



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

TO: **BARROWFORD & WESTERN PARISHES COMMITTEE**

DATE: **3rd September 2020**

Report Author: Neil Watson
Tel. No: 01282 661706
E-mail: neil.watson@pendle.gov.uk

PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO BARROWFORD & WESTERN PARISHES COMMITTEE
3rd SEPTEMBER, 2020.

Application Ref: 20/0031/FUL

Proposal: Full: Formation of a Haul Road and construction compound associated with development the development at Trough Laithe for residential development for a temporary period of two years only.

At: Land at Trough Laithe Barrowford Road, Barrowford.

On behalf of: Northstone Developments Ltd

Date Registered: 7 February, 2020

Expiry Date: 3 April, 2020

Case Officer: Kathryn Hughes

Site Description and Proposal

The site is located on the western edge of the settlement of Barrowford with existing housing to the northern boundary and western boundary which abuts Carr Hall/Wheatley Lane Road Conservation Area (1984).

The site slopes down from Wheatley Lane Road towards Riverside Business Park which lies on the southern boundary.

The proposed development is for the formation of a haul road and construction compound to serve the construction of residential development at Trough Laithe which has outline permission for up to 500 dwellinghouses with Reserved Matters being approved for 239 unit earlier this year.

There are also woodland groups and mature trees within the site which are protected by Tree Preservation Order.

Part of the site is allocated for employment use under Policy 22 of the Replacement Pendle Local Plan on this basis the proposal is only intended for a temporary period of two years so that the allocated use as employment can still be implemented.

This proposal seeks permission for a construction compound and separate haul road to be used to provide construction access to the adjacent approved residential development in order to prevent future residents of the development being affect by ongoing construction activity.

The compound will provide the construction team with welfare, parking and storage facilities.

The Town and Country Planning (General Permitted Development) England Order 2015 identified that the following is permitted development:

“The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land”.

It is considered by the agent that the proposed development constitutes permitted development subject to the condition that, when the operations have been carried out:

- Any building, structure, works, plant or machinery permitted by Class A is removed, and
- Any adjoining land on which development permitted by Class A has been carried out is, as soon as reasonably practical reinstated to its condition before that development was carried out.

Relevant Planning History

13/92/0216P - Business Park (Outline) - Approved on Appeal (Non-determination) January, 1993.

13/95/0637P - Business Park (Reserved Matters) - Consent Granted - September, 1996.

13/98/0213P - Modify landscape Conditions 1 and 2 13/95/0637 - Approved 1998.

13/03/0680P - Business Park (3.5 hect.) Housing (2.1 hect.) Outline - Withdrawn.

13/05/0944P - 9 two B1 units (Detailed); 17 B1 units (outline) - Revised Scheme - Appeal Against non-determination - Withdrawn, August, 2006.

13/06/0442P- Erect 9 two storey buildings (3,710 m²) for B1 use (Phase 1) and Outline application for erection of B1 office buildings (8 hectares) (Phase 2) - Approved September, 2006.

13/08/0218P - Outline; Major; erect B1 office accommodation including access and layout Approved July 2008.

13/09/0552P -Outline; Major; Develop land as a Business Park (8.86 hect) to provide a maximum of 21,727 sq.m. B1 floorspace (access and layout details only) on land North of Barrowford Road, Barrowford - Approved 8th March, 2010.

13/10/0369P - Outline: Major: Erect 55 bedroomed hotel, Pub/Restaurant (768 sq m), Creche (500 sq m) and two office buildings (890 sq m each) (Access and Layout Only) Approved 14/9/2010.

13/13/0462P - Extension of Time: Extend time limit of Planning Permission 13/10/0369P for Major: Outline development for a hotel/pub/restaurant, crèche and two office buildings - Approved 11th November, 2013.

13/15/0111P – Extension of Time: Extend time limit of Planning Permission 13/09/0552P for Major: Outline Develop land as a Business Park (8.86 hect.) to provide a maximum of 21,727sq.m. B1 floor space (Access and Layout details only) – Approved 18th May, 2015.

13/15/0327P – Outline: Major: Residential development of up to 500 no. dwellinghouses with associated infrastructure, open space and landscaping (access only off Barrowford Road – Approved with conditions 14th January, 2017.

19/0952/REM: Reserved Matters: Major: Erection of 239 dwellinghouses (Use Class C3) (Appearance, Landscaping, Layout and Scale) with associated open space and infrastructure – Approved with conditions 16th July, 2020.

Consultee Response

Cadent Gas – There is apparatus in the vicinity which may be affected by the activities specified.

Lancashire Fire & Rescue – Recommendations in order to ensure the subsequent Building Regulations application satisfies the conditions.

LCC Highways – I have viewed the submitted drawings and there is no objection to the proposal.

It will be necessary to pursue a Traffic Regulation Order to restrict parking on Riverside Way, not only for a temporary period during the construction phase but long term for the residential development which is approved in outline.

The displaced parking must be considered in conjunction with this proposal and no vehicles must be displaced onto Barrowford Road or Parrock Road. Ideally a car park, off-street, would be proposed to accommodate the vehicles which appear to be staff from the Vantage Court business units.

The TRO can be pursued under the S278 agreement for the off-site highway works for the outline residential development.

Environment Agency – In the absence of a flood risk assessment (FRA), we object to this application and recommend that planning permission is refused.

Contact was made with the Local Planning Authority requesting the submission of an FRA on 09 March 2020 however, the applicant has not submitted any further information.

Part of the application site lies within Flood Zone 2, which is land defined by the planning practice guidance as having a medium probability of flooding. The National Planning Policy Framework (paragraph 163, footnote 50) states that an FRA must be submitted when development is proposed in such locations.

An FRA is vital to making informed planning decisions. In its absence, the flood risks posed by the development are unknown. This is sufficient reason for refusing

planning

permission.

UPDATE - In the absence of an acceptable flood risk assessment (FRA) we object to this application and recommend that planning permission is refused. Our detailed comments are included below.

The FRA states that the site is located in flood zone 1, however there is also an area of the proposed haul road that will be located in flood zone 2. The site is also located adjacent to Pendle Water which is designated as a Main River and contains an area of flood zone 3. The proposed haul road development is intended to support the development of a housing estate to the north, this may mean that the haul road and compound will not have a long life span, however this has not been clarified in the FRA.

This should be clearly outlined in the FRA as the lifespan of the road and compound will affect the requirement to consider climate change as part of an assessment of flood risk.

Reason(s) The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to:

- ☐ consider how people will be kept safe from the identified flood hazards
 - ☐ consider how a range of flooding events (including extreme events) will affect people and property
 - ☐ take the impacts of climate change into account
- o There is no assessment of the impact of climate change using appropriate climate change allowances. Please refer to 'Flood risk assessments: climate change allowances'.

Overcoming our objection The applicant should submit a revised FRA which addresses the points highlighted above. If this cannot be achieved, we are likely to maintain our objection. Please re-consult us on any revised FRA submitted and we'll respond within 21 days of receiving it.

LLFA – Comments on FRA awaited.

PBC Environment Officer – We need mitigation for those trees lost particularly as we are going to lose 1 A class tree, 3 B class trees. A group of consisting of B class trees. In addition there are 4 C class trees to be lost and 3 partial removal of C class groups.

In addition to this there is Himalayan Balsam within the red edge of the site so can we condition an invasive species management plan.

Barrowford Parish Council

Public Response

Nearest neighbours notified by letter and four objections have been received on the following grounds:

- I find this planning application strange as work commenced on site weeks ago. Certainly before Christmas. It's just a foregone conclusion, as was the planning application for building in the first place. The public's concerns and needs are never taken into consideration by Pendle Planning. Asking people to comment on a planning application where the work started weeks ago just confirms the complete indifference of the planning committee to the concerns of Barrowford residents;
- We strongly believe that the proposed development will have a negative impact on the amenity of properties at Lower Laithe Cottages. The haul road and compound will generate increased levels of noise and disturbance, along with additional smells, light pollution, dust and vibration. We currently have no idea of the expected daily hours of activity will be nor the projected length of the development. But with the scale of it we expect this to be extensive and prolonged;
- The proposed development is being built on land that acts as flood plain as evidenced by recent storms with flooding in both the lower fields and surrounding areas due to the river bursting its banks. This will add to the excess of water pouring into the river and increasing water levels. Trees that benefit the flood plain and act as screen are to be felled. This will increase the potential for flooding issues and impact on our privacy;
- We feel that this initial work on the haul road and compound, then combined with the size of development proposed for the top fields will have a huge impact on our quality of living. Notwithstanding the ecological damage and loss of wildlife habitats that will ensue;
- The correspondence published online seems to show that the planning department verbally sanctioned the creation of a haul road and the felling of trees and the unnecessary, and therefore unregulated, wanton destruction of wildlife habitats prior to the submission of this application. I would suggest that this is unprofessional and unethical and would suggest, if true, should be put before the Council's own scrutiny panel;
- The Council imposed "Conditions Precedent" in the outline approval of housing. There is no evidence on site or online that any of these conditions have been approved, signed off or implemented;
- I believe that Pendle can no longer determine this application fairly because of its pre-emptive actions. Should it choose to refuse this application it would probably subject itself to legal action from the developer. Therefore there is little point in forwarding any objections even though I most certainly do object;
- The red-edged site boundary and line of the road shown on this application bears no resemblance to, and represents a very small part of, what has been built on site which is a road which winds up the hillside and starts at a different point on Riverside Road to that shown on the plan?

Officer Comments

1. Policy

The starting point for consideration of any planning application is the development plan. Policies which are up to date and which conform to the provisions of the National Planning Policy Framework (“the Framework”) must be given full weight in the decision making process. Other material considerations may then be set against the Local Plan policies so far as they are relevant.

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies in the Framework, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.

Local Plan Part 1: Core Strategy

ENV1 covers the protection and enhancement of the natural and historic environment. Biodiversity, ecology, trees, natural environment – criteria for dealing with development affecting the different levels of designation.

Landscapes – protecting and enhancing landscape character, the AONB and the Green Belt. Open Space and Green Infrastructure – protection of existing open spaces, criteria for loss of open space, provision of new and improved green infrastructure. Historic Environment – conservation of heritage assets – criteria based policy which set out how developments should address issues relating to the historic environment.

ENV2 sets out the general design principles. Criteria based policy which establishes design requirements of new development – how to respond to the historic environment and how to mitigate and adapt to climate change.

Includes encouragement to design energy efficient buildings following the Zero Carbon Hierarchy.

ENV5 deals with pollution and unstable land and requires proposals to minimise air, water, noise, odour and light pollution and address any risks for contamination.

ENV7 sets out the approach to development and flood risk, surface water run off, water quality and resources.

The following saved Policies from the Replacement Pendle Local Plan also applies:

Policy 22 Protected Employment Areas – part of the site is designated as protected employment land for B1 Offices. Outline permission was granted in 2010 with an Extension of Time application in 2015. This expired in May this year.

The agent has submitted a justification statement for the temporary use of this land for a temporary period of two to allow the residential development to come forward.

They state that the site is temporarily vacant and would require a Reserved Matters/or Full application to be submitted followed by a conditions discharge application which is likely to take two years. As the present Outline has expired a full application would be required.

It is intended to reinstate the site to its condition prior to development once the two years has expired.

This is acceptable in principle.

Barrowford Neighbourhood Development Plan applies but has no relevant specific policies.

2. Impact on Amenity and Landscape Impacts

The sites topography is that it slopes steeply down from the north west to south east.

The haul road would be 360m in length commencing from the third spur off Riverside Way.

The site compound would be located to the west of this off the second spur off Riverside Way and contain storage areas, parking and facilities for the construction workers.

It is acknowledge that this development is visible from some longer distant views from Nelson, however, this would be a temporary development and permission has already been given for employment use on this site. The temporary development of the site is acceptable in terms of its landscape impact.

The proposed development would therefore not unduly impact on amenity and accords with policy as a temporary form of development of no longer than two years.

3. Impact on Heritage Assets

The site is more than sufficient distance from the Grade II listed Laund Farmhouse to the north east and Carr Hall/Wheatley Lane Road Conservation Area also to the north east to not result in any adverse impacts from this temporary development especially as the housing development would lie between these two factors with a buffer zone of open land and mature trees along the western boundary of the site.

4. Trees and Ecology

A tree survey has been submitted. It is noted that there would be some tree loss. There are TPO trees on the site and replacement trees would be required in order to mitigate the proposal once the temporary haul road is removed and the site reinstated.

There would have to be some tree loss of 8 individual trees and partial removal of four groups and complete removal of two Class U groups. These tree losses can be mitigated by replacement planting once the haul road has been removed. This can be controlled by condition together with a requirement for tree protective fencing for the trees to be retained.

5. Drainage and Flooding Issues

A Flood Risk Assessment and Drainage Strategy has been submitted which sets out the catchment, flood risk assessment and surface water drainage strategy. As the site lies within Flood Zone 1 the sequential test is satisfied and the Exception Test is not required.

This includes compliance with National Planning Policy Framework as well as an assessment of whether the development is likely to be affected by flooding or led to increased flooding elsewhere.

The topography of the site is steeply sloping from north west to south east with several existing drainage ditches and natural springs within the site boundary. Floods can arise from different combinations of weather, sources, rainfall, local topography and patterns of development. Flooding from rivers can be a slight risk at low points within the site near to Pendle Water and the EA suggests the compound and haul road borders an area of flood zone 2. However, there is a natural rise between the site and Pendle Water which will afford some protection of the lower areas of the site.

The area of the proposed compound and haul road is 2.42ha with the greenfield runoff rate is expected to be 21.08 l/s.

The proposed site layout retains the existing lines of the drains identified with the site compound located away from these, however, the haul road would cross three of the drains which will need to be culverted temporarily in order to maintain the existing connectivity. The haul road will have a permeable surface and include swales which will convey runoff along it and down to the natural catchment. The area around the cement silo will need to be isolated to prevent contamination to the watercourse.

The existing drains will discharge into Pendle Water eventually. Land drainage consent will be required from LLFA.

The Environment Agency has raised an objection to the FRA and requested further information. The agent has been requested to address these issues. An update on this will be given at the meeting.

Comments from the Lead Local Flood Authority are expected and if received prior to the meeting an update will be given on this issue.

Subject to the issues raised by EA on the FRA being addressed and no objection being received from the LLFA it is expected that these technical issues can be resolved and appropriate conditions attached to any grant of permission.

Subject to this the proposal will accord with policy ENV7.

6. Highway Issues and Public Rights of Way

No objections have been raised by LCC Highways and the proposed compound and access arrangements are acceptable and accord with policy.

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 housing development is acceptable in terms of highway capacity and improvements, education contributions, impact on landscape, adjacent conservation areas, and nearby listed building and protected trees. Appropriate provision for open space and sustainable drainage systems can be accommodated on the site. The site is designated as the Strategic Housing site in the adopted Core Strategy. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

RECOMMENDATION: Delegate Grant Consent subject to no adverse comments from Lead Local Flood Authority and Environment Agency and any additional conditions required to address the flood and drainage issues.

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

Reason: In order to comply with the requirements of Section 91 of the Town & Country Planning Act 1990 (As Amended).

2. The development must be removed in its entirety and the land returned to its original condition not later than two years after completion or within five years whichever occurs first.

Reason: In order to ensure that the haul road is not permanent feature and that the land can used for employment land in accordance with its designation in Saved Policy 22 of the Replacement Pendle Local Plan 2001 – 2016.

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

30077-SUT-ZZ-00-C-616-0002, 30077-SUT-ZZ-00-C-626-0001, 30077-SUT-ZZ-00-C-616-0003, 30077-SUT-ZZ-00-C-616-0004 and BFTL(CCHR) – BS-001.

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

4. No part of the development hereby permitted shall be commenced unless and until a Construction Code-of-Practice proposal has been submitted to and approved in writing by the Local Planning Authority. The code shall include details of the measures to be implemented 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) The hours of operation and measures for the control of traffic to and from the site, and within the site, during construction.
- c) The areas for the storage of plant and materials.
- e) Details of wheel-washing facilities including location
- i) Soil resource management including stock-pile management
- j) Compliance with BS5228: Part 1 1997 to minimise noise
- q) Noise-monitoring to be carried out for the construction period.

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.

5. The development shall be carried out in strict accordance with the recommendations set out in Section 7 of the Ecological Assessment dated January 2020 by ESL (Ecological Services) Ltd.

Reason: To ensure no net loss of biodiversity as a result of this development.

6. Prior to the commencement of development a scheme for the replacement of the trees removed to facilitate the development indicating the location, arrangement, species, sizes, specifications, numbers and planting densities.

The approved scheme shall be implemented in its entirety approved form within the first planting season following the removal of the haul road or within five years whichever is the sooner. 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 appropriate mitigation for the loss of trees on the site.

7. Prior to the commencement of development an Invasive Species Management Plan will have been submitted to and approved in writing by the Local Planning Authority to address the control of Himalayan Balsam within the site.

All agreed remediation measures shall thereafter be carried out in accordance with the approved scheme and shall be completed in full accordance with the agreed measures and timings, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the effective control of the contamination within the site.

8. 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.

Application Ref: 20/0031/FUL

Proposal: Full: Formation of a Haul Road and construction compound associated with development the development at Trough Laithe for residential development for a temporary period of two years only.

At: Land at Trough Laithe Barrowford Road, Barrowford.

On behalf of: Northstone Developments Ltd

LIST OF BACKGROUND PAPERS Planning Applications

NW/MP

Date: 21st August 2020