 35 spaces (29 x one bed properties and 3 x two bed properties).

Whilst LCC Highways do not consider that 24 spaces is an adequate level of on-site parking for the development there has to be a balance between the amount of development, parking and the impact on the setting of the Hall and this needs to reflect its previous use a Public House and associated paraphernalia and the traffic associated with such a use..

More parking could be provided by reducing the amount of built form or providing parking along the access road and these have been considered and discounted due to impacts on viability and the heritage asset.

There has been some discussion over the potential end users of the site and how this could affect the parking requirements. The planning process does not control end users and whilst it has been stated that these would be likely to be over 55's or adults requiring assistance this would not be controlled but this permission.

Storage for 27 cycles is shown, which, considering the type of development proposed, may be an over-provision.

A revised site layout plan has been provided which addresses some of the issues raised by LCC Highways including providing for bin collection points within the site.

Off-site highway improvements will be required to the existing dropped pedestrian crossings on Red Lane, Langroyd Road and Regent Avenue due to the increase in pedestrian movements to and from the site and the nearest bus stop.

Overall whilst the scheme does have a deficiency in on-site car parking provision, however, it is close to amenities and public transport routes and the site does provides for ample bicycle storage provision and therefore provides sustainable modes of transport.

## 6. Drainage

Whilst United Utilities have concerns regarding the proposed drainage scheme in the hierarchy of the NPPF, Lead Local Flood Authority are satisfied that an appropriate scheme can be achieved and that as a technical matter this can be controlled by condition.

The agent has been made aware of the concerns of UU and advised to liaise with them regarding potential connections to existing surface water systems.

Subject to appropriate conditions this is acceptable.

## 7. Landscaping and Protected Trees

There are a number of trees on the site (some of which are protected) which are proposed to be removed and replaced with more appropriate species in order to provide screening and greenery within the site.

Block C would have the greatest impact in terms of views into the site along the northern boundary where planting would be restricted to smaller-growing specimens of fairly restricted width. Without moving the building further south or significant reduction in its built form the desirability of providing larger-growing specimens along this boundary is limited within the site.

The latest proposals seek to address the previous concerns including seeking to retain trees in the north-east corner and in the south-east corner of the site.

The revised layout means that some of the trees on the boundary can now be retained effectively screening the listed property and softening the view from the adjacent Open Countryside. The agent has offered to provide some tree planting within the adjacent land owned by PBC. This would assist in providing larger growing specimens to soften Block C along that boundary and from longer term views into the site. This is acceptable and can be controlled by condition.

The submitted tree protection plan is fine acceptable and can be conditioned together with an enhanced landscaping scheme, ground preparations and maintenance.

## 8. Ecology

A Bar Report has been submitted which confirms the present of bats roosting within the roofscape of the Listed Hall. The agent is aware that they will require a bat licence from Natural England prior to commencing any work on the building.

Mitigation proposals include Baffle box and access as well as habitat boxes on the Hall and some of the trees.

This is acceptable and can be controlled by condition.

## 9. Impact on Heritage Assets

Langroyd Hall was listed at Grade II in 1953 and has retained its extensive grounds and long driveway approach, which enable the imposing frontage to be viewed from some distance, this feature originally being designed to enhance visitors' appreciation of this prominent and high status building. Adjacent to the driveway lies Langroyd Farm, a group of former farm buildings associated with the Hall, also listed at Grade II. This impressive setting adds to the heritage significance of the Hall.

In accordance with Section 66 of the Planning (Listed Buildings and Conservation) Act 1990, special regard has been made to the desirability of preserving the special historic or architectural interest of the building and its setting

The modern extensions comprising single storey dining areas and kitchens, along with items such as flues and external metal stairs, would be removed from the north side and rear elevations, which would result in a definite enhancement to the character and appearance of the listed building. Two much smaller single storey extensions are proposed in these areas, both of simple design in ashlar stone.

The submitted Heritage Assessment and Impact Assessment are well detailed, and the identification of elements of heritage significance has informed the proposed internal layout of the Listed Building. The structural report notes that the stone structure appears generally sound, with repairs to stonework and pointing recommended.



Overall, the proposed conversion and restoration of the Hall is considered to be sensitive to the significance of the listed building. The very minor harm caused to significance would be outweighed by the clear public benefit of securing the repair, restoration and viable reuse of this key listed building, in accordance with NPPF 196.

In terms of the potential impact of the new build elements these have been amended and the bulk and massing has been reduced and the overall design features improved.

Paragraph 196 of the NPPF requires that any harm requires that any harm to significance should be weighed against the public benefits of the proposal. Whilst para 185 asks local planning authorities to take account of the desirability of new development making a positive contribution to local character and distinctiveness. Details such as high quality materials and landscaping can be controlled by condition to ensure that the development respects and does not unacceptably harm the setting of the listed buildings.

The effects on the setting of the heritage asset would lead to some harm to its significance. This would be less than substantial harm and would be at the lower end of the less than substantial scale. The National Planning Policy Framework, para 196, advises that any less than substantial harm to significance should be weighed against the public benefits of the proposal.

The public benefits that would arise from this proposal include:

- Contribute towards the Council's housing land supply and assist in the delivery of a mix of housetypes and tenures;
- Income from Council Tax;
- Employment for building trade and local tradesmen/businesses and the supply train;
- Additional off-site tree planting;
- Enhance biodiversity; and
- Bringing a vacant Listed Building back into a viable use.

The proposed scheme would provide for new industrial units and would have the generally acknowledged public benefits associated with that. This would be balanced against the limited and less than substantial harm to the heritage assets. On balance the public benefits would outweigh the less than significant harm to the heritage assets.

Taking this into account the proposed development is acceptable in principle in terms of heritage impact in accordance with policies ENV1 and ENV2 subject to appropriate conditions.

#### 10. Contribution Requests (S.106's)

**NHS** – A request for the amount of £19,296 has been made.

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.

#### 11. Other Issues

Comments have been made which refer to Langroyd Country Park this area of land to the north was never formally designated as such and therefore is not a considered.

The Town Council have referred to the scheme as being overdevelopment and cluttered in terms of parking in front of the Hall. The previous use as a Public House had far more hardstanding and parking than the proposed scheme and the amount of built form is in my opinion acceptable and can be accommodated with the site. It is clear than a reduction in built would improve the parking that can be achieved but any further reduction in units would undermine the viability of the scheme and would not enable the Listed Hall to be brought back into an acceptable use. This scheme therefore requires a balanced judgement.

#### 12. Summary

The scheme as proposed would not have an unacceptable impact on amenity or the Listed Building and the proposal would not have a detrimental impact on highway safety subject to appropriate conditions in terms of materials, drainage, landscaping and ecology. The scheme therefore accords with policies ENV1 and ENV2 of the Core Strategy.

### **Reason for Decision**

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed development would not adversely impact on amenity or highway safety or the protected trees and would be acceptable in terms of design and materials and therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

### **RECOMMENDATION: Approve**

Subject to the following conditions:

1. The works approved shall be begun before the expiration of three years from the date of this consent.

**Reason:** To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and to ensure the Local Planning Authority is informed of the commencement of the first works on the site.

2. The works hereby approved shall not be carried out except in complete accordance with the details shown on the submitted plans:

2624 (PL)01, 2624 (PL)06, 2624 (PL)02, 2624 (PL)

**Reason:** For the avoidance of doubt.

3. Prior to the commencement of development the applicant shall have submitted to and have agreed in writing by the Local Planning Authority a method statement which sets out in detail the method, standards and timing for the investigation and subsequent remediation of any contamination which may be present on site. The method statement shall detail how:-

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

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

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

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

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

4. No part of the development shall be commenced unless and until a Construction Code-of-Practice method statement has been submitted to and approved in writing by the Local Planning Authority. The code shall include details of the measures envisaged during construction to manage and mitigate the main environmental effects of the relevant phase of the development. The submitted details shall include within its scope but not be limited to:

- a) A programme of works including phasing, hours of operation and measures for the control of traffic to and from the site, and within the site, during construction.
- b) The areas and methods of loading and unloading of plant and materials.
- c) The areas for the storage of plant and materials.
- h) Location and details of site compounds
- i) An overall Construction Monitoring programme, to include reporting mechanisms and appropriate redress if targets/standards breached
- k) Parking area(s) for construction traffic and personnel
- L) Details of the provision and use of wheel washing on the site
- M) Site security

The Construction Code-of-Practice should be compiled in a coherent and integrated document and should be accessible to the site manager(s), all contractors and sub-contractors working on site. As a single point of reference for site environment

management, the CCP should incorporate all agreed method statements, such as the Site Waste Management Plan and Demolition Method Statement. All works agreed as part of the plan shall be implemented during an agreed timescale and where appropriate maintained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

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

5. Prior to any work commencing on site full details of palette of all external materials including stone, slate and cladding/glazing systems including details of rainwater goods to be submitted to and agreed in writing by the Local Planning Authority.

**Reason:** In order to ensure that the details are acceptable before work commences on site in the interests of the Listed Building and its setting.

6. No part of the development hereby approved shall commence until a scheme for the construction of the off-site works of highway improvement has been submitted to, and approved in writing by, the Local Planning Authority.

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

7. The proposed development should not be brought into use unless and until improvements to the vehicular access from Langroyd Road and provision of a footway have been fully completed and surfaced in accordance with the approved plans.

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

8. The proposed development should not be brought into use unless and until the parking areas shown on the approved plans has been constructed, laid out and surfaced in bound porous materials. The parking areas shall thereafter always remain available for parking of vehicles associated with the residential development.

**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.

9. The cycle storage facilities to be provided in accordance with a scheme to be approved by the Local Planning Authority and the cycle storage facilities to be provided in accordance with the approved plan, before the use of the premises hereby permitted becomes operative.

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

10. The Hairdressers and Gymnasium facilities shall be for the sole use of residents of the development only and shall not be available to the general public.

**Reason:** In the interest of highway safety and due to the lack of available parking within the site.

11. Foul and surface water shall be drained on separate systems.

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

12. No development shall commence until final details of the design and implementation of an appropriate surface water drainage scheme have been submitted to and approved in writing by the local planning authority. Those details shall include:

- a) A final surface water drainage layout plan; appropriately labelled to include all pipe/structure references, dimensions, design levels, finished floor levels and external ground levels (in AOD);
- b) A full set of flow calculations for the surface water drainage network. The calculations must show the full network design criteria, pipeline schedules and simulation outputs for the 1 in 1 year, 1 in 30 year and 1 in 100 year return period, plus an appropriate allowance for climate change and urban creep. The calculations must also demonstrate that surface water runoff will not exceed a maximum rate of 5l/s.
- c) A final site plan showing all on-site surface water catchment areas, i.e. areas that will contribute to the proposed surface water drainage network;
- d) Confirmation of how surface water will be managed within any non-drained areas of the site, i.e. grassed areas and public open space.
- e) A final site plan showing all overland flow routes and flood water exceedance routes, both on and off site;
- f) Details of any measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses; and
- g) Details of an appropriate management and maintenance plan for the surface water drainage network over the lifetime of the development.

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

**Reason:** To ensure that the proposed development can be adequately drained; that there is no flood risk on or off the site resulting from the proposed development; that water quality is not detrimentally impacted by the development proposal and that appropriate maintenance mechanisms are put in place for the lifetime of the development.

13. No development shall commence until details of how surface water and pollution prevention will be managed during each construction phase have been submitted to and approved in writing by the local planning authority.

**Reason:** To ensure that the construction phase(s) of development does not pose an undue flood risk on site or elsewhere and that any pollution arising from the development as a result of the construction works does not adversely impact on existing or proposed ecological or geomorphic condition of water bodies.

14. No development shall commence (except for demolition) unless and until details of the following:

- Scheme for design and detailing of roofs, eaves, verges, parapet, cornices, etc.
- Scheme for framing design and finish details for new windows and doors
- Details of vents, grilles, flues, lighting and any other fittings to external elevations
- Details of any repair/alteration to boundary walls and gateposts; design of new screen walls, ramps, retaining walls
- Scheme for design and materials for hard surfacing, including lighting
- Ongoing maintenance scheme, particularly for sedum roofs

- Restoration of the Hall to be secured in advance of new development in grounds (phasing condition)

Have been submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be fully implemented in strict accordance with the approved details.

Reason: To order to ensure the details are appropriate for the Listed Building and its setting and that the Hall is restored

15. Window reveals in the new build units shall be set back by at least 75mm.

**Reason:** To provide an appropriate set back in the interests of good design.

16. Unless approved in writing by the Local Planning Authority no ground clearance, demolition, changes of level or development or development-related work shall commence until protective fencing, in full accordance with BS 5837 : 2012 has been erected around each tree/tree group or hedge to be preserved on the site or on immediately adjoining land, and no work shall be carried out on the site until the written approval of the Local Planning Authority has been issued confirming that the protective fencing is erected in accordance with this condition. Within the areas so fenced, the existing ground level shall be neither raised nor lowered. Roots with a diameter of more than 25 millimetres shall be left unsevered. There shall be no construction work, development or development-related activity of any description, including the deposit of spoil or the storage of materials within the fenced areas. The protective fencing shall thereafter be maintained during the period of construction.

All works involving excavation of soil, including foundations and the laying of services, within the recommended distance calculated under the BS 5837 (2012) of the trees to be retained on the site, shall be dug by hand and in accordance with a scheme of works which has been submitted to and approved by the Local Planning Authority, prior to the commencement of works.

Reason: To prevent trees or hedgerows on site from being damaged during building works.

17. The development hereby permitted shall not be commenced until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted at a scale of 1:200 and shall include the following:

- a. all existing trees to be retained;
- b. all proposals for new planting and turfing indicating the location, arrangement, species, sizes, specifications, numbers and planting densities;
- c. an outline specification for ground preparation;
- d. all proposed boundary treatments with supporting elevations and construction details;
- e. all proposed hard landscape elements and pavings, including layout, materials and colours;
- f. the proposed arrangements and specifications for initial establishment maintenance and long-term maintenance of all planted and/or turfed areas.

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

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

18. No demolition shall take place until the implementation of a programme of archaeological investigation and recording in accordance with a written scheme of investigation has been submitted to and approved in writing by the Local Planning Authority. The recording shall thereafter be carried out in accordance with the approved scheme and timescales.

**Reason:** In order to provide an accurate historic record of the site by a competent person prior to demolition of the building.

19. The Mitigation measures including Baffle access and habitation boxes shall be implemented in full prior to any occupation on site.

**Reason:** In order to provide appropriate bat roosts on the site and enhance the biodiversity of the site.

#### **Note**

1. The grant of planning permission will require the applicant to enter into an appropriate legal agreement (Section 278), with Lancashire County Council as the Highway Authority prior to the start of any development. For the avoidance of doubt works shall include, but not be exclusive to, the provision of tactile paving and H bar markings to the existing dropped pedestrian crossings on Red Lane, Langroyd Road (both sides of the entrance and north and south of the roundabout), Regent Avenue, and outside and opposite No 227 Skipton Road. The applicant should be advised to contact the county council for further information by telephoning the Development Support Section (Area East) on 0300 123 6780 or by email on [developeras@lancashire.gov.uk](mailto:developeras@lancashire.gov.uk), in the first instance to ascertain the details of such an agreement and the information to be provided, quoting the relevant planning application reference number.

**Application Ref:** 19/0893/FUL

**Proposal:** Full: Demolition of part of Hall (40cu.m.); Change of use of Langroyd Hall from Public House (Use Class A4) to Extra Care Residential Institution (Use Class C3); Erection of four new build units to form 32 no. Extra Care apartments with ancillary gymnasium, hairdressers and associated car parking.

**At:** Langroyd Hall, Langroyd Road, Colne.

**On behalf of:** EH Capital 1



## REPORT TO COLNE & DISTRICT COMMITTEE ON 9<sup>th</sup> JULY, 2020

**Application Ref:** 20/0198/FUL  
**Proposal:** Full: Resiting of a temporary single storey agricultural workers dwelling.  
**At:** Cowfield Farm, Burnley Road, Trawden  
**On behalf of:** Mr Robert Airey  
**Date Registered:** 01/05/2020  
**Expiry Date:** 26/06/2020  
**Case Officer:** Alex Cameron

This application has been brought before Committee as more than two objections have been received.

### **Site Description and Proposal**

The application site is on agricultural land located within the open countryside and Trawden Forest Conservation Area. The site sits on a valley side to the east of farm buildings at Cowfield Farm. Public Footpath No. 40 runs along the access track and immediately past the site, Public Footpath No. 48 runs past the beck to the south and Public Footpath No. 57 runs from there to Burnley Road,

This is an application to erect an temporary agricultural work` s dwelling for a period of three years, resiting an existing unauthorised building. The building has a footprint of 20m x 6.8m and is of timber construction, with horizontal timber cladding, a concrete tile roof and black uPVC window and door frames. The proposal would involve cutting into the hillside to provide a level area for the building and formation a parking area.

An application was previously refused and an appeal dismissed for the retention of the building on land to the east in a prominent position beyond the existing agricultural barns and belt of trees and an enforcement notice is in place requiring the removal of the building from that site.

### **Relevant Planning History**

13/87/0145P - Outline: Erection of an agricultural workers dwelling – Approved, 30/11/1987.

13/88/0166P - Reserved Matters - Erection of agricultural workers dwelling – Approved, 25/04/1988.

13/13/0535P - Full: Removal of Condition 2 of Planning Permission 13/87/0145P - Relating to agricultural worker – Refused, 23/12/2013.

13/14/0301P - Full: Removal of Condition 2 of planning permission 13/87/0145P relating to agricultural worker – Approved, 13/08/2014.

18/0043/FUL - Full: Retention of a single storey agricultural workers dwelling (Retrospective) – Refused and Appeal Dismissed.

### **Consultee Response**

LCC Highways – No objection.

Coal Authority – No objection. Please attach a note to any permission relating to potential coal mining hazards.

Trawden Forest Parish Council – The acreage owned does not warrant another property. The concerns around this have already been highlighted with the Council and the Parish Councillors note that the exact same report has been submitted with this application. All the livestock stated in the report do not belong to Mr Airey. Much of the land originally farmed by Cowfield Farm has been sold off as Mr Airey did not use it.

The building is not in keeping with its surroundings. The farm is in a conservation area and a 'log cabin' does not sit with the existing stone built buildings on the site.

Mr Airey sold his tied property as he stated he no longer required the property for the farm. How has this changed?

The Councillors still feel that he is trying to exploit a loophole in the Local Plan stating that agricultural dwellings are permitted outside of the settlement boundary.

There are numerous unused outbuildings - one of which is housing his caravan.

There are already enough properties on the farm without the need for another one.

This cabin was erected almost 3 years ago, and when the retrospective application was submitted, he stated that it would be a temporary 3 year building. There is still not enough work carried out on the farm 3 years later to warrant this cabin

### **Public Response**

A site and press and notice have been posted – Three responses received objecting to the development on the following grounds:

This building is not something that would suit the area.

The applicant does not own the land they wish to re site this dwelling.

The applicant already lives on the land in suitable accommodation, he also owns a property a few miles away which he chooses not to live in. There is also other properties for sale a few miles away.

### **Officer Comments**

#### **Policy**

##### **National Planning Policy Framework**

Paragraph 79 of the Framework states that decisions should avoid the development of isolated homes in the countryside unless one or more of the circumstances set out in that paragraph apply. The circumstances include the essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside.

Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

##### **Pendle Local Plan Part 1: Core Strategy (LPP1)**

ENV1 (Protecting and Enhancing Our Natural and Historic Environments) states that proposals in the designated open countryside should have regard to the Development in the Open Countryside SPG.

ENV2 (Achieving Quality in Design and Conservation) All new development should viably seek to deliver the highest possible standards of design, in form and sustainability, and be designed to meet future demands whilst enhancing and conserving our heritage assets.

Policy ENV4 (Promoting Sustainable Travel) states that proposals should follow the settlement hierarchy approach in Policy SDP2 and minimise the need to travel by ensuring they are developed in appropriate locations close to existing or proposed services. Consideration should be given to locating new housing, employment and service developments near to each other to give people the opportunity to live and work within a sustainable distance.

Policy LIV1 (Housing Provision and Delivery) states that until such time that the Council adopts the Pendle Local Plan Part 2: Site Allocations and Development Policies sustainable sites outside but close to a Settlement Boundary, which make a positive contribution to the five year supply of housing land, including those identified in the Strategic Housing Land Availability Assessment (SHLAA) will be supported.

Policy SDP2 (Spatial Development Principles) states that new development should be within settlement boundaries unless it is an exception outlined in the Framework or elsewhere in the LPP1.

#### Replacement Pendle Local Plan

Policy 31 (Parking) requires that new developments provide parking in line with the levels set out in Appendix 1 of the RPLP. This is addressed in the Highways Issues/Parking section.

#### Trawden Neighbourhood Plan

Policy 1 states that development should be within a settlement boundary unless, amongst other things, it will support agriculture and other land-based rural businesses.

### **Principle of the Development**

Paragraph 79 of the Framework states that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. The application site is located approximately 600m from the settlement boundary of Trawden, 1km from the nearest bus stop on foot via unmade public footpaths, or 2km via Burnley Road which has no footway for most of its length. The site is not located within or adjacent to any form of settlement and therefore it is an isolated location for the purposes of Paragraph 79 of the Framework and would leave occupant reliant on private motor vehicles to access essential facilities and services.

The development does not meet circumstances b-e of paragraph 79. The only remaining circumstance is a; that the dwelling meets an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside. There are two elements involved in the assessment of this, firstly whether there is a functional need for an agricultural worker to live on site and secondly whether the agricultural business is financially viable to sustain that need in the long term. Where a new enterprise or form of farming is proposed granting temporary consent may be appropriate to allow time for the proposed activity to establish whether it can be made viable.

#### Functional need

The current farming operation is relatively small scale, with the applicant working part time on the land and traveling from his home in Brierfield. The existing farmhouse is owned and occupied by the Applicant's sister, who is a partner in the farming business but the application states is not involved in the farming operations. The farm has been split when the estate of their parents was divided with different aspects of the farm being handed to the applicant and his sister.

The justification statement submitted with the application states the intention of the applicant to acquire his sister's share of the business and increase the scale of the farming operation to a point where it requires a full time agricultural worker to be present on the land.

The application proposes a three year temporary permission with the intention to expand the farming operation to the point where it requires a full time agricultural worker present on site. This is notwithstanding the fact that proposed house is not a caravan or a moveable structure in planning terms.

National Planning Guidance states that "a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness."

However, in this case, the building would be relocated from its existing site in the clear knowledge that the applicant is specifically asking for consent on a temporary basis, a temporary consent will be acceptable if all of the other material planning issues are acceptable.

Until late 2014 there was an additional agricultural worker's dwelling (Clough View) associated with Cowfield Farm at Clough View, Colne Road, Trawden, 529m from the application site. This was occupied by the Applicant and his family. An application was made and granted for removal of the condition tying that dwelling to use as an agricultural worker's dwelling (ref: 13/14/0301P) and it was sold by the Applicant.

It was demonstrated in that application that the dwelling was no longer required by the holding as it had reduced in size and the Applicant lived at the farmhouse at Cowfield Farm which would continue to serve as the primary dwelling for the farm.

Details submitted with that application stated that the Applicant lived at the farmhouse at Cowfield Farm, it was stated that if he were to leave the farmhouse for any reason he would try to purchase a terraced house in Trawden Village. If the applicant could not continue farming he would sell or rent the buildings and land he owns to his sister.

It has therefore been stated previously by the applicant that an additional agricultural worker's dwelling on this farm is not necessary, that the needs of the Applicant's agricultural holding can be met by the existing farmhouse or dwellings in Trawden Village.

However, the Applicant details that circumstances have changed since that time, it is also of relevance that the dwelling that was disposed of was on the edge of the settlement of Trawden rather than adjacent to the farm buildings. Taking this into account the disposal of that dwelling does not preclude a new workers dwelling if necessary and viable.

The details submitted by the applicant acceptably demonstrate that the proposed expansion of the agricultural business would make it necessary for a full-time agricultural worker to be accommodated on the site.

Concerns have been raised relating to the agricultural justification and alternative accommodation being available. There is a static caravan which appears to have been present for many years, the applicant stated at the appeal hearing that the caravan has been in use for accommodating animals and is not suitable accommodation. This was accepted by the Inspector. The need for and

acceptability of a temporary agricultural worker's dwelling at the farm has been established by the previous decision of the Council and at appeal.

### Financial viability

The special circumstance in paragraph 79 specifically relates to a permanent need, it must therefore be demonstrated that the agricultural holding can viably sustain a full time agricultural worker in the long term.

The planning statement submitted with the application states that "the application is for a temporary period in order for the applicant to expand and diversify the existing livestock enterprises undertaken on the holding and to prove the financial viability of the proposed farm business". This indicates that the existing agricultural business is not currently in a position to viably sustain a full-time agricultural worker.

Projected accounts have been submitted in order to demonstrate that should the farming business expand as intended it would provide a sufficient income to support a full-time agricultural worker.

Agricultural planning consultants ADAS were engaged to provide an expert assessment of the previous proposal in relation to functional need and financial viability.

Taking into account their advice it was concluded that the projections of the proposed agricultural business acceptably demonstrate that the proposed expansion of the business is feasible, it has also been demonstrated that the Applicant could feasibly have finance available to fund the expansion. There have been no changes that would alter that conclusion since the previous decision and therefore a temporary permission of three years in order demonstrate the long-term viability of the agricultural business is acceptable in principle.

### **Visual, Landscape and Heritage Impact**

The existing building is sited in a highly prominent location, particularly viewed from Burnley Road and the surrounding public footpath network and this has been determined by the Council and at appeal to have an unacceptable impact upon the landscape and Conservation Area.

The location of the building proposed in this application would not be visible in those views it would be behind the tree line and the existing agricultural barns and where it would be seen it would be seen in the context of the group of existing agricultural buildings.

Minor, less than substantial, harm resulting from the erection of a dwelling in this location, such as in immediate views from the footpath passing the site, would be offset by the public benefits of augmenting and existing farming business and supporting its expansion, which would have benefits to the rural economy the development in providing a home for an agricultural worker.

The proposed development is therefore acceptable in terms of visual, landscape and heritage impacts in accordance with policies ENV1 and ENV2.

### **Residential Amenity**

The proposed dwelling would be a sufficient distance from the existing dwelling to ensure that it would raise no unacceptable residential amenity issues and, taking into account that it would be connected to the agricultural use, would provide an acceptable living environment for its occupier. The proposed development is therefore acceptable in terms of residential amenity in accordance with policies ENV1 and ENV2.

### **Highways**

The vehicular access to the site is acceptable for an agricultural worker's dwelling and an adequate level of car parking is proposed, taking into account that the proposal is acceptable as an agricultural worker's dwelling in this location the lack of accessibility of the site is acceptable.

## **Other issues**

Concerns have been raised that the applicant doesn't own the land of the application site. It is not necessary to own land to apply for planning permission on it, the correct ownership certification has been completed for this circumstance.

## **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 in accordance with the Pendle Local Plan Part 1: Core Strategy, Replacement Pendle Local Plan and Trawden Forest Neighbourhood Plan. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

## **RECOMMENDATION: Approve**

Subject to the following conditions:

- 1 The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: Air/838/2821/02.

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

- 3 The occupation of temporary dwelling hereby permitted shall cease, the building and any associated infrastructure relating to the development shall be removed and the land restored to its former condition within 3 years of the date of this permission.

Reason: Justification for the viability of a permanent agricultural worker's dwelling has not been made.

- 4 The occupation of the dwelling hereby approved shall be limited to a person solely or mainly, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants. (As defined in sect. 336 of the Town & Planning Act 1990 (as Amended)).

Reason: The development hereby permitted has been allowed based on the agricultural need of the agricultural unit, on a site which would otherwise not be a suitable location for residential development, in order to ensure that the dwelling will be available in perpetuity for an agricultural worker.

- 5 Notwithstanding the provisions of Article 3 and parts 1 and 2 of the second Schedule of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development as

specified in Classes A, B, C, D, E, F and G of Part 1 and Classes A, B & C of Part 2 of Schedule 2 of that Order shall be carried out without express planning permission first being obtained from the Local Planning Authority.

Reason: To enable the Local Planning Authority to control any future development on the site in order to safeguard the character and appearance of the conservation area.

- 6 Prior to the occupation of the dwelling hereby approved a scheme for the disposal of foul and surface water shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for separate systems for foul and surface waters and be constructed and completed in accordance with the approved scheme before the dwelling is occupied.

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

- 7 The landscaping detailed on the approved drawing No. Air/838/2821/02 shall be implemented within the first planting season following the approval of a landscaping scheme. Any tree or other planting that is lost, felled, removed, uprooted, dead, dying or diseased, or is substantially damaged within 3 years of the date of this permission shall be replaced with a specimen of similar species and size, during the first available planting season following the date of loss or damage.

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

Note: The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com) or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

**Application Ref:** 20/0198/FUL

**Proposal:** Full: Resiting of a temporary single storey agricultural workers dwelling.

**At:** Cowfield Farm, Burnley Road, Trawden

**On behalf of:** Mr Robert Airey

## REPORT TO COLNE & DISTRICT COMMITTEE ON 9<sup>th</sup> JULY, 2020

**Application Ref:** 20/0286//VAR

**Proposal:** Full: Major: Variation of Condition: Variation Condition 1 of Planning Permission 19/0577/VAR to amend the requirement for submission of a planning obligation for the provision of 10% affordable housing to 5% affordable housing and removal of the requirements of an obligation for the refurbishment of the pump house.

**At:** Land to East of Windermere Avenue Colne.

**On behalf of:** McDermott Homes Ltd

**Date Registered:** 06 May 2020

**Expiry Date:** 5 August 2020

**Case Officer:** Kathryn Hughes

### **Site Description and Proposal**

Reserved Matters was granted for the erection of 82 dwellings (Appearance, Landscaping, Layout and Scale) on the 5<sup>th</sup> June, 2019 following the Appeal being allowed for an Outline application for up to 90 dwellinghouses including estate roads, footways and open space provision.

An s.78 Variation of Conditions application was approved with 16 conditions attached including condition 1 relating to submission of a planning obligation.

This application seeks to vary condition number 1 which is listed below:

1) Within two months of the date of this decision a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (or any subsequent provision equivalent to that Section) relating to the land has been made and lodged with the Local Planning Authority and the Local Planning Authority has notified the person(s) submitting the said planning obligation in writing that it is to the Local Planning Authority's approval. The said planning obligation will provide for off-site highway works, contributions towards bus services for five years, preparation and support of a Travel Plan, cycle track provision, contribution towards air quality action plan, pump house refurbishment and the provision of 10% affordable dwellings on site.

To the following wording:

“Within two months of the date of this decision a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (or any subsequent provision equivalent to that Section) relating to the land has been made and lodged with the Local Planning Authority and the Local Planning Authority has notified the person(s) submitting the said planning obligation in writing that it is to the Local Planning Authority's approval. The said planning obligation will provide for off-site highway works, contributions towards bus services for five years, preparation and support of a Travel Plan, cycle track provision, contribution towards air quality action plan and the provision of 5% affordable dwellings on Site”.

A supporting statement submitted with the application states that the requirement for 10% affordable housing was made in error and that the actual requirement was for 5%. In terms of the refurbishment of the Pump House it is contended that this fails the tests for the imposition of planning conditions and obligations as set out within paragraphs 55 and 56 of the NPPF and the associated NPPG.



## **Relevant Planning History**

13/94/0084P - Outline: Application for Residential Development (9.8 acres) -Refused 25/04/1994. Appeal Dismissed, 21/12/1994.

13/95/0031P - Outline: Erect 87 detached dwellings (9.8 acres) – Withdrawn 24/02/1995.

13/98/0407P - Erect 78 houses and associated access roads – Withdrawn 13/04/1999.

13/99/0026P - Outline: Erect 78 houses and associated access roads - Refused 04/03/1999.

13/14/0580P - Outline: Major: (Access only from Skipton Old Road and Castle Road) Erection of up to 90 dwelling houses including estate roads, footways and open space provision – Refused 08/06/15. Appeal Allowed 28/09/16.

13/14/0581P - Outline: Major: (Access only from Skipton Old Road and Castle Road) Erection of up to 270 dwelling houses including estate roads, footways and open space provision – Refused 08/06/15. Appeal Dismissed 28/09/16.

18/0865/REM – Reserved Matters: Major: Erection of 82 dwellings and associated infrastructure (Appearance, Landscaping, Layout and Scale) – Approved.

19/0577/VAR - Full: Major: Variation of Condition: Variation Condition 17 of Planning Permission 13/14/0580P off site highway works – pedestrian improvements at Castle Road and puffin crossing at Keighley Road are no longer deemed to be necessary or justified for the development or in accordance with the tests set out in the NPPF and NPPG – Approved 17<sup>th</sup> October, 2019.

## **Consultee Response**

LCC Highways – No highway related comments.

Colne Town Council – We believe that we should stick to the very carefully worded appeal decision that was given by the Government Planning Inspector. Renovated of the part vandalised Pump House should remain as an obligation as it is dangerous as it stands. This would be a tiny recompense for the local residents who have tolerated a great deal

## **Public Response**

Site and press notices posted. 4 Responses received objecting on the following grounds:

- We note that the level of affordable homes for Appeal Site A, the Lower Rough, was 5%, as stated in Para 48 of the Inspector's decision and in Para 1.1 of Schedule 1 of both the original 2016 Unilateral Undertaking and the updated version of 3rd April 2020. We therefore agree that the error in Condition 1 of 19/0577/VAR should be corrected from 10% to 5%;
- Local people have had to endure many issues with the early stages of the development of the Rough, including deliveries and queuing of vehicles, damage to roads, kerbs and pavements, flooding to several Lidgett cottages and concerns mounting further downstream in Cotton Tree Lane, Half-finished activities re management of invasive species and installation of drainage/hydrobrake, Environmental issues with waste plastic and polystyrene packaging blowing onto neighbouring land and entering the watercourse, concerns over the ultimate height and proximity of houses on the west of the site, damage

to trees and hedges, disruption to supply of utilities, location of plant and material stores too close to properties and erection of illicit signage without planning permission

- One comfort coming out of the Appeal was the refurbishment of the disused and neglected Pump House. As stated at the Appeal by the Appellant's Heritage Consultant, Peter de Figueiredo, and as noted in Barton Willmore's letter, the 1947 building was worthy of being classed as a non-designated heritage asset – for information, this is being considered for inclusion by the Colne Town Council Neighbourhood Plan Working Group.
- The building has been left open to the elements and there is lots of evidence of people using it to engage in drug-taking, drinking and other anti-social activities.
- Although it is true that the Inspector did not rely on the refurbishment in reaching his decision, he did note in Para 93 that it was “clearly welcomed”.
- Tests re such refurbishment work being “necessary” or “relevant” seek to split out, unbundle and rewrite the Condition – the commitment to carry out the refurbishment was set out in s106 Unilateral Undertaking of 2016. This was a much-welcomed goodwill gesture, as was the 5% of affordable housing.
- The updated April 2020 Unilateral Undertaking maintained the refurbishment commitment in full, so L&B is sure that appropriate due diligence to acquire the Lower Rough and carry out the development. It is unusual to seek to vary this so soon after signing it off. It would appear that they wish to trim costs and wriggle out of their obligations and believe this refurbishment could be an acceptable victim, even though the estimated refurbishment cost of, say, £30-50k is a very small amount of the full development. Hence, the obligation should be considered proportionate and reasonable.
- Regarding the test of enforceability, it is agreed that McDermott does not own the Pump House. However, in accepting all clauses and obligations of the original Unilateral Undertaking, McDermott has taken on the requirement to undertake the works, regardless of location or ownership. So, just like repair works have been carried out by McDermott to the kerbs and pavements of Windermere Avenue, of which they are not the owner, there is nothing to stop the Owner of the Pump House granting access for the refurbishment to take place. Hence, Pendle BC could enforce this obligation;
- This action was agreed to at the time of the planning appeal and accepted with all facts and details etc: being known. It is now only fair and equitable that this is adhered to and not allowed to be ignored, an action which would surely diminish the responsibility and undermine the authority of that part of the planning and appeal process;
- I wish to object to the removal of the requirement to refurbish the pump house. It was agreed at the appeal by the developer to refurbish the pump house and now they are back tracking. Considering the amount of disruption and illegal moving of cars from the public highway, spending an insignificant amount of money to restore part of the Colne's heritage is the least the developer can do; and
- I also object to the reduction in the number of affordable housing as it is apparent that this is being done to maximise profits and not in the interests of the local community.

## **Officer Comments**

The main issue is whether the proposed variation of condition 1 to amend the planning obligations required by this condition to those now proposed by the applicant is acceptable.

### **Principle of the development**

The principle of housing on this site has already been established under the previous permission.

It is proposed to vary condition 1 which relates to the planning obligations required for the scheme. This variation is two-fold:

Firstly the amendments propose to vary the requirement of affordable housing from 10% to 5%. The previous report submitted to Committee in October, 2019 stated within the report that the requirement was 5%. However, the condition which was attached to the report and ultimately the decision notice stated 5% this was an error and therefore the changes proposed are to rectify this and are acceptable.

The legal agreement has now been signed with the correct requirement for 5%.

Secondly the amendments propose to remove the requirement for the refurbishment of pump house.

Section 77, 79 and 177, and Schedule 6 of the Town and Country Planning Act 1990 set the legislative context for Secretaries of State and their Inspectors to impose planning conditions when determining planning applications. This must be interpreted taking into account material factors such as the NPPF.

This application contends that this element does not meet the six tests set in para 55 of the National Planning Policy Framework which states that planning conditions should be kept to a minimum and only imposed where they are:

1. Necessary;
2. Relevant to planning; and
3. To the development to be permitted;
4. Enforceable;
5. Precise and
6. Reasonable in all other respects.

With regards to planning obligations, Paragraph 56 of the NPPF State that:

“Planning obligations must only be sought where they meet all of the following tests (set out within Regulation 122(2) of the Community Infrastructure Levy Regulations 2010):

- 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.

### **History and Starting Point**

An Outline application for up to 90 dwellinghouses including estate roads, footways and open space provision was granted on Appeal on 28<sup>th</sup> September, 2016 with the associated Reserved Matters granted for the erection of 82 dwellings (appearance, Landscaping, Layout and Scale) on the 5<sup>th</sup> June, 2019.

Following several formal applications to discharge conditions work has commenced on site.

The starting point remains the appeal decision which includes these contributions as part of the submitted and accepted Unilateral Undertaking as a requirement for the approved smaller (90) housing scheme.

The Appeal Decision related to both applications for 90 and 270 dwellings with the 270 dwellings being dismissed and the 90 subsequently allowed.

Evidence provided at the Appeal on behalf of the Appellant, Junction Properties Ltd, Peter De Figueiredo noted at paragraph 6.7.3:

“I have drawn attention to the former pump house, which has not previously been discussed but could, in my view, be considered to be a non-designated heritage asset. It can be seen from Skipton Old Road where it makes a positive contribution to the character and appearance of the conservation area. Although this building is not currently within the site, I understand that it is within the ownership of the appellant, who is willing to accept an undertaking through a S.106 Agreement to restore the building for beneficial use. This would have a positive effect”.

The refurbishment of the pump house was therefore seen as having the potential to provide additional benefits to the scheme by the Appellant’s heritage advisor.

In light of heritage matters being one of the main areas of dispute between the parties, the Appellant subsequently offered within a Unilateral Undertaking refurbishment of the pump house subject to the Inspector deeming that such works are necessary.

During the course of the appeal a Unilateral Undertaking was drawn up which included the proposed refurbishment of the pump house.

The UU stated that:

the Owner shall carry out the following works to render the Pump House weathertight:

- The installation of replacement external doors and windows;
- Repairs to brickwork and stonework;
- Replacement of rainwater goods;
- Repairs to the roof; and
- Minor internal remedial works.

The works shall be completed prior to occupation of the first Dwelling on then Development.

The UU made provision for a number of obligations that could be considered necessary by the Inspector, Clause 16 of the Unilateral Undertaking provides for Severance of clauses within the UU. Clause 16 states that any clauses that the Inspector deems unreasonable and or unnecessary shall be deleted and to cease to have effect. Clause 16 states:

“If it is determined by the Secretary of State or his Inspector that any of the obligations contained in this deed are unreasonable and/or unnecessary or if a court of competent jurisdiction finds that any provision of this deed is unenforceable in whole or in part and any such determination or finding will not disturb the validity and enforceability of the remaining provisions of this deed the relevant provision shall be deleted and cease to have effect.”

Clause 14 of the Unilateral Undertaking submitted to discharge Condition 1 of planning permission 19/0577/VAR (LPA Reference 19/0927/CND) contained the same clause as above.

Paragraph 93 of the Inspector’s decision letter (APP/E2340/W/15/3131974) states:

“The restoration of the Pump House has not been specifically sought, nor does it result from harm arising from the development itself. While clearly welcomed, I cannot take this part of the undertaking into account in my consideration of the scheme.”

The Inspector therefore was clear that the restoration of the pump house was not taken into account in the consideration of the scheme in regard to the Unilateral Undertaking.

It is the Applicant's interpretation that, therefore, the Inspector has been clear that the works are not necessary and that in permitting the development whilst having no regard in his decision making to the benefits of the pump house's restoration the conclusion drawn is that the works were not necessary for this development.

As such, the Agent considers that Clause 16 of the original UU is engaged and that the requirement for the refurbishment of the pump house may be deleted and shall cease to have effect. The also relates to Clause 14 of the UU submitted in relation to the subsequent S.73 Application. As such any clause proposing the works to the pump house cannot be enforced.

The determination of the appeal, and the conclusions of the Inspector in relation to the Site are clear that the pump house works are not necessary to make the scheme acceptable in planning terms.

With regard to the above, the works fail on the first (necessary) and third (relevant to the development to be permitted) tests for imposing planning conditions set out within paragraph 55 of the NPPF. As such Condition 1 should be amended to remove the requirement for the pump house refurbishment to be delivered.

By virtue of the above conclusions, that the pump house refurbishment works are not required because they are neither necessary to make the development acceptable or related to the development. The obligations subject to this application therefore fail the tests of reasonableness.

The pump house is outside the application site and is not owned by the Applicant. Taking the interpretation that the requirement for the pump house works was not engaged, the purchase of the application site did not include ownership of the pump house or any right to carry out works to it, it is, therefore considered that the requirement for the undertaking of the pump house works fails the 6th test for conditions insofar as it is not enforceable and it is agreed that it should be removed from the condition as an obligation in this respect.

## **Conclusion**

The proposed affordable housing provision has been accepted at 5% and the 10% referred to the previous condition 1 of planning permission 19/0577/VAR is incorrect and this can be varied here. With regards to the refurbishment of the pump house given the evidence submitted and reference in the Inspector's Appeal Decision to the inclusion of these works, and taking into account points raised regarding ownership it is evident that the obligation fails the six tests set out above.

The changes proposed are acceptable and therefore this condition can be varied to the following:

1) Within two months of the date of this decision a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (or any subsequent provision equivalent to that Section) relating to the land has been made and lodged with the Local Planning Authority and the Local Planning Authority has notified the person(s) submitting the said planning obligation in writing that it is to the Local Planning Authority's approval. The said planning obligation will provide for off-site highway works, contributions towards bus services for five years, preparation and support of a Travel Plan, cycle track provision, contribution towards air quality action plan and the provision of 5% affordable dwellings on site.

This will be subject to a revised S.106 as set out below.

## **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 development is compliant with the aims of the Local Plan Part 1 and saved Policies of the Replacement Pendle Local Plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

### **RECOMMENDATION: Approve**

Subject to the following conditions:

1) Within two months of the date of this decision a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (or any subsequent provision equivalent to that Section) relating to the land has been made and lodged with the Local Planning Authority and the Local Planning Authority has notified the person(s) submitting the said planning obligation in writing that it is to the Local Planning Authority's approval. The said planning obligation will provide for off-site highway works, contributions towards bus services for five years, preparation and support of a Travel Plan, cycle track provision, contribution towards air quality action plan and the provision of 5% affordable dwellings on site.

**Reason:** In order for the development to contribute towards the supply of affordable housing, ensure the provision of an accessible bus services and offset the impact of the development on the highway network and air quality.

2) Within two months of this decision notice a plan and written-brief detailing the proposed phasing of the site shall have been submitted to and approved in writing by the Local Planning Authority. Such detailing shall include details of the works involved in each phase and how each phase is to be completed in terms of the completion of roads, including access to the first site compound in accordance with Lancashire County Council specification to at least base course level, building operations, foul and surface water sewers and landscaping. The approved scheme shall thereafter be carried out in accordance with the plan and brief.

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

3) The development shall be carried out in strict accordance with the drainage scheme submitted to and approved in writing by the Local Planning Authority on the 4<sup>th</sup> April, 2019. The drainage shall be provided in accordance with the approved details before the development is completed, and maintained and managed thereafter in strict accordance with measures agreed as part of the scheme.

**Reason:** To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding.

4) The development shall be carried out in strict accordance with the programme of archaeological works submitted to and approved in writing by the Local Planning Authority on the 4<sup>th</sup> April, 2019.

The works shall be undertaken in accordance with the approved details. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.

**Reason:** To ensure that an appropriate recording is undertaken of any archaeological interest on the site.

5) The development shall be carried out in strict accordance with the Construction Method Statement submitted to and approved in writing by the Local Planning Authority on the 4<sup>th</sup> April, 2019.

**Reason:** To ensure that adequate measures are in place to protect the environment during the construction phases.

6) The development shall be carried out in strict accordance with the full details of tree protection measures for trees and hedgerows to be retained submitted to and approved in writing by the Local Planning Authority on the 4<sup>th</sup> April, 2019 and retained throughout the course of development until completion.

**Reason:** To protect the existing trees and hedgerows to be retained on the site during the course of the development.

7) The development shall be carried out in strict accordance with the detailed proposals for the incorporation of features into the scheme including all recommended mitigation and ecological enhancement measures and those suitable for use by breeding birds and roosting bats, as detailed in Sections 5.4 and 5.6 of the 'Ecological Survey and Assessment' report prepared by ERAP Ltd (Consultant Ecologists) (October 2014), the Addendum Report on Great Crested Newts ref: 2014\_263c and the Hedgerow and Ecological Addendum 2015 submitted to and agreed in writing with the Local Planning Authority on the 4<sup>th</sup> April, 2019. The agreed measures shall be permanently installed in accordance with approved details prior to the first occupation of the development hereby approved and retained thereafter.

Trees and shrubs planted shall comply with BS.3936 (Specification of Nursery Stock) and shall be planted in accordance with BS.4428 (General Landscape Operations).

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

8) The development shall be carried out in strict accordance with the Landscape and Habitat Creation Management Plan, in accordance with Section 5.8 of the 'Ecological Survey and Assessment' report prepared by ERAP Ltd (Consultant Ecologists) (October 2014) and the Hedgerow and Ecological Addendum 2015 submitted to and approved in writing by the Local Planning Authority on the 4<sup>th</sup> April, 2019.

The agreed Plan shall be implemented in full, in accordance with the timescales indicated in the approved scheme.

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

9) The development shall be carried out in strict accordance with the Management Plan providing full details for all of the non-adopted areas of the site, to include the timing of, provision, and a schedule of maintenance, shall be submitted to and agreed in writing by the Local Planning Authority on the 4<sup>th</sup> April, 2019.

The maintenance of the non-adopted areas shall at all times thereafter be undertaken in accordance with the approved scheme.

**Reason:** To ensure that the areas of land on site are provided and thereafter maintained in an appropriate manner.

10) Tree felling, vegetation clearance works (including grassland clearance) or other works that may affect nesting birds, including ground-nesting birds, shall not be undertaken between the months of March to August inclusive unless the absence of nesting birds has been confirmed by further survey or inspections. Such surveys shall be carried out by a suitably qualified and experienced ecologist. If nesting birds (or dependant young) are found to be present, works in the



area shall be delayed until such time as nesting is complete and the young have fledged. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure that any nesting birds are not disturbed or adversely affected by this development.

11) The development shall be carried out in strict accordance with the Invasive Species Management Plan detailing eradication and/or control and/or avoidance measures for Himalayan Balsam and Japanese Knotweed shall be submitted to and agreed in writing by the Local Planning Authority on the 10<sup>th</sup> April, 2019.

**Reason:** To prevent the possible spread of these invasive species on and outside of the site.

12) The development shall be carried out in strict accordance with the management (including maintenance) of the open space areas submitted to and agreed in writing by the Local Planning Authority on the 4<sup>th</sup> April, 2019.

The approved scheme for open space areas shall be carried out in full accordance with the agreed scheme before the first dwelling is occupied.

Subsequent management and maintenance of the open space areas shall be carried out in accordance with the approved scheme.

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

13) Construction works shall not take place outside the hours of 8:00 and 18:00 on weekdays and 8:00 - 13:00 on Saturdays, nor at any time on Sundays, Bank or Public Holidays.

**Reason:** In the interests of residential amenity and to safeguard local residents from noise and disturbance.

14) The development shall be carried out in strict accordance with the lighting design strategy for the development submitted to and approved in writing by the Local Planning Authority on the 4<sup>th</sup> April, 2019.

**Reason:** To provide an appropriate scheme of lighting for the site in the interests of ecology.

15) No dwelling shall be occupied unless and until the off-site highway works shown in the following plans have been constructed in accordance with those plans and any phasing information provided:

3344 bus stops fig 5 (only those shown on Venables Avenue); 3344 tactile paving at the existing pedestrian crossing points on all arms of the roundabout which includes Keighley Road, Byron Road and Skipton Old Road and 3344 upgrade zebra crossing to signalised crossing on Byron Road, 40m east of Venables Avenue.

**Reason:** In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway scheme/works.

16) The development hereby permitted shall be carried out in accordance with the following approved plans: 754.000A, 754.400A Rev 1, 3344 Skipton Old Road dated 10/02/2015, 3344 Windermere Ave Access dated 28/10/2014.

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



**Application Ref:** 20/0286//VAR

**Proposal:** Full: Major: Variation of Condition: Variation Condition 1 of Planning Permission 19/0577/VAR to amend the requirement for submission of a planning obligation for the provision of 10% affordable housing to 5% affordable housing and removal of the requirements of an obligation for the refurbishment of the pump house.

**At:** Land to East of Windermere Avenue Colne.

**On behalf of:** McDermott Homes Ltd

## **LIST OF BACKGROUND PAPERS**

Planning Applications

**NPW/MP**

**Date: 30th June 2020**