



REPORT FROM: PLANNING, ECONOMIC DEVELOPMENT AND REGULATORY SERVICES MANAGER

TO: POLICY AND RESOURCES COMMITTEE

DATE: 28th JULY, 2022

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

PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO SPECIAL MEETING OF THE POLICY & RESOURCES COMMITTEE ON 28th JULY 2022

Application Ref: 21/0947/FUL

Proposal: Full: Major: Erection of 106 dwellings.

At: Land to the South of the Junction with Knotts Lane, Lenches Road, Colne

On behalf of: Gleeson Regeneration

Date Registered: 21/04/2022

Expiry Date: 21/07/2022

Case Officer: Laura Barnes

Site Description and Proposal

The application site comprises 4.11 hectares of agricultural land, located outside the settlement boundary of Colne. It is bound to the north by a static caravan complex, known as Prospect Farm which lies on falling land below the site. To the east, Lenches Road forms the boundary, it is from here that vehicular and pedestrian access is proposed. To the south the application site is bound by Knotts Lane and to the west the site is bound by a larger parcel of land which is also within the applicant's control. This land contains small reservoirs.

The south side of the site has a belt of mature trees that are protected under a Tree Preservation Order.

The application seeks planning permission to erect 106 dwellings, constituting a mixture of house types including 2, 3 and 4 bed roomed detached and semi-detached properties, each with a private garden and off-street car parking. Access is proposed off Lenches Road which falls away steeply to the north towards the South Valley.

Relevant Planning History

None relevant

Consultee Response

LCC Highways

I have viewed the Proposed site layout 'Niemen architects 3297-1-001 Rev M and Bryan G Hall Transport Assessment and Framework Travel Plan dated December 2021.

Pre-application highways advice was provided to the applicant in April 2021.

The application seeks the erection of 106 new dwellings comprised of 17 two bed, 69 three bed and 20 four bed dwellings with new access, infrastructure and parking.

Summary

Lancashire County Council acting as the Highway Authority would raise an objection regarding the proposed development and are of the opinion that the proposed development will have a significant impact on highway safety the immediate vicinity of the site.

It is the County Council's view that the highway impacts detailed as the main reasons for refusal cannot be adequately mitigated due to the constrained highway network and remote location of the site.

Traffic Impact

The site proposes a sole vehicular access with footways via Lenches Road, and two separate shared pedestrian/cycle accesses, 3m wide surfaced and lit on Lenches Road and Knotts Lane.

The applicant has control of the development site and the land parcel to the west of the site, which the shared pedestrian/cycle link to Knotts Lane crosses. This is a crucial element of the scheme to support the sustainability of the site to allow connectivity to the nearest bus stops. There are concerns about this route due to steep gradient and heavy vegetation which have not been considered in detail.

Lenches Road (U20641) and Knotts Lane (C680) provide the main links to the wider strategic network, both are rural roads without footways or lighting for the most part and provide poor quality links to support walking and cycling between the site and local facilities, public transport provision and employment.

The Transport Assessment (TA) includes traffic surveys undertaken on Tuesday 5th October 2021 at the following locations.

1. Lenches Road (U20641) /Knotts Lane (C680) priority T-junction;
2. Knotts Lane (C680) /A56 priority T-junction;
3. Mill Green Bridge over Colne Waterside (Lenches Road); and
4. Automatic Traffic Count (ATC) surveys on Lenches Road at 3 locations (for 7 days from Tuesday 5th October).

It should be noted that the traffic data collected in October 2021 is not likely to be fully representative of nominal conditions due to the COVID 19 pandemic.

However, for the purpose of this proposal the trip rates and distribution methodology utilised for subsequent analysis are considered acceptable to the Council.

The junction of Knotts Lane/A56 priority T-junction has been assessed and the committed development at the Knotts Lane Persimmon site is included.

As detailed above, the traffic flow data collected in October 2021 is likely to be lower than pre-covid levels due to ongoing restrictions and altered working patterns.

Notwithstanding this, the Knotts Lane/A56 junction operates well within theoretical capacity and even with pre-covid factoring it would not be considered to present a capacity issue.

As a result of this development proposal, the Lenches Road Bridge over Colne Water is expected to see an 18% increase in traffic during the AM peak altering from 162 to 191 vehicles and a 14% increase during the PM peak from 200 to 228 vehicles.

The bridge is sett paved and of single vehicle width with a narrow stone flagged footway on one side. The visibility at the bridge is restricted due to the vertical/horizontal alignment. There are no weight restrictions on the bridge however due to the sett paved surface and narrow width, should development be approved we would seek heavy construction traffic to avoid this route.

There is a concern that the increased amount of development traffic would cause conflict with pedestrians due to the narrow width and low kerb edge of the flagged footway across the bridge which would be prone to over running. There are no mitigation measures offered and due to the bridge constraints and status, mitigation measures are unlikely to be favourable.

The Lenches Road/Knotts Lane junction sees an increase of 12% in traffic in the AM peak from 215 to 241 vehicles and 10% during the PM peak from 255 to 280 vehicles.

The simple priority junction has a severe gradient. This junction presents concerns and is likely to be problematic for some drivers due to the gradient. Although the distribution is not disputed, it must be acknowledged that during adverse weather conditions all the development traffic will traffic north on Lenches Road, over the river bridge to access to wider network to avoid the severe uphill gradient to the south via Knotts Lane.

The TA states that: - These percentage increases will be within the day-to-day variation in traffic flows at these locations and will therefore not be perceptible to existing users of the network. It has also been found that no personal injury collisions occurred in either of these locations during the last five years.

We acknowledge that there are daily and seasonal traffic fluctuations on the network, however the overall increase is considered significant, and we would dispute the impact would go unnoticed by pedestrians and cyclists.

It is noted that there are no recorded collisions in the previous 5 years at these junctions. However, this should not be considered a reason to support significant increased use of a road junction that is heavily constrained. The Council view is that to do so would significantly increase the risk of future collisions.

The upper section of Lenches Road is subject to a 30mph speed limit and the lower part reduces to 20mph. Speed compliance is a concern on Lenches Road and Knotts Lane and the historical speed data and that collected for this application demonstrates this.

Site access junction Lenches Road

Lenches Road is an unclassified road subject to 30mph speed limit with no street lighting. The speed limit reduces to 20mph speed limit close to number 32. Speed data has been collected on Lenches Road, at the proposed site access, on Tuesday 5th October 2021 in order to determine the visibility splay requirements at the site access. The 85%ile speeds are recorded (32.5 wet) 35mph NB and (36.5wet) 39mph SB. These recorded speeds will require visibility splays of X2.4m by Y48m and Y57m respectively. Splays of 60m in both directions are proposed, this is acceptable. This will require changes to the existing wall and removal of trees and vegetation.

The open drain which runs along Lenches Road would need culverting beneath the site access, this will require land drainage consent. The provision of a footways along the development frontage on Lenches Road and Knotts is not proposed, and this is not conducive to providing a well-connected development.

The upper sections of Lenches Road and Knotts Lane are unlit and not conducive to support additional traffic. This could be mitigated with a lighting scheme should the development be approved.

Pedestrian/cycle link Lenches Road

To mitigate the lack of footways on Lenches Road and Knotts Lane, there are proposed links internally through the site onto both Lenches Road and Knotts Lane.

The proposed pedestrian/cycle link will emerge on Lenches Road at the north eastern corner of the site.

To connect to the existing footway on Lenches Road, a new section of footway on Lenches Road for approximately 40m, on the east side, between the north-eastern corner of the site and the existing footway is required. This requires converting the highway verge to footway however the verge is on a gradient with a change of level of up to 1m and retains the land adjacent. There is also a minor watercourse running between the verge and carriageway edge. This proposed section of footway would be necessary to connect the site to the wider network however the feasibility of delivering this within the extents of the highway has not been evidenced and needs further design work to demonstrate that it is achievable. We have concerns that this section of footway is not deliverable. Additional traffic calming features will be required on Lenches Road to promote speed compliance.

The visibility splays for the pedestrian link on Lenches Road is proposed at X 1m by Y 51m to the north and 81m to the south, based upon recorded vehicle speeds. To deliver this will require changes to the existing wall, trees and vegetation.

Pedestrian/cycle link Knotts Lane

The proposed 3m wide, surfaced lit route across the western portion of the site is considered necessary to support sustainable travel and access to the nearest bus stops. This must be included within the red edge.

Having walked the part of the proposed route which is accessible, it is clear there are challenges in terms of gradient and existing vegetation. The topography and dense vegetation are a concern and further assessment including a topographical survey to demonstrate the proposed levels are compliant with national guidance for such a route and the impact upon necessary vegetation loss needs to be demonstrated. If this application is approved, this route is critical to support the sites sustainability.

The proposed new section of footway along the north side of Knotts Lane itself between the link and South Valley Drive is considered necessary to connect to the existing footway network. This can be delivered within the extents of the adopted highway.

Sustainability

The site is remote and set rurally which is a concern. Walking distances to the local facilities, severe gradients, lack of footways and lack of street lighting on the surrounding network are all issues. The lack of footways and lighting can be partly mitigated however the steep gradients and remote location cannot.

The IHT guidance on walking distances is exceeded in most cases. The nearest Primary School on West Street is located over 1km and has a significant gradient on the route. The gradients are likely to be the main barrier for walking and cycling and sections of the surrounding highway network exceed 1:20 which would preclude the routes being accessible to all users.

The local service bus stops on Knotts Lane exceed the maximum walking distance of 400m, equating approximately to a five minutes' walk which is stated in the CIHT document and IHT 'Planning for Public Transport in Developments' (1999) and the gradient of the direct route exceeds the guidance in Inclusive Mobility and Manual for Streets. The nearest mainline bus stops on A56 are approx. 1km.

The bus service on Knotts Lane is service 68 providing an hourly service between 09:31 and 16:38 between Colne – Barrowford – Nelson. This service is unlikely to provide a commuter service due to the off-peak hours. An additional bus could be included during the peak hours to support the sustainability of the site. The cost of this is likely to be around £100k per annum.

The nearest bus stops would require upgrading to quality bus stop standard with shelters. A framework Travel Plan is submitted, which is welcomed however as detailed above there are concerns about the capability of this site to support walking and public transport modes.

Internal Layout

The pedestrian/cycle links to both Lenches Road and Knotts Lane across the western portion of the site need to be within the red edge and committed for delivery as part of any planning consent if approval is given. Construction should be complete prior to the first occupation of any dwelling. Further information to demonstrate that this link can be constructed to suitable standards is required as detailed above.

The internal estate road network is acceptable.

PROW

FP 189 is recorded running across the site in a north-south direction.

An application has been made to Lancashire County Council to make a Definitive Map Modification Order (DMMO). If the application is successful, it could have the effect of adding a network of public rights of way to the definitive map which are alleged to already exist.

In this case, the developer will need to either amend the development layout or apply for a diversion order. The developer should seek further information regarding this matter from the LCC PROW Team. Email:- PROW@lancashire.gov.uk

Parking

The vehicle parking is proposed in accordance with the Pendle BC parking standards, e.g. 2/3 bedrooms = 2 spaces and 4+ bedrooms = 3 spaces.

Garages should have internal dimensions of 3m x 6m to count as a parking/cycle space.

Each dwelling should have a secure, covered cycle store and electric vehicle charging point with 7kw output and universal socket that can charge all types of electric vehicles.

Conclusion

As presented the Highway Authority cannot support this application and objects to the proposals submitted. The main reasons for objection are summarised below.

The site is considered to be located remotely from facilities and services, on the edge of Colne, with poor connectivity which will result in a reliance on the private car which is contrary to the principles of the National Planning Policy Framework and Guidance.

The development traffic cannot be accommodated safely on the highway network and will have a severe impact on highway safety for all users.

The impact of the development traffic cannot be mitigated sufficiently due to the rural nature of the highway network and built environment, particularly the upper sections of Lenches Road and Knotts Lane and the Colne Waterside Bridge.

1. The application fails to demonstrate that the proposed development can be safely accessed on foot and by cycling.
2. The nearest bus stops are not within desirable 400m walking distance of the site to support the use of public transport and the distance is further exacerbated by the severe gradients of the surrounding highway network.
3. The lack of footways on Lenches Road and Knotts Lane does not support sustainable travel modes and the additional traffic raises concerns regarding conflict with pedestrians and cyclists, particularly at Colne Waterside Bridge.
4. The internal pedestrian/cycle routes are not demonstrated as being deliverable to appropriate gradients for all users.

LCC Education

A contribution towards 10 secondary school places has been requested.

Lead Local Flood Authority

The Lead Local Flood Authority has no objection to the proposed development subject to the inclusion of conditions.

East Lancashire NHS

Request a contribution of £180,890, based upon an estimated population increase of 244 people.

Countryside Access Officer

An application has been made to Lancashire County Council to make a Definitive Map Modification Order (DMMO). If the application is successful it could have the effect of adding a network of public rights of way to the definitive map which are alleged to already exist (see map attached).

If public rights are found to exist then this could have the effect of blighting any affected properties. In such circumstances, we would look at whether the footpath could be diverted. This can be expensive for the property owner and time consuming with no guarantee of a successful outcome.

Alternatively, the developer could either look at amending the layout of the proposed development to accommodate the network of paths shown on the DMMO application map. I have not seen the evidence submitted with the application and therefore I cannot comment on the likelihood of the DMMO application being successful.

United Utilities

Following our review of the submitted Flood Risk Assessment, we can confirm the proposals are acceptable in principle to United Utilities and therefore should planning permission be granted we request that conditions are attached to any subsequent Decision Notice.

Colne Town Council

The Town Council strongly objects to this development for the following reasons:

- The proposed development is physically disconnected from Colne due to topography and position within the Open Countryside. It is not in a sustainable location.
- Poor design, particularly in the use of materials which are not characteristic of the area and would be inappropriate for this rural location.
- Traffic/highway issues – a potential bottleneck at the Grade II Listed bridge on Lenches Road, combined with the lack of footpaths.
- The site would be prominent in long range views and would mar the setting of the town.

The Coal Authority

Substantive Concern

The site falls within the defined Development High Risk Area. Consequently, within the site and surrounding area there are coal mining features and hazards, which need to be considered in relation to the determination of any planning application.

The Coal Authority records indicate that there are three recorded mine entries (shafts) within, or within close proximity of the planning boundary. Our records also indicate that the site is likely to have been subject to unrecorded underground mining at shallow depth and to unrecorded underground mining at shallow depth associated with a thick coal seam outcrop.

The Coal Authority notes the supporting Phase 1 Geotechnical and Geo-Environmental Site Investigation Report (10 February 2020, prepared by Eastwood & Partners), the content of which has been informed by appropriate coal mining information for the proposed development site. Based on this review of information the Report confirms that the investigation of potential shallow coal mine workings will be necessary. However, and whilst commitment is made within the Report to investigate a recorded mine entry, the Report does not identify the two mine entries, which the Coal Authority now has recorded in the northern part of the site. These mine entries were located subsequent to the publication of the Phase 1 Geotechnical and Geo-Environmental Site Investigation Report and the layout does not appear to have been designed around any of the mine entries.

Building over or within the influencing distance of a mine entry (shaft or adit) can be dangerous and has the potential for significant risks to both the development and the occupiers if not undertaken appropriately. The Coal Authority would draw your attention to our adopted policy regarding new development and mine entries:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

The Coal Authority does not support the development above mine entries even where treated and would also expect a construction stand-off zone or no build zone to be illustrated on any proposed site layout plan.

Without this information the Coal Authority is of the view that the current scheme cannot be permitted as in principle the applicant has not demonstrated that the site can be developed safely. Consequently, the Coal Authority does not consider that the application has fully appreciated the risks associated with mining legacy. On the basis of this information, the Coal Authority objects to the planning application.

Environmental Health

Conditions recommended including a Construction Method Statement, Control of dust & burning on site.

Public Response

There has been a considerable number of comments received on the application. These may be précised as:

- Objection to greenfield land being developed
- This land is a community amenity, providing many footpaths upon which local residents can exercise
- Loss of habitat for birds and plant species
- Pendle already has a supply of housing land which is adequate, this type of development is not required
- Local infrastructure will not cope
- Access is unsuitable, with no footpath either side of Lenches Road
- The land has underground springs and old mine workings
- Negative visual impact
- The developer has trespassed on the land with diggers and a generator, to dig bore holes
- Potential contamination on the land
- The site forms part of Castercliffe hill fort, an important heritage asset which should not be destroyed
- Questioning whether the applicant is an owner or tenant
- Flood risk problems as this land acts as a sponge releasing water into the catchment slowly
- Medieval woodland is on this site
- There are alternative brownfield sites which should be used first
- Most residents of Colne use this as their back garden because they live in terraced houses which only have a small yard
- A screening report, Strategic Environmental Assessment and Habitat Regulation Assessment should be considered before this application is reviewed
- Potential archaeological site of interest

Planning Policy

The consideration of planning applications must be undertaken as set out in statue. The Planning & Compulsory Purchase Act 2004 sets out the requirement at Section 38(6). This states:

“If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

The development plan for Pendle consist primarily for this application of the Part 1 Local Plan - Core Strategy, adopted on 17th December 2015. There are also saved policies from the RPLP as detailed in Table B1 (page 237) of the Part 1 Plan. These represent the development plan for Pendle.

Pendle Local Plan Part 1: Core Strategy (LPP1)

Relevant policies of the LPP1 are:

Policy SDP2 sets out a settlement hierarchy for Pendle. It indicates that development proposals should be of a scale and nature proportionate to the role of the settlement. Colne is a Key Service Centre which will provide the focus for future growth in the borough and accommodate the majority of new development. The policy accepts that greenfield sites will be needed to meet the housing needs of the Borough. These need to be in a sustainable location. Sites also need to be well related to an existing settlement. This is both spatially well related as well as well related in terms of other impacts. This latter part of the policy is a restraint on development as it requires a wide view of how well a site is related to a settlement to be considered. The physical impacts and relationships of development to existing settlements cannot be ignored in decision making.

Policy SDP3 sets out the housing distribution for the Borough. It states that 70% of the Borough's requirement should be located in the M65 corridor, and within each spatial area, the provision for housing should follow the settlement hierarchy set out in Policy SDP2. Whilst this policy seeks to restrict housing distribution within Borough the figures are approximate targets.

Policy ENV1 states that the development should make a positive contribution to the protection, enhancement, conservation and interpretation of our natural and built environment. It deals with how proposals affecting sites with biodiversity interest should be dealt with which are not relevant to the Council's objection to the scheme.

Development proposals should wherever possible aim to safeguard or enhance the landscape character of the area and should show how they respond to the particular landscape character type they are located within. The protection of the landscape will affect sites that are located outside of settlements and green field sites such as relate to the two appeals. The policy would have a potential impact on the supply of housing as many sites that are required to meet the housing needs of the Borough are peripheral greenfield sites. The policy states that developments should show how they respond to the particular landscape character type they are located in. The impacts that a development has on landscapes cannot be ignored in taking planning decisions. Clearly the greater the impact the greater the weight should be given to the policy which seeks to protect the landscape. Whilst the policy will affect the supply of housing land weight needs to be accorded to it particularly where landscape and heritage impacts are significant.

Policy LIV1 sets out the amount of new housing required to meet the Borough's Objectively Assessed Needs (OAN) over the plan period (2011-2030). It sets out the annual housing requirement and sets the housing numbers against which the provision of deliverable sites to meet the five year housing land supply will be assessed. This has to be set against the policies on housing supply as set out in the National Planning Policy Framework ("the Framework") which will be commented on in more detail later in the report.

Until the Council adopts the Pendle Local Plan Part 2: Site Allocations and Documents Policies then sustainable sites for housing developments outside but close to a Settlement Boundary, which make a positive contribution to the five year supply of housing land, including those in the Strategic Housing Land Availability Assessment (SHLAA) will be supported.

The policy sets a minimum amount of housing to be brought forward. It provides for a positive mechanism to bring forward housing prior to the adoption of part 2 of the Local Plan.

Policy LIV3 states that in order to meet the housing needs of different groups in the community; the Council will encourage and support the provision of a range of residential accommodation. It gives “high” priority to the provision of “larger homes” and “medium” priority to the provision of “smaller homes of suitable tenures in accessible locations”.

Policy LIV 4 sets out the level of affordable housing that would be required for new developments. It is however not a policy that would affect the deliverability of the site as there is a 0% requirement.

Replacement Pendle Local Plan Saved Policies

The Pendle Local Plan Part 1: Core Strategy has replaced parts of the RPLP as set out in Table B1 (page 237). Some of the policies in it have been saved.

Policy 1 (Development in the Open Countryside) is a restrictive policy that requires development to be located in settlements unless in the circumstances set out in the policy. It conflicts with policy LIV 1 which allows sustainable development to come forward outside of settlement boundaries in the period up to the adoption of the Part 2 Plan. No weight should be attached to it.

Policy 17 (Location of New Housing Development). This is a restrictive policy which seeks to limit the amount of housing that can be built. It also has within it a sequential approach to site selection. The policy has been replaced by the policies in the Part 1 Plan. It does not accord with the policies set out in the Framework. No weight should be attached to this in the determination of this application.

Relevant policies which are not for the supply of housing

Pendle Local Plan Part 1: Core Strategy 2011 – 2030 (“the Part 1 Plan”)

Policy SDP1 (Presumption in Favour of Sustainable Development) addresses the presumption in favour of sustainable development and how the decision maker takes a positive approach that reflects how this issue underpins the Framework. This stance enables development to be approved that can improve the economic, social and environmental conditions in the area.

Where there are no policies relevant or the relevant policies are out of date at the time of making the decision then permission will be granted unless material considerations indicate otherwise - taking into account whether:

- Any adverse effects of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
- Specific policies in the Framework indicate that development should be restricted.

This policy is important because it enshrines the contents of paragraph 11 of the Framework within adopted development plan policy.

Policy ENV2 (Achieving Quality in Design and Conservation) states that all new development should seek to deliver the highest possible standards of design and meet future demands whilst enhancing and conserving our heritage assets.

Policy ENV7 (Water Management) states that the sequential and exceptions tests set out in the National Planning Practice Guidance will be applied to direct development to areas with the lowest probability of flooding. This policy seeks to direct development to appropriate places and to mitigate issues if sites are in vulnerable locations. The application site is not in a flood risk area and there are no objections to the application by the LPA on issues relating to flooding or water management.

Replacement Pendle Local Plan (2016)

Policy 4D (Natural Heritage) seeks to protect and enhance biodiversity including those sites protected under the Conservation (Natural Habitats etc) Regulations 1994.

Policy 6 (Development and Flood Risk) has been replaced by policy ENV7 (Water Management) of the Part 1 Plan.

Policy 8 (Contamination and Pollution) has been partly replaced by ENV5 (Pollution and Unstable Land) of the Part 1 Plan which seeks to reduce the impact of pollution from developments.

Policy 13 (Quality and Design of New Development) states that the Council will protect and enhance the heritage and character of the Borough and the quality of life for its residents by encouraging high standards of quality and design in new development. The policy has been replaced by Part 1 Plan policies ENV2, LIV5, WRK6 and SUP4. It should not be given weight in reaching decisions on this application.

Policy 16 (Landscaping in New Development) requires that all development proposals which involve new building include a landscaping scheme sympathetic to the site's character. This policy should be given significant weight and is compliant with Section 130 of the Framework which requires developments to reflect their surroundings.

Policy 20 (Quality Housing Provision) has been replaced by policy LIV5 of the Part 1 Plan.

National Planning Policy Framework 2021 (The Framework)

The Framework sets out the Government's policies in relation to the planning system in England. Development Plans must be in accordance with the Framework. The LPP1 was adopted in accordance with the Framework. There have however been two further versions which introduce new or amended policies. The following will consider the relevant policies pertinent to this application and identify where revisions may affect the adopted LPP1 policies.

The Framework indicates that the aim of policy is to achieve sustainable development. This has economic, environmental and social objectives which should lead to net gains across the three strands.

Para 11 sets out the 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-date⁸, 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; or
ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of this Framework taken as a whole.

Footnote 8 indicates that, amongst other things, policies are out of date where the LPA cannot demonstrate a five year supply of deliverable housing sites or where the Housing Delivery Test (“HDT”) indicates that the delivery of housing was less than 75% of the requirement over the previous 3 years (the HDT for Pendle is 227%).

Paragraph 12 states:

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision -making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Section 5 supports the delivery of a sufficient supply of houses. Local Plans are expected to set out strategic policies for the supply of houses including the type of houses to be provided.

Policy LIV4 does not require any affordable houses in the M65 corridor. Paragraph 65 of the Framework however indicates that at least 10% of housing on major development sites should be available for affordable home ownership.

Paragraph 74 confirms that there should be a minimum supply of specific deliverable sites. Where the supply policies in a LP are more than 5 years old, as in Pendle, that supply shall be measured against the Local Housing Target.

Section 8 promotes healthy and safe communities. Decisions taken on planning applications should promote social interaction including opportunities for people to meet. Developments should have clear and legible pedestrian and cycle routes and high quality public spaces.

Sufficient school places are expected to service a community as set out in para 95. Public rights of way should be protected and enhanced (para 100).

Section 9 relates to sustainable transport. The first paragraph states that transport issues for development should be considered at the earliest stages to allow potential impacts to be addressed, to promote walking cycling and public transport and so that the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account.

Policies for the consideration of development proposals are set out at paras 110 and 111:

110. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users;*
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code and*
- d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

111. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Design is considered in Section 12. There is an emphasis on creating high quality, beautiful and sustainable buildings and places.

Paragraph 132 states: *Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot.*

Para 134 states that development that is not well designed should be refused.

Section 14 guides on the challenge of meeting climate change and flooding. New development should avoid the range of impacts resulting from climate change.

Section 15 contains policies in conserving and enhancing the natural environment.

Para 174 recognises the intrinsic value of the open countryside and the wider benefits from natural capital and ecosystems. It seeks to minimise the impact on biodiversity from development and to provide net gains

5 year Supply of Housing Land and the Housing Delivery test

The Housing Delivery Test is a measure set out by Government and is contained in Government published data. It is a measure of how much housing is delivered set against the annual requirement set out in the Government's standard methodology. The latest figure is that Pendle's measurement is 227% which is significantly ahead of the requirement.

In January 2022 the Council published its latest Five Year Housing Land Supply Position Statement. This Statement confirms that the Council has a 7.46 year supply. This is based on a local housing need of 142 dwellings per annum calculated using the standard methodology against an assessed deliverable housing land supply of 1,111 dwellings. An additional 5% buffer is applied to the calculation to promote market choice. This follows the results of the 2021 Housing Delivery Test which found Pendle had delivered 227% of its housing need over the previous three-year period.

Planning Considerations

The application site lies outside of the settlement limits for Colne. Colne has a neighbourhood Plan in preparation but it is not at a stage that it can be given any weight in the decision making process.

The Local Plan for Colne primarily consists of the adopted Part 1 Local Plan – Core Strategy ("the Local Plan"). This sets out under Policy Liv 1 that until such time as a part 2 plan is adopted sustainable sites that are outside but close to existing settlement boundaries that contribute towards the five year supply of housing can come forward. The site lies close to the settlement boundary for Colne. The issue is whether the site is a sustainable one when set against the Local Plan and the policies in the Framework.

The application has been accompanied by a range of supporting documents including Transport Assessment, Flood Risk Assessment and Landscape and Visual Impact Assessment.

There has been a substantial amount of interest from members of the public. Their concerns are set out in the public comments section above and will be considered according to their planning merits in detail below.

Design

The proposal seeks to erect 106 dwellings on a sloping site that can be seen to lie in a rural location. The topography of the site dictates that the layout will follow the natural contours of the land and in general will lie in a north south direction.

The design of the development is poor in a number of respects. These relate to the layout, density, the townscape impact and the individual plot design.

The Building for a Healthy Life (“BHL”) design toolkit was prepared by Homes England and is the latest edition to the document, which was previously called Building for Life 12. The design has been assessed set against this in order to assess if the design is an acceptable one or not.

The BHL document provides a helpful framework upon which to consider the design of a scheme, it encourages the use of a traffic light system to assess schemes against, in order to achieve a good standard of design. It also provides a useful structure to present Council’s case on design, for this particular scheme. 12 principles are set out in turn below, with a discussion of the Council’s view on each principle.

Building for a Healthy Life – Natural Connections

The toolkit recommends looking beyond the red line of a site to take into account the wider context and how the proposed development can best be stitched into a place. Cycle routes are particularly important in getting people to reduce their everyday car usage. The proposed development does include a 3m wide cycle way which links to Lenches Road. However, once they meet Lenches Road, cyclists would have to cycle in the road, not on a dedicated cycle track. They would also be met with a topographical challenge involving a steep gradient, which most amateur cyclists would not be prepared to negotiate. The gradients from and to the site are steep, particularly from the proposed access on Lenches Road. The physical topography of the site and surrounding area would not lend itself to sustainable modes of transport such as walking / cycling.

Building for a Healthy Life – Walking, Cycling and public transport

Pedestrians and cyclists have been given little consideration in the layout and design of this scheme. The streets have principally been designed around motor vehicles rather than more sustainable transport methods. The topography of the site and access are not attractive to pedestrians, particularly given the lack of footpaths on Lenches Road and the distance into Colne Town Centre. Bus stops are more than 400m away and not easily accessed. In order to improve this a bus service would need to be extended to directly serve the site.

Building for a Healthy Life – Facilities and Services

The toolkit recommends that developers consider whether improving existing facilities would add more value to the local community than adding new facilities. Other than a cycle route and a potential pedestrian crossing, there has been little proposed in the way of improvements to existing facilities. The elevated nature of the site provides a physical barrier to accessing services which are also too distant from the site to encourage trips other than by car.

Building for a Healthy Life – Homes for everyone

The scheme has a mix of housetypes which is positive and would allow opportunity for people in various housing needs.

Building for a Healthy Life – Making the Most of what's there

The scheme is divorced from the existing settlement and does not make the most of the connection and opportunity for recreational links. Future residents would be faced with a steep gradient to walk to nearby facilities and services. They would be likely to rely on the private car. There would be links to recreation into the countryside.

Building for a Healthy Life – A memorable character

The toolkit recommends that developers create a place which is locally inspired or otherwise distinctive. The proposed development of two storey semi-detached and detached dwelling is a generic form of development, it has not taken design queues from the local vernacular and is not characterise the rural setting of the site. The proposed development does not propose a local materials pallet but instead opts for red brick, which is not a prominent construction material in Pendle, or more specifically Colne. A sequence of pre-determined house types have been selected with no design link to the local distinctiveness of the area.

Building for a Healthy Life – Well Defined Streets and Spaces

The toolkit recommends that developers create a network of streets and spaces which are enclosed by buildings and structural landscaping, taking care to ensure that front doors and the principle facades of buildings face streets and public spaces. The scheme that has been put forward does provide some well-defined streets with frontages onto the street.

Building for a Healthy Life – Easy to find your way around

The pedestrian routes which have been incorporated into the scheme are narrow and convoluted. They do not make the most of the opportunity to provide open and inviting pathways, for residents to walk or cycle to public transport stops, or use the area more widely for recreation.

Building for a Healthy Life – Healthy Streets

The toolbox recommends that activity in the street is an essential part of a successful public realm. The 'green = go ahead' healthy streets indicators state that streets are for people. They should not be car dominated. They should provide places for people to sit, chat or play within the street. The proposed development has given little consideration to cycle and parking solutions. Whilst there is off-street car parking, the width of the pavements and the cars parked at the frontage of properties creates a car-orientated feel to the development which is not conducive to healthy streets.

Building for a Healthy Life – Cycle and car parking

The proposed development should have given more thought to creative cycling and car parking solutions. The proposed development is car orientated with off-street parking dominating the front of properties. Whilst there are some green spaces to the sides of dwellings, as well as some small front gardens, this could have been addressed in a much more creative manner to avoid total domination of cars cluttering the street scene. The cycle routes to and from the site are difficult due to the lack of existing on street infrastructure and topography. The site is poor in terms of cycle connections.

Building for a Healthy Life – Green & Blue Infrastructure

The toolbox recommends that creative surface water management would enrich the public realm and improve a sense of wellbeing, as well as providing an interaction with nature. The development adequately deals with surface water management.

Building for a Healthy Life – Back of pavement, front of home

Avoiding pieces of 'leftover' land that serve no useful public or private function is key in achieving a high quality design. It is also important to avoid pieces of left over land between, or to the side of, buildings with no clear public or private function.

Overall, the proposed development represents a poor design which has had little regard for the existing vernacular. The pallet of materials chosen does not reflect any of the existing area and is contrary to paragraph 130 of the Framework. The scheme appears to have been retrofitted around an existing set of house types which could be used on any site anywhere in the country. This is not in the spirit of the Framework which requires particularly high quality design. The proposals are contrary to Policy ENV2 of the local Plan: Core Strategy and the Design Principles SPD.

Residential Amenity

The Design & Access Statement sets out that the proposed dwellings have been arranged to ensure they would not result in an unacceptable standard of residential amenity. The proposed separation distances between dwellings accords with the Council's Design Principles SPD. No exiting properties would be unacceptably affected by loss of privacy from the new dwellings.

Drainage

The application has been accompanied by a full flood risk assessment and drainage strategy. The site has low risk of fluvial flooding with a small watercourse on the west of the site. The site also has a low risk of pluvial flooding. The main issue is how the development will deal with surface water disposal.

Foul effluent will be disposed of via the main sewer located in Knotts Lane. Surface water will be restricted to a discharge rate of 12.7l/s with attenuation in underground tanks. I concur with the statutory consultees that the drainage strategy is acceptable.

Coal Mining

The geotechnical information submitted with the application records a single mine entry on the site. The Coal Authority has however identified that there are two additional coal mine entries in the north of the site which have not been assessed. They have objected to the application based on lack of information on the risks.

Highways

The proposed access would be off Lenches Road. This leads down to Colne via a steep carriageway that crosses a bridge at the bottom of the hill. Traffic could also travel south from Lenches Lane onto Knotts Lane and to destinations to the west.

The highway network leading from the site has areas which are substandard with lack of footways and pinch points. These have led to the Highways Authority objecting to the scheme based on their view that the traffic generated by the scheme and the substandard nature of the highway network serving the site, would lead to a situation inimical to highway safety. I share these concerns.

Vehicles accessing the site would have to use a single width bridge at the bottom of Lenches Road. This is a pinch point. The bridge is only wide enough to allow one vehicle through at a time, so two vehicles travelling in opposite directions cannot use the bridge simultaneously. This will inevitably lead to more of a bottle neck at this point. The bridge also suffers from poor forward visibility for vehicles and any pedestrians using the bridge would do so without any pedestrian refuge. The development would result in additional traffic utilising this and the substandard nature of the bridge will increase the risk of accidents to an unacceptable level.

As detailed in the comments of the Highways Authority they are concerned about the substandard nature of the Knotts Lane/Lenches Road junction due to its geometry. Contrary to the view of the applicant who indicates that the increase in traffic would not be perceptible on the highway the Highways Authority is of the view that the development would have a significant increase in traffic on the highway network and the use of the substandard junction would have an impact on safety. I concur with that view. The junction is substandard and the development would result in an increase in traffic that would materially affect highway safety to an unacceptable level.

The site is disconnected from the existing settlement with little in the way of pedestrian or cycle connections to encourage sustainable forms of transport. It is located outside of the recognised acceptable walking distances and this does not take account of the steep topography of the area, which would further discourage sustainable transport methods. It is not a site that provides for sustainable alternative transport links to other destinations.

The proposal is contrary to paragraph 111 of the Framework and Policy ENV4 of the Local Plan: Part 1 Core Strategy.

Landscape Impact

The application site lies in an elevated location to the south side of Colne. It is visually disjointed from the urban area of Colne although there is sporadic development to its west, east and north sides.

A Landscape and Visual Impact Assessment ("LVIA") has been carried out to support the application. This follows an acceptable methodology in assessing the development and its landscape and visual impacts.

Although the methodology is generally acceptable the assessment in our view underplays the actual impacts that the development would have. This leads to conclusions that the development would have an acceptable landscape and visual impact on the locality.

The development will be clearly visible from various locations throughout the town and would appear as an incongruous and disjointed feature in an otherwise attractive landscape.. The outlook will be changed from one of rural open countryside to an urban housing estate and this would unacceptably change the landscape character of the area.

There are elements of the LVIA which have not been fully addressed. For example the site lies in Lancashire National Character Area NCA 35. This identifies statements of environmental opportunity of which SE03 and SE04 look at opportunities to support agricultural landscapes and conserve and manage the distinction between small rural settlements making sure urban fringe developments are sensitively designed.

The landscaping proposals would not address these impacts even over the longer term. plan does little to address this. The layout and design of the development does not allow for a sufficient street treescape in order to allow the development to blend into the wider countryside. This would be exaggerated due to the elevated position of the site.

The LVIA does not take into account the construction phase effects. Construction effects are often of greater in scale than operational effects but are of shorter duration. In relation to the application site, particular consideration should be given to how the site will be accessed, the protection of retained TPO trees and the positioning of site offices and lighting during the construction period. There is no explanation as to why this has been omitted.

In general, the judgements arrived at in the LVIA often overlook or downplay key considerations in assigning the level of effect such as how the development would interact with the locality, the historic landscape, existing ecological value and the transformation of the site itself.

The methodology is relatively sound but the application of the method has some clear omissions when assessing the magnitude of change. An example of this would be in assigning the magnitude of visual effect from more distant views. The assumption is made at numerous points within the LVA that the development would not be unduly incongruous to the urban fringe where it is located. This fails to consider the context of the site, it's physical separation from other residential development of a similar scale which largely sit within the valley rather than on a prominent hillside outside of the settlement boundary. In the example of longer distance views such as viewpoints 16 and 17, the proposed development would sit prominently on a hillside and physically separate from existing development within Colne.

The magnitude of effect for these views is assessed as Low (VP16) Low / Negligible (VP17) whereas they would clearly be Medium or Medium / Low when assessed using the LVA's methodology as the location of the development would be prominent and would contrast with the existing view. Given the prominence of the site location, the increase in magnitude in longer distance views across the valley is an important one. If the magnitude was increased as suggested, this would result in Moderate and Moderate / Minor adverse effects, which would be typical of views from the wider area within the ZTV. Therefore, there has been an under assessment of the impacts.

The development would have a greater impact on the landscape character of the area than that assessed in the LVIA. The development of the site would detract from the landscape character of the area and that impact is not an acceptable one.

The visual impact on the development is the impact that would be experienced by those experiencing the site. Again these impacts have been underplayed in the assessment so that the conclusions on impacts are less than would actually be experienced. The development of the site would have greater an unacceptable visual impacts by those experiencing the site which would be unacceptable.

Ecology

The application site does not raise any issues through loss of ecology. The site itself is of limited ecological value. The development does not have a full set of bat surveys. However as the only roosts could be in the trees which will remain the impact on bats is not an issue that would lead to refusal of the application.

Trees

The proposal would result in negative impacts on existing trees and hedgerows. The woodland strip to the south of the site is of importance not only to the site but the wider surrounding area. The trees are visible from all over the town including the Town Centre and from wider areas such as Holt House. The trees are significantly old as indicated by the ground flora underneath them. This strip of woodland is shown on the 1890's Ordnance Map indicating that the trees were of a significant size at this point in time. The indicative site plan show that the woodland is to be incorporated into the plots of the properties along this edge of the development. It is likely that damage to this important ecological resource would be severely damaged. The domestication of the site is likely to lead to this area of the site being cultivated and the loss of the ground flora associated with the trees. Furthermore, the trees are likely to come under pressure for removal due to restricting light to the gardens and properties close by. Where trees are of significant age it is advisable to leave a buffer zone between the properties in order to reduce the impacts.

The developer has decided to retain the trees marked T2 and T3. However, the properties adjacent to these trees are very close. While consideration has been given to protecting the trees during the development, the trees are very close to proposed properties. Again, these are likely to come under pressure for removal from residents.

The hedgerow to the east of the site is reasonably old with large standard trees through it. Again while, protection has been put into place for during the build, the hedgerow has been incorporated into gardens and it is likely that stretches of it will be removed to open up gardens for recreational use. This would lead to a loss of an important wildlife corridor. The loss of this landscape feature would also change the appearance of the Lenches Road elevation.

Heritage & Archaeology

The application site is not in an area which is noted for archaeological findings. The applicant has not prepared an archaeological assessment. Members of the public have raised concerns in this regard. There is no evidence however before the Council that would lead to a conclusion that an archaeological assessment or watching brief condition would be necessary.

Contributions

Requests have been made from East Lancashire NHS Trust and Lancashire County Council Education. The request from the NHS is for £180,890, based upon an estimated population increase of 244 people. The request from LCC Education is for 10 secondary school places.

The request for a contribution for school places is justified based on the impact the development has on the education infrastructure.

The NHS contribution request is not however one that is necessary or justified and should not be requested from the developer.

The Planning Balance

The Local Plan and Framework support the provision of sustainable development and development that would contribute to the supply of housing. Housing and the supply chains it supports provide benefits to the economy in terms of jobs and provide homes that are required in society.

Development must however be sustainable in terms of its social, environmental and economic characteristics. The development of this site would provide some benefits but also has several unacceptable impacts that result in the development being contrary to the Local Plan and policies in the Framework.

The site is in an unsustainable location and would result in unacceptable impacts on highway safety. It would also have unacceptable impacts on the landscape character of the area and have unacceptable visual impacts. The design is also not one that reflects the rural location it is in and is poor.

Whilst the Coal Mining impacts may be able to be investigated and resolved that matter needs to be further investigated and is not acceptable at this stage.

The application is recommended for refusal.

RECOMMENDATION: Refuse

For the following reasons:

- 1 The proposed development would result in the unacceptable loss of a prominent greenfield site to the south of the settlement of Colne which currently makes a significant contribution to the landscape character and quality the area. In visual terms, there would be unacceptable impacts on views looking towards the application site from the north, in particular from the opposite side of the valley and for users on the footpaths approaching and passing through the site. The proposed development would be contrary to policy ENV1 of the adopted Part 1 Local Plan Replacement Pendle Local Plan and paragraphs 174 of the National Planning Policy Framework and policy ENV1 of the adopted Part 1 Local Plan –Core Strategy.
- 2 The development is served by poor highway infrastructure including lack of adequate footpaths and cycle routes into Colne. The bridge at the bottom of Lenches Road and the junction of Knotts Lane and Lenches Road are inadequate to safely accommodate the traffic that would be generated by the development. The development would therefore be unsustainable and lead to a situation where there would be an unacceptable danger to users of the public highway. It would thus be contrary to paragraph 111 of the National Planning Policy Framework and Policy ENV4 of the adopted Part 1 Local Plan – Core Strategy.
- 3 The development is poorly designed in the context of the character and appearance of the development being alien and not reflective of its setting. The development would thus be contrary to policy ENV 2 of the adopted Part 1 Local Plan – Core Strategy and to paragraph 134 of the National Planning Policy Framework and Policy.
- 4 The application site lies in a High Risk Area for former coal mines and there are former mine entries on site. Insufficient information has been presented to adequately assess the impacts these former mine entries would have on ground stability. The development is thus contrary to paragraph 184 of the National Planning Policy Framework.