



REPORT FROM: PLANNING, ECONOMIC DEVELOPMENT AND REGULATORY SERVICES

TO: WEST CRAVEN COMMITTEE

DATE: 5th OCTOBER 2021

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO WEST CRAVEN AREA COMMITTEE ON 05th OCTOBER 2021

Application Ref: 21/0540/FUL

Proposal: Full: Change of use of car park to hand carwash and valet with associated parking; siting of site office cabin and canopy; erection of a mesh security fence and sliding gates to south-east and north-east boundaries and 2m high jet wash screen.

At: Land to the West of 28 Skipton Road, Earby

On behalf of: Mr Imran Ali

Date Registered: 29/06/2021

Expiry Date: 24/08/2021

Case Officer: Craig Barnes

The application has been brought for determination at committee due to Councillor call-in.

Site Description and Proposal

The application site relates to previously developed open land which is used for car parking. This site is accessed from and is directly adjacent to Skipton Road (the A56), Earby. The site is within the settlement boundary and Earby Conservation Area. It is directly adjacent to a Natural Heritage Site (the disused Colne to Skipton railway).

The application is for the change of use from car parking to a hand carwash and valet with associated parking (sui generis). The existing garage in the southern corner of the site will be removed and replaced with a site cabin office. Security mesh fencing is proposed along the road frontage behind the existing low stone wall which is retained except where removed for access. Access points feature metal sliding gates. The proposed development will also feature a canopy covering the car wash area and 2 metre high jet wash screen.

Relevant Planning History

18/0634/FUL – Full: Demolition of garage, siting of office cabin, change of use from car park to a Taxi Booking Office (Suis Generis) with Parking, erection of 2m security fence and gate to south and east boundaries. Refused.

20/0375/FUL – Full: Change of use of car park to form a vehicle sales area with associated parking, siting of a site office cabin and erection of a security fence and sliding gate. Refused.

Consultee Response

Lancashire County Council Highways

Having considered the information submitted, together with site observations, the proposed development raises highway safety concerns, due to sub-standard visibility from the proposed new exist at the north east of the site. As it is unlikely this can be mitigated satisfactorily the Highway Development Control Section objects to the development on highway safety grounds.

The site has been the subject of two previous planning applications – 18/0634/FUL (change of use from car park to taxi booking office) and 20/0375/FUL (change of use of car park to form vehicle sales area) – both of which were refused.

Highway safety was one of the reasons for refusing 18/0634/FUL, although the highway authority did not object to this application, subject to a number of highway related conditions being applied to any approved. Application 20/0375/FUL was not refused on highway safety grounds.

The current application for the car wash and valeting proposes an internal one way system from Skipton Road, with entry from the existing site access in the south east and exist via a new opening in the north east of the site.

Skipton Road (A56) is subject to a maximum speed limit of 30mph along the front of the site. For a road with a speed limit of 30mph a Stopping Sight Distances (SSD) of 43m should be provided. The visibility splay from the new exit to the north of the site would be over third party land and therefore cannot be provided, nor protected. Vehicles existing to the right would not have a clear view of vehicles approaching from the left. As the A56 carries a high daily volume of traffic in both directions this would increase the potential for collisions. There is also no footway outside the site and so vehicles would be existing straight into live traffic.

The majority of the visibility splay to the south of the new exit would be internal over the site. The proposed mesh security fence and jet was screening would be within the splay reducing visibility, especially when the sliding gate was in the open position.

Given the above concerns the Highway Development Control Section objects on highway safety grounds and recommends refusal.

PBC Environmental Health

With regards to this development we would be concerned about the potential for noise nuisance and also that the drainage on site is substantial enough to deal with the water from the business. With regards to noise conditions are required to detail and control the level of noise emitting from the site and hours of operation.

Yorkshire Water

Development of the site should take place with separate systems for foul and surface water drainage. The separate systems should extend to the points of discharge to be agreed.

The developer is required to consult with Yorkshire Water's Trade Effluent Team (Telephone: 03451 242424) on any proposal to discharge a trade effluent to the public sewer network.

Surface water run-off from areas of vehicle parking and/or hardstanding etc. must pass through an oil, petrol and grit interceptor/separator of adequate design before any discharge to the public sewer network. Roof water should not pass through the traditional 'stage' or full retention type of interceptor/separator.

It is imperative, however that surface water run-off from the forecourt of petrol stations, areas used for the delivery of fuel, areas used for and immediately adjacent to vehicle washing facilities and/or other similar areas where detergent is likely to be used is not discharged to any public surface water sewer network. Surface water from such areas must pass through an oil, petrol and grit interceptor/separator of adequate design before discharge to the public foul or combined sewer network.

It is good practice for any interceptor/separator to be located upstream of any on-site balancing, storage or other means of flow attenuation that may be required.

The developer is proposing to discharge surface water to public sewer however, sustainable development requires appropriate surface water disposal. Yorkshire Water promote the surface water disposal hierarchy and the developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer.

As a last resort, and upon of satisfactory evidence to confirm the reasons for rejection of other methods of surface water disposal, curtilage surface water may discharge to public sewer. Surface water discharges to the public sewer must have a minimum of 30% reduction based on the existing peak discharge rate during a 1 in 1 year storm event.

The developer will be required to provide evidence of existing positive drainage to a public sewer from the site to the satisfaction of Yorkshire Water and the Local Planning Authority by means of physical investigation. On-site attenuation, taking into account climate change, will be required before any discharge to the public sewer network is permitted.

Environment Agency

Initial concerns relating to foul water drainage and finished floor/ground levels have been addressed by the submission of an updated FRA. Subject to condition, we therefore withdraw our previous objection dated 18 August 2021.

Condition:

The development shall be carried out in accordance with the submitted flood risk assessment dated July 2021 by BH Town Planning and the following mitigation measures it details:

- There shall be no ground raising as a result of the proposed development;
- Finished floor levels shall be set no lower than 300 mm above external ground levels.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason:

To reduce the risk of flooding to the proposed development and future occupants.

PBC Conservation Officer

Together the Skipton Road/Colne Road corridor and the railway embankment provide a distinctive western edge to the Conservation Area, and the main raised is lined to its East side by development dating from the expansion period of the town from the late 19th Century. Architecturally varied terraced rows and individual houses face directly onto Skipton Road and Colne Road and together with their attractive front walled gardens create a formal defined edge to the town. The raised railway embankment and the thick belt of trees and shrubs along the west side encloses the view, also screening more modern industrial development from sight. To the north along Skipton Road the terraced rows comprise larger, higher status houses, together with some attractive semi-detached and detached villas, occasionally interspersed with some traditional stone workshops. Most of the road is lined with low stone walls, which provides consistency and a distinctive local character.

The Earby Conservation Area Character Appraisal notes the northern approach into the town along Skipton Road as a key view, adding to the significance of the Conservation Area. The enclosure created by the trees and raised railway embankment, with the stone houses and rows

opposite, creates a series of interesting vistas as the road curves around. The site lies opposite some particularly attractive Edwardian villas, together with mature trees to both sides of the road. The low stone boundary wall to the site edge makes a strong contribution to the view here, and its part removal together with the addition of a tall mesh fence and jet wash screen would harm the character and appearance of the Conservation Area at this point. The proposed canopy structure together with the likely introduction with the likely introduction of signage etc. with this commercial use would increase the harmful impact on the significance of the Conservation Area. The development will result in less than substantial harm to the historic environment.

Public Response

Five public objections have been received to this planning application. Material issues raised include:

- Drains cannot currently cope with rainwater. Development will significantly worsen this position.
- Site located on a main road and is on a bend. Traffic using the site would inevitably lead to accidents.
- Noise of car wash machinery is likely to adversely affect residents.
- Water/suds from the site will be a danger to road users.
- Chemicals used for washing cars will damage the environment.
- Proposed screens will not be complimentary to natural views currently experienced in the conservation area.

Officer Comments

Policy

Pendle Local Plan Part 1: Core Strategy

Policy ENV1 (Protecting and Enhancing our Natural and Historic Environments) sets out measures taken through policy and decision making to protect the borough's most sensitive natural and historic environments from harm arising as a result of new development.

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 its surroundings.

Policy ENV7 (Water Management) sets out how applications affected by flood risk are to be considered, and how surface water and foul water drainage is to be managed through development proposals.

Replacement Pendle Local Plan

Saved Policy 4c County and District Designated Sites

Saved Policy 14 Trees, woodland and hedgerows.

National Planning Policy Framework

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 of the Framework, taken as a whole, constitute

the Government's view of what sustainable development in England means in practice for the planning system.

Chapter 16 of the NPPF confirms the national planning policy position in relation to the historic environment. Paragraph 199 of the NPPF outlines 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. It adds that the loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm or less than substantial harm as referenced in Paragraphs 201 and 202 of the NPPF. Development resulting in less than substantial harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Conservation Area Design and Development Guidance SPD

The Conservation Area Design and Development Guidance SPD provides guidelines to ensure that all development within or adjacent to a conservation preserves or enhances the character of those areas.

Earby Conservation Area Appraisal

Confirms the qualities which contribute towards the special character of the Earby Conservation Area.

Heritage and Design

Policy ENV2 seeks to deliver the highest possible standards of design, meet future demands, whilst enhancing and conserving our heritage assets. It advises that developments should be practical and legible, make a positive contribution to the historic environment, local identity and character and should be safe and secure.

The Conservation Area Design and Development Guidance SPD advises that new development should always seek preserve or enhance the character of a conservation area, including its local distinctiveness. Development should respect the scale, proportions and massing of surrounding buildings. It should adopt good quality natural materials in its construction, and protect and enhanced valued views and vistas.

A garage current features at southern end of the site, whilst the remaining area is open and in use for parking. Mature trees border the site to the north and west along the disused railway (a designated Biological Heritage Site). A low stone wall features along the frontage of the site at Skipton Road. This wall is to be largely retained, but will be removed for access. The proposed development will also remove the existing garage and replace it with a similar scale office broadly in the same location. Within the wider site, a 2.8 metre tall green canopy covering the vehicle washing area is to be erected adjacent to the north western boundary of the site, and close to the former railway line, a 2 metre high jet screen is to also feature to the rear of the low wall close to the proposed valeting area. At the boundaries of the site a 2 metre high mesh fence is proposed with x2 rolling security gates at proposed access points.

The site is currently open in character and readily visible from the public highway. This character contributes positively to a key view along Skipton Road which is noted within the Earby Conservation Area Character Appraisal. This view helps to reveal the significance of the Conservation Area. The site lies opposite attractive Edwardian villas, framed by mature trees on both sides of the road creating an attractive vista. The low stone wall fronting the site wall makes a particularly strong contribution to the streetscene.

Proposed fencing, jet wash screen, and sliding gates would feature prominently along the highway frontage, albeit to the rear of the retained low wall. Their development will enclose the site, removing its noted openness and the contribution made to the Conservation Area. Consequently the development will significantly alter the built character of the area adversely affecting the vista identified within the Earby Conservation Area Appraisal.

The built context to the site is characterised by low wall boundary treatments, constructed of natural materials. Proposed boundary treatments significantly depart from this built context in terms of their scale, form, massing, and materials: with predominant use of man-made materials providing a development which is of modern industrial appearance significantly at odds with the built character of this part of the Conservation Area. This is not reduced by the proposed green painted finish nor the semi-transparent form of the development. The proposed boundary treatments are contrary to guidance set out within the Conservation Area Design and Development Guidance SPD. The scale of boundary treatments proposed will overwhelm the existing low stone wall, dominating the existing frontage and will effectively remove the positive contribution made by this feature to the Conservation Area.

The proposed canopy roof is similarly not consistent with the scale, form or materials of the wider conservation area. Owing to its height and large size, and views permitted through the transparent jet wash screen would have a dominant effect on the wider streetscene. The effects of these proposals on the wider built environment would not be diminished by the proposed green painted finish.

The proposed cabin is to be located within the south western corner of the site replacing the existing garage. The proposed design of the cabin provides the appearance of a temporary structure, which is not in keeping with the historic stone built buildings of the conservation area failing to respect the wider built context. The cabin would be of limited visibility from the wider streetscene noting its scale, location within the site, and presence of intervening structures. It still would nevertheless fail to preserve the historic environment contrary to local and national planning policy.

The existing garage is in a poor state of repair and does not contribute to the Conservation Area. Its removal represents a minor benefit of the development. This benefit does not however outweigh the harm caused by the proposal as confirmed above.

Reference is made by the applicant within the submitted Heritage Statement to the car sales garage located to the south of the site on Skipton Road as justification to the form of the proposed development. The car sale garage does not form part of the built context to the site, with intervening structures between. It does not therefore form part of the experience of the site or its surroundings and is located beyond the key view identified within the Earby Conservation Area Appraisal.

Taking into account the above, by virtue of the scale, massing, form, siting, materials and appearance the proposed development is not consistent with the Conservation Area Design and Development Guidance SPD and would result in less than substantial harm to the conservation area. Consequently, applying national planning policy, Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, where appropriate, securing its optimum viable use.

There will be very few public benefits as a result of this development. The construction of the site would employ a small group of local tradesmen for a short period and result in the employment of 3 members of staff. The contribution made to the local economy of Earby would be relatively minor. The public benefits are not sufficient to overcome the assessed harm caused to the historic environment. The site in its current form makes a positive contribution to the Earby Conservation

Area. The proposed use and development would detract from this character. As a result the proposal is not in accordance with Policies ENV1 and ENV2 of the Pendle Local Plan Part 1: Core Strategy and the NPPF.

Impact on Amenity

Concern has been raised about the potential effects on residents from noise associated with the proposed use and operations of the site. The site is located opposite to existing dwellings on Skipton Road and as such may have an adverse effect on these occupiers. Skipton Road is a busy route and as a result, to a degree the noise effect caused by the development for residents may be mitigated by road traffic. Notwithstanding this, the degree of noise associated with the development will need to be assessed and controlled to ensure that adverse effects on residents as a result of the development is avoided. This can be secured by condition and as such would not amount to a reason to refuse the development at this time. Noise associated with the operations of the site would only occur during opening hours confirmed as being 9am to 5:30pm Monday to Saturday and 10am to 4pm Sunday which are not at unsociable hours of the day. Proposed hours of operation are acceptable and could be secured by condition.

Highways

The submitted planning application confirms that the proposed development will be accessed via two entry points adopting a one way in and one way out system. The Local Highways Authority objects to the proposed access arrangement as originally submitted on highway safety grounds given that the northern access point is close to a corner within the highway on a heavily trafficked route. The required visibility splay for this access point would enter within the site and would be partially blocked by the proposed security gate providing for an obscured view. This route is frequently used by heavy goods vehicles being the primary link between the M65 Corridor and Skipton. Parked cars on Skipton Road add to obstructions on the highway that often cause conflicts between vehicles and effect visibility causing highway safety issues. The access to Albion Street is also nearby increasing the complexity of vehicle movements and increasing the potential for queuing traffic and/or accidents.

The applicant has put forward three proposals in an effort to overcome this objection. Option A retains the access arrangement as originally submitted, Option B reverses this arrangement, and Option C adopts only the existing southern access for entry and exit from the site. Of the three options only Option C has any potential merit in highways terms in the view of the Local Highway Authority. The Local Highway Authority has however requested that vehicle tracking information for this option is provided which shows internal vehicle movements given the tight parameters this option would result in. In the absence of this information, the Local Highway Authority maintains their objection to the proposed development.

To date the information requested by the Local Highway Authority in relation to Option C has not been provided with the applicant favouring Option B. Option B therefore forms the basis for the determination of this planning application (as confirmed through drawing no. A3/002 Rev C Proposed Site Layout). The Local Highways Authority objects to Option B stating that this options provides for limited internal queuing space with likely adverse effects on the operation of Skipton Road with knock on effects of obstruction caused for vehicles existing Albion Street. The tight access into the site may require manoeuvring with potential to conflict with vehicles within the site and using the access. Option B may also lead to conflict in the internal flow of vehicles using the site where vehicles use both washing and valeting facilities.

Taking the into account based on submitted information, the proposed development is and is not acceptable in highways terms owing to its effects on highway safety and is therefore contrary to Paragraph 111 of the National Planning Policy Framework.

Drainage and Flood Risk

A car wash and valeting service could contribute to surface water flows affecting local sewer infrastructure capacity and pollute existing water courses. In this regard the Environment Agency is satisfied with information provided by the applicant regarding the drainage of foul water from the site, and Yorkshire Water has recommended conditions to ensure that pollution of waterways from the development is avoided. No response has been received to the application from the Local Lead Flood Risk Authority. It is therefore concluded that the development is acceptable in terms of its effects on foul water drainage and water pollution.

The application site is located within Flood Zone 3a. The proposed use is regarded as less vulnerable to flooding in national planning policy terms and as such the development is appropriate for this flood zone. An outstanding issue with regards to finished floor level and ground levels has now been addressed through the submission of an updated FRA. The Environment Agency is now satisfied that the proposed development accords with national planning policy with regards to flood risk is suitable subject to condition.

Effects on Trees and Wildlife

The site is located adjacent to the Colne to Skipton disused railway, a Biological Heritage Site. The proposed use of the development site for car washing facilities could result in the spillage of chemicals and pollutants which could adversely affect this designated habitat to the detriment of local wildlife. Submitted drainage information suggest that the development will drain away from the designated site towards water infrastructure within Skipton Road. A condition requiring the on-site treatment of polluted waters would avoid adverse effects for this designated as a result of foul water drainage. A further condition could be imposed on the development to ensure that the development does not adversely affect the designated site during construction and its operation. As a result, the refusal of the application for its effect on this designation is not justified. Subject to implementation of conditions, the proposed is broadly compliant with Policies 4c and 14 of the Pendle Replacement Local Plan.

RECOMMENDATION: Refuse

For the following reasons:

1. By virtue of its scale, massing, form, appearance, and materials the proposed metal fencing, security gates, site cabin, canopy, and jet wash screen will harm the character and appearance of the Earby Conservation Area. Whilst the harm to the significance of the Conservation Area is less than substantial, the public benefits arising from the development would not outweigh that harm and thus the development is contrary to Policies ENV1 and ENV2 of the Pendle Local Plan Part 1 and Paragraph 202 of the National Planning Policy Framework
2. The proposed access arrangement for the development will give rise to an unacceptable adverse effects on the safety and operation of the local highway owing to vehicle conflict created within and outside of the site, and is thus contrary to Paragraph 111 of the National Planning Policy Framework.

Application Ref: 21/0540/FUL

Proposal: Full: Change of use of car park to hand carwash and valet with associated parking; siting of site office cabin and canopy; erection of a mesh security fence and sliding gates to south-east and north-east boundaries and 2m high jet wash screen.

At: Land to the West of 28 Skipton Road, Earby

On behalf of: Mr Imran Ali

REPORT TO WEST CRAVEN COMMITTEE 5th OCTOBER 2021

Application Ref: 21/0554/VAR

Proposal: Full: Variation of Condition: Vary Condition 2 (Plans) of Planning Permission 17/0313/REM.

At: Land opposite The Barn, Ben Lane, Barnoldswick

On behalf of: Simpson Homes Limited

Date Registered: 01/07/2021

Expiry Date: 26/08/2021

Case Officer: Laura Barnes

The application has been called to committee by a Councillor.

Site Description and Proposal

The application is a variation to the approved plans of a Reserved Matters application for appearance and landscaping, for the erection of four dwellings with garages.

At present the site consists part of a large well maintained field mainly used for grazing sheep. The proposed site measures 0.19ha and is separated from Ben Lane by a 1.2m high stone wall. The site contains mature trees some of which have Tree Preservation Orders.

The land is immediately adjacent to, but outside of the settlement boundary of Barnoldswick and within the Open Countryside. Open fields are positioned to the rear of the site with detached dwellings to the front. Further residential properties are positioned along Skipton Road to the north.

This application seeks to substitute the approved plans of the Reserved Matters Permission 17/0313/REM to raised the floor levels on 3 of the 4 proposed dwellings. This is to allow sufficient levels for the foul drainage to gravity feed in to the manhole in Ben Lane. The unit nearest Skipton Road has not changed levels at all. The variation also includes slightly repositioning the access, so that the road could be made up to an adoptable standard. It does not change the visibility splays. Finally, there are some minor changes to the proposed openings.

Relevant Planning History

13/15/0546P: Outline: Erection of 4 dwellings with garages, (Access, Layout and Scale)
Refused

Appeal: APP/E2340/W/16/3155958
16/0012/AP/REFUSE

Appeal against refused application: Outline 13/15/0546P
Appeal allowed

17/0313/REM: Reserved Matters: Erection of 4 dwellings with garages (Appearance and Landscaping).
Approved with conditions

19/0702/CND: Approval of Details Reserved by Condition: Discharge conditions 3 (Materials) and 8 (Surface Management) of Planning Permission 17/0313/REM.

Consultee Response

LCC Highways

No objection to the amended plans

Public Response

Nearest neighbours have been notified by letter, one response has been received raising the following issues:

- Drainage system would not cope
- Foul and surface water should be separate
- SUDs should be implemented to prevent flooding
- Concern that the proposed raising of the floor levels would have an impact upon the environment
- Measures to protect the trees which have TPOs should be adhered to
- Highway safety danger
- Affordable housing is not being provided

Officer Comments

The principle of residential development on this site has been established by the appeal allowed and access, layout and scale being approved. A Reserved Matters application has previously considered amenity, design, materials, impact upon protected trees, landscaping and parking provision. This application deals with a variation to the Reserved Matters application involving a change to the approved plans. This includes a change in the finished floor levels of the houses in order to enable a gravity fed drainage system rather than having a pump system, a slight reposition of the proposed access and some minor amendments to the proposed openings to the dwellings.

Policy

Pendle Local Plan Part 1: Core Strategy

Policy SDP1 (Presumption in Favour of Sustainable Development) takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy 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 Transport) sets out that proposals should minimise the need to travel. It also states that new development should comply with maximum car and cycle parking standards.

Policy ENV7 (Water Management) sets out that the exception test from the NPPF will be applied to direct development to areas with the lowest probability of flooding. It also outlines that new developments must consider the potential flood risk to the proposed site, the risk this may have downstream, the use of SUDs to reduce surface water run off and the availability of an adequate water supply.

Replacement Pendle Local Plan

Policy 14 'Trees, Woodland and Hedgerows' recognises the importance and amenity function of trees, woodlands and hedgerows and will protect them.

Policy 16 'Landscaping in New Development' requires all development proposals which involve new build or rebuild to include a scheme of landscaping sympathetic to the site's character and vicinity.

Policy 31 'Parking' which is a saved Policy within the Replacement Pendle Local Plan requires that new developments provide parking in line with the levels set out in Appendix 1 of the RPLP.

National Planning Policy Framework

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.

Design

In terms of the proposed variation to the scheme previously approved, the changes are set out below in plot order:

Plot 1

There is to be an additional window to the rear elevation (facing away from Ben Lane) at the first floor level, serving a bedroom. The roof lights to the single storey outrigger are also configured side by side, rather than one above the other on the varied plan.

To the gable elevation closest to the site access there is one additional first floor window serving a bedroom.

Plot 2

No change to rear elevation (facing away from Ben Lane)

Additional bathroom window to the first floor to the front elevation (facing towards Ben Lane)

Plot 3

No change to rear elevation (facing away from Ben Lane)

Additional bathroom window to the first floor to the front elevation (facing towards Ben Lane)

Plot 4

No change to rear elevation (facing away from Ben Lane).

To the front elevation (facing Ben Lane) there is to be a front door with glazed panels either side, this proposed opening is to extend full height into the first floor. This is not dissimilar to Plot 1 which has a large glazed barn-style opening to this elevation.

To the gable elevation farthest from the site access the single storey outrigger roof lights are to be configured side by side, rather than one above the other. Also to this gable, there is an additional pedestrian door, serving a utility room.

Although there are additional openings, these are proportioned similar to the previously approved plans and would not result in a greatly different design. As such, the proposals accord with Policy ENV2 of the Local Plan: Part 1 Core Strategy.

Amenity

Similarly, although there are additional openings, these would be no closer to the existing dwellings than those openings which were previously approved. As such, there would be no additional harm compared with the scheme previously approved in terms of neighbouring amenity. Therefore, the proposed variation accords with Policy ENV2 in terms of neighbouring amenity.

Drainage

The previous plans which were approved as part of the Reserved Matters application indicated a pump chamber within the garden of Plot 1, to the north west of the site access. However, following further investigations the applicant has chosen to put forward a gravity fed system instead. This involves raising the finished floor levels of three out of four of the plots, so that they can drain into the man hole on Ben Lane. The Council's drainage engineer has reviewed the amended proposals and has requested further drainage calculations in order to fully assess the proposed attenuation to ensure they are a sufficient size in order to prevent flooding on site during the usual design storm events up to 1 in 100 year +climate change. The greenfield run of rate has been calculated at 3.3l/s, which indicates that there is sufficient capacity within the proposed systems to avoid an increase in surface water flood risk. The proposals meet the requirements set out by the Design and Construction Guidance 2019.

Therefore, the proposed development accords with Policy ENV7 of the local Plan: Part 1 Core Strategy.

Access / Highways

The plans have been amended from the originally approved Reserved Matters in that the carriageway and pavement to either side of the access was not sufficient to be able to be made up to adoptable standards. As such, the access has moved slightly to allow a 1.8m wide pavement to either side of the 5.5m side carriageway. This does not affect the visibility splays. Lancashire County Council Highways have reviewed the amended plans and have no objection to the variation.

The proposal still provides the same amount of car parking as previously approved and accords with Policy 31 of the Pendle Replacement Local Plan and Policy ENV4 of the Local Plan: Core Strategy in this regard.

Landscape

The proposals do not alter the scheme which has previously been approved in terms of landscaping.

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 accord with Local Planning Policy and would be compliant with the guidance set out in the Framework. 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. This notice constitutes an approval of matters reserved under condition 1 of Planning Permission No. 13/15/0546P and does not by itself constitute a planning permission.

Reason: The application relates to matters reserved by Planning Permission No. 13/15/0546P

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

- Location Plan ref: drawing 01 rev B
- Proposed Block Plan ref: drawing 03 rev D
- Proposed Site Plan ref: drawing 03 rev D
- Proposed Elevations ref: drawing 06 rev A
- Proposed Floor Plans ref: drawing 05 rev A
- Cross Section Drawing ref: drawing 08
- Proposed Drainage Layout ref: 21107-PWA-P01-XX-DR-C-1001 rev P01
- Detached garage plans ref: drawing 26 Rev A

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

3. The materials for the roof, walls, windows and doors of the development hereby approved shall be carried out in strict accordance with the details submitted and approved on 21st November 2019.

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

4. The window openings shall be set back from the external face of the wall. Unless otherwise agreed in writing by the Local Planning Authority, the depth of the reveal shall be at least 75mm.

Reason: To ensure satisfactory appearance to the development in the interest of visual amenity.

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 1995 (or any Order revoking and re-enacting that Order with or without modification), no development as specified in Classes A, B, C, D, E of Part 1 of Schedule 2 of that Order shall be carried out without express planning permission first being obtained from the Local Planning Authority.

Part 1

- A) No extensions shall be erected
- B & C) no alterations to the roof of the building shall be carried out
- D) no porches shall be erected

Reason: To enable the Local Planning Authority to control any future development on the site in order to safeguard the character and amenity of the area and impacts upon neighbouring properties and in order to ensure the protected trees on the site are not adversely affected.

6. The car parking areas shall be surfaced and paved in accordance with a scheme to be approved by the Local Planning Authority and the car parking spaces and maneuvering areas marked out in accordance with the approved plan, before the dwellinghouses are occupied.

Reason: To allow for the effective use of the parking areas.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Procedure) Order 1995 and the Town and Country Planning (General Permitted Development) (Amended) (No. 2) (England) Order 2008, or any subsequent Orders or statutory provision re-

enacting the provisions of these Orders, all garages shown on the approved plan shall be maintained as such and shall not be converted into ancillary accommodation / offices or used for storage without the prior written approval of the Local Planning Authority.

Reason: In order to ensure that sufficient off-street parking can be accommodated within the site.

8. The details of the future management and maintenance of the proposed streets and sustainable drainage system shall be carried out in strict accordance with the details submitted and approved on 21st November 2019.

Reason: To ensure the streets and drainage system are maintained in an acceptable and appropriate manner.

9. Unless approved in writing by the Local Planning Authority no ground clearance, demolition, changes of level or development or development-related works 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 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 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.

Application Ref: 21/0554/VAR

Proposal: Full: Variation of Condition: Vary Condition 2 (Plans) of Planning Permission 17/0313/REM.

At: Land opposite The Barn, Ben Lane, Barnoldswick

On behalf of: Simpson Homes Limited

REPORT TO WEST CRAVEN COMMITTEE ON 06 JULY 2021

Application Ref: 21/0571/REM
Proposal: Reserved Matters: Major: Erection of 10 dwellings (Appearance, Landscaping, Layout and Scale) of Outline Planning Permission 17/0691/OUT.
At: Land Off Cob Lane And Old Stone Trough Lane, Kelbrook
On behalf of: YLBD
Date Registered: 21/07/2021
Expiry Date: 20/10/2021
Case Officer: Alex Cameron

This application has been brought before Committee as over three objections have been received.

Site Description and Proposal

The application site is an agricultural field to the south of Cob Lane. The site is located to the south east of the main village and is outside of, but adjacent to the defined settlement boundary. To the west is Yellow Hall, a row of listed dwellings, to the south and east is open land. The land slopes upwards from Old Stone Trough Lane, as Cob Lane rises away to the east. It is designated as Open Countryside in the Local Plan.

The site has outline planning permission (access only) allowed on appeal in 2017, this application is for the remaining reserved matters of appearance, landscaping, layout and scale for that permission.

The proposal is for 6 four bedroom detached houses and 4 three bedroom semi-detached houses. The houses would be two storeys and finished in natural stone with concrete tile roofing and uPVC fenestration.

Relevant Planning History

13/86/0832P – erection of 2 dwellings on land adjacent to Yellow Hall – Refused

16/0488/OUT - Outline: Major: Application for up to 17 dwellings (Access only) – Refused and Appeal Dismissed. The appeal was against the development of 17 houses. The Inspector did not raise any objections to the scheme on highway grounds, amenity, loss of wildlife, highway safety, drainage, housing land supply or infrastructure provision.

17/0691/OUT Outline: Major: Erection of up to 10 Dwellinghouses (Access only) (Re-Submission). Appeal allowed.

21/0399/PIP - Permission in Principle: Erection of up to 9 No. Dwellings – Undetermined.

Consultee Response

PBC Environment Officer – The submitted landscaping scheme is not acceptable. Recommends appropriate native trees instead of Mountain Ash and Silver Birch which would be short lived and inappropriate.

Where the boundary fences border the open countryside they should be moved into the development slightly and mixed native hedges planted behind them to soften the development.

A specification for the wildflower meadow is required and a management plan should be conditioned.

LCC Highways – The construction traffic management plan is acceptable
The swept path analysis is acceptable.

A dropped crossing point needs to be constructed on the north side of Cob Lane opposite the termination of the proposed footway at the site access so that pedestrians can access the development without needing to walk in the carriageway of Cob Lane.

I note that the estate road will not be offered for adoption, this goes against our policy as there are more than 5 houses, however despite whether the road is to be adopted or not I would consider that a scheme of street lighting is necessary.

I note that surface water is included as a separate condition. The details should include the drainage of the road water.

The estate road and associated infrastructure will require the establishment of a management company to ensure that the future inspection and maintenance is clearly set out to protect the future residents.

Lead Local Flood Authority – No objection. Notes relating to the provision of SUDS and the requirement for land drainage consent.

Yorkshire Water – no objection to:

- i) The proposed separate systems of drainage on site and off site
- ii) The proposed amount of domestic foul water to be discharged to the public combined water sewer as shown on submitted drawing Proposed Foul & Surface Water Drainage A3502-D-01 (revision P1) dated 30/06/21 prepared by PSA Design.

The submitted drawing shows surface water proposed to be drained to watercourse.

Lancashire Fire and Rescue Service – Comments relating to building regulations.

Kelbrook and Sough Parish Council – Object

1. Access for building vehicles and deliveries – the plan is inadequate.

Whilst we wish for the development to be completed as soon as possible, we are acutely aware of the safety risk in the plan submitted by the developer, to pedestrians, other road users and to property. We believe that the movement of vehicles making deliveries to site and returning from site, should be limited to between 09:15 to 15:00, Monday to Friday.

This would avoid school drop off and pick up times on the only viable route which is along Waterloo Road. We have had a reported and logged accident to a child leaving school which required an ambulance to attend. Deliveries within the suggested time slot will also permit overnight parked vehicles to have moved out before their return after working hours. It will be inevitable that for the duration of the development phase there will be considerable inconvenience to the users of Waterloo Road, but the suggested time slot may help to reduce that inconvenience.

There is no mention in the plan of any route through the village, to be used by delivery vehicles. We know from past experience of delivery vehicles becoming stuck between walls, or between walls and vehicles, that there is only one viable route through Kelbrook for large delivery vehicles. We know that Old Stone Trough Lane and Cob Lane can not be used and that turning the corners a) Main Street (from A56) to Waterloo Road and b) Vicarage Road to Main Street are impossible for any large delivery vehicle. We believe that the only sensible route through the village must be A56 – Chuch Lane – Main Street

– Waterloo Road – Site. Given the number of parked vehicles in the village, we believe that the 09:15 to 15:00 (Monday to Friday) time slot (as above) would permit delivery to site with minimum disruption to both villagers and the building team. We object to any deliveries at any time on a Saturday or Sunday, as the route would prove very difficult or probably impossible to navigate, because of the number of parked vehicles along both sides of Main Street and both sides of Waterloo Road.

Further to using the route suggested in this document, the Parish Council is concerned that the Victorian bridge over the Kelbrook Beck might suffer as a consequence of the tonnage of the delivery vehicles which will use the route. We ask that some reassurance is given by Lancashire County Council regarding acceptable weight over the period of the development. Our concern is that should the bridge be damaged in any way, then not only will deliveries to site be stopped, but that the already poor traffic flow in the village will become chaotic.

2. Climate Change – the development does not attempt to address any of these issues Both the Government and Pendle Borough Council have declared a climate emergency. The NPPF dedicates section 14 to how "the planning system should support the transition to a low carbon future...". Given the climate emergency, we believe that every dwelling within this development should be equipped with solar panels on the rear aspect of their south facing roofs and use ground source heat pump systems to provide heating. This would comply with NPPF page 45 Para 154 "avoid increased vulnerability to the range of impacts arising from climate change" and "..help to reduce greenhouse gas emissions, such as through its location, orientation and design". In addition, although the installation of gas boilers is unlikely to be banned until 2025, we believe that should there be any intention to install gas, mains or propane provision, it should not be permitted on the basis of sustainability – NPPF Page 5, Section 2 Achieving sustainable development, Paragraph 8c "...mitigating and adapting to climate change, including moving to a low carbon economy" and under the clear NPPF definition of sustainability "meeting the needs of the present without compromising the ability of future generations to meet their own needs". Also, as the delivery of new cars powered by petrol and diesel ends by 2030, we believe that charging points should be provided for each house.

3. Recycling – inadequate provision in the plans

As recycling is increasing and each dwelling is likely to have 4 large wheelie bins, we believe that there should be adequate room for storage to the rear of each property. It appears that this may be difficult with some of the dwellings.

4. Infrastructure – there has been no consideration of service deterioration for existing users caused by the development

Electricity supply: At the time of writing this objection, **once again** the consultee approached for electricity supply is Electricity North West, the wrong provider for this area and hence this development. The provider for this area is Northern Powergrid who have not been consulted. In 2017, when Northern Powergrid were asked by the Parish Council if there would be an uprated supply for the part of Kelbrook where the development is situated, the comments from Northern Powergrid were that the supply would be improved by a new maintenance regime. On the yearly statistics available (2017-2019), in the area of Kelbrook which includes Cob Lane, there have been more outages and for a longer duration than both the target and average outages and duration within the Northern Powergrid network. Given that lockdown and hospitality closure will have dramatically and artificially skewed any pertinent statistics for 2020, the Parish Council would at least appreciate a statement from Northern Powergrid on how they will ensure that this development will not adversely affect the current residents who are serviced by this supply.

Water supply: This development will be at the end of the Cob Lane mains spur. There are already complaints within the village, that the pressure supplied is insufficient. The Parish Council would like to understand how the water pressure will not reduce further when the load appropriate to another ten dwellings comes on stream, or if the likely adverse pressure will only affect the new development.

Broadband: The NPPF states in Paragraph 114 that "Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being". The existing properties near to the development are at the furthest extent of the copper wires from the Cabinet, where only FTTC technology is employed. Gfast upgrades have not been applied by Openreach which limits the download speed to a maximum of 44Mbps and upload to a maximum of 8Mbps Openreach have stated that they will not provide FTTP technology into Kelbrook. At present, the service to users around the Cob Lane area is inconsistent in terms of bandwidth and the service also has a large number of outages. Using any queuing theory to predict the outcome of an increase in users of at least a further 10, what can be legitimately stated is that the service will deteriorate. As 5G is not yet available in this area, the Parish Council would like to understand how deterioration of service will be prevented to the existing broadband users.

5. Environmental: Insufficient consideration of the environmental impact

The environmental reports state that a 5m buffer zone should be imposed around the watercourse to ensure that there is no impact on wildlife during construction. The current plans show that the required fence will be erected. However, this protection disappears when construction is finished. Is there any way in which this watercourse, its wooded area and the wildlife within it can be preserved better than with a garden fence only 2m from the watercourse, as this wooded area has existed for at least 400 years?

Whilst we would like to see the watercourse and wooded area preserved, it also requires maintenance. This has been undertaken by successive farmers of the land. The removal of rubbish keeps the watercourse unpolluted for the wildlife which uses it and permitting natural failure of trees and shrubs along its banks provides a natural water attenuation so necessary for everything downstream. Will the house owners also own their adjacent section of watercourse or will the entire watercourse be managed as part of a management scheme?

We note on the plans that a wildflower meadow is to be created at the side of the watercourse and at the front of the development. Whilst rewilding is laudable, we have looked carefully at wildflower "meadows" and would suggest a great deal of caution before embarking on this undertaking as: a) the space is really not sufficient for rewilding; b) the altitude does not lend itself to the success of the commonly available wildflower mixes; c) the tree cover will undoubtedly impact upon many of the flowers in the mix; d) some wildflowers require grazing to thrive just as others need to die off and decompose, whilst others require to be part of a hay making process and e) the failure to successfully manage the areas will lead to only the dominant species surviving giving rise to something other than was intended. We would suggest that the area to the front of the development is planted with more manageable species and that the area adjacent to the watercourse is left as is, and maintained as if sheep cropped (say mowed/strimmed monthly).

6. Maintenance; Concern over the lifetime of the development (100 years)

It is made clear throughout the development proposals and with the conditions imposed by the Inspector that a maintenance arrangement with suitably qualified companies would be required for the SuDS. We also believe that maintenance of the common areas and some riparian responsibilities will also require a maintenance agreement. Our concern is not over the quality of the maintenance, for we hope that a service level agreement will be put into place between householders and any maintenance company. Our concern is with the longevity of a maintenance company and should such a company fail, who will then pick up the maintenance?

We do not believe that vital and specialist maintenance of this nature, e.g. SuDS, common areas, etc., should ever revert to the house owner, as this would only be a recipe for failure that would

never manifest itself as a problem for the development, rather, in the case of SuDS, downstream or with neighbours. We also understand that there is a reluctance by Councils to adopt SuDS schemes and other maintenance activities. We would therefore ask that either a robust escrow or insurance arrangement be put in place to cover the life of the development or that Pendle Borough Council accept responsibility for the maintenance regime and make necessary mandatory arrangements with the developer or preferably with individual households by way of a covenant within the deeds.

We bring this to the attention of the Borough Council, because we do not believe it to be appropriate that others, outside of this development, should be burdened with potential expenditure at some future date. We would, of course, be happy with any arrangement that had a) safeguards for the public purse, b) safeguards for consequential problems through poor maintenance and c) gave confidence in the longevity of the arrangement.

Public Response

Site and press notices posted and nearest neighbours notified. Over 80 responses received objecting on the following grounds:

- Impact on Listed Buildings
- Increase traffic congestion
- Highway safety risk, including risk to school children
- Impact of construction traffic
- Increase in on-street parking
- Poor access visibility
- Lack of footways on roads leading to the site
- Loss of greenfield / countryside land
- Brownfield land should be developed first
- Unacceptable visual impact
- Impact of the character of the village
- Privacy impacts
- Increase risk of surface water flooding
- Concerns about management of the drainage
- Impact on local infrastructure and infrastructure provision
- Provisions should be made for renewable energy
- Inadequate bin storage
- A 5m buffer zone should be maintained to the stream to protect wildlife in accordance with the environmental report
- Permitted development rights should be removed
- The Planning Inspectorate's dismissal of the previous appeal was wrong

Officer Comments

The principle of the development of this land for ten houses has been established by the outline planning permission, including matters of access. All that can be considered in this application are the remaining reserved matters of layout, appearance, scale and landscaping.

Policy

Local Plan Part 1: Core Strategy

The following Local Plan policies are relevant to this application:

Policy ENV1 requires developments to make a positive contribution to the protection, enhancement, conservation and interpretation of our natural and historic environments.

Policy ENV2 identifies the need to protect and enhance the heritage and character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that siting and design should be in scale and harmony with its surroundings. The proposal's compliance with this policy is addressed in the design and amenity sections.

Policy LIV5 requires all new housing to be designed and built in a sustainable way. New development should make the most efficient use of land and built at a density appropriate to their location taking account of townscape and landscape character. Provision for open space and/or green infrastructure should be made in all new housing developments.

Design and Heritage Impact

In allowing the outline permission the Inspector stated that:

“There are clear views of the rear elevation of Yellow Hall from Cob Lane, indeed for some distance along Cob Lane. These views would be significantly affected by the proposal although this impact could be reduced by setting the houses towards the back of the site, maintaining an open buffer area immediately to the rear of the boundary with Yellow Hall and retaining low boundary features along Cob Lane.”

Although the Inspector concluded that there would be less than substantial harm to the significance of Yellow Hall that would be outweighed by the public benefits of the development including contribution towards the provision of the Council's five year housing supply and off-site affordable housing contribution.

To ensure that an open area is retained behind Yellow Hall, the Inspector imposed an additional condition such that the reserved matters have to be prepared to accord with the indicative layout shown on the plans submitted with the outline.

The proposed layout would maintain the same / greater distance back from yellow Hall and Cob Lane.

The design, scale and layout of the proposed dwellings would be in keeping with the character of the area similar to other new development in the area, the gabled projections to the front of the houses reflecting those to the rear of Yellow Hall. The walls would be natural stone the proposed dwellings would be physically separated enough from Yellow Hall that the proposed use of upvc windows would not have a harmful impact, however, in the proposed concrete roof tiles would result in some additional harm to the setting of Yellow Hall. With a condition to ensure that natural slate is used the less than substantial harm from the development would be outweighed by the public benefits as detailed in the outline appeal decision.

It has been suggested that there should be additional provision for renewable energy in the design, including solar panels. There is currently no planning policy basis to require renewable energy provision in new developments and such a requirement would be a matter of principle to be considered and conditioned at the outline stage.

Residential Amenity

The proposed development would provide an acceptable level of privacy both the neighbouring properties and the residents of the proposed dwellings and would not result in any overbearing impacts or unacceptable loss of light. The proposed development is therefore acceptable in terms of residential amenity in accordance with policy ENV2.

Landscaping

The landscaping scheme is not acceptable as submitted, the proposed tree species are not appropriate, native species hedges should be planted to the boundaries with the countryside and stream and a management plan conditioned. A revised scheme has been requested, however, this can be controlled by condition if an acceptable scheme has not been submitted prior to determination.

Ecology

The ecology survey submitted with the outline application recommended that a buffer of 5m be maintained to the stream running to the rear of the site and that vegetation is maintained in that area unless a bat survey assessing the impact on bat foraging of the loss of that vegetation is submitted. The submitted plans would not maintain a 5m buffer and would result in the loss of some of that vegetation and no survey has been submitted to assess the impact of that. This has been raised with the applicant and they have stated their intention to submit amended plans providing a 5m buffer zone and preserving the existing vegetation. Subject to the receipt of those amended plans the proposed development is acceptable in terms of its ecological impact.

Open Space

The development proposes a buffer of public open space to the front and side adjacent to Yellow Hall, this together with the green infrastructure of the tree lined stream to the rear of the site would meet the requirements of policy LIV5 for the provision of public open space and/or green infrastructure.

Highways

Only highway matters relation to the layout of the development can be considered in determining this application, the principle of the acceptability of the access to the development has been established by the outline permission.

The proposed layout would provide adequate parking and internal road layout. Other details including highway drainage, street lighting and management and maintenance are controlled by the conditions of the outline permission. The inspector did not find it necessary to impose any condition requiring off-site highway works, such works cannot be required at this stage.

Concerns have been raised regarding construction traffic and timing of deliveries to the site, a construction management condition was attached to the outline permission by the Inspector including hours of works and deliveries and routing of delivery vehicles. This is a matter of access and principle and so only relevant to the outline permission, no additional conditions in relation to those matters can be imposed at this stage. Although a construction management statement has been submitted with this application the discharge of conditions on the outline permission is not part of this application, that would need to be applied for in a separate discharge of conditions application.

The development is acceptable in highway terms in accordance with policies ENV4 and 31.

Drainage

The detailed particulars of drainage, including management and maintenance, are subject to conditions on the outline permission. A separate discharge of conditions application would be required for the approval of those details.

Contributions

Section 106 contributions were set by the outline permission and a unilateral undertaking was entered into for a contribution for the provision two off-site affordable housing units and an education contribution for one secondary school place.

A request has been made from East Lancashire Hospitals NHS Trust for a contribution towards the cost of healthcare interventions it calculates will be generated by the residents of the 10 dwellings in the first three years of their occupation, for which there is a funding gap.

In terms of health service contributions there are a number of concerns about the request and justification for those requests. Planning legislation allows for conditions to be placed on developments to make them acceptable. It also provides for the possibility of payments being made through section 106 agreements for infrastructure affected by a development. The law surrounding this is as follows:

Section 106 of the 1990 Act provides as follows:

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

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

(2) A planning obligation may—

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

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

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

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

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

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

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

“infrastructure” includes—

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

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

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

The issue for Committee is whether the funding has a direct connection to the development and whether this would be fairly and reasonably related in scale and kind to the development.

Robust evidence is required to support a request for a contribution. In London for example a model has been produced which attempts to provide robust and up to date evidence on the need for a contribution. The model is referred to as the HUDU model. This looks at the specific circumstances of each development in its own location reflecting the population characteristics of the area.

The evidence supplied with this request does not in my view go far enough to support the view that the impacts of the individual development is directly related to healthcare deficiencies. A flat rate is applied to all developments which will inevitably result in some developers over providing and some underproviding. The model does not factor in demographic modelling of the area and does not for example look at any percentage of the population that may move into the developments and that they are already resident in the area thus not increasing the demand on services.

We have also raised a concern about the timing of funding and that developments can take several years in order to come to fruition. From the information supplied to us it appears that once a development is known about then financing is included in the next budgetary year. The issue therefore is that if developments take several years to come forward and they are included in financial planning after year 1 then the developer would be paying for services already funded in the standard funding formulae.

Whilst more accurate evidence could be provided were the model to be finessed as it stands it is not sufficiently robust to prove the level of contribution fairly reflects the impact the development would have on services.

This is an important issue that will arise in other developments in the Borough. In order to get an independent view on this we have obtained Counsel's opinion on this. That advice is legally privileged but supports the view that the evidence is not sufficiently robust to be able to support a requirement for the contribution requested.

Committee are therefore recommended not to require a contribution to the NHS as the evidence is not robust enough to confirm that the funding is directly enough related to the development and is fairly and reasonably related in scale and kind to the development. The provision of affordable housing is a major need within Pendle and significant weight should be attached to providing that housing.

Other Matters

Numerous comments have been received regarding traffic and highway safety impacts, impacts on ecology and protected species, flooding and drainage issues. These are matters that were considered in the outline application and the principle of the development and access was found to be acceptable by the Planning Inspectorate.

Conclusion

It is recommended that the approval of the application is delegated to the Planning, Economic Development and Regulatory Services Manager subject receipt of acceptable revised plans including a 5m undisturbed buffer to the stream.

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 submitted reserved matters are acceptable in all relevant regards. 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

1. This notice constitutes an approval of matters reserved under Condition 1 of Planning Permission No.17/0691/OUT and does not by itself constitute a planning permission.

Reason: The application relates to matters reserved by Planning Permission No. 17/0691/OUT.

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

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

3. Prior to the commencement of above ground works involved in the erection of the external walls of the development samples of external materials / finishes of the walls and roofs shall be submitted to and approved in writing by the Local Planning Authority, notwithstanding any induction on the approved plans, forms and documentation the materials of the roof shall be natural slate. The development shall thereafter be carried out in strict accordance with the approved materials.

Reason: To allow the Local Planning Authority to control the external appearance of the development to protect the significance of the adjacent Listed Building.

4. Prior to the occupation of the first dwelling details of the long term management and maintenance of the areas of public open space shall have been submitted to and approved in writing by the Local Planning Authority. The open space shall thereafter at all times be managed and maintained as such in accordance with the approved details.

Reason: To ensure the open space is adequately managed and maintained in the interest of the visual amenity of the area and to protect the significance of the adjacent Listed Building.

5. The development shall not commence unless and until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:

- a. the exact location and species of all existing trees and other planting 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 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.

- 6. Prior to the occupation of each dwelling the car parking area for that dwelling shall be laid out and surfaced in accordance with the approved plans, the car parking area shall at all times thereafter remain free from obstruction and available for car parking purposes.

Reason: to ensure adequate off-street car parking provision is provided and maintained in the interest of highway safety.

Application Ref: 21/0571/REM

Proposal: Reserved Matters: Major: Erection of 10 dwellings (Appearance, Landscaping, Layout and Scale) of Outline Planning Permission 17/0691/OUT.

At: Land Off Cob Lane And Old Stone Trough Lane, Kelbrook

On behalf of: YLBD

REPORT TO WEST CRAVEN COMMITTEE ON 05 OCTOBER 2021

Application Ref: 21/0590/FUL

Proposal: Full: (Major) Erection of a Research & Design facility Use Class E(g) (Light Industry) 2,340sqm including diversion of Public Right of Way 13-1-FP3.

At: Site Of Fernbank Mill, Fernbank Avenue, Barnoldswick

On behalf of: Hope Technology Ltd

Date Registered: 14/07/2021

Expiry Date: 13/10/2021

Case Officer: Alex Cameron

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

Site Description and Proposal

The application site is on the site of the former Fernbank Mill, now demolished. The site is within the settlement boundary of Barnoldswick and accessed from Fernbank Road. There is agricultural land to the north, dwellings on Great Croft Close and Fernbank Avenue back on to the eastern boundary, to the west is an existing commercial use and dwelling and to the south is open land and dwellings on Priory Way beyond. Public Footpath No.3 runs through the site from north to south.

The proposed development is the erection of a 2,340m light industrial research and design facility for Hope Technology. This is intended as an additional facility to their existing factory at Hope Mill. The proposed building would have a footprint of 116m x 21m an eaves height of 6m and a ridge height of 7.1m and would be finished in grey profiled cladding.

Relevant Planning History

13/11/0272P – Demolition Determination: Demolition of mill building. Refused

13/11/0337P - Demolition Determination: Demolition of mill building. Approved

Consultee Response

United Utilities – The proposals are acceptable in principle. Request foul and surface water drainage, management and maintenance conditions.

Yorkshire Water – A 90mm diameter MDPE live and an abandoned 8” diameter cast iron water main cross the site, if these are not required, they would need to be disconnected and removed.

Lead Local Flood Authority –

LCC Highways – Sustainability: The nearest bus stops are located on Gisburn Road within walking distance of the site, approx. 400m. The stops are served by services 4, 280 and 809, service 280 (Preston-Skipton) provides the most suitable service to accommodate the staff travelling sustainably.

Secure, covered cycle parking will be required to support/promote sustainable travel. The site has a low accessibility but there are options for staff to travel by bus or cycle.

The provision of Travel Plan, for the whole company, would be supported to aim to reduce the single vehicle trips by staff to the site by running a car club, Bike 2 work scheme, lockers/showers, walking/cycling route maps, etc.

A trip generation based upon the former Mill floor area is submitted to demonstrate the reduction in vehicle movements compared to the current proposal. The numbers are not considered representative because Mill sites historically generated fewer vehicle trips due to the locality of the employees than the data held in trics which is predominantly modern buildings with off-street parking.

Based upon the trics assessment, the morning peak trip generation of the proposed research and development unit would be 41 trips, while during the evening peak hour the site would generate 35 trips. I would request that the junction of Fernbank Avenue and Gisburn Road is assessed further to determine that sufficient capacity exists to accommodate the development traffic. I would also request further information is submitted to outline how many HGV's movements the site is expected to generate daily, weekly or monthly basis.

Site layout: I have attached an extract from our records showing the extent of the adopted highway on Fernbank Avenue. The proposed site plan shows part of the adopted highway fenced and landscaped (opposite number 27 Fernbank Avenue) and this requires amending to show the extent of the highway unchanged.

A new section of footway needs to be added to join the existing footway on Fernbank Avenue to the new footway alongside the new estate road. This will provide a continuous route for pedestrians and staff and walk to the site and to the wider footpath network. Please see the comments by the Pendle Borough Council Countryside Access Officer about the PROW requirements for 13-1-FP-3 and the routes that not recorded but have been established through usage.

The red edge should be extended to cover the junction with the new estate road and the site access and the visibility splays. The visibility splays should be shown on the site plan with X2.4m by Y25 in both directions along the new estate road to the nearside kerb.

The estate road will remain privately owned and maintained. The estate road should be hard paved, drained, lit and marked prior to the first use of the building.

Parking and servicing - The parking standards for a B1(c) would require a ratio of 1 space per 30sqm floor area and for a low accessibility site of 2,340sqm this equates to a maximum of car parking 78 spaces.

There are 30 car parking spaces proposed including 4 disabled spaces, 14 cycle spaces and a motorcycle bay provided on site.

The application form states 40 FT employees will work at the site and where an end user is known this can guide the car parking provision together with known travel patterns of employees.

I would request that further information is submitted to support the car parking provision due to the significant shortfall from the parking standards. I would recommend that existing parking demand data from the employees at the nearby site in Barnoldswick is provided to show that 30 spaces are sufficient for the site. We would not support a shortfall in parking which would result in overflow onto the surrounding residential streets.

A servicing area with 25m diameter turning circle is provided and a swept path is provided for an articulated lorry. Should the application be approved, a condition is requested to ensure this area

is kept free of all obstruction to ensure that all vehicles can enter and exit onto the estate road in forward gear.

The cycle parking should be covered and secure and an electric charging point should be provided.

Conclusion: We would request that the junction of Fernbank Avenue/Gisburn Road junction is assessed and that further information is submitted in relation to the HGV movements and the car parking provision and the amendments to the plan as outlined above.

PBC Countryside Access – Concerns regarding reduced visibility along the proposed diverted footpath, this could be addressed by provision of lighting along the footpath.

The footpath should be linked through to the footway of Fernbank Avenue.

If necessary provision for a temporary alternative footpath should be made during the course of construction.

A separate application is required to divert the footpath.

Suggests a note relating to obstruction of public rights of way.

Lancashire Constabulary Architectural Liaison – Recommendations for security measures including intruder alarms, CCTV, window security, roller shutter doors and fencing.

Lancashire Fire and Rescue – Comments relating to Building Regulations requirements.

Cadent Gas – No objection subject to a note regarding working near to Cadent Gas infrastructure.

Barnoldswick Town Council – Fully support the proposal but ask if the perimeter fencing could be changed to green mesh type and could some bollard lighting be added to the footpath route plus electric charging points on site.

Public Response

Site and press notices posted and nearest neighbours notified – responses received raising the following concerns:

- Increased traffic on Fernbank Avenue / Gisburn Road
- Existing parking issues of Fernbank Avenue restricts access and visibility at the junction with Gisburn Road
- Parking should be restricted on Fernbank Avenue and traffic lightes installed at the junction with Gisburn Road
- Overbearing impact on habitable room windows
- Loss of light
- Impact on views
- Noise impacts from vehicles and the relocation of the footpath
- Impact on the value of adjacent property

Officer Comments

Policy

Pendle Local Plan Part 1: Core Strategy

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) seeks to ensure a particularly high design standard that preserves or enhances the character and appearance of the area and its setting. It states that the impact of new developments on the natural environment, including biodiversity, should be kept to a minimum.

Policy ENV2 (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 its surroundings.

Policy ENV5 (Pollution and Unstable Land) seeks to minimise air, water, noise, odour and light pollution.

Policy SDP2 (Spatial Development Principles) States that proposals to develop outside of a defined settlement boundary 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 SDP4 (Employment Distribution) states that the provision of employment land should follow the settlement hierarchy set out in Policy SDP2.

Policy WRK2 (Employment Land Supply) states that support will be given to new employment development that helps to reinforce Barnoldswick's position as the focus for employment provision in the north of the borough and enhance the functionality of the area's existing specialism in advanced manufacturing.

National Planning Policy Framework

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.

Principle of the development

The site is within the settlement of Barnoldswick, it previously accommodated industrial buildings and is in a sustainable location adequately served by public transport. This is an acceptable location for the proposed development in accordance with policies SDP2, SDP4 and WRK2.

Visual Amenity

The proposed development would be located on a former industrial site and the design of the building would be in keeping with the industrial nature of the site. Whilst it is a large building in terms of its footprint, it would be relatively low at 7.1m and would be set in a depression in the landscape with higher land to the east and west. The proposed development would not result in any unacceptable landscape or visual impacts.

Concerns have been raised regarding the proposed 2.1m palisade fencing, the proposed palisade fencing would be within the site immediately around the building and parking / servicing area. There would be adequate landscaping around it to soften its impact and it would be acceptable in this industrial context.

The proposed development is therefore acceptable in terms of visual amenity in accordance with Policies ENV1 and ENV2.

Residential Amenity

Dwellings on Great Croft Close and Fernbank Avenue back onto the eastern boundary of the site and would be separated from the building by a minimum of approximately 12m. The rear elevation of the proposed building is a blank elevation and, subject to a condition for it to remain as such there would be no unacceptable loss of privacy to those properties. At 7.1m in height the proposed building is no taller than a typical two storey dwelling and would not result in any overbearing impact or unacceptable loss of light to any surrounding property.

The proposed use is light industrial, the definition of that use is one that is compatible with residential locations in terms of noise, vibration and odour impacts. Whilst, there could be noise impacts from vehicles the servicing of the buildings is to the west side, away from those dwellings.

There is a dwelling to the west, the dwelling has an existing potentially noise generating commercial use between it and this site, the potential impact of that was taken into account and mitigation conditioned in the approval of the application for the dwelling. Taking into account the intervening industrial use the proposed use would not result in any unacceptable impacts on the amenity of residents of that property.

Taking into account the separation distance of approximately 70m from the gardens of Priory Way the servicing and manoeuvring would also not result in unacceptable impacts upon the amenity of residents of those properties.

Furthermore, this site previously accommodated a large industrial building which would have potentially generated a similar level of traffic, although the main buildings have been demolished that does not extinguish the lawful use of the site, which would remain the same until another use is implemented.

The relocation of the public right of way to make way for the building, running closer to the rear of Great Croft Close would have no unacceptable residential amenity impacts.

The development is therefore acceptable in terms of residential amenity impacts in accordance with Policies ENV2 and ENV5.

Highway Issues

Queries have been raised by LCC Highways in relation to the level of car parking proposed within the site and additional details requested in relation to traffic generation, and requested some minor changes to the internal layout to link pedestrian footpaths and ensure adequate visibility within the site. The applicant is preparing the additional details requested by Lancashire County Council to address the concerns raised.

It is of relevance that this was the site of a large industrial building, demolished in 2011. That building, which was significantly larger than the proposed building, approximately 5x the floorspace proposed here, had a parking and servicing area roughly equivalent in area to that proposed in this application and used the same access and as detailed above the lawful use of the site would remain the same until another use is implemented.

The existing public right of way through the site would need to be diverted, the diversion itself is subject to a separate application, however, this development will result in the need to divert the footpath and that is a material consideration. The proposed diversion would run between the building and the rear of Great Croft Close, reducing natural surveillance and visibility along the footpath, this impact could be offset by the provision of lighting. This together with a link through to the footway of Fernbank Avenue can be ensured by condition.

It is recommended that approval of the application is delegated subject to the receipt and consideration of those details by officers.

Drainage and Flood Risk

A Flood Risk Assessment has been submitted with the application. This concludes that the site is not at risk from fluvial flooding but there is some identified risk of surface water flooding to the site, which would be acceptably mitigated by the proposed floor level of the building.

It recommends attenuation of the surface water flows from the site, which would be so by a detention basin proposed to be located in the north east corner of the site.

It identifies an existing culverted watercourse running across the site from the south to the east which is proposed to be diverted around the building and surface water discharged from the detention basin into that watercourse.

Comments are awaited from the Lead Local Flood Authority (LLFA), it is recommended that the approval of the application is delegated subject to there being no objection from the LLFA.

Ecology

Ecology survey has been carried out and found that no habitats of value are likely to be impacted by the development, negligible risk of impact on roosting bats, there will be some loss of potential bird habitat with the demolition of the remaining buildings on site, subject to that being carried out outside of the bird nesting season and installation of nesting boxes that would be acceptably mitigated. The report recommends enhancement measures including landscaping and enhancement planting to the existing hedgerows which would result in a net gain in biodiversity. With a condition to control those measures the proposed development is acceptable in terms of its impact on ecology.

Conclusion

It is recommended that the approval of the application and any conditions necessary is delegated to the Planning, Economic Development and Regulatory Services Manager subject receipt of acceptable revised plans and details in response to LCC Highway comments and comments from the LLFA raising no objection.

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 acceptable in terms of design, amenity, highways impacts and all other relevant regards. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

RECOMMENDATION: Delegate Grant Consent

Subject to the following conditions:

3. The proposed development hereby permitted shall be begun before the expiration of three years from 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.

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

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

5. Prior to the commencement of above ground works involved in the erection of the external walls of the development hereby approved samples of the external materials of the walls and roof the development, including their colour and finish shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved details.

Reason: In the interest of visual amenity.

4. There shall be no external storage within the application site unless otherwise approved in writing by the local planning authority. Any external storage thereafter shall at all times be carried out only in strict accordance with the approved details.

Reason: In the interests of visual amenity.

5. The development shall be carried out and operated in strict accordance with the recommendations of the ecological appraisal rev 1 August 2021. Prior to the commencement of the use of the development a scheme of ecological mitigation and enhancement measures shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented in accordance prior to the commencement of the use of the development or an alternative timescale approved as part of the scheme.

Reason: To ensure the protection and enhancement of ecology and protected species habitats.

6. Prior to the commencement of the use of the building hereby approved details of any external lighting of the building and site shall have been submitted to and approved in writing by the Local Planning Authority. The details shall include the type, size, wattage, location, intensity, direction and timing of illumination of the lighting and shall include lighting of the diverted public right of way. Any external lighting shall at all times be in strict accordance with the approved details and the diverted public right of way shall be illuminated at all times outside of daylight hours.

Reason: In the interest of residential amenity and to preserve the habitat of protected species.

7. No development shall commence unless and until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. It shall provide for:
 - i) The parking of vehicles of site operatives and visitors
 - ii) The loading and unloading of plant and materials
 - iii) The storage of plant and materials used in constructing the development
 - iv) Wheel washing facilities
 - v) A scheme for recycling/disposing of waste resulting from clearance and construction works
 - vi) Details of working hours
 - vii) Timing of deliveries
 - viii) Measures to ensure that construction and delivery vehicles do not impede access to neighbouring properties.
 - ix) Measures to control construction noise and vibration
 - x) Measures to control dust.

Reason: In the interest of highway safety and residential amenity.

8. No development shall commence unless and until a method statement which sets out in detail the method, standards and timing for the investigation and subsequent remediation of any contamination which may be present on site has been submitted to and approved in writing by the Local Planning Authority. The method statement shall detail how:-
- a) an investigation and assessment to identify the types, nature and extent of land contamination affecting the application site together with the risks to receptors and potential for migration within and beyond the site will be carried out by an appropriately qualified geotechnical professional (in accordance with a methodology for investigations and assessments which shall comply with BS 10175:2001) will be carried out and the method of reporting this to the Local Planning Authority; and
 - b) a comprehensive remediation scheme which shall include an implementation timetable, details of future monitoring and a verification methodology (which shall include a sampling and analysis programme to confirm the adequacy of land decontamination) will be submitted to and approved in writing by the Local Planning Authority.

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

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

Advisory Notes:

- (i) Where land identified as having the potential to be contaminated is undergoing redevelopment, a copy of the leaflet entitled 'Information for Developers on the investigation and remediation of potentially contaminated sites' will be available to applicants/developers from the Council's Contaminated Land Officer. The leaflet will be sent to the developer by request.
- (ii) Three copies of all contaminated land reports should be sent to the Local Planning Authority.
- (iii) This condition is required to be fully complied with before development is commenced. Failure to comply with the condition prior to commencement of work may result in legal action being taken.

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

9. The use of the development hereby approved shall not commence unless and until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
- a. the exact location and species of all existing trees and other planting 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 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.

10. Notwithstanding the provisions of Article 3 and part 7 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) there shall be no new upper floor window openings installed in the east facing elevation of the building hereby approved without express planning permission first being obtained from the Local Planning Authority.

Reason: To ensure an adequate level of privacy to the adjacent residential properties.

11. The use of the building and land hereby permitted shall be confined to that of Class E(g)(ii) & (iii) and uses ancillary to those uses only and for no other purpose, including any other use within Class E of Schedule 2 of the Town and Country Planning (Use Classes) Order, 1987 (as amended). The land within the application site not occupied by buildings shall not be used for the storage of goods, materials, equipment, commercial vehicles, or commercial refuse associated with the use.

Reason: In the interest of residential amenity and to protect the vitality and viability of Barnoldswick town centre.

Notes: The developer should take note of all the public footpaths running through the site and take utmost care to ensure that these are kept undisturbed and free of obstruction during the course of a development. Any breach of the legislation which protects public rights of way can result in legal action, fines and default action carried out and re-charged to the landowner. Any proposals for the temporary diversion or closure of a footpath should be made to Lancashire County Council's public rights of way team. Enquiries about permanently diverting or closing the footpath may be made to Pendle Council.

Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist.

If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works, by visiting cadentgas.com/diversions Prior to carrying out works, including the construction of access points, please register on www.linesearchbeforeudig.co.uk to submit details of the planned works for review, ensuring requirements are adhered to.

Your responsibilities and obligations:

Cadent may have a Deed of Easement on the pipeline, which provides us with a right of access for a number of functions and prevents change to existing ground levels, storage of materials. It also

prevents the erection of permanent/temporary buildings, or structures. If necessary Cadent will take action to legally enforce the terms of the easement.

This note does not constitute any formal agreement or consent for any proposed development work either generally or related to Cadent's easements or other rights, or any planning or building regulations applications.

Cadent Gas Ltd or their agents, servants or contractors do not accept any liability for any losses arising under or in connection with this information. This limit on liability applies to all and any claims in contract, tort (including negligence), misrepresentation (excluding fraudulent misrepresentation), breach of statutory duty or otherwise. This limit on liability does not exclude or restrict liability where prohibited by the law nor does it supersede the express terms of any related agreements.

If you need any further information or have any questions about the outcome, please contact us at plantprotection@cadentgas.com or on 0800 688 588.

Application Ref: 21/0590/FUL

Proposal: Full: (Major) Erection of a Research & Design facility Use Class E(g) (Light Industry) 2,340sqm including diversion of Public Right of Way 13-1-FP3.

At: Site Of Fernbank Mill, Fernbank Avenue, Barnoldswick

On behalf of: Hope Technology Ltd

REPORT TO WEST CRAVEN COMMITTEE ON 05 OCTOBER 2021

Application Ref: 21/0592/FUL

Proposal: Full: Conversion of existing mill building to form 9 No. dwellings.

At: Salters House, Salterforth

On behalf of: True Build

Date Registered: 15/7/21

Expiry Date: 9/9/21

Case Officer: Neil Watson

Site Description and Proposal

The application site is a mill building which sits next to the recently constructed housing estate on the former Silent Night complex in Salterforth.

Relevant Planning History

13/12/0401P: Conversion to 14 apartments Approved 5th December 2012

Consultee Response

LCC Highways – Concern that the parking spaces are too short. Concern about conflict of movement between vehicles and pedestrians.

Salterforth is not an accessible location and increased provision should be made for parking.

The public right of way passing the gable of the building needs to be protected during development.

Environmental Health: Wish to see conditions about hours of operating and deliveries, a construction method statement and contaminated land informative.

Salterforth Parish Council: No comments received at the time of writing this report

Yorkshire Water: No comments received at the time of writing this report

Public Response

Nearest neighbours notified by letter. Comments received from three people as follows:

- Nesting site for Swifts will be lost. If consent is to be granted 50 swift nest bricks should be required.
- Concern about overlooking. The east side of the building should have obscure glass and none opening windows.
- An insurance policy should be put in place for any damage to other property.
- The plans involve removing established shrubs and trees which will have an impact on wildlife and ecology.

- Concerns about the treatment of the boundary wall.
- Concern about the third floor which may become a bedroom.
- Conditions are recommended.
- Although the development of a derelict building is a good thing there is concern about being overlooked.
- Is there enough car parking?

Officer Comments

The application seeks to convert the building into 9 apartments each being 4 stories in height.

Ground floors would consist of an entrance and 2 parking spaces. The first floor would have kitchen and dining what floor three having three bedrooms. The top floor is proposed to have an open area with terrace for sitting out.

The application site sits in the settlement of Salterforth. It is an existing building that was formerly offices and is not now in use. The proposal to convert it would utilise an existing building and would make the best use of previously developed land. The principle of converting the building would be in line with prevailing local and national planning policy on sustainable forms of development.

Planning Policy is Mainly contained in the adopted Part 1 Pendle Local Plan.

Policy ENV1 seeks to protect our natural and historic environments. It seeks to have adequate mitigation measures in place for wildlife where necessary. It also seeks to conserve and protect heritage assets and their settings.

Policy ENV 2 requires development to reach the highest possible standards of design.

ENV 7 requires all developments to consider the management of flood risks and water run-off.

LIV 1 supports the delivery of new housing in sustainable locations where they accord with other policies in the Plan.

Policy LIV 4 seeks affordable housing at 20%.

National Planning Policy Framework

Car Parking

The units will each be three bedroom houses. There is garage space that has been provided for 2 cars. LCC Highways have questioned if the spaces are big enough.

A standard car parking space would be 4.8m by 2.4m. The spaces provided are each 4.7m by 3.8m. They are sufficient for two cars to park being each other and for the occupants to enter and leave the vehicles. It is noted the view that Salterforth is not an accessible location and that there would be a need to travel by car. However the properties are three bedroomed and two space per unit is adequate to provide for the level of car marking that would be generated by the development. There would also be space in front of 7 of the units for a car to park were there to be a third vehicle for those houses.

Design

The mill building is a three storey stone built structure with a regimented window patterns thought-out. The proposal is to keep that general regular form with some changes to the fenestration. The type of window will be controlled by a condition.

The main alteration would be that of a cut off to the roof to provide a terraced area. This would require some glazing of the top both in terms to the recessed roof and for safety to the front.

Whilst this would introduce a modern element to it –provided the materials were dark and of the right quality the obviously modern addition would sit acceptable juxtaposed to the traditional design of the mill.

Ecology

Concerns have been raised about the loss of trees and shrubs on site. There is no ecological interest of significance in the trees on site which are in front of the building in the proposed car parking area and are not protected. The loss of those is acceptable.

The building is used for nesting birds and a suggestion has been received to require compensatory measures by the introduction of nesting boxes. The provision of the boxes would ensure there is no loss of ecological interest that is not compensated for by other provision and this should be controlled by a condition.

The windows will be altered from the design they are at the moment. This will involve replacing the frames as well as altering some of the dimensions by blocking some of the lower parts of some openings. The general appearance of the building would not be adversely affected by these works but care will be needed to ensure that matching stone and acceptable workmanship happens. A condition requiring details of this is required to control this.

Loss of Privacy and Impact on Amenity

The existing building is a three storey one that has openings on all four elevations. These are unobscured and the building could be occupied and used at any time. The development of the housing was designed so that the two houses immediately to the south have blank gables facing the site. These are 17m from the south elevation.

There are houses to the south west of the western gable of the building at a distance of over 24m. There is also a car park in between.

There is proposed to be a balcony area created at the top floor which would allow elevated views from the site across to the south. Whilst there would be windows and the balcony area facing the housing estate the relationship would not be more adverse than the existing relationship where the whole of the building has multiple openings facing in each direction. The development would not result in any different relationship than currently exists between the properties. The use of the building as commercial would result in heavier use of the building and windows during the day than residential. At night it is likely that a residential use would have greater use. However there is no discernable impact difference between a residential and commercial use using openings that were in existence prior to the housing being developed.

In overall terms therefore the change of use of the building to housing will not have a more deleterious impact on privacy than the existing situation. As such they request to have all of the windows obscurely glazed is not one that is necessary or proportionate.

There would be the potential for the loss of privacy for the occupants of the existing houses with the new gardens proposed. A condition requiring the provision of a suitable privacy screen would prevent that happening./

Drainage

The mill is not in a flood plain. The drainage arrangements would be the same as exists for rainwater and connection to the public sewer for foul. The comments of Yorkshire Water have not been received in respect of the adequacy of the arrangements.

Landscaping

The development will not require significant landscaping but a scheme will be required to ensure the site blends in with its surroundings. A condition requiring details would be necessary to require that.

Affordable Housing

The development would be required to have 20% affordable housing in accordance with Policy LIV4. However the NPPF indicated that, except when in designated rural areas (this is not in a designated rural area) developments of 10 or more houses will not require affordable housing.

Other Matters

A request has been made to ensure that the developers are insured. That is not a matter that a planning authority has any control over and is not a legitimate material planning consideration to consider.

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 use would be acceptable subject to appropriate conditions. The development 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 proposed development hereby permitted shall be begun before the expiration of three years from 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: 9787-01, 978-02, 978-03, 978-04, 978-3-05, 978,06, 978,07, 978,08

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

3. The development shall, before the first unit is occupied, have provided a scheme for the provision of swift nesting boxes. These boxes shall be install in full prior to the fist occupation of any dwelling.

Reason: In order to provide sufficient off street parking for the development in the interests of highway safety

4. Prior to any work being undertaken on any of the windows or external openings full details of the materials and treatment of the window frames, doors and any stonework that will take place shall be submitted to and approved in writing by the local planning authority. All materials used thereafter shall strictly comply with the details so approved.

Reason: In order to ensure a satisfactory appearance of the development.

5. Prior to the first occupation of any dwelling details of a screen fence along the southern boundary of the proposed gardens shall be submitted to and approved in writing by the Local Planning Authority. The screen shall be erected in full compliance with the approved details before any occupation of any dwelling and shall thereafter be permanently retained.

Reason: In order to ensure there is no loss of privacy for the occupants of the adjoin dwellings.

6. 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. the exact location and species of all existing trees and other planting 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. This shall include details of the external parking and manoeuvring spaces.
 - f. the proposed arrangements and specifications for initial establishment maintenance and long-term maintenance of all planted and/or turfed areas.
 - g. Details of the timing of the provision of each element

The approved scheme shall be implemented in its entirety approved form in accordance with the approved scheme of provision.. 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.

7. The garages shall at all times be available for the parking of domestic cars and shall at no time be used for any other purpose.

Reason: In order to ensure that the development is at all times served with an adequate level of off street parking in the interests of highway safety.

8. No part of the development shall be commenced unless and until a Construction Code-of-Practice 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. It shall include the timing of operations on site and measures to control the impacts of the development for matters such as dust and noise.

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: In order to ensure the development proceeds with the minimum impact on neighbouring residential occupants.

9. Condition to be agreed about drainage once the comments of Yorkshire Water have been received.

Application Ref: 21/0592/FUL

Proposal: Full: Conversion of existing mill building to form 9 No. dwellings.

At: Salters House, Salterforth

On behalf of: True Build

LIST OF BACKGROUND PAPERS

Planning Applications

NPW/MP

Date: 14th September 2021