



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

TO: POLICY AND RESOURCES COMMITTEE

DATE: 20th JANUARY, 2022

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO POLICY AND RESOURCES COMMITTEE 20 JANUARY 2022

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 referred to Policy & Resources Committee because West Craven Area Committee's resolution to refuse the application on the grounds Salterforth having met its quota of houses, inadequate drainage and impact on highway safety would represent a significant risk of costs being awarded against the Council at appeal.

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. Responses have been received objecting to the development on the following grounds:

- 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 Airdale 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

The principle of the acceptability of this development has been set by the previous outline permission, the principle of development and access are acceptable and the application is recommended for approval.

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: Approve

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.

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 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