



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

**TO:** COLNE & DISTRICT COMMITTEE

**DATE:** 13<sup>TH</sup> OCTOBER 2022

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## PLANNING APPLICATIONS

### PURPOSE OF REPORT

To consider the attached planning applications for determination by Council.

## REPORT TO COLNE AND DISTRICT COMMITTEE ON 13<sup>TH</sup> OCTOBER 2022

**Application Ref:** 22/0333/FUL  
**Proposal:** Full: Erection of two detached dwellings.  
**At:** Land To The West Of Garfield, Keighley Road, Colne  
**On behalf of:** DVL Properties Ltd  
**Date Registered:** 05/01/2022  
**Expiry Date:** 02/03/2022  
**Case Officer:** Alex Cameron

This decision was deferred by Colne Committee in September for the submission of the additional ecology survey report and alterations to the design of the gates.

### **Site Description and Proposal**

The application site is a field located within the Green Belt to the south of the settlement boundary of Laneshawbridge. To the north is the former Hartley Hospital site including the Grade 2 Listed almshouses, gate and gardens. To the west are dwellings on Spring Grove, to the east is a pair of semi detached dwellings and a new residential development under construction, to the south is a wooded area with Colne Water beyond and the boundary of the Trawden Forest Conservation Area.

The proposed development is the erection of two detached four bedroom dwellings with attached triple garages. The proposed dwellings would be of a split level design cut into the hillside with sedum green roofs and natural stone walls with sections of cedar cladding.

### **Relevant Planning History**

13/03/0667P - Erect 3 detached dwellings

### **Consultee Response**

LCC Highways – No objection subject to the necessary visibility splays being achievable.

United Utilities – No objection subject to drainage condition.

Growth Lancashire Conservation - Firstly, I note the proximity of the site to both Lidgett and Bents and Trawden Forest Conservation Areas. However having visited the site I do not regard the site to be visually connected to either conservation area and agree with the comments made in the Planning Statement (5.28-5.29) that the setting to these conservation areas would not be harmed by the development as proposed.

In relation to the listed buildings which lie directly opposite, the issue from a heritage viewpoint the issue is whether the current site contributes to the significance of those assets and whether the development, as proposed, would diminish that contribution.

In the advice provided by Historic England's Planning Note 3 (second edition) The Setting of Heritage Assets (2017) describes setting as being the surroundings in which a heritage asset is experienced. It discusses how views can contribute to the significance of an asset and the importance of relationships between buildings. As such the guidance explains that the influence of

setting may be far more extensive than its immediate curtilage and need not be confined to areas, which have public access. Whilst setting is often expressed by reference to visual considerations, it is also influenced by the historic relationships between buildings and places.

The Hartley Homes Almshouses and Lychgate are very important heritage assets and have a high architectural significance and this is added too by the historic association to the founder, Sir William Pickles Hartley. Both buildings are highly visible from the road and are a striking example of high quality early C20th design. The almshouses are still serving their original purpose of providing social housing to older people with a long connection to the area.

The almshouses were essentially designed to be viewed from the roadside, with the three independent blocks forming the sides of an enclosed landscaped garden to the front (south) elevation. The lychgate forms a central entrance into the gardens with a pathway which leads up to the 3 storey clock tower, which is the principle feature on the rear (northern) range. The almshouses form a frame on three sides around a garden, with the lychgate as a central feature on the road, mirrored by the clocktower at the rear. The landscaped, terraced garden is a major part of the overall design, and is described in the listing.

These views will not change as a result of the proposed scheme. The properties are far enough removed not to impact on the appreciation of the listed almshouses and lychgate and key roadside views of those assets are not harmed.

Outwardly, the design incorporates an upper terrace with extensive views across to the Colne Water valley to the south. Whilst development has occurred in the area alongside Keighley Road and roadside trees have impinged onto the views, the essence of the original intention in the design and the importance of the location and wide landscape views can still be appreciated. In this respect I assign some, albeit limited value, to the appreciation of the wider southern view to the significance of the almshouses, which includes the application site.

The applicant and architect have clearly designed these new dwellings to minimise the impact beyond the site and the low profile split level design with flat roofs offer a minimal profile to the roadside. The use of natural stone also assists in blending the new designs into the landscape. Beyond this I have no comments to make regarding the design.

The provision of the new entrance drives/gates will largely sit within the site and will not impinge on the important views of either listed building.

As noted above I am mindful that roadside vegetation/trees now form the northern boundary of the application site and that it is intended to maintain these as a landscaped boundary screen in the scheme. Whilst the two new properties will be seen through the newly formed entrance drives/gates, largely views will be very limited and when approaching the site along Keighley Road, both properties, will be essentially unseen behind the frontage vegetation.

In this context, I think the level of harm to the setting will be very limited and will not amount to it being any discernible level and overall the significance of the listed almshouses and lychgate will remain unharmed. Therefore, in my view the LPA is not required to undertake a balancing exercise as per P.202 of the NPPF.

Clearly, it will be important to retain the trees and the enclosure afforded the new properties along the roadside boundary and I would want to limit any losses through the formation of the access drives.

As I am required to do so, I have given the duty's imposed by s.66(1) and s.72(1) of the P(LBCA) Act 1990 considerable weight in my comments.

As I do not consider that, the proposal would cause any substantial harm or loss of significance to the designated assets identified in my assessment the proposal meets the statutory test 'to preserve'. As such, the proposal would conform with the national planning advice contained in Chapter 16 of the NPPF and meet the requirements of Policy ENV 1 and Policy ENV 2 of the Pendle Local Plan (2011-2030).

I would recommend that if the Council is to approve the application that suitable conditions are added re the approval of facing materials.

PBC Environmental Health – Please attach a construction method statement condition and contamination note.

Colne Town Council -

## **Public Response**

Press and site notices posted and neighbours notified – Responses received objecting on the following grounds:

- Concerns regarding the height of fencing and landscaping to the west boundary impacting on views from and light to properties on Spring Grove.
- Concern about changes to ground levels along the eastern boundary.
- Harm to the openness of the Green Belt for which there are no very special circumstances demonstrated.
- Impact on the adjacent listed buildings.
- The design is not in keeping with nearby dwellings.

Response received raising no objection subject to accordance with the submitted plans and commenting that the proposed houses will be stunning.

## **Officer Comments**

### **Policy**

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 (Achieving Quality in Design and Conservation) All new development should viably seek to deliver the highest possible standards of design, in form and sustainability. Developments should maintain the openness of the Green Belt.

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.

### Replacement Pendle Local Plan

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

### National Planning Policy Framework

Paragraph 149 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include limited infilling in villages.

### **Principle of the Development**

The proposed dwelling is located in a sustainable location with nearby access to services facilities and public transport and therefore is acceptable in principle in accordance with policy LIV1.

### **Green Belt**

The Framework allows limited infilling within villages as development that is not inappropriate in the Green Belt.

In assessing this application the settlement limits are governed by the Local Plan, the settlement boundary of Lanshawbridge runs along the full length of the frontage of the site, within Policy SDP2 this location would be categorised as part of the rural village of Laneshawbridge.

The proposed development would infill an area between the dwellings at Spring Grove and Garfield and the proposal is for two dwellings, although individually large would constitute a limited level of development.

The development would therefore meets the exception for limited infilling within villages and therefore is not inappropriate development.

The dwellings would be set down the hillside in on a split level spacious plots and although large in footprint they would be largely single storey with flat green roofs, with a split-level two storey element only to the south side. This together with the open space around the plots would minimise their impact on the openness of the Green Belt.

Taking these factors into account the development in not inappropriate development and would not result in an unacceptable impact on the Green Belt.

### **Design**

The proposed dwellings would be of a contemporary design, with large sections of glazing but would also have green roofs and natural stone walls. The dwellings would be unlikely to be

prominently visible from Keighley Road, being set down and back behind the existing line of trees that would be largely retained other than to allow for the formation of the vehicular accesses. They would be visible from across the valley but would be set into the hillside and alongside existing development and would not result in unacceptable landscape and visual impacts, it has also been confirmed that the glazing in the south elevation would be anti-reflective to prevent impacts of glare on the valley from the sun reflecting off the glazing in that elevation.

Concerns were raised by Colne Committee regarding the ornate design of the proposed gates, amended plans have been received simplifying the design of the gates.

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

### **Heritage Impact**

The site is located opposite the Hartley Hospital almshouses and gate which are Grade 2 Listed buildings. The development is set down on lower land below that site, due to this physical separation and the landscaping between the development would have a negligible impact upon the setting of the Listed Buildings and result in no harm to their significance.

The site is also adjacent to Trawden Forest Conservation Area approximately 60m to the south. Although the site would be visible in views out of the Conservation Area, for the reasons set out in the visual amenity section it would not result in harm to the significance of that or the nearby Lidgett and Bents Conservation Area.

The proposed development is therefore acceptable in terms of heritage impact in accordance with policies ENV1 and ENV2.

### **Impact on Amenity**

The proposed dwellings would be a sufficient distance from adjacent dwellings to ensure that they would not result in any unacceptable loss of privacy, light or overbearing impact.

Concerns have been raised in relation to the potential impact of boundary fencing, landscaping and alterations to levels on the residential amenity of dwellings on Spring Grove facing the site.

Whilst landscaping and boundary treatments would be controlled by the recommended conditions this is for reason of visual amenity. Permitted fencing of up to 2m in height would not result in any unacceptable impacts upon the residential amenity of occupants of properties on Spring Grove. It would also not be reasonable or necessary to restrict the future planting of trees within the gardens of the proposed properties, the planning system does not protect private views such as those from Spring Grove across the site.

The plans do not indicate any proposed change in levels adjacent to the eastern boundary with Spring Grove, final details of levels and any retaining walls would be controlled by the recommended conditions.

The proposed dwellings would raise no unacceptable residential amenity impacts in accordance with policy ENV2.

### **Trees & Ecology**

There are two protected trees within the site, protected under TPO No1. 1963 those are a Lombardy Poplar and Horse Chestnut on the northern boundary of the site, there is also a

protected Alder adjacent to the south east end of the site and dense hedge running along the north boundary of the site.

The Lombardy Poplar is identified as being in poor condition in the tree survey and is recommended for removal irrespective of the development.

The hedge is identified by the ecology survey as being a species rich hedgerow. Two approximately 6m sections of the hedge would be removed to make way for the two accesses but the rest of the hedging is proposed to be retained. The ecology survey recommends that the loss of the sections of hedgerow can be acceptably mitigated by planting a new area of hedgerow along the western boundary of the site, this would also offer some additional screening of the development. With replacement trees, additional landscaping and control of final levels the proposed development would not result in an unacceptable impact upon trees.

The report identifies the potential for amphibian species to be present on and adjacent to the site, it advises that a condition for suitable a mitigation plan can ensure that there are no unacceptable impacts.

The ecology report also identifies potential for the site to provide habitat for protected reptiles, it recommends that further survey work is necessary to establish whether reptiles are present on site. Those surveys are being carried out and the ecologist has initially advised that no protected reptiles were found, however the report confirming that is still being prepared at the time of writing this report. Subject to the receipt of an acceptable report confirming that finding the development would be acceptable in terms of its impact on ecology.

## **Highways and Access**

The proposed accesses and car parking provision are acceptable. The development is acceptable in terms of highway safety.

## **Previous Decisions**

An application was refused for three dwellings across this and the adjacent site now under development in 2003 on the grounds of inappropriate development in the green belt and open countryside, loss of protected trees and highway safety due to general concerns regarding proliferation of accesses due to ribbon development and precedent for other future development.

There have been changes in policy with regard to development outside of settlement boundaries, in relation to infill development within the Green Belt and highways impacts since the determination of that application. As detailed above the proposed development does represent acceptable development within the open countryside and Green Belt.

The proposed development is acceptable in terms of highway safety. Each application is dealt with on its own merits and setting of a precedent for other development would not be a defensible reason for refusal of this application.

## **Conclusion**

It is recommended that the approval of the application, and any conditions necessary, is delegated to the Planning, Economic Development and Regulatory Services Manager subject to the receipt of acceptable additional ecology survey report.

## **Reason for Decision**

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed development is acceptable in all relevant regards. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

### **RECOMMENDATION: Approve**

Subject to the following conditions:

1. The proposed development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason:** Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: 22/33/1, 22/33/2, 22/33/5, 22/33/6A, 22/33/7, 22/33/10, 22/33/11A, 22/33/9B.

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

3. Prior to the commencement of above ground works involved in the erection of the external walls of the development samples of the external materials to be used in the elevations and boundary walls of the proposed development shall have been submitted to and approved in writing by the Local Planning Authority, the development shall thereafter be carried in strict accordance with the approved materials.

**Reason:** To allow the Local Planning Authority to control the external appearance of the development in the interest of visual amenity.

4. The dwelling hereby approved shall not be occupied unless and until the car parking spaces shown on the approved plans have been surfaced in a bound material and made available for car parking purposes. The spaces shall thereafter at all times be maintained free from obstruction and available for car parking purposes.

**Reason:** to ensure adequate car parking provision in the interest of highway safety.

5. Prior to first occupation of the approved dwellings that part of the internal access road extending from the entrance gates for a minimum distance of 5m into the site shall be hard surfaced in bound porous material.

**Reason:** In the interest of highway safety to prevent loose surface material from being carried on to the public highway, where it could pose a hazard to road users.

6. The demolition of the existing dwelling shall not commence unless and until a Construction Method Statement has been submitted to and approved in writing by the Local planning Authority. The Method statement must cover the topics detailed below:

- The parking of vehicles of site operatives and visitors
- The loading and unloading of plant and materials
- The storage of plant and materials used in constructing the development



- The erection and maintenance of security hoarding
- Wheel washing facilities
- Measures to control the emission of dust and dirt during construction
- A scheme for recycling/disposing of waste resulting from clearance and construction works
- Details of working hours
- Timing of deliveries
- Measures to ensure that construction and delivery vehicles do not impede access to neighbouring properties.
- Construction site noise and vibration
- Control of burning onsite

The development shall be carried out only in strict accordance with the approved Construction Method Statement.

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

7. The development shall be carried out in strict accordance with the mitigation recommendations of the submitted Preliminary Ecological Appraisal.

**Reason:** To ensure that the development preserves and enhances the ecology of the site.

8. Notwithstanding the provisions of Article 3 and parts 1 and 2 of the second Schedule of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development as specified in Classes A & E of Part 1 and Class A or Part 2 of that Order shall be carried out without express planning permission first being obtained from the Local Planning Authority.

**Reason:** To enable the Local Planning Authority to control any future development on the site in order to preserve the openness of the Green Belt

9. The development hereby approved shall not commence unless and until a detailed landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- i) The exact location and species of all existing trees and other planting to be retained;
  - ii) An outline specification for ground preparation for landscaped areas;
  - iii) All proposals for new planting and turfing, indicating the location, arrangement, species, size, specifications, numbers and planting densities;
  - iv) All proposed boundary treatments with supporting elevations and construction details;
  - v) All proposed hard landscaping elements and paving, including layout, materials and colours;
  - vi) The proposed arrangements and specifications for initial establishment maintenance and long term maintenance of all planted and/or turfed areas.

The approved scheme shall be implemented in its agreed form prior to the end of the first planting season following substantial completion of each phase of the development to which it is associated. Any trees or plants which within a period of 5 years from the completion of

the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

**Reason:** In the interest of visual amenity and to preserve the setting of the adjacent Listed Buildings.

10. There shall be no alterations to the levels of the site unless and until additional level or section plans detailing any alterations to land levels within the site, including details of any retaining walls proposed, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in strict accordance with the approved details.

**Reason:** In the interest of visual amenity and to ensure that trees to be preserved on site are not harmed.

11. Unless otherwise approved in writing by the Local Planning Authority no ground clearance, changes of level or development or development-related work shall commence until protective fencing, in full accordance with BS 5837 : 2012 has been erected around each tree/tree group or hedge to be preserved on the site or on immediately adjoining land, and no work shall be carried out on the site until the written approval of the Local Planning Authority has been issued confirming that the protective fencing is erected in accordance with this condition. Within the areas so fenced, the existing ground level shall be neither raised nor lowered. Roots with a diameter of more than 25 millimetres shall be left unsevered. There shall be no construction work, development or development-related activity of any description, including service runs, the deposit of spoil or the storage of materials within the fenced areas. The protective fencing shall thereafter be maintained during the period of construction.

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

**Reason:** To ensure that the trees are suitably protected throughout the construction process.

12. Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage schemes must include:

- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;
- (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations);
- (iii) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
- (iv) Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
- (v) Foul and surface water shall drain on separate systems.

The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

**Reason:** To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

13. No development of each plot hereby approved shall commence until a scheme for the construction of the site access, including any off-site works of highway improvement, has been submitted to, and approved by, the Local Planning Authority.

**Reason:** In order to ensure that the final details of the highway scheme/works are acceptable before work commences on site.

14. Prior to first occupation of each approved dwelling visibility splays measured 2.4m back from the centre line of the access and extending 43m in both directions on the nearside carriageway edge on Keighley Road shall be provided as shown on the approved plans. Nothing shall be erected, retained, planted and/or allowed to grow at or above a height of 0.9m above the nearside carriageway level which would obstruct the visibility splays. The visibility splays shall be maintained free from obstruction thereafter for the lifetime of the development.

**Reason:** In the interest of highway safety to ensure adequate inter-visibility between highway users at the site access.

15. Prior to first occupation of each individual plot the vehicular access shall be constructed to an appropriate standard and the driveway paved in a bound porous material.

**Reason:** In the interest of highway safety to ensure adequate vehicular access to the plot and to prevent loose surface material from being carried on to the public highway.

16. All windows and balconies in the south elevation shall be fitted with anti-reflective glazing the specification of which shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. Any replacement glazing shall be of approved anti-reflective specification.

**Reason:** In the interest of visual amenity.

Notes: If during any stage of the development any miscellaneous substances, made ground or potentially contaminated ground that has not been previously identified and planned for in a report is uncovered, work in the area must stop immediately and the Environmental Health Department at the Borough of Pendle should be made aware. No work should continue until a contingency plan has been developed, and agreed with the local planning authority.

The grant of planning permission will require the applicant to enter into an appropriate legal agreement (Section 278 short form), with Lancashire County Council as the

Highway Authority prior to the start of any development. For the avoidance of doubt works shall include, but not be exclusive to:

the construction of the accesses to an appropriate standard, including the re-location of any highway gullies necessary.

The existing dropped kerbs within the bus box carriageway markings adjacent to the access to Plot 2 shall be reinstated to full height.

The applicant should be advised to contact the county council for further information by telephoning the Development Control Section (Area East) on 0300 123 6780 or by email on [developeras@lancashire.gov.uk](mailto:developeras@lancashire.gov.uk) , in the first instance to ascertain the details of such an agreement and the information to be provided, quoting the relevant planning application reference number.

**Application Ref:** 22/0333/FUL

**Proposal:** Full: Erection of two detached dwellings.

**At:** Land To The West Of Garfield, Keighley Road, Colne

**On behalf of:** DVL Properties Ltd

## REPORT TO COLNE AND DISTRICT COMMITTEE ON 13<sup>TH</sup> OCTOBER 2022

**Application Ref:** 22/0473/FUL

**Proposal:** Full: Major: Demolition of existing buildings and erection of 17 residential dwellings with associated access, car parking and landscaping.

**At:** Croft Mill, Lowther Lane, Foulridge

**On behalf of:** Skipton Properties Ltd

**Date Registered:** 11/07/2022

**Expiry Date:** 24/10/2022

**Case Officer:** Alex Cameron

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

### **Site Description and Proposal**

The application site is a former mill located within the settlement of Foulridge, there is a former industrial building now a gymnastics centre to the south, and dwellings to the other sides, Lowther Lane runs to the east and Sycamore Rise to the North.

The proposed development is the demolition of the existing industrial buildings and erection of a housing development of 17 dwellings comprising 13 three bedroom and 4 four bedroom dwellings in a mixture of detached and semi-detached two storey houses. The proposed materials are natural stone walls, cills and jambs, concrete roof tiles, cream uPVC casement windows and black composite doors.

### **Relevant Planning History**

None.

### **Consultee Response**

**LCC Highways** – Objects to raised footway and internal pedestrian layout.

However, the highway authority does not object to the principle of development and believes that the development layout can be amended appropriately to address the concerns raised. If suitably amended plans are submitted which satisfactorily address those concerns then the highway authority may consider withdrawing its objection. In which case, highway related conditions and informative note, which the highway authority would provide, will need applying to any formal planning approval granted.

**PBC Environmental Health** – Please attach contaminated land and construction nuisance conditions.

**United Utilities** – Comments related to provision of water services and building over United Utilities' assets.

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

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

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

**East Lancashire Hospitals NHS Trust** - Request a contribution to provide additional services to meet patient demand when the dwellings are first occupied.

**Foulridge Parish Council** - No objections to this application, however, the parish council would like to be assured that neighbouring residents' concerns will be addressed.

### **Public Response**

Press and site notices posted and nearest neighbours notified. The following response objecting to the development has been received:

- Concerns relating to the stability of the boundary wall to Sycamore rise and Meadow Close
- Lowther lane is unsuitable to provide access to the development accommodated the traffic that would be generated by the development

### **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. Foulridge is a Rural Service Centre entre which provide the focus for growth in Rural Pendle.

Policy SDP3 identifies housing distribution in Rural Pendle as 12%, 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 5 or more dwellings in Rural Pendle this is 20%.

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**

The site is located in a sustainable location within the settlement of Foulridge with access to public transport within walking distance. The proposed development would contribute towards the delivery of the Council's required housing provision and is acceptable in principle in accordance with policies SDP2 and LIV1.

### **Visual Amenity**

The design the proposed housing would reflect the character of the village and it would present an

attractive and varied street frontage to Causeway and the corner of Lowther Lane, providing a visual improvement on the current industrial site. The area and the layout would reflect the existing settlement pattern and be of acceptable density. The proposed development is acceptable in terms of visual amenity in accordance with policies ENV2 and LIV5.

## **Residential Amenity**

Windows in the east side of plot 14 would face the side of No.2 Causeway, separated by 14m and at an angle. There is a ground floor habitable room window in the side of that property which is currently screened by a hedge, however, even if the hedge were to be removed taking into account the angle of view and that it would be across a highway the development would not result in an unacceptable privacy impact.

A raised pedestrian footpath is also proposed alongside Lowther Lane, taking into account the existing windows facing across Lowther Lane and that pedestrians are likely to currently walk along the highway of Lowther Lane this would not result in an unacceptable reduction of privacy to the facing properties on Lowther Lane and Causeway.

The proposed development would not result in 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 dwellings.

There is a gymnastics centre to the north, taking into account that the hours of operation are limited by condition that would not result in unacceptable impacts on the amenity of occupants of the proposed dwellings.

The proposed development is therefore acceptable in terms of residential amenity in accordance with policies ENV5 and LIV5.

## **Ecology**

An bat survey has been submitted with the application, this establishes that the site is not in use by bats and gives reconditions to avoid impacts on birds. The proposed development would enhance the ecology of the site.

## **Open Space and Landscaping**

Policy LIV5 requires that provision for public open space and/or green infrastructure is made in all new housing developments. An area of landscape green space is proposed to the northern end of the site adjacent to Sycamore Rise. Taking into account the constraints of developing this brownfield site this would provide acceptable public open space provision in accordance with policy LIV5.

## **Drainage and Flood Risk**

It has been acceptably demonstrated that, subject to conditions to control details of drainage, the development would not be at unacceptable risk of flooding or increase the risk of off-site flooding.

## **Highways**

The level of car parking proposed is acceptable in accordance with the parking standards set out in the RPLP.

LCC Highways initially raised concerns in relation to the proposed separate raised footway along Lowther Lane and internal pedestrian layout, following clarification from the applicant on the



reasons it is necessary due to the presence of a substation, LCC they have informally confirmed that the footway would be acceptable and agreed to alterations to address their concerns. Final comments from LCC and plans from the applicant are to be submitted. Subject to receipt of this the proposed development is acceptable in terms of highway safety and its impact on the surrounding road network.

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

## **Other Issues**

Concerns have been raised regarding the stability of the boundary wall with Sycamore Rise should the levels be altered adjacent to it. There are no proposals to alter land levels shown in the area adjacent to the wall.

## **Contributions**

### Affordable Housing Provision

Policy LIV4 sets a requirement of 20% affordable housing for developments of this scale in Rural Pendle, this would result in a requirement for the provision of 3 affordable dwellings. However, the development involves the demolition of an existing vacant building and therefore Vacant Building Credit applies, due the floorspace of the buildings to be removed being greater than the total floorspace of the proposed dwellings this results in an affordable housing requirement of 0% when the Vacant Building Credit is applied and therefore no affordable housing is required.

### NHS

A request has been made from East Lancashire Hospitals NHS Trust for a contribution towards the cost of acute healthcare interventions it calculates will be generated by the residents of the 17 dwellings in the first years of their occupation, for which the Trust states there is a funding gap.

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

Section 106 of the 1990 Act provides as follows:

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

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

(2) A planning obligation may—

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

requires the payment of periodical sums, require them to be paid indefinitely or for a specified period....”

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

- (1) This regulation applies where a relevant determination is made which results in planning permission being granted for development.
- (2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—

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

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

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

“infrastructure” includes—

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

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

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

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

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

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

We have also raised a concern about the timing of funding and that developments can take several years in order to come to fruition. From the information supplied to us it appears that once a development is known about then financing is included in the next budgetary year. The issue therefore is that if developments take several years to come forward and they are included in

financial planning after year 1 then the developer would be paying for services already funded in the standard funding formulae.

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

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

Committee are therefore recommended not to require a contribution to the NHS as the evidence is not robust enough to confirm that the funding is directly enough related to the development and is fairly and reasonably related in scale and kind to the development. The level of contribution would also undermine the already low level of profitability and would jeopardise whether or not the scheme would proceed. The provision of affordable housing is a major need within Pendle and significant weight should be attached to providing that housing.

## **Conclusion**

It is recommended that the approval of the application, and any conditions necessary, be delegated to the Planning, Economic Development and Regulatory Services Manager subject to the receipt of comments from the Lead Local Flood Authority

## **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 Local Planning Policy and the guidance set out in the Framework, subject to compliance with planning conditions. 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. The proposed development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

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

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

Reason: To allow the Local Planning Authority to control the external appearance of the development in the interest of visual amenity.

4. The window openings shall be set back from the external face of the wall. The depth of reveal shall be at least 70mm.

Reason: To ensure the continuation of a satisfactory appearance to the development.

5. The development shall be carried out in strict accordance with the recommendations of the submitted Bat Activity Survey PC22025/BAS/1.1.

Reason: to ensure that protected species are not harmed by the development.

6. No development shall take place, including any works of demolition, until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. It shall provide for:

- i) The parking of vehicles of site operatives and visitors
- ii) The loading and unloading of plant and materials
- iii) The storage of plant and materials used in constructing the development
- iv) The erection and maintenance of security hoarding
- v) Wheel washing facilities
- vi) Measures to control the emission of dust and dirt during construction
- vii) A scheme for recycling/disposing of waste resulting from demolition and construction works
- viii) Details of working hours
- ix) Routing of delivery vehicles to/from site

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

7. Within 3 months of commencement of the development 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: To ensure that the estate road is acceptably constructed in the interest of highway safety.

8. The internal estate roads shall be constructed in accordance with the approved engineering details and to at least base course level prior to first occupation of any dwelling, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the estate road is acceptably constructed in the interest of highway safety.

9. Prior to the occupation of each dwelling the driveways and parking areas serving that dwelling shall be constructed in a bound porous material and made available for use and thereafter maintained for that purpose for as long as the development is occupied.

Reason: To ensure adequate car parking provision in the interest of highway safety.

10. Prior to the occupation each dwelling the dwelling shall have a secure cycle storage provided at a ratio of 2 cycle spaces per dwelling.

Reason: To ensure adequate provision for sustainable transport.

11. Prior to the occupation of each dwelling the dwelling shall have an electric vehicle charging point installed. Charge points must have a minimum power rating output of 7kW, be fitted with a universal socket that can charge all types of electric vehicle currently.

Reason: To ensure adequate provision for sustainable transport.

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

- a. the exact location and species of all existing trees and other planting to be retained;
- b. all proposals for new planting and turfing indicating the location, arrangement, species, sizes, specifications, numbers and planting densities;
- c. an outline specification for ground preparation;
- d. all proposed boundary treatments with supporting elevations and construction details;
- e. all proposed hard landscape elements and pavings, including layout, materials and colours;
- f. the proposed arrangements and specifications for initial establishment maintenance and long-term maintenance of all planted and/or turfed areas.

The approved scheme shall be implemented in its entirety within the first planting season following the commencement of the use of the development. Any tree or other planting that is lost, felled, removed, uprooted, dead, dying or diseased, or is substantially damaged within a period of five years thereafter shall be replaced with a specimen of similar species and size, during the first available planting season following the date of loss or damage.

Reason: To ensure that the development is adequately landscaped so as to integrate with its surroundings.

13. The development shall not be commenced unless and until a method statement which sets out in detail the method, standards and timing for the investigation and subsequent remediation of any contamination which may be present on site has been submitted to and approved in writing by the Local Planning Authority. The method statement shall detail how:-

a) an investigation and assessment to identify the types, nature and extent of land contamination affecting the application site together with the risks to receptors and potential for migration within and beyond the site will be carried out by an appropriately qualified geotechnical professional (in accordance with a methodology for investigations and assessments which shall comply with BS 10175:2001) will be carried out and the method of reporting this to the Local Planning Authority; and

b) a comprehensive remediation scheme which shall include an implementation timetable, details of future monitoring and a verification methodology (which shall include a sampling and analysis programme to confirm the adequacy of land decontamination) will be submitted to and approved in writing by the Local Planning Authority.

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

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

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

14. The development permitted by this planning permission shall be carried out in accordance with the principles set out within the site-specific flood risk assessment (5th July 2022 / 22-027-001 – Version 3 / Hill Cannon). The measures shall be fully implemented prior to occupation of the development and in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

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

15. No development shall commence in any phase 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 surface water sustainable drainage strategy shall be based upon the site-specific flood risk assessment and indicative surface water 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. No surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly.

The details of the drainage strategy to be submitted for approval shall include, as a minimum;

- a) Sustainable drainage calculations for peak flow control and volume control for the:
- i. 100% (1 in 1-year) annual exceedance probability event;
  - ii. 3.3% (1 in 30-year) annual exceedance probability event + 40% climate change allowance, with an allowance for urban creep;
  - iii. 1% (1 in 100-year) annual exceedance probability event + 45% climate change allowance, with an allowance for urban creep
- Calculations must be provided for the whole site, including all proposed surface water drainage systems.
- b) Final sustainable drainage plans appropriately labelled to include, as a minimum:
- i. Site plan showing all permeable and impermeable areas that contribute to the drainage network either directly or indirectly, including surface water flows from outside the curtilage as necessary;
  - ii. Sustainable drainage system layout showing all pipe and structure references, dimensions and design levels; to include all proposed surface water drainage systems up to and including the final outfall;
  - iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
  - iv. Drainage plan showing flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
  - v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building and connecting cover levels to confirm minimum 150 mm+ 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, protect 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 BRE 365.

d) Evidence of an agreement in principle with the third party Water and Sewerage Company to connect to the off site surface water sewer, combined sewer.

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

16. No development shall commence until a Construction Surface Water Management Plan, detailing how surface water and stormwater will be managed on the site during construction, including demolition and site clearance operations, has been submitted to and approved in writing by the Local Planning Authority.

The details of the plan to be submitted for approval shall include for each phase, as a minimum:

a) Measures taken to ensure surface water flows are retained on-site during the construction phase(s), including temporary drainage systems, and, if surface water flows are to be discharged, they are done so at a restricted rate that must not exceed the equivalent greenfield runoff rate from the site.

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 plan shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.

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 surface water flood risk on-site or elsewhere during any construction phase.

17. The occupation of the development shall not be permitted until a site-specific Operation and Maintenance Manual 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 in writing by the Local Planning Authority.

The details of the manual to be submitted for approval shall include, as a minimum:

a) A timetable for its implementation;

b) Details of SuDS components and connecting drainage structures, including watercourses and their ownership, and maintenance, operational and access requirement for each component;

c) Pro-forma to allow the recording of each inspection and maintenance activity, as well as allowing any faults to be recorded and actions taken to rectify issues;

d) The arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme in perpetuity;

- e) Details of financial management including arrangements for the replacement of major components at the end of the manufacturer's recommended design life;
- f) Details of whom to contact if pollution is seen in the system or if it is not working correctly; and
- g) Means of access for maintenance and easements.

Thereafter the drainage system shall be retained, managed, and maintained in accordance with the approved details.

Reason: To ensure that surface water 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 sustainable drainage system is subsequently maintained.

18. The occupation of the development shall not be permitted until a site-specific verification report, pertaining to the surface water sustainable drainage system, and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority.

The verification report must, as a minimum, demonstrate that the surface water sustainable drainage system has been constructed in accordance with the approved drawing(s) (or detail any minor variations) and is fit for purpose. The report shall contain information and evidence, including photographs, of details and locations (including national grid references) of critical drainage infrastructure (including inlets, outlets, and control structures) and full as-built drawings. The scheme shall thereafter be maintained in perpetuity.

Reason: To ensure that surface water 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.

Notes:

The grant of planning permission will require the applicant to enter into a S278 Agreement, with the County Council as Highway Authority. The Highway Authority hereby reserves the right to provide the highway works within the highway associated with this proposal. Provision of the highway works includes design, procurement of the work by contract and supervision of the works. The applicant should be advised to contact Lancashire County Council for further information by emailing the Highway Development Control Section at [developeras@lancashire.gov.uk](mailto:developeras@lancashire.gov.uk)

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

**Application Ref:** 22/0473/FUL

**Proposal:** Full: Major: Demolition of existing buildings and erection of 17 residential dwellings with associated access, car parking and landscaping.

**At:** Croft Mill, Lowther Lane, Foulridge

**On behalf of:** Skipton Properties Ltd



## REPORT TO COLNE AND DISTRICT COMMITTEE ON 13<sup>TH</sup> OCTOBER 2022

**Application Ref:** 22/0485/FUL

**Proposal:** Full: Formation of new field access

**At** Field 3226 At The Junction With Reedymoor Lane, Foulridge

**On behalf of:** Mr T Philpot

**Date Registered:** 18/7/2022

**Expiry Date:** 12/9/2022

**Case Officer:** NW

### **Site Description and Proposal**

The application site is situated on an unclassified single carriageway highway. The highway here is straight with hedges on the application site with a stone wall opposite. There is a new telecommunications pole in the highway verge. There is a large mature oak tree to the south west of the proposed access and a mature ash tree to the north east.

### **Relevant Planning History**

21/0844/FUL. Approved. 16/12/2021.

### **Consultee Response**

Highways: No objections. Works should include, but not be exclusive to, the construction of the access to an appropriate standard, including a minimum width of 6.5m, 10m radius kerbs on both sides of the access and construction of surface water drainage system across the new access with internal site outfall. This requires an amendment to the submitted drawing which proposes a 5m width with 4m radii.

Reedymoor Lane outside the site is subject to a maximum speed limit of 60mph. For a road with a speed limit of 60mph a Stopping Sight Distance of 215m should be provided. Given the layout of Reedymoor Lane these visibility splays cannot be achieved without the loss of extensive lengths of hedgerow, and even then, they may not be achievable due to the carriageway layout.

However, an automated traffic count was submitted in 2019 for application 18/0594/FUL. This demonstrated 85<sup>th</sup> percentile speeds of 30.5mph (Northbound) and 30.3mph (Southbound). Based on these speeds visibility splays of 44m (Northbound) and 43m (Southbound) would be required.

Foulridge Parish Council: We agree with concerns of residents which object to the felling of mature trees, especially an oak tree which appears to be close to the proposed access.

We note the concerns of residents regarding the volume of traffic on the lane and the restricted width along its length impacting highway safety. We would also like to refer to the report in November 2021 by Janet Simpson from LCC Highways where comments and concerns were made regarding highway safety on the lane and that conditions should be applied.

Canals and Rivers Trust: based on the information in the application we have no comments to make.

Environment Officer: The Oak Tree will remain as part of the development. It is suitable for a TPO to be placed on it as it has amenity value in the area.

The large Ash Tree also has amenity value but is suffering from Ash die back. The life expectancy is limited. It would not therefore be appropriate to place a TPO on the tree as it will need to be removed at some point in the near future as the die back develops further.

## **Public Response**

Several letters have been received commenting as follows:

- We would like you to investigate placing a TPO on the trees.
- There is a lot of wildlife in the area.
- Planning permission was granted retrospectively for stables at the site.
- The Planning Application does not state a purpose for forming this 'new field access', but it seems reasonable to assume that it is connected to a recent proposal by the owner/applicant to operate a Touring Caravan Site in the field.
- The proposal, to The Caravan & Motorhome Club, in June 2022, was for a Certificated Location, authorised by them, which does not require Local Authority Planning Approval.
- One of the few conditions of these Certificated Locations is safe access & a safe approach road.
- The form should describe the use of the site
- The lane is unsuitable for any further traffic
- At present this condition doesn't appear to be met. However, if Planning Approval is granted for this additional wide entrance to the field, then the Caravan Site or other further development, with or without consent, will follow.
- The proposal is environmentally damaging as the trees and hedgerows are important features in the area.
- The field is used for equine and is a hobby.
- There is no reasonable purpose for the access.
- The lane is narrow and suffering from over use and use for caravans would be dangerous
- There is no reason given for the application
- The conditions for the last application need to be considered.
- The owners move commercial vehicles on and off the site
- Would like to know who in Pendle is encouraging the developers

## **Relevant Planning 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 ENV1 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 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. Saved Policy 31 of the Replacement Pendle Local Plan sets out the maximum parking standards for development. National Planning Policy Framework The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies in the Framework, taken as a whole, constitute the Government's view of what sustainable

development in England means in practice for the planning system. The Design Principles Supplementary Planning Document (SPD) applies to extensions and sets out the aspects required for good design.

### **Officer Comments**

The application seeks permission to form an access into the field. The field is used for agricultural purposes. There is a group of stable buildings on the north east side of the site. Comments have been received which are concerned with what the access may be used for in future and what it may lead to being developed on the site. These are not germane to the land use merits of the application which revolve around whether an access to serve the site is or is not an acceptable development.

The provision of the access would involve puncturing a hole in the existing hedge and creating an opening with a gate across it. There is a 1m setback of the hedge from the edge of carriageway which lessens the need to remove the hedge to create a site line. The access can be created with the majority of the hedge being retained. Any part of the hedge lost can also be re-planting with native indigenous species which will, once grown to maturity, will preserve the existing visual conditions.

Accesses for agricultural purposes are commonly found in rural areas. The access itself would not look out of place in its setting and would be visually acceptable in its location.

The Oak tree will not be affected by the development and will remain. The Ash tree would be behind the visibility splay. However it will need to be removed at a point in the short term due to Ash die back. Requiring its retention cannot be justified due to this.

The lane leading to the access is single track and there are no passing places. Increasing the use of the lane with other non-agricultural traffic would not be acceptable in highway safety terms. The fields need to be maintained and looked after as do any agricultural fields so it is not unreasonable to allow agricultural vehicles to use the access. However allowing for example caravans to use the lane to access the field would create a situation inimical to highway safety. A condition limiting the use of the access to agricultural use would be appropriate.

### **Reason for Decision**

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed housing development would accord with Local Planning Policy and would be compliant with the guidance set out in the Framework, subject to compliance with planning conditions. 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. The proposed development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason:** Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

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

- 3 The materials to be used externally on the development hereby permitted shall match in colour form and texture the external facing materials on the existing dwelling.

**Reason:** In order to ensure the development is of an acceptable design.

- 4 No part of the hedge shall be removed to provide for visibility splays unless and until a detailed plan showing precisely which parts of the hedge will be removed and which will be retained has been submitted to and been improved in writing by the Local Planning Authority. Thereafter only the hedge shown to be removed on the approved plan shall at any time be allowed to be removed. Further the sections of hedge removed up to the access shall be replaced with a hedge of similar species and composition as the hedge removed.

**Reason:** In order to preserve the rural character of the area and in order to preserve the visual amenity of the area.

- 5 The access hereby permitted shall only ever be used for agricultural vehicles and agricultural machinery and not by any other vehicles whatsoever.

**Reason:** The lane serving the site is not suitable for an increase in traffic that would be generated by the use of the access for non-agricultural activities.

- 6 The access and visibility splays shown on the approved plans shall be provided in their entirety prior to the first use of the access. This shall include surfacing the access for 10m into the site when measured from the running edge of carriageway. Nothing shall thereafter be allowed to grow in the visibility splays provided.

**Reason:** In order to ensure the access and visibility splays are provided to an acceptable standard in the interests of highway safety.

**Application Ref:** 22/0485/FUL

**Proposal:** Full: Formation of new field access

**At** Field 3226 At The Junction With Reedymoor Lane, Foulridge

**On behalf of:** Mr T Philpot

## REPORT TO COLNE AND DISTRICT COMMITTEE ON 13<sup>TH</sup> OCTOBER 2022

**Application Ref:** 22/0497/FUL

**Proposal:** Full: Demolition of former poultry sheds, removal of silo feed hoppers and erection of agricultural building (resubmission).

**At:** Hilldene, Rock Lane, Keighley Road, Trawden

**On behalf of:** Mr Ian Barker

**Date Registered:** 22/07/2022

**Expiry Date:** 16/09/2022

**Case Officer:** Alex Cameron

This application has been brought before Committee at the request of a Councillor.

### **Site Description and Proposal**

The application site is a group of agricultural buildings located adjacent to the settlement of Trawden and within the Trawden Forest Conservation Area. The site is located on the valley side with a garage colony to and dwellings to the south and east and fields to the north and west.

The proposed development is the demolition of existing sheds and a hopper and erection of an agricultural building for livestock and machinery storage with a footprint of 12m x 10m and a ridge height of 4.6m.

This is a resubmission of a previously refused application for a larger building with a footprint of 15m x 10m and a ridge height of 5.2m. The building would have Yorkshire boarding upper walls, concrete block lower walls and powder coated profiled metal sheet roof.

### **Relevant Planning History**

22/0052/FUL - Full: Demolition of former poultry sheds, removal of silo feed hoppers and erection of agricultural building (For storage of equipment) measuring 15m x 10m x 5.2m in height (To ridge). Refused

### **Consultee Response**

LCC Highways – No objection.

Cadent Gas – No objection, informative note required.

Trawden Forest Parish Council –The Parish Council would still question the size of building to agricultural need. Is this field really suitable for a yield of hay? It is incredibly steep and as stated in the application is an undulating site. It would be suitable for sheep, but they wouldn't need as much space – especially using the comparison of nearby recent application - 18.28 x 9.14 for 10.87 acres (sheep).

The proposal includes housing a substantial amount of agricultural machinery, which appears to be excessive for the size of land it serves.

## **Public Response**

A press and site notice has been posted and nearest neighbours notified – Response received objecting on the following grounds:

- Questions whether the land is suitable for a yield of hay.
- Concerns about possible use of the building as a dwelling or vehicle repair garage and noise impacts from use as a garage.
- The negative impact the demolition/building work will have on wildlife, in particular roosting bats which live in the poultry sheds, ground nesting birds and newts also inhabit nearby.

## **Officer Comments**

### **Policy**

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

ENV1 (Protecting and Enhancing Our Natural and Historic Environments) states that proposals in the designated open countryside should have regard to the Development in the Open Countryside SPG.

ENV2 (Achieving Quality in Design and Conservation) All new development should viably seek to deliver the highest possible standards of design, in form and sustainability.

### **Principle of the Development**

The previous application was refused for the following reason:

*The applicant has failed to adequately demonstrate that the size of the proposed building is commensurate to the agricultural needs of the land. The proposed building would cause harm to the character and appearance, and thus the significance, of the Trawden Forest Conservation Area, the harm would be less than substantial but would not be outweighed by public benefits contrary to policies ENV1 and ENV2 of the Pendle Local Plan Part 1: Core Strategy and section 16 of the National Planning Policy Framework.*

The footprint of the proposed building has been reduced from 15m x 10m to 12m x 10m and the ridge height reduced by 0.6m. A statement has also been provided detailing the agricultural necessity for the building which is required for storage of machinery and hay bales.

The existing dilapidated buildings and hopper on the site were previously used for poultry farming, that use has ceased but the proposed storage is required for maintenance of the 1.38 hectares of land and production and storage of a hay crop.

Although this is a relatively small agricultural holding at 1.38 hectares, proposed building is not disproportionate to the agricultural needs of the land and would replace a group of dilapidated sheds which are collectively of a similar size.

### **Conservation, Visual Amenity and Landscape impact**

The proposed building would replace a group of dilapidated sheds and an unsightly metal hopper. The size of the building has been reduced from that of the previous application, the design and materials of the building are typical of other modern agricultural buildings in the area and its scale would be similar to the collective scale of the structures it replaces. Overall the replacement of the

existing buildings with the proposed building would enhance the character and appearance of the Conservation Area.

The proposed development therefore accords with policies ENV1, ENV2 and the guidance of the guidance of the Development in the Open Countryside SPG.

### **Amenity**

The nearest dwellings are located adjacent to the east boundary of the site. Taking into account that it would replace existing agricultural buildings the proposed building would not result in any unacceptable residential amenity impacts.

### **Ecology**

A bat survey has been submitted with the application, this concluded that there is negligible potential for bat roosting within the buildings to be demolished.

The site of does not have features that would make it suitable as habitat for other protected species including newts and subject to the recommendations of the bat survey the ecology of the site would be enhanced.

### **Highways**

The proposed development would not result in any unacceptable highway safety impacts.

### **Reason for Decision**

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed development is acceptable in terms of design, amenity and highway safety and would preserve the significance of the Conservation Area. 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. The proposed development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason:** Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: 648/1, 648/5A, 648/6A, 648/7A.

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

3. Prior to the cladding of the external walls and roof of the building hereby approved samples of the upper wall and roof cladding materials shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved details.

**Reason:** To ensure a satisfactory form of development in the interest of visual amenity of the area and significance of the Conservation Area.

4. The development shall be carried out in strict accordance with the recommendations of the submitted Preliminary Bat Roost Assessment Report.

**Reason:** To ensure that protected species are not harmed and the biodiversity of the site is enhanced.

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

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

**Application Ref:** 22/0497/FUL

**Proposal:** Full: Demolition of former poultry sheds, removal of silo feed hoppers and erection of agricultural building (resubmission).

**At:** Hilldene, Rock Lane, Keighley Road, Trawden

**On behalf of:** Mr Ian Barker

## LIST OF BACKGROUND PAPERS

Planning Applications

**NPW/MP**

**Date: 5<sup>th</sup> October 2022**