



<b>REPORT OF:</b>	<b>THE PLANNING, ECONOMIC DEVELOPMENT AND REGULATORY SERVICES MANAGER</b>
<b>TO:</b>	<b>DEVELOPMENT MANAGEMENT COMMITTEE</b>
<b>DATES:</b>	<b>21<sup>ST</sup> FEBRUARY 2023</b>

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**PLANNING APPLICATIONS**

<b>PURPOSE OF REPORT</b>
To determine the attached planning applications.

## REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE 9<sup>TH</sup> FEBRUARY 2023

**Application Ref:** 22/0510/FUL

**Proposal:** Full: External alterations involved in conversion from bank to clinic including insertion of a new door & window and replacement of doors and windows.

**At** 2 Newtown, Barnoldswick

**On behalf of:** NHS Property Services Ltd

**Date Registered:** 31.10.2022

**Expiry Date:** 26.12.2022

**Case Officer:** Yvonne Smallwood

This application has been referred from West Craven Committee as the resolution of the committee to refuse the application would result in a significant risk of costs being awarded against the Council at appeal.

### **Site Description and Proposal**

The application site was formerly Yorkshire Bank and lies within the defined Town Centre of Barnoldswick within Barnoldswick Conservation Area. It is a stone building with an existing shopfront, surrounded by retail and commercial properties. The premises would become an NHS Doctor's Surgery.

The proposal seeks to replace all of the windows and doors. A door and window to the front elevation would be transposed. An additional window would be created to the front elevation. The extract plant equipment would be removed from the rear of the site.

### **Relevant Planning History**

13/15/0102P - Advertisement Consent: Erection of two internally illuminated fascia signs and one internally illuminated projecting sign – Approved with Conditions 26.02.2015

13/14/0493P – Full: Alterations to window openings and replacement of door – Approved with Conditions, 22.10.2012

13/03/0882P - Full: Extend ramp to give level access to premises – Refused 18.12.2003

### **Consultee Response**

## Highways -

Having considered the information submitted, the Highway Development Control Section does not have any objections in principle regarding the proposed development at the above location, subject to the following comments being noted; and condition being applied to any formal planning approval granted.

Newtown (U40151, is an adopted unclassified, single carriage way minor road with a 20 mph speed limit. The development site is in a town centre location, close to local facilities and amenities, including public transport, therefore it is considered to be in a sustainable location.

As a new entrance door and window has to be formed and all windows and doors to be replaced (Ref Drawing 6582-T02, Proposed floor plans and elevations, Jan 2022, and Heritage Statement submitted: 4.1 C, D, & E), please see the informative note.

No parking is available with this application, however, given the site's sustainable location, this may be considered a car-free development.

There are traffic regulation order restrictions in the form of no waiting at any time on Newtown on both sides of road from its junction with Church St to its junction with Albert Road. Careful consideration should, therefore, be given to access by delivery vehicles during the construction and fit out phases. We recommend that a condition is applied restricting the times of deliveries to ensure that there is no conflict with traffic, both vehicular and pedestrian, at peak times.

If the local planning authority is minded to approve this application, the following condition should be applied to any formal planning approval granted.

### **Condition**

- Deliveries to the approved development shall only be accepted between the hours of 9.30am and 2.30pm, to avoid peak traffic on the surrounding highway network. Reason: In the interest of highway safety.
- A construction management plan should be produced to highlight how deliveries during construction will be managed and where workers on the site will park during construction. Reason: to minimise the impact of construction on pedestrians in the vicinity of the site. I would recommend the following informative note:

### **Informative Note**

- The developer should be aware that any works on, or immediately adjacent to the adopted highway network, would require the appropriate permits from Lancashire County Council's Highway Regulation Team, who would need a minimum of 12 weeks' notice to arrange the necessary permits. They can be contacted on [lhsstreetworks@lanashire.gov.uk](mailto:lhsstreetworks@lanashire.gov.uk) or on 01772 533433.

Parish/Town Council

Cadent Gas

United Utilities

PBC Engineering

Architectural Liaison Unit

Environmental Health

Yorkshire Water

### **Public Response**

A Press Notice and Site Notice has been placed and nearest neighbours notified by letter with 16 responses, summarised below:

- The site is unsuitable for use as an NHS clinic, too small, with inadequate facilities and a new purpose-built facility is requested. Three clinical rooms is not enough
- Parking and traffic concerns, insufficient drop-off/pick-up space. Illegal parking would be likely to increase
- Access for disabled workers to the second storey
- Access and parking for people who are disabled or infirm. The pavement is not level and there are steep narrow stairs.
- Suggested relocation to Rainhall Road, similar to Sainsbury's, Colne
- Not enough room for expansion with growing population/increased housing
- The Butts should be overhauled and used instead
- 

### **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.

Policy 26 – Proposals to introduce non-shopping uses in town centres and local shopping centres.

Conservation Area Design and Development Guidance SPD - Planning and the Historic Environment considers the setting of a Conservation Area to be important in preserving or enhancing the area.

### **Officer Comments**

#### **Design and Materials within Conservation Area**

The building itself is relatively modern and possesses no heritage value. The building is specifically mentioned within the conservation area character appraisals as being harmful to the character and appearance of the conservation area and therefore makes no contribution to its significance.

The proposal entails the repositioning of the existing front door to an existing window opening and the existing door opening would be altered to form a window. The repositioning of the existing doorway is required to better suit the proposed internal layout. The proposed window would have obscure glazing, which would serve the proposed disabled WC, which is to be located at the point of the existing entrance door.

One additional window opening would be created serving the proposed Clinical Room 3 at ground floor level as the existing room is not served by a window and has no means of natural lighting and ventilation.

The proposal would be acceptable in regard to design and materials and therefore accords with ENV1, ENV2, Design Principles SPD and Conservation Area Design and Development Guidance SPD.

#### **Residential Amenity Impacts**

The proposal seeks to replace all of the windows and doors. A door and window to the front elevation would be transposed. An additional window would be created to the front elevation. The extract plant equipment would be removed from the rear of the site. The proposed alterations to the windows and doors would not have any unacceptable adverse impacts to residential amenity.

### **Other Matters**

Objections have been raised relating to the suitability and size of the site and alternative premises have been suggested as preferable locations. It is not within our remit to consider other premises, as we are only able to deal with the application which has been made to us.

### **Parking and Highways Issues**

There are no proposed parking spaces and there are equivalent of 7 full-time staff and patients who will be visiting the clinic. The opening hours would be 08:00 – 18:00 Mon – Fri and 08:00 – 17:00 Saturday and closed Sunday. There have been comments received raising concerns related to parking, access and highway safety. Highways LCC have assessed the parking and traffic requirements for this application within the hours of use and have raised no objection to the application. Highways LCC have recommended Conditions and an Informative. We concur with Highways that with these Conditions in place, the scheme would be acceptable Therefore the proposal would not present any highway safety issues and would accord with Saved Policy 31 Parking Standards.

### **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: Location Plan received 28.07.22, 6582-T02

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

3. All materials to be used in the proposed development shall be as stated on the application form and approved drawings and shall not be varied without the prior written permission of the Local Planning Authority.

Reason: These materials are appropriate to the locality and in order to allow the Local Planning Authority to control the external appearance of the development.

4. Deliveries to the approved development shall only be accepted between the hours of 9.30am and 2.30pm, to avoid peak traffic on the surrounding highway network.

Reason: In the interest of highway safety.

5. A construction management plan should be produced to highlight how deliveries during construction will be managed and where workers on the site will park during construction.

Reason: to minimise the impact of construction on pedestrians in the vicinity of the site.

I would recommend the following informative note:

**Informative Note**

- The developer should be aware that any works on, or immediately adjacent to the adopted highway network, would require the appropriate permits from Lancashire County Council's Highway Regulation Team, who would need a minimum of 12 weeks'

**Application Ref:** 22/0510/FUL

**Proposal:** Full: External alterations involved in conversion from bank to clinic including insertion of a new door & window and replacement of doors and windows.

**At** 2 Newtown, Barnoldswick

**On behalf of:** NHS Property Services Ltd

## REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE 9<sup>TH</sup> FEBRUARY 2023

**Application Ref:** 22/0633/FUL

**Proposal:** Full: Major: Erection of 10 Dwellings with associated landscaping and infrastructure works.

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

**On behalf of:** YLBD Ltd

**Date Registered:** 22/09/2022

**Expiry Date:** 13/02/2023

**Case Officer:** Alex Cameron

This application has been referred from West Craven Committee as the resolution of the committee to refuse the application would result in a significant risk of costs being awarded against the Council at appeal.

### **Site Description and Proposal**

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

An outline planning permission (access only) was allowed on appeal in 2018 however the reserved matters was subsequently refused.

The proposal is for 8 four bedroom detached houses and 2 three bedroom semi-detached houses. The houses would be two storeys and finished in natural stone with concrete tile roofing and uPVC fenestration.

### **Relevant Planning History**

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

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

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



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

21/0571/REM - Reserved Matters: Major: Erection of 10 dwellings (Appearance, Landscaping, Layout and Scale) of Outline Planning Permission 17/0691/OUT. Refused

### **Consultee Response**

**PBC Environment Officer** - a well thought out and designed landscaping scheme with a mix of native and typical garden species of vegetation. All the relevant maintenance and management details are also there that make it suitable for approval.

**PBC Environmental Health** – Please attach construction management condition and contaminated land note.

**LCC Highways** – No objection subject to the following conditions: construction method statement, off-site highway works, visibility splays, estate road management and maintenance, estate road construction details, parking, cycle storage and electric vehicle charging.

**LCC Schools Planning** – Initial response that a contribution for one secondary school place was required, however, a revised response was received on 14<sup>th</sup> December stating that an education contribution is not required.

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

**Yorkshire Water** – No objection subject to a condition for compliance with the drainage strategy.

**Ease Lancashire NHS Trust** – Request a contribution to accommodate the impact of the development on its services.

**Kelbrook and Sough Parish Council** – objects to the above application for the following reasons:

1. Much is made in this application of previous approvals which were granted for development on this land. The recently approved 21/0399/PIP states, as its final comment, "The circumstances of the application site have not changed since the approval on appeal of outline planning permission in 2018". However, it is alarming to see that in this application, unlike all others which have provided detail, the buffer zone around the water course has been reduced from 5 metres to 2 metres. We do not believe that a decrease of 3 metres in the water course corridor buffer zone, stretching the entire length of the development, can be mitigated by hedgehog friendly features and bat boxes. The 5 metre buffer zone has been a constant in all previous detailed applications and pertinent to the appeals which have been adjudicated. It is fundamental to the well being of the wildlife which use the water course corridor. The

objection is, therefore, that the wildlife corridor buffer zone has been reduced from 5 metres to 2 metres.

2. As this is a FULL planning application, it was expected that details of the proposed maintenance arrangements for the private road, landscaped areas, SuDS, and buffer zone would be available for consideration, as was the case in previous applications. The objection is, therefore, that maintenance arrangements for the above have not been included in the application.

The parish council makes comment on possible conditions, should the application be approved:

3. Changes to the position of the entrance should not be allowed as this application has based its 85th centile speeds of 18 mph on the discredited report from 2016 (taken over a bank holiday period with the speed measuring device not close to the planned entrance).

4. For reasons of well being for wildlife using the corridor, we would prefer a solid board fence or full stock fencing, rather than any open type which would permit dogs and other pets to disturb and discourage wildlife and its movement.

5. For reasons of well being for wildlife we would request there is no gated access to the buffer zone from gardens.

6. We would encourage both the solid fence and gate prohibition to be covenanted within the deeds to the dwellings, as well as the "garden creep", etc., as stated in the Design & Access, Planning, Heritage & Affordable Housing Statement.

7. We have not seen any details of the proposed maintenance plans for the private road, landscaped areas, SuDS, or buffer zone and how this maintenance will be applied, to whom and at what cost. Our concern is that the eventual maintainer of last resort will be the owners of the dwellings, who at the time of purchase will not understand the ever increasing costs associated with such tasks. We would welcome a scheme whereby the developer and or owners of dwellings were required to annually lodge funds in escrow to facilitate this large maintenance burden and additionally insure with a major insurer against the failure of maintenance arrangements. We are looking for a high degree of certainty in the maintenance provision, as the failure of SuDS will have major impact on all of the dwellings from the development site to Kelbrook Beck; the lack of maintenance of the buffer zone could have a major impact on the well being of wildlife; and the lack of maintenance of the road and public areas will adversely impact any visual benefits derived from a well designed and well constructed development.

8. Specifically for SuDS, we are aware that the longevity of the tank is around 60 years. This is less than the expected life of the dwellings. We would ask that the replacement of the tank and associated components is conditioned separately to the maintenance

requirements, and this replacement burden is identified and catered for by way of insurance for (say) 100 years.

9. We believe that there would be many challenges associated with access to the development site. As you are undoubtedly aware delivery via Old Stone Trough Lane and delivery via Cob Lane from Foulridge is probably impossible. Although it may prove difficult to enforce conditions regarding deliveries to site, we believe that these should nevertheless be applied. This would a) condition the developer should he decide to take on a delivery role and b) allow the developer, in the spirit of community engagement, to inform his suppliers of the conditions which exist. These conditions should limit deliveries to periods when the school is in session,

i.e. after school has begun and before lunch, and after school has restarted following lunch up to 18:00 when the after school activities end. In addition we ask that the route of large vehicles attending and leaving the site be stipulated (incoming) A56 – Church Lane – Main Street – Waterloo Road. For outgoing vehicles, the reverse would be appropriate. Our reasons for requesting a route for large vehicles is the experience we have witnessed and suffered with vehicles attempting to turn up Waterloo Road having arrived A56 to Main Street.

### **Public Response**

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

- Impact on Listed Buildings
- Increase traffic congestion
- Highway safety risk, including risk to school children
- Impact of construction traffic
- Increase in on-street parking
- Poor access visibility
- Loss of agricultural land
- Brownfield land should be developed first
- Unacceptable visual impact and impact of the character of the village
- Lack of public benefits
- Privacy impacts
- Increase risk of flooding
- Impact on local infrastructure and infrastructure provision
- A 5m buffer zone should be maintained to the stream and access to it restricted
- Permitted development rights should be removed

- Insufficient information about management and maintenance of drainage and SUDS. Would the local authority take over responsibility or would the residents have to pay very high fees?

## **Officer Comments**

### **Policy**

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

The following Local Plan policies are relevant to this application:

Policy SDP2 identified Kelbrook as a 'Rural Service Centre'. These settlements are to be the focus for growth in Rural Pendle. It also advises that where Greenfield land is required for new development, it should be in a sustainable location and well related to an existing settlement.

Policy SDP3 indicates that new housing provision and distribution will be guided by the settlement hierarchy within the policy. Rural Pendle (inc. Kelbrook) is expected to account for 12% of the Borough's supply over the plan period. It should be noted that this figure is not a fixed limit, it is a representation of the projected housing distribution.

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

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

Policy ENV7 does not allow development where it would be at risk of flooding and appropriate flood alleviation measures will be provided and/or would increase the risk of flooding elsewhere. The proposal's compliance with this policy is addressed in the drainage and flood risk section.

Policy LIV1 sets out the housing requirements for 2011 to 2030 and how this will be delivered.

Policy LIV3 provided guidance on the housing needs in order to provide a range of residential accommodation.

Policy LIV4 sets out the targets and thresholds required to contribute towards the provision of affordable housing.

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

#### Kelbrook and Sough Neighbourhood Plan

Policy KS DEV 1 states that all development should, by virtue of its design, siting, access, use, visual impact, layout, materials, height, scale and location, protect and respond positively to the character and heritage of the natural and built environment. To this end, all proposals will be considered against the Kelbrook and Sough Character Assessment.

Policy KS HER 1 states that proposals affecting any part of the historic environment should respond positively to the site's context and heritage significance.

Policy KS HOU 2 allocates this site for development of 9-10 houses. It states that The development of this site should incorporate the following requirements:

- a) The delivery of a high-quality design which incorporates urban design principles as set out in the National Design Guide and as outlined in the Kelbrook and Sough Character Assessment and responds positively to the character of the adjacent built environment and landscape, including views into and from the site. The design, siting and layout of housing should relate positively to nearby housing in the area particularly along Cob Lane and Waterloo Road and to the listed Yellow Hall to the west
- b) A sensitive external lighting scheme designed to minimise light pollution.
- c) Use of a high quality palette of external materials which have regard to the sensitive rural location.
- d) A single point of vehicular access off Cob Lane appropriately positioned so as to ensure safe access and egress from the local highway network.
- e) Alternatives to car-based travel are designed into the scheme and in particular green links to public transport and active travel (walking and cycling).
- f) A sensitive approach towards the integrity of the nearby watercourses.
- g) The design and layout of the proposal enhances or creates linkages to the wider green infrastructure network where practicable and creates greenspace for both amenity purposes and for biodiversity value.

KS HOU 3 states that proposals for new housing should be designed and arranged in a way such that they are tenure-blind.

## **Principle of the Development**

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

This site is located immediately adjacent to the settlement boundary of Kelbrook, which is a Rural Service Centre. Kelbrook has a variety of services and facilities and is accessible by means of both public and private transport and also has established links with the larger West Craven Towns.

The proposed site is a sustainable location for new development. This principle of development of this site for up to 10 houses, subject to conditions and contributions, has been established by the outline permission granted previously and it has been allocated for housing development in the Neighbourhood Plan. The principle of housing is therefore acceptable in accordance with policies SDP2 and LIV1.

## **Design and Heritage Impact**

In allowing the outline permission the Inspector stated that:

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

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

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

The proposed layout would maintain the same / greater distance back from yellow Hall and Cob Lane with a buffer of public open space to the frontage and area adjacent of Yellow Hall.

The design, scale and layout of the proposed dwellings is of high quality and would be in keeping with the character of the area and the recommendations of the Kelbrook and Sough Character Assessment. The walls would be natural stone and the proposed dwellings would be physically separated enough from Yellow Hall that the proposed use

of upvc windows would not have a harmful impact, however, the proposed concrete roof tiles would result in some additional harm to the setting of Yellow Hall. With a condition to ensure that natural slate is used the less than substantial harm from the development would be outweighed by the public benefits of the development resulting from the social and economic benefits of the provision of housing, contributing to the delivering of the Council five year housing supply and the contribution towards affordable housing.

The proposed layout of the development provides adequate amenity space and space for bin storage for every plot. The previous need for a 5m buffer to the stream has been addressed by the ecology report and, which now recommends a 2m buffer which allows for additional amenity space for the proposed dwellings addressing the reason for refusal of the previous reserved matters application.

### **Residential Amenity**

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

### **Landscaping**

A proposed landscaping scheme has been submitted with the application and is acceptable.

### **Ecology**

The ecology survey submitted with the previous outline permission recommended that a buffer of 5m be maintained to the stream running to the rear of the site and that vegetation is maintained in that area unless a bat survey assessing the impact on bat foraging of the loss of that vegetation was undertaken. That buffer was only required because the potential impact on bats in that area had not been fully assessed.

The proposed layout of the reserved matters application allowed for 5m buffer but it was determined that the resulting gardens of the properties were too small to allow for adequate amenity space and the application was refused for that reason.

An updated ecology report has been submitted with this application which includes a bat survey assesses the potential impacts on bats around the stream. Following this assessment the ecology survey recommends a reduced a buffer of 2m to the stream and the following ecological enhancement measures:

- The incorporation of opportunities for roosting bats at the new properties as, although the habitats are suitable for use by foraging bat species such as Pipistrellus species, there are no significant opportunities for roosting bats (particularly maternity roosts) at the site currently;

- The incorporation of opportunities for use by nesting birds at the developed site including in both the public open space by landscape planting and at the new properties; and
- Preparation and implementation of a Landscape and Ecological Management Plan (or similar) to secure long-term management of the retained and created habitats in accordance with conservation targets and objectives.

Since this application was discussed at Committee in December the landscaping scheme has been amended to include 28 additional trees, with the majority positioned along the brook and a revised biodiversity net gain (BNG) report has been submitted taking into account this additional planting and concludes that the proposals would now achieve a net gain of 0.01 units on site.

There is no statutory requirement at present for biodiversity net gain to be achieved, current policy requires that biodiversity is enhanced or preserved. It has been acceptably demonstrated that the development would preserve the biodiversity on the site and lead to a marginal net gain.

Subject to conditions to ensure that the recommendations of the ecology and BNG reports the proposed development is acceptable in terms of its ecological impacts.

## **Open Space**

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

## **Highways**

The principle of the acceptability of the development in terms of highway impacts has been established by the previous outline approval on the site. The proposed development remains acceptable in terms of highway safety.

The proposed layout would provide adequate parking and internal road layout. LCC Highways have requested a condition for off-site highway works for a footway to the front of the site, this was not required of the previous approved development, however, it would meet the requirement of the Neighbourhood Plan to enhance pedestrian links to the site.

Concerns have been raised regarding construction traffic and timing of deliveries to the site, this can be acceptably controlled by a construction management condition.

The development is acceptable in highway terms.



## **Drainage**

A Flood Risk Assessment and drainage strategy have been submitted with the application and acceptably demonstrate that the development would not be at unacceptable risk of flooding and would not result in an increase in the risk of off-site flooding. The proposed development is therefore acceptable in terms of drainage and flood risk.

## **Contributions**

### Affordable Housing

Policy LIV4 requires an affordable housing contribution of 20% in Rural Pendle, this can be met by a contribution for off-site provision. This meets the CIL Regulations tests and can be ensured by a condition requiring a s106 agreement.

### Education

A contribution towards one secondary school place was initially required by LCC Schools Planning, however, a revised response has been received that this is no longer required.

### Health

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

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

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

Section 106 of the 1990 Act provides as follows:

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

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

(2) A planning obligation may—

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

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

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

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

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

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

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

“infrastructure” includes—

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

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

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

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

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

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

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

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

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

Committee are therefore recommended not to require a contribution to the NHS as the evidence is not robust enough to confirm that the funding is directly enough related to the development and is fairly and reasonably related in scale and kind to the development.

## **Other Matters**

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

## **Conclusion**

The proposed development fully resolves the reason for refusal of the previous reserved matters application and meets the requirements of Policy KS HOU 2 of the Neighbourhood Plan and the Development Plan as a whole, it is therefore acceptable.

## **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. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

## **RECOMMENDATION: Approve**

1. 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: Site Location Plan, SL 1.0, HTA 1.0, HTB 1.0, HTC 1.0, HTD 1.0, SD-F1, SD K1, BT 1.0, 6982.01 Rev E

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

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

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

4. The window openings shall be set back from the external face of the wall. Unless otherwise agreed in writing by the Local Planning Authority the depth of reveal shall be at least 70mm.

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

5. Prior to the commencement of the development plans of existing and proposed levels and/or sections of the site and immediately adjoining land 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 the continuation of a satisfactory appearance to the development.

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

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

7. The development shall be carried out in and thereafter maintained in strict accordance with the recommendations of the submitted Ecology Survey and Assessment and Assessment of Biodiversity Net Gain received 11/01/2023. A Habitat Management Plan and ecological enhancement scheme, including details of timing of implementation, shall be submitted to the Local Planning Authority prior to the occupation of the first dwelling and shall thereafter be implemented and maintained in strict accordance with the approved details.

Reason: to ensure that the biodiversity of the site is preserved and protected species are not harmed by the development.

8. The landscaping scheme hereby approved (Drawing No. 6982.01 Rev E) shall be implemented in its entirety within the first planting season following the substantial completion of the development. Any tree or other planting that is lost, felled, removed, uprooted, dead, dying or diseased, or is substantially damaged within a period of five years thereafter shall be replaced with a specimen of

similar species and size, during the first available planting season following the date of loss or damage.

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

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

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

Reason: To ensure that trees to be preserved are not damaged during construction.

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

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

11. 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 August 2022 / Flood Risk Assessment for development at Cob Lane, Kelbrook Rev.2 (FD0040) / YLBD Limited).

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 in consultation with the Lead Local Flood Authority.

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

12. 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 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 assessment of the existing on-site watercourse to be used, to confirm that these systems are in sufficient condition and have sufficient capacity to accept surface water runoff generated from the development.

e) Evidence that a free-flowing outfall can be achieved. If this is not possible, evidence of a surcharged outfall applied to the sustainable drainage calculations will be required.

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.

13. 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.

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.

14. 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.

15. No development shall commence unless and until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. It shall provide for:
- i) The parking of vehicles of site operatives and visitors
  - ii) The loading and unloading of plant and materials
  - iii) The storage of plant and materials used in constructing the development
  - iv) 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.

16. No development shall commence unless and until a scheme for the site access and off-site highway works has been submitted to and approved in writing by the Local Planning Authority. The works shall include the following and be implemented prior to the first occupation of any dwelling.

- a) New site access on Cob Lane
- b) New footway at the site access on Cob Lane with dropped kerb crossing points on the south and north side of Cob Lane to tie the new footway into the existing footway network.

Reason: In the interest of highway safety.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 there shall not at any time in connection with the development hereby permitted be erected or planted or allowed to remain upon the land hereinafter defined any building, wall, fence, hedge, tree, shrub or other device over 1m above road level. The visibility splay to be the subject of this condition shall be that land in front of a line drawn from a point 2.4 m measured along the centre line of the site access from the continuation of the nearer edge of the carriageway of Cob Lane to points measured 23m in both directions along the carriageway of Cob Lane, from the centre line of the access, in accordance with a scheme to be agreed by the Local Planning Authority in conjunction with the Highway Authority.

Reason: To ensure adequate visibility at the street junction or site access.

18. Within 3 months of commencement details of the proposed arrangements for future management and maintenance of the estate road within the development

shall be submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as a private management and maintenance company has been established.

Reason: To ensure that the estate road is adequately maintained in the interest of highway safety.

19. Within 3 months of commencement full engineering, drainage, street lighting and constructional details 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.

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 adequately constructed in the interest of highway safety.

20. Prior to first occupation each dwelling without a garage shall be provided with a secure cycle store for at a ratio of 2 cycle spaces per dwelling in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate provision for sustainable transport.

21. Prior to the first occupation each dwelling shall have an electric vehicle charging. 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.

22. No part of the development commence unless and until a Planning Obligation pursuant to section 106 of the Town & Country Planning Act, 1990 (or any subsequent provision equivalent to that section) has been made with the Local Planning Authority. The said obligation shall provide for two affordable houses.

Reason: To contribute towards the identified need for affordable housing provision in the area.

Notes:

Under the Land Drainage Act 1991 (as amended by the Flood & Water Management Act 2010), you need consent from the Lead Local Flood Authority if

you want to carry out works within the banks of any ordinary watercourse which may alter or impede the flow of water, regardless of whether the watercourse is culverted or not.

- Consent must be obtained before starting any works on site. It cannot be issued retrospectively.
- Sites may be inspected prior to the issuing of consent.
- Unconsented works within the Highway or Sustainable Drainage System may prevent adoption.
- Applications to culvert an existing open ordinary watercourse will generally be refused.
- Enforcement action may be taken against unconsented work.

For the avoidance of doubt, once planning permission has been obtained it does not mean that Ordinary Watercourse Consent will be given. It is strongly advised that you obtain any required consent before or concurrently as you apply for planning permission to avoid delays.

You should contact the Flood Risk Management Team at Lancashire County Council to obtain Ordinary Watercourse Consent. Information on the application process and relevant forms can be found here:

<https://www.lancashire.gov.uk/flooding/drains-and-sewers/alterations-to-a-watercourse/>

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.

**Application Ref:** 22/0633/FUL

**Proposal:** Full: Major: Erection of 10 Dwellings with associated landscaping and infrastructure works.

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

**On behalf of:** YLBD Ltd

## REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE 9<sup>TH</sup> FEBRUARY 2023

**Application Ref:** 22/0753/FUL  
**Proposal:** Full: Demolition of chimney.  
**At:** 3 Woodside Terrace, Nelson  
**On behalf of:** Raja Raheel Munawar  
**Date Registered:** 16/12/2022  
**Expiry Date:** 10/02/2023  
**Case Officer:** Laura Barnes

The application has been referred from Nelson, Brierfield & Reedley Committee to Development Management Committee. The development would result in the loss of a chimney of a property in Whitefield Conservation Area contrary to the guidance of the Conservation Area Design and Development Guidance SPD. This could set a precedent for the further loss of chimneys in the area and resulting harm to the roofscape of the Conservation Area and as such would represent a significant departure from Policy ENV1 of the Core Strategy.

### **Site Description and Proposal**

The application site relates to a mid-terraced dwelling adjacent to the M65 motorway in the Whitefield Conservation Area. It is located within the settlement boundary for Nelson.

The proposal is for the removal of the internal and external elements of the chimney. The terraced row is characterised by chimneys on each of the rooves of the properties which have a front-to-back alignment and five clay pots sitting on top of the stack. At the time of the site visit the works had already been undertaken.

### **Relevant Planning History**

None relevant

### **Consultee Response**

LCC Highways

No objection

### **Public Response**

Nearest neighbours have been notified, a site and press notice posed, without response.

## **Officer Comments**

### **Policy**

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

Policy SDP2 states that proposals for new development should be located within a settlement boundary unless it is an exception identified in the Framework or the Development Plan.

Policy ENV1 concerns enhancing and preserving heritage assets, such as Conservation Areas.

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

#### **Replacement Pendle Local Plan**

Policy 31 (Parking) states that the Council will support new development in line with the maximum car parking standards.

#### **Conservation Area Design & Development SPD**

In relation to chimneys, the guidance is as follows: Chimney stacks and pots should always be retained, and where they have been capped-off or truncated, they should wherever possible be reinstated to their original profile.

#### **National Planning Policy Framework**

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies of the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

### **Design & Heritage**

The proposed development is located within the Whitefield Conservation Area. The Conservation Area Design & Development SPD sets out the importance of chimneys as a feature in the roofscape of Victorian terraced properties. Given that the remainder of the row has the chimney stack and pots intact the removal here creates an imbalance in the uniformity of the terrace. The removal of the chimney has a significant impact upon

the visual amenity of the area and would result in harm to the character and appearance of the Conservation Area.

In accordance with paragraph 202 of the Framework, a balancing exercise must be undertaken where there is less than substantial harm to a heritage asset. In this case, there would be no public benefit outweighing the harm, as such it is contrary to paragraph 202 of the Framework, Policy ENV1 and the Conservation Area Design & Development SPD.

### **Residential Amenity**

The Council's Design Principles SPD states that development should protect neighbours enjoyment of their home. Preventing overlooking, overshadowing and loss of light are all important elements of protecting neighbouring amenity.

In this case, the proposed development would have no impact upon neighbouring properties.

As such, the proposed development accords with Policy ENV2 and the Design Principles SPD in this regard.

### **Highways**

There is no highway safety issue in this case.

### **RECOMMENDATION: Refuse**

For the following reasons:

1. The removal of the chimney stack which is an important feature in the Victorian terrace would create an imbalance in the uniformity of the terrace and lead to a harmful impact upon the character and appearance of the visual amenity of the area, this would result in less than substantial harm to the character and appearance of the Conservation Area. This harm is not outweighed by any public benefit and is directly in conflict with paragraph 202 of the Framework, Policy ENV1 of the Local Plan: Part 1 Core Strategy and the Conservation Area Design & Development SPD.

It is recommended that enforcement action is taken in this case, to require the chimney to be reinstated.

**Application Ref:** 22/0753/FUL  
**Proposal:** Full: Demolition of chimney.  
**At:** 3 Woodside Terrace, Nelson  
**On behalf of:** Raja Raheel Munawar