



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

**TO: WEST CRAVEN COMMITTEE**

**DATE: 2nd November 2021**

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## **PLANNING APPLICATIONS**

### **PURPOSE OF REPORT**

To determine the attached planning applications.

## REPORT TO WEST CRAVEN COMMITTEE ON 02 NOVEMBER 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 deferred from Committee in October for the provision of a surface water swale to be investigated.

### **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** – No objection to the amended plans.

**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 amended landscaping scheme fully addresses the concerns in relation to the original scheme and is acceptable.

## **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. Amended plans have been submitted providing an undisturbed buffer of 5m to the stream, the amended layout 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 applicant has explored the option of swales, however, due to the topography and ecological constraints, there is not enough room at ground level to accommodate the surface area or falls required. Swales merely convey water from one location to another in lieu of a standard underground pipe and offer little attenuation / storage. A cut off swale has been included at the top end of the site and the system is compliant with SuDS solutions.

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**

The submitted reserved matters of appearance, landscaping, layout and scale are acceptable and therefore it is recommended that the application is approved.

### **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: Approve**

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: A3502-PL01, A3502-PL02, A3502-PL03, A3502-PL04, A3502-PL05, 243-REL-XX-XX-DR-L-3001 P1, 243-REL-XX-XX-DR-L-4001 P1, 243-REL-XX-XX-DR-L-4002 P1 – Received 30/09/2021, A3502-E-01 P1.

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 landscaping scheme hereby approved 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 2<sup>nd</sup> NOVEMBER, 2021

**Application Ref:** 21/0676/REM

**Proposal:** Reserved Matters: Erection of 14 no. dwellinghouses (Appearance, Landscaping and Layout) for Outline Permission 18/0821/RES.

**At:** Land opposite the Barn Ben Lane Barnoldswick

**On behalf of:** Simpson Homes Limited

**Date Registered:** 2 September 2021

**Expiry Date:** 2 December 2021

**Case Officer:** Kathryn Hughes

## ***Site Description and Proposal***

The application is a Reserved Matters application for appearance, landscaping and layout for the erection of fourteen dwellinghouses.

As present the site consists part of a large well maintained field mainly used for grazing sheep. The proposed site measures 0.62ha and is separated from Ben Lane by an extant scheme for four houses.

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.

Approval has been given for the erection of four dwellings along the frontage of the Ben Lane to the south-west.

## ***Relevant Planning History***

13/15/0546P – Outline: Erection of 4 dwellings with garages (Access, Layout and Scale) – Refused- Allowed on Appeal – 7<sup>th</sup> November, 2016.

17/0244/REM – Reserved Matters: Erection of 4 dwellings with garages (Appearance and Landscaping) – Invalid.

17/0313/REM – Reserved Matters: Erection of 4 dwellings with garages (Appearance and Landscaping) – Approved 18<sup>th</sup> August, 2017.

18/0821RES: Outline: Erection of 14 dwellings with garages, (Access, Layout and Scale) – Approved.

## ***Consultee Response***

LCC Highways – I have viewed the plans and I have the following comments to make:

### **Layout**

The layout is to an adoptable standard. Construction specification, surface water drainage and street lighting details are conditioned on the appeal decision to be submitted at a later date.

## **Parking**

Plot 2, 3 and 14 require the driveway in front of the garages lengthening to 6m or 5.5m if a roller shutter door is provided.

Garages should measure 3m by 6m internally to count as a parking space. Type C garages are 5.25m long and require lengthening.

All the dwellings have garages which provide secure, covered cycle parking and there is a condition on the appeal decision for all dwellings to have an EV charge point.

Subject to the amendments outlined above, there is no objection to the proposal.

LLFA – The Lead Local Flood Authority has no objection to the proposed development, subject to conditions relating to flood risk assessment, final sustainable drainage scheme, construction phase surface water management plan and operation and maintenance plan and verification report of constructed sustainable drainage scheme.

The applicant must obtain Land Drainage Consent from Lancashire County Council before starting any works on site. Information on the application process and relevant forms can be found at [www.lancashire.gov.uk/flooding](http://www.lancashire.gov.uk/flooding).

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

The surface water drainage proposals set out in the surface water and foul water drainage scheme are only preliminary and subject to change following further detailed design and investigation. The applicant is expected to provide a final surface water drainage scheme for the development once all detailed design and investigation work has been completed. The final strategy will need to be submitted to and approved by the LPA prior to the commencement of any development and must comply with the requirements of the National Planning Policy Framework, the Planning Practice Guidance and the Defra Technical Standards for Sustainable Drainage Systems. The strategy should also be accompanied by an appropriate management and maintenance plan that details how the surface water drainage network will be managed and maintained over the lifetime of the development. The LLFA is satisfied that these details can be secured through the inclusion of the above recommended planning conditions.

The applicant is advised to take note of the requirement with regard to urban creep and to ensure that this is appropriately accounted for within the final detailed sustainable drainage scheme.

The applicant is also expected to model their surface water drainage network with a surcharged outfall, unless it can be demonstrated that a free flowing outfall is achievable.

### **Sustainable Drainage Systems:**

The LLFA encourages the applicant to maximise the use of sustainable drainage systems (SuDS) when designing the surface water drainage scheme for the development site. This is because sustainable drainage systems offer significant advantages over conventional piped drainage systems in reducing flood risk.

Sustainable drainage systems can attenuate the rate and quantity of surface water run-off from a site, and they can also absorb diffuse pollutants and promote groundwater recharge. Ponds, reed beds and seasonally flooded grasslands are also particularly attractive features within public open space. The wide variety of available sustainable drainage techniques means that virtually any

development should be able to include a scheme based around these principles and provide multiple benefits, reducing costs and maintenance needs.

Some SuDS features, for example rainwater harvesting and permeable paving used on roads and driveways, must not be included as part of the hydrological calculations for the site. This is because occupants may change or remove these features in the future and this could have the potential to increase surface water runoff from the site.

Where SuDS features such as rainwater harvesting and permeable paving are included in the hydrological calculations, the local planning authority would be advised to consider the removal of permitted development rights.

**Construction Phase including enabling works:**

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

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

**Ordinary Watercourse Land Drainage Consent:**

Under Section 23 of the Land Drainage Act 1991 (as amended by the Flood & Water Management Act 2010), consent must be obtained from the LLFA for works that have the potential to alter or impede the flow of an ordinary watercourse. Consent is required regardless of whether the watercourse is open or culverted, and it should not be assumed that consent will automatically be granted even if planning permission has been obtained. Failure to obtain consent before starting works may result in enforcement action being taken. Retrospective consent cannot be issued.

The applicant is advised to contact the LLFA to discuss any watercourse alterations prior to applying for consent. Contact details for the LLFA can be found via the following link:  
[www.lancashire.gov.uk/flooding](http://www.lancashire.gov.uk/flooding).

The proposed pre-commencement condition(s) allows for the principle of development to be granted and detailed drainage designs to be conditioned for approval via a discharge of condition application which could be more favourable to developers in terms of less delay and less financial outlay early in the process. Non-acceptance of the pre-commencement condition could lead the LLFA to object to the principle of development until all residual risk issues are safely managed.

Yorkshire Water – No observations UU will comment on drainage proposals.

United Utilities – Drainage should accord with NPF and NPPG and drain on separate systems for foul and surface water in the most sustainable way.

Lancashire Fire & Rescue – Access needs to comply with Building Regs Document B, Part B5.

PBC Environmental Health – request conditions on contamination and construction method statement.

PBC Environment Officer – Tree protection required and more information on proposed landscaping scheme requested.

Barnoldswick Town Council – Are the developers installing electric charging points to the properties? Could the footpath to the south of the site be extended to ensure highway safety for children walking to school?

## **Public Response**

Site notice posted and nearest neighbours notified by letter. One response received querying the proposed distances from the existing properties to the new houses proposed.

## **Officer Comments**

The principle of residential development on this site has been established by the appeal which was allowed for access and scale being approved. Therefore the only issues for consideration here are appearance, layout and landscaping.

The main issues to consider in assessing this application are impact on amenity, design and materials, impact on protected trees and landscaping and parking provision within the site.

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

## **Policy**

### National Planning Policy Framework

The National Planning Policy Framework (NPPF) does not change the statutory status of the development plan as the starting point for decision making. In this case, for the purposes of section 38(6) of the TCPA 2004, the development plan comprises Pendle's Local Plan Part 1: Core Strategy.

### Local Plan Part 1: Core Strategy

ENV1 addresses issues such as biodiversity, the protection of designated landscapes and impacts on open space.

ENV2 states that all new development should seek to deliver the highest possible standards of design, in form and sustainability, and be designed to meet future demands whilst enhancing and conserving heritage assets.

The following saved Replacement Pendle Local Plan policies also apply:

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.

## **Principle of Development**



The site is located outside of a settlement boundary. Outline planning permission was granted on appeal and therefore the principal of the development including access and scale has been established.

### **Impact on Amenity**

In terms of land levels the finished floor levels would be approximately 1m higher than the existing land levels at 156, 155 and 154 as the ground slopes from south west to

The proposed layout shows that the proposed dwellings can achieve distances of between 24 and 26m from the rear elevation to the rear of existing properties on Skipton Road. A distance of approximately 15.6m would be retained between Plot 1 and the approved dwellings units 2 and 3 on the recently approved adjacent site to the south west given that these properties would have rear habitable rooms and that Plot 1 would be a blank gable the distance between these properties is acceptable.

The rear elevations of the properties on Skipton Road numbers 1 and 2 'The Elms' would be at a distance of approximately 40m from the site at an oblique angle there is existing vegetation and 2m stone wall along the rear boundary. Therefore this development would not have any undue impacts on these properties.

The Design Principles SPD advises that a minimum distance of 12m should be provided between principle windows and side elevations and 21m between principle windows which face each other. The proposed scheme would achieve these separation distances.

Policy ENV2 states that all new development should seek to deliver the highest possible standards of design, in form and sustainability, and be designed to meet future demands whilst enhancing and conserving heritage assets. In this case each property would have sufficient curtilage with minimum garden lengths of 14m to the countryside edge and 6m to the rear of Skipton Road (Plot 14 has a shallow rear garden of only 6m but has 8m width the side) therefore the layout provides sufficient private areas although no public open space is proposed. The existing stone boundary walls to the eastern boundary will be retained and appropriate boundary treatments can be achieved on the western boundary to the rear of properties on Skipton Road.

### **Design and Materials**

Both the NPPF and Policy ENV2 of the Local Plan Part 1 relates to good design.

The housing type would have a mix of dwelling types with three 5 bed and three 4 bed detached, four 4 bed semi-detached and four 3 bed semi-detached.

All the plots have a minimum of 2 parking spaces on the driveway as well as garages.

In terms of materials the dwellinghouses and garages would be finished in random reclaimed stone and grey artificial stone roofs, window and doors would be timber effect in a heritage colour and rainwater goods in black aluminium gutters and black upvc downpipes.

Samples of materials can be controlled by an appropriate condition.

Bin stores to accommodate 2 bins are also proposed to each plot.

The details submitted are therefore acceptable and compliant with both Local and National requirements.

### **Impact on Protected Trees and Landscaping**

There are mature trees adjacent and on the site. It is important to ensure that these trees are protected and retained whilst the development is under construction. The protective fencing shown on the submitted layout plan is not acceptable and therefore the agent has been requested to increase the proposed root protection areas for the protective fencing to be erected prior to any development on the site. In particular plots 2, 3, 4, 5 and 6 have built elements within the root protection area as well as foundations/elevations up to the protective fencing which would affect the trees now and in the future.

The route of the drainage shown is outside of the application site and lies within the root protection area of the protected trees T3 and T4 covered under TPO No. 10, 2008. The agent has been requested to address this issue.

Plans showing sections of retaining walls relating to the drainage system have been submitted but it is not clear where these would be. The agent has been requested to address this.

Whilst a landscaping scheme has been submitted this lacks the details required and the agent has been requested to address this.

### **Parking Provision**

The development would raise no significant concerns in terms of parking. Some slight amendments have been requested

The dimensions for some of the parking spaces and garages are less than those acceptable. Manual for street indicate 6m x 3m and 6m x 6m, internal dimensions. Parking spaces should be a minimum of 5.5m x 2.4m or 6m in length in front of the garages.

Subject to amendments providing sufficient parking spaces within the site then the scheme would accord with policy 31.

### **Drainage**

An appropriate drainage condition was attached by the Inspector when the appeal was allowed requiring further details to be submitted at RM stage. This has been done.

Clarity has been sought from the agent over the drainage scheme and route outside of the red edge and within the root protection area of the off-site trees to the north east. Sections of retaining walls have been submitted as part of the suite of plans for the drainage scheme. Clarity on where these would be on the site has been sought from the agent.

Subject to appropriate conditions and the drainage route/pump not affecting the protected trees then the proposed drainage would be acceptable.

### **Summary**

The layout, design and materials of the proposed development are acceptable subject to amended plans which adequately address the root protection areas of the protected trees and the length of the garages/parking spaces. The landscaping element is not acceptable as it stands and the agent has been requested to address this to ensure that the proposal accords with policies ENV2, LIV5 of the Pendle Local Plan Part 1: Core Strategy and policies 14, 16 and 31 of the Replacement Pendle Local Plan.

### ***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. Subject to an acceptable landscaping scheme and tree protection the proposed development accords with the Local Plan and National Planning Policy 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 18/0821/RES and does not by itself constitute a planning permission.

Reason: The application relates to matters reserved by Planning Permission 18/0821/RES.

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

975\_12, 975\_13, 975\_14, 975\_15, 975\_16, 975\_17, 975\_18, 975\_19, 975\_20, 975\_21, 975\_22, 975\_23 and 975\_24.

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

3. Notwithstanding any details on the approved plans, forms or supporting documents, within two weeks of the commencement of development samples of all the external materials to be used in the construction of the roofs, walls, boundary/retaining walls and paving together with samples of the colour and finish of windows and doors of the development hereby approved, together with details of proposals for the reuse of existing materials, shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved materials and details.

Reason: To ensure a satisfactory form of development in the interest 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 reveal shall be at least 75mm.

Reason: To ensure a 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 of Part 1 and Class A of Part 2 of Schedule 2 of that Order shall be carried out without express planning permission first being obtained from the Local Planning Authority.

Part 1

A) no extensions shall be erected

B+C) no alterations to the roof of the building shall be carried out

Part 2

A) Erection of gates, wall, fences.

Reason: To enable the Local Planning Authority to control any future development on the site and safeguard the character and amenity of the area and impacts on 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 or paved in accordance with a scheme to be approved by the Local Planning Authority and the car parking spaces and manoeuvring 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 Development Procedure) Order 1995 and the Town and Country Planning (General Permitted Development) (Amendment) (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 retained as such and shall not be used for any other purpose other than for the storage of motor vehicles 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. Notwithstanding the submitted plans no ground clearance, demolition, changes of level or development or development-related work shall commence until protective fencing, in full accordance with BS 5837 : 2012 has been erected around each tree/tree group or hedge to be preserved on the site or on immediately adjoining land, and no work shall be carried out on the site until the written approval of the Local Planning Authority has been issued confirming that the protective fencing is erected in accordance with this condition. Within the areas so fenced, the existing ground level shall be neither raised nor lowered. Roots with a diameter of more than 25 millimetres shall be left unsevered. There shall be no construction work, development or development-related activity of any description, including the deposit of spoil or the storage of materials within the fenced areas. The protective fencing shall thereafter be maintained during the period of construction.

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

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

9. The development permitted by this planning permission shall be carried out in accordance with the principles set out within the submitted flood risk assessment and outline drainage strategy

The measures shall be fully implemented prior to first occupation of any dwelling and in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority in consultation with the Lead Local Flood Authority.

**Reason:** To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 163 and 165 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems

10. No development shall commence until a final, detailed surface water sustainable drainage scheme has been submitted to, and approved in writing by, the local planning authority.

The sustainable drainage scheme shall be based upon the submitted flood risk assessment and sustainable drainage principles set out in the National Planning

Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), either directly or indirectly. The detailed sustainable drainage scheme shall include, as a minimum:

- a) Final sustainable drainage plans, appropriately labelled to include:
  - i. A final surface water drainage layout plan showing all pipe and structure references, dimensions and design levels.
  - ii. A plan identifying the areas contributing to the surface water drainage network, including surface water flows from outside the curtilage as necessary.
  - iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate.
  - iv. Flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems.
  - v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building.
  - vi. Details of proposals to collect and mitigate surface water runoff from the development boundary.
  - vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and deliver suitably clean water to sustainable drainage components.
- b) A full set of sustainable drainage flow calculations for the surface water drainage network. The calculations must show the full network design criteria, pipeline schedules and simulation outputs for the 1 in 1 year, 1 in 30 year and 1 in 100 year return period, plus an additional allowance for climate change. Surface water run-off must not exceed the pre development green field run off rate.

The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings.

**Reason:** To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 163 and 165 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

11. No development shall commence until details of how surface water and pollution prevention will be managed during each construction phase have been submitted to and approved in writing by the local planning authority. Those details shall include, as a minimum:
- a) Measures taken to ensure surface water flows are retained on-site during construction phase(s) and, if surface water flows are to be discharged they are done so at a restricted rate to be agreed with the Lancashire County Council LLFA.
  - b) Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance

The development shall be constructed in accordance with the approved details.

**Reasons:** To ensure the development is served by satisfactory arrangements for the disposal of surface water during each construction phase(s) so it does not pose an undue flood risk on site or elsewhere and to ensure that any pollution arising from the development as a result of the construction works does not adversely impact on existing or proposed ecological or geomorphic condition of water bodies.

12. No building hereby permitted shall be occupied until a Verification Report and Operation and Maintenance Plan for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority.

The Verification Report must demonstrate that the sustainable drainage system has been constructed as per the agreed scheme (or detail any minor variations), and contain information and evidence (including photographs) of details and locations (including national grid reference) of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an final 'operation and maintenance manual' for the sustainable drainage scheme as constructed.

Details of appropriate operational, maintenance and access requirements for each sustainable drainage component are to be provided, with reference to published guidance, through an appropriate Operation and Maintenance Plan for the lifetime of the development as constructed. This shall include arrangements for adoption by an appropriate public body or statutory undertaker, and/or management and maintenance by a Management Company and any means of access for maintenance and easements, where applicable. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

**Reason:** To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of Paragraph 165 of the National Planning Policy Framework.

**Informative 1 (ordinary watercourse land drainage consent):**

For the avoidance of doubt, this response does not grant the applicant permission to connect to the ordinary watercourse(s) and, once planning permission has been obtained, it does not mean that land drainage consent will be given.

The applicant must obtain Land Drainage Consent from Lancashire County Council before starting any works on site. Information on the application process and relevant forms can be found at [www.lancashire.gov.uk/flooding](http://www.lancashire.gov.uk/flooding).

**Application Ref: 21/0676/REM**

**Proposal:** Reserved Matters: Erection of 14 no. dwellinghouses (Appearance, Landscaping and Layout) for Outline Permission 18/0821/RES.

**At:** Land opposite the Barn Ben Lane Barnoldswick

**On behalf of:** Simpson Homes Limited

## REPORT TO WEST CRAVEN COMMITTEE ON 02 NOVEMBER 2021

**Application Ref:** 21/0769/OUT  
**Proposal:** Outline: Major: Residential Development (Access only).  
**At:** Land To The West Of White Leys Close, Earby  
**On behalf of:** McDermott Homes  
**Date Registered:** 16/09/2021  
**Expiry Date:** 16/12/2021  
**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 agricultural land located in the parish of Salterforth on the south west corner of Earby and lies outside the settlement boundary in Open Countryside. The site is a rectangular piece of land which measures 0.5ha and is bounded by housing on White Leys Close to the east, Earby Road to the south and Open Countryside to the north and west. Access to the site would be directly off Earby Road.

The application seeks outline permission (access only) for the erection of up to twelve dwellinghouses. Details of the appearance, landscaping, layout and scale would be dealt with at a later stage under a Reserved Matters application.

An identical application was approved in 2018.

### **Relevant Planning History**

18/0624/OUT - Outline: Major: Residential development (0.5ha) (Access Only) (Re-Submission)  
Approved

### **Consultee Response**

**LCC Highways** – Planning permission has previously been given for the development under Ref. 18/0624/OUT. This is an identical proposal to that which was previously approved. There is no objection to the proposal.

**Lead Local Flood Authority** – No objection subject to conditions.

**Earby and Salterforth Internal Drainage Board** - The scheme lies beyond the IDB catchment. However it appears the intention for the surface water is to discharge into an open watercourse, which would reach the IDB system. Consent will be required by the Board under the Land Drainage Act 1991 (amended) for surface water entering the IDB district.

**LCC Schools Planning** – An education contribution is not required.

**Earby Town Council** - We note the content of the previous full planning application relating to this site which was approved with conditions and expires in December 2022. We therefore do not revisit matters such as increased traffic and surface flooding already considered and opposed to at that time. This council continues to strongly object to this development. The fact that no

development has taken place on the site under the original permission clearly demonstrates that this development was not needed to meet local housing needs. It is our view that this is simply a case of 'land banking' and is speculative. The green, rural site (located in Salterforth Parish) is most definitely not needed for local housing needs given the approval of other, more appropriate development sites in the vicinity since the original application was approved. Developments on brownfield sites such as the 55 dwellings on the former Spring Mill site in Earby have superseded any need for this development. We would be obliged if you would consider these points whilst revisiting whether there is now the need for the application and making your determination.

## **Public Response**

Press and site notices posted and nearest neighbours notified, publicity expires 10<sup>th</sup> November. The following responses objecting to the development has been received:

- The site is addressed Salterforth rather than Earby. Salterforth's housing quota has been fulfilled.
- Surface water flooding issues from the site.
- Concerns relating to connection to a drain running through the garden of a property of White Leys Close.
- Concerns relating to the proposal for a 600m wall to prevent surface water exceedance flows from entering White Leys Close.
- This is Green Belt land, brownfield sites should be developed first.
- Impacts on wildlife including bats.
- Impact on trees, including protected trees.
- Increased demand for local services.
- Highway safety and capacity concerns.
- Inadequate footpath provision and street lighting to the site.
- Light pollution.
- Privacy impacts.
- Overshadowing and loss of light.
- The development would detract from the character of the area.
- Disruption resulting from construction.

## **Officer Comments**

### **Policy**

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

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

Policy SDP2 sets out the roles each settlement category will play in future growth. Earby is a Local Service Centre which will play a supporting role to the Key Service Centres and accommodate levels of new development to serve a localised catchment.

Policy SDP3 identifies housing distribution in West Craven Towns as 18%, this is a general indication of the level of development expected rather than a maximum limit.

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



Policy ENV2 of the Pendle Local Plan Part 1 identifies the need to protect and enhance the heritage and character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that siting and design should be in scale and harmony with its surroundings.

Policy ENV4 (Promoting Sustainable Travel) requires new development to have regard to potential impacts that may be caused on the highway network, particularly in terms of safety. Where residual cumulative impacts cannot be mitigated, permission should be refused. Proposals should follow the settlement hierarchy approach in Policy SDP2 and minimise the need to travel by ensuring that they are developed in appropriate locations close to existing or proposed services.

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

Policy ENV7 (Water Management) states that the design of all new developments (Policy ENV2) must consider:

1. The potential flood risk to the proposed development site.
2. The risk the proposed development may pose to areas downslope / downstream.
3. The integrated, or off-site, use of Sustainable Drainage Systems (SuDS) to help reduce surface water run-off from the development.
4. The availability of an adequate water supply and disposal infrastructure.

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

Policy LIV4 (Affordable Housing) sets targets and thresholds for affordable housing provision. For under 15 dwellings in West Craven towns this is 0%.

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

### Replacement Pendle Local Plan

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

### National Planning Policy Framework

#### National Planning Policy Framework (The Framework)

Paragraph 11 of the Framework states that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (including where a local planning authority cannot demonstrate a five year supply of deliverable housing sites), granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (including policies relating to designated heritage assets); or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

### **Principle of the Development**

Although the site lies with the parish of Salterforth, it is immediately adjacent to the settlement boundary for Earby and has a much closer relationship to the facilities in Earby rather than the rural village of Salterforth. The development is not an extension of Salterforth but is an extension of the settlement of Earby.

Policy LIV1 of the Pendle Local Plan: Part 1 Core Strategy states that until the Council adopts the Pendle Local Plan Part 2: Site Allocations and Development policies then sustainable sites outside but close to a Settlement Boundary, which make a positive contribution to the five year supply of housing land, will encourage significant and early delivery of the housing requirement.

This site is in a sustainable location adjacent to the settlement acceptably accessible to public transport, local shops, primary school and pubs and has two play areas located close by.

Objections have stated that the site is within the Green Belt, this is not the case, the land is within the open countryside and of no other designation.

The proposed development is acceptable in principle in accordance with policies SDP2 and LIV1.

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

Although the site is in Open Countryside it lies immediately adjacent to the settlement boundary of Earby. The site is not prominent in the landscape and is limited in terms of its landscape value.

The proposed application site is located on a valley side, which drops down into Earby. This is not a prominent hill top location which would detrimentally affect the local landscape value. In addition, this proposal is for a small cluster of dwellings adjacent to existing residential development, including footpaths to allow access into Earby. A number of existing trees will remain and further details of the proposed landscaping of the scheme can be controlled as part of the Reserved Matters.

Therefore the principle of a housing development on this site is acceptable in terms of impact on the visual amenity and character of the area and would not have a detrimental impact on the landscape, according with policies ENV1, ENV2 and LIV1.

### **Residential Amenity**

It is clear from the indicative site layout that the site could accommodate 12 dwellings without any overbearing impacts, unacceptable loss of light or privacy to any adjacent property and would provide an adequate level of privacy and acceptable living environment for the occupants of the proposed development.

There are commercial / industrial uses and land to the south west, however, taking into account the separation distance and that there are a number of existing dwellings in equal or closer proximity, those uses would not result an unacceptable risk of impacts on the amenity of occupants of the proposed dwellings.

Therefore the principle of a housing development on this site is acceptable in terms of residential amenity in accordance with policies ENV2, ENV5 and LIV5.

## **Ecology**

An ecology survey submitted with the original application and has been resubmitted with this, the survey is now over four years old and the ecology of the site could have changed in that time. An updated survey is therefore necessary, this has been requested from the applicant.

## **Trees**

There are no protected trees on the site, there are trees along the boundaries of the site, a tree survey has been submitted and this recommends removal of 2-3 trees due to their condition and potential risk from falling. The final details of landscaping and any trees to be removed and replaced would be a matter for the Reserved Matters, however, the development is acceptable in principle in terms of its impacts on trees.

## **Drainage and Flood Risk**

The site is not identified as at being at risk from fluvial or surface water flooding, however surfacing water flood risk is identified adjacent to the site to the rear of White Leys Close and it is understood that there have historically been surface water flooding issues there and works carried out to alleviate those issues. The submitted Drainage Strategy Report is acceptable and demonstrates that surface water from the site can be acceptably drained without increasing the risk of off-site flooding. An acceptable detailed drainage scheme can be ensured by condition.

Concerns have been raised in relation to the proposal to connect to a drain running through a property on White Leys Close, this is an ordinary watercourse no permission is required from the landowner to connect to it however, permission would be required from the LLFA / IDB as with any other ordinary watercourse.

Concerns have also been raised in relation to the proposed 600mm wall to the boundary with White Leys Close to prevent exceedance flows from the storage basin from entering White Leys Close. The LLFA have no objection to this strategy and it has been approved by the Council in the previous application.

The principle of the development is acceptable in terms of drainage and flood risk in accordance with policy ENV7.

## **Highways**

The level of additional traffic generated by the development would not result in capacity issues for the surrounding road network. The proposed access point is acceptable and the visibility splay requirement is achievable over the applicants land, although it would result in some vegetation loss along the Earby Road boundary of the site access to the east.

Off-site highway works for the provision of a footway and extended 30mph zone on Earby Road are necessary ensure pedestrians can travel from the development site to Salterforth Road safely.

The indicative plans demonstrated that an acceptable level of car parking can be provided within the site, the full details of this would be considered in the Reserved Matters.

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

## **Affordable Housing**

Policy LIV4 sets out the targets and thresholds required to contribute towards the provision of affordable housing. The application site is located within Open Countryside outside the settlement boundary of Earby.

As a result, the development would be associated with Earby, as a West Craven Town, therefore as only 12 dwellings have been indicatively proposed on the site, a 0% affordable housing contribution would be required, in accordance with Policy LIV4.

## **Contributions**

The previous permission included a condition requiring a contribution to Airedale NHS towards the cost of acute healthcare intervention in the first years of the development's occupation.

Since the determination of that application we have taken Counsel's advice and as a result changed our approach to such contributions and, on the basis of the justification previously given, the contribution would not be required now. Furthermore, no request has been made for a contribution on this application.

## **Other Issues**

Concerns have been raised that this the previously approved application has not proceeded. It is not unusual for developments to take a number of years to progress, particularly with the disruption caused by the Covid crisis, there is no basis to resist this application in relation to concerns of land banking.

Concerns have been raised in relation to the impact of increased demand for local services. Provision of such services is strategically planned for using similar data to that for planning the Borough's housing requirement and the principle of this site being developed for housing has already been established by the previous permission.

## **Conclusion**

It is recommended that the approval of the application, and any conditions necessary, be delegated to the Planning, Economic Development and Regulatory Services Manger subject to the expiry of the notification period and receipt of an acceptable updated ecology survey.

## **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 accords with the Local Plan and National Planning Policy 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: Delegate Grant Consent**

Subject to the following conditions:

- 1 An application for approval of the reserved matters (namely the appearance, layout, scale and landscaping of the site) shall be submitted in writing to the Local Planning Authority before the expiration of three years from the date of this permission and the development

hereby permitted must be begun two years from the date of approval of the last of the reserved matters to be approved.

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

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

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

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Scale 1:1250.

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

- 4 Prior to the commencement of development samples of the materials to be used in the construction of the development hereby permitted (notwithstanding any details shown on previously submitted plan(s) and specification) shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

- 5 No part of the development hereby permitted shall be commenced until details of the proposed ground levels have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include a number of sections across the site, which shall indicate existing and proposed ground levels, together with the floor levels of any proposed dwelling/buildings through which the sections run and shall extend beyond the site boundaries to include any surrounding, adjacent properties. The development shall thereafter be implemented in accordance with the approved details.

Reason: To enable the Local Planning Authority to assess how the development will accommodate the varied land levels and control the final form.

- 6 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. The submitted details shall include within its scope but not be limited to:

- a) A programme of works including phasing, hours of operation and measures for the control of traffic to and from the site, and within the site, during construction.
- b) The areas and methods of loading and unloading of plant and materials.
- c) The areas for the storage of plant and materials.
- e) Details of wheel-washing facilities including location
- g) Measures related to construction waste management
- i) Soil resource management including stock-pile management
- n) Location and details of site compounds
- o) Hoarding details during construction

- s) A Construction Waste minimisation Strategy.
- t) A Construction-Risks Education plan/programme
- u) Parking area(s) for construction traffic and personnel
- v) Routeing of construction vehicles

The Construction Code-of-Practice should be compiled in a coherent and integrated document and should be accessible to the site manager(s), all contractors and sub-contractors working on site. As a single point of reference for site environment management, the CCP should incorporate all agreed method statements, such as the Site Waste Management Plan and Demolition Method Statement. All works agreed as part of the plan shall be implemented during an agreed timescale and where appropriate maintained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

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

- 7 The car parking and garage areas shall be surfaced or paved in accordance with a scheme to be approved by the Local Planning Authority and the car parking and garage spaces and manoeuvring areas marked out in accordance with the approved plan, before the use of the premises hereby permitted becomes operative.

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

- 8 No part of the development shall be commenced until all the highway works to facilitate construction traffic access have been constructed in accordance with a scheme which shall be submitted to and approved by the Local Planning Authority.

Reason: To enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users.

- 9 No development shall commence until a scheme for the construction of the site access and the off-site highway works has been submitted to and approved in writing with the Local Planning Authority.

The off-site highway works include:

Extension of 30mph speed limit on Earby Road and creation of a footway on the south side of Earby Road/Salterforth Road.

No part of the development shall be occupied until the works have been carried out in accordance with the approved details.

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

- 10 Prior to the first occupation of any house the new estate road for the development shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level up to the entrance of the site compound before any development takes place within the site and shall be further extend before any development commences fronting the new access road.

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

- 11 No part of the development shall be commenced until the visibility splays measuring 2.4 metres by 52 metres in both directions to be provided, measured along the centre line of the proposed new road from the continuation of the nearer edge of the existing carriageway of Earby Road, to the satisfaction of the Local Planning Authority. The land within these splays shall be maintained thereafter, free from obstructions such as walls, fences, trees, hedges, shrubs, ground growth or other structures within the splays in excess of 1.0 metre in height above the height at the centre line of the adjacent carriageway.

Reason: To ensure adequate visibility at the street junction or site access in the interest of highway safety for residents and construction vehicles in accordance with Quality of Development Policy and Transport Policy in the Local Plan.

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

Reason: In the interest of highway safety.

- 13 No development shall be commenced until full engineering, drainage, street lighting and constructional details to adoptable standards (LCC specification) of the internal estate roads have been submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of highway safety.

- 14 The first submission of Reserved Matters shall include details of any on-site works involved in the formation footway linking to the footway on the south side of Salterforth Road. No dwelling shall be occupied unless and until the footway on Earby Road, linking to the footway on the south side of Salterforth Road has been constructed to adoptable standards.

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

- 15 Prior to first occupation each dwelling shall have a secure cycle store in accordance with the parking standards.

Reason: In order to ensure that the development has the provision of sustainable infrastructure.

- 16 Prior to first occupation each dwelling shall have an electric vehicle charging point.

Reason: To encourage sustainable travel.

- 17 The development shall be carried out in accordance with the details shown on the submitted Drainage Strategy Report prepared by JOC Consultants Ltd (Report 17/035.01 dated 27/06/2018), unless otherwise agreed in writing with the Local Planning Authority .

Reason: In the interest of satisfactory and sustainable drainage.

- 18 No development shall commence in any phase unless and until a detailed, final surface water sustainable drainage strategy for the site has been submitted to, and approved in writing by, the local planning authority.

The detailed sustainable drainage strategy shall be based upon the site-specific flood risk assessment and indicative sustainable drainage strategy submitted and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems and no surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly.

Those details shall include, as a minimum:

- a) Sustainable drainage calculations for peak flow control and volume control (1 in 1, 1 in 30 and 1 in 100 + 40% climate change), with allowance for urban creep.
- b) Final sustainable drainage plans appropriately labelled to include, as a minimum:
  - i. Plan identifying areas contributing to the drainage network, including surface water flows from outside the curtilage as necessary;
  - ii. Sustainable drainage system layout showing all pipe and structure references, dimensions, design levels;
  - iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
  - iv. Flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
  - v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each plot to confirm minimum 150mm+ difference for FFL;
  - vi. Details of proposals to collect and mitigate surface water runoff from the development boundary;
  - vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protects groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;
- c) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates and groundwater levels in accordance with industry guidance.

The sustainable drainage strategy shall be implemented in accordance with the approved details.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site.

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

Those details shall include for each phase, as a minimum:

- a) Measures taken to ensure surface water flows are retained on-site during construction phase(s) and, if surface water flows are to be discharged they are done so at a restricted rate to be agreed with the Lancashire County Council LLFA.
- b) Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

The development shall be constructed in accordance with the approved details.



Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water during each construction phase(s) so it does not pose an undue flood risk on site or elsewhere and that any pollution arising from the development as a result of the construction works does not adversely impact on existing or proposed ecological or geomorphic condition of water bodies.

- 20 No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report and Operation and Maintenance Plan for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority.

The Verification Report must demonstrate that the sustainable drainage system has been constructed as per the agreed scheme (or detail any minor variations), and contain information and evidence (including photographs) of details and locations (including national grid reference) of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of a final 'operation and maintenance manual' for the sustainable drainage scheme as constructed.

Details of appropriate operational, maintenance and access requirements for each sustainable drainage component are to be provided, with reference to published guidance, through an appropriate Operation and Maintenance Plan for the lifetime of the development as constructed. This shall include arrangements for adoption by an appropriate public body or statutory undertaker, and/or management and maintenance by a Management Company and any means of access for maintenance and easements, where applicable. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained.

- 20 No part of the development shall take place until a Planning Obligation pursuant to section 106 of the Town & Country Planning Act, 1990 (or any subsequent provision equivalent to that section) has been made with the Local Planning Authority. The said obligation shall provide for NHS provision at Airedale Hospital.

Reason: In order to ensure there is an acceptable level of provision at Airedale NHS Foundation Trust.

Notes:

- 1 The grant of planning permission will require the applicant to enter into a Section 38/278 Agreement, with Lancashire County Council as Highway Authority. The applicant should be advised to contact Lancashire County Council, Highway Development Control email - [developeras@lancashire.gov.uk](mailto:developeras@lancashire.gov.uk) in the first instance to ascertain the details of such an agreement and the information to be provided.
- 2 This response does not grant the applicant permission to connect to the ordinary watercourse(s) and, once planning permission has been obtained, it does not mean that land drainage consent will be given.

The applicant should obtain Land Drainage Consent from Lancashire County Council before starting any works on site. Information on the application process and relevant forms can be found at [www.lancashire.gov.uk/flooding](http://www.lancashire.gov.uk/flooding)

**Application Ref:** 21/0769/OUT

**Proposal:** Outline: Major: Residential Development (Access only).

**At:** Land To The West Of White Leys Close, Earby

**On behalf of:** McDermott Homes

## **LIST OF BACKGROUND PAPERS**

Planning Applications

**NPW/MP**

**Date:** 15<sup>th</sup> October 2021