

## REPORT TO COLNE AND DISTRICT COMMITTEE

**Application Ref:** 22/0790/OUT

**Proposal:** Outline (Major): Development of 150 new homes; refurbishment and extension of an existing pump house building and its change of use to a Class E or Class F community use; formation of a new means of access onto Windermere Avenue; alterations to an existing means of access onto Castle Road; and other associated works (Access only).

**At:** Land off Windermere Avenue, Colne

**On behalf of:** Accrue Capital Limited

**Date Registered:** 21.11.2022

**Expiry Date:** 20.02.2023

**Case Officer:** Neil Watson

### **Site Description and Proposal**

The application site is an area of agricultural land located between Skipton Old Road, Favordale Road and Castle Road, on the north east side of Colne. The proposal is to erect up to 150 houses. The application site is a green field site with no development on it except for a dilapidated former pump house on the southern fringe. The Lidget and Bents Conservation Area is designated on part of the lower southern section of the site.

Two access points are proposed from the site. The first is onto the new development found on the western side of the site and the second onto Castle Road.

The proposal is to develop circa two-thirds of the site with the south eastern section remaining open. The pump house on site is proposed to be developed as a café with an access track leading down to it to serve a car parking area.

A pond and play area are proposed to be provided on the southern lower section of the site.

### **Relevant Planning History**

13/14/0580P – Outline. Erection of 90 houses. Refused – Allowed on appeal

13/14/0581P – Outline Erection of 270 houses. Refused. Appeal dismissed on impact of the development on the conservation area.

13/94/0084P - Outline: Application for Residential Development (9.8 acres). Refused 25/04/1994. Appeal Dismissed, 21/12/1994.

13/95/0031P - Outline: Erect 87 detached dwellings (9.8 acres). Withdrawn, 24/02/1995.

13/98/0407P - Erect 78 houses and associated access roads. Withdrawn, 13/04/1999.

13/99/0026P - Outline: Erect 78 houses and associated access roads. Refused, 04/03/1999.

## **Consultee Response**

### **Trawden parish Council**

Councillors thought it important that we object to the proposals within this application. Any further development of 'The Rough', would be highly visible from many vantage points within the Trawden Conservation Area. It will have a detrimental effect on the status of the long-range views from many areas of the parish

### **Greater Manchester Ecology Unit (Advice to PBC)**

Accept that the development proposal will not cause any direct harm to national, statutorily designated sites or locally designated sites. It is considered too distant from such sites for direct effects to occur.

Bird surveys undertaken to inform the planning application have not found sufficient bird interest on the site to indicate that the site is functionally linked to the designated sites, but there is some notable bird interest associated with the Foulridge Reservoirs, approximately 500m to the north of the site. The development of the application site may have indirect impacts on birds using the Reservoirs and surrounds because residents of the new development may use nearby sites for recreation. Residents may also visit the Moors for recreation. I would therefore advise that, to mitigate for this potential indirect impact, new residents should be provided with information concerning the importance of the above sites for birds, and of the need to avoid disturbance to birds while using these sites.

### ***Supplementary Response to the Representations from the Lancashire, North Merseyside Wildlife Trust***

I have received representations from the Lancashire Wildlife Trust (LWT) about the above planning application. They are concerned that the Ecology surveys which have been carried out by consultants on behalf of the developer have underplayed the value of the site; in particular they consider it likely that the site does support breeding Curlews (the consultants' view was that the site is used for foraging by Curlews but not

for breeding), and that the grassland is more botanically rich than the surveys provided to inform the planning application would suggest.

I am therefore faced with two sets of surveys undertaken by professional consultants (the recent TEP survey and the surveys undertaken for previous applications / appeals) and the results of less structured surveys and anecdotal evidence undertaken by the LWT and reported by local residents, all of which value the site differently. The LWT botanical species lists do not allow for detailed abundance or distribution assessments – that is, whether the whole site has high value or whether this value is confined to only parts of the site – but TEP in their survey do report that parts of the site are more species-rich than others. My own site visit was made in March, outside of the optimum period for either botany or breeding birds. It's unclear whether the botanical value of the grassland may be a function of the grassland recovering from past improvement, which may explain discrepancies in species recorded at different times, or whether it always had a level of botanical interest which may have been overlooked in previous surveys. Both sets of consultants, and the LWT, are suitably qualified and experienced field naturalists.

I am not clear whether the LWT have submitted formal comments to the planning authority on the application, or whether they have just provided comments directly to GMEU. Nevertheless, I have reviewed the application in the light of their comments, which I regard as very credible.

Even if I give greater weight to the views of the Wildlife Trust than the survey results provided by the consultants, I would consider it doubtful that there is sufficient ecological value on the site to merit an outright refusal of the application on nature conservation grounds which would not then be subject to substantive challenge, because -

- the site is not currently designated for its ecological value,
- the development will not directly affect any designated sites,
- curlew numbers affected would be low, possibly only a single pair which also uses nearby fields,
- numbers of other protected, priority and notable species associated with the site are low,
- the application is in outline, with further opportunities for designing site layouts which would be able to avoid more species-rich areas and enhance retained grassland,
- mitigation and compensation measures are available for potential ecological harm,
- previous applications were not refused on ecological grounds.

Nevertheless, further measures to avoid, mitigate and compensate for ecological harm are justified. I am conscious of the comments made in the Biodiversity Net Gain Design Stage Report (TEP October 2022) that -

*“Should it not be possible to achieve 10% net gain (and satisfy trading rules) on site during detailed design, a biodiversity offsetting strategy will be developed to provide the shortfall in biodiversity units which could include partnering with a landowner within the same authority area or financially offsetting through a net gain broker or Pendle Borough Council”.*

In the light of the new comments received, I would now consider that a biodiversity off-setting strategy **will be required** for this development, not just for net gain, but also for achieving a satisfactory level of compensation for ecological harm. An off-setting strategy should focus on the need to improve nearby land for ground nesting birds (particularly Curlews) and the need to enhance grasslands through positive management for biodiversity. This is in addition to the detailed Habitat and Landscape Plans already recommended.

The biodiversity metric calculation will need to be re-visited at detailed design stages, taking into account the higher value of the grasslands, and any off-setting proposals.

## **LCC Highways –**

Initial response is that further information is required. Wish to have further information on the Byron Road/Skipton Road roundabout capacity as well as the Skipton/Castle/Regent crossroads.

Amendments to the Castle Road site access are likely to be required. Speed data and site lines are requested at Castle Road.

There is no committed development traffic included in the assessment modelling which needs to be included.

It cannot be assumed that traffic matters were accepted by the Planning Inspector under Site B and off site works and mitigation must be considered for this application.

Accept the presented Trip Rates.

The priority-controlled junctions listed below are assessed with the developers Transport Assessment using the industry standard JUNCTIONS software:- 1. Castle Road/Venables Avenue priority controlled junction 2. Windermere Avenue/Venables Avenue priority controlled junction; 3. A6068 Byron Road/Venables Avenue priority controlled junction; It is concluded that the junctions operate within theoretical capacity

in future year 2027. The methodology is sound; however the results will require updating with committed development to be fully representative of future traffic conditions.

At the appeal the junctions of A6068 Byron Road / A56 Skipton Road roundabout and A56 Skipton Road / Castle Road C681 /Regent Avenue crossroads priority junction were tested, and capacity issues were highlighted. We would request that this application assesses these junctions for capacity and safety, including a collision investigation to understand any highway safety related mitigation measures which may be required.

Windermere Avenue – no visibility splays shown on the drawings.

The existing carriageway of Windermere Avenue measures 5.5m wide and has 2m footways on both sides. The Windermere Avenue extension, built by McDermott development, will have physical traffic calming measures to support speed compliance.

Access onto Castle Road: The principle appears deliverable within the highway.

We understand that the resident of 122 Castle Road has concerns about the arrangement in terms of the impact upon their driveway. The scheme will be subject to an independent road safety audit and we foresee that the new footway will result in some benefits for the drivers emerging from the driveway of 122 Castle Road with vehicles approaching from the east being further away from the boundary wall of 122 which will allow the vehicles to emerge from the driveway at 122 with increased visibility.

The latest speed data collected on Castle Road approximately 250m west of the proposed site access during the week commencing 21st November 2017 by Lancashire County Council records 85%ile speeds at 36mph eastbound and 34mph westbound.

## Sustainability

There are two Primary Schools located within 800-900m of the site which have the potential to be accessed on foot. The route to Christ Church on Bent Lane is via a narrow footway on Skipton Old Road which is partially overgrown with vegetation. This route would be improved by clearing back the vegetation to provide an increased width.

Colne Park Primary is served by good quality footway links and a signalised crossing on Byron Road. Park High School is located adjacent to the site and has good quality footway links. The nearest local food shop and mainline bus stops are located on Keighley Road approximately 700-800m from the site.

The nearest bus stops are located on Venables Avenue and are served by Lancashire County Council subsidised bus service 6 which runs between Colne and Burnley, Monday – Saturday at hourly intervals between 07:30 and 19.00. The bus stops are

within the 400m walking distance equating approximately to a five minutes' walk which is stated recommendations in the CIHT document and IHT 'Planning for Public Transport in Developments' (1999) and the gradient of the direct route is within the recommended guidance in Inclusive Mobility and Manual for Streets. The bus stops closest to Windermere Avenue will be upgraded to quality bus stop standard by McDermott Development, under a S278 agreement with Lancashire County Council. This is a planning condition on the appeal decision for site A.

The bus stops to the northern and southern ends of Venables Avenue references 2500446 and 2500LAA07260 require upgrading to quality bus stop standard for this application to serve the residents at the northern and southern ends of the site using the Castle Road access. There is a proposal in the Transport Assessment that the bus service will divert through the site. The nearest bus service is an LCC subsidised service and our Bus Services Team have confirmed that this is a feasible option with the service running in an anti-clockwise loop around Venables Avenue, Castle Road and Windermere Avenue. The estate road would need to be designed for a bus including the provision of at least one new bus stop.

The nearest mainline bus stop services are located on Keighley Road (M3 Burnley – Trawden and M4 Keighley – Burnley at 30 minute intervals).

A unilateral undertaking was signed between McDermott Homes, Pendle Borough Council and Lancashire County Council for £100,000 for site A of the appeal, payable in sums of £20,000 over 5 years. This was for the running of bus service 6. We would seek a contribution of £30,000 over 5 years for this development to support the diversion and running of this bus service. 6

The site is located approx. 2.2km from the long-distance off-road cycle link - Pennine 68, through neighbouring Towns. The same unilateral undertaking with McDermott Development, agreed £40,000 for a cycle strategy to be developed to improve cycle routes between the site and the North Valley.

A further contribution of £40,000 is requested to match the previous contribution to implement measures highlighted in the strategy. The strategy is currently being examined. A Framework Travel Plan is submitted with the application. Lancashire County Council offer a range of Travel Plan services which include:

- Appraise initial Travel Plan(s) submitted to the Planning Authority and provide constructive feedback.
- Work closely with the Developer's appointed Travel Plan Coordinator, the end use where appropriate, local community groups
- Oversee the progression from the Interim Travel Plan to the Full Travel Plan/s in line with agreed timescales.
- Monitor and support the development, implementation and review of the Full Travel Plan. This will Include reviewing: Annual surveys o Progression of initiatives / actions plan o Targets
- Where appropriate suggest further cost effective meaningful intervention to maintain/satisfy travel plan targets using local knowledge

If the application is approved, a contribution of £6,000 would be sought to fund this supportive approach.

## Pedestrian and cycle links

There is a pedestrian and cycle link between the Windermere Avenue extension and Skipton Old Road and public footpaths 13-4-FP139 and 13-4-FP216 run across and bound the site connecting Skipton Old Road to Castle Road. Diversions of the public footpaths are proposed. Early engagement with the LCC PROW Team is encouraged to ensure that they necessary processes are followed. There is a pedestrian desire line on Keighley Road between Craven Street and Avondale Street to the mainline local convenience food shop and the mainline bus stops. A new signalised crossing is requested to support a safe pedestrian route to the local facilities.

## Off-site highway works

Should the application be approved, we would seek the following works to be completed under a Section 278 (Highways Act) agreement with Lancashire County Council.

- Formation of the two site accesses on Castle Road and Windermere Avenue.
- The provision of 2 quality bus stops on Venables Avenue (northern and southern ends) references 2500446 and 2500LAA07260.
- Castle Road footway and shuttle working traffic management scheme.
- Traffic calming measures on Castle Road between Skipton Road and the site access.
- New signalised pedestrian crossing on Keighley Road between Craven Street and Avondale Street.
- Clearing of vegetation on footway of Skipton Old Road between the site and Bents.
- Any measures at the junctions of A6068 Byron Road / A56 Skipton Road roundabout and A56 Skipton Road / Castle Road C681 /Regent Avenue crossroads priority junction subject to further testing and collision investigation.

## Parking

The level of car parking across the site should be provided in accordance with the Pendle car parking standards

## Conclusion

To conclude the Highway Authority would not object to the principle of residential development at this site. However we would request further testing of junctions A6068 Byron Road / A56 Skipton Road roundabout and A56 Skipton Road / Castle Road C681 /Regent Avenue crossroads priority junction and a collision investigation before we are able to conclude the assessment of the transport implications of the proposal.

We would highlight that inclusion of the committed development should be added into the junction models including that already undertaken.

Further speed data must be collected at the proposed site access on Castle Road to advise on necessary visibility splays and subsequently appropriate visibility splays to be shown at both site accesses within the adopted highway or land controlled by the applicant.

As submitted mitigation measures identified inclusive of the bus stop infrastructure improvements on Venables Avenue, pedestrian infrastructure enhancements on Skipton Old Road and Keighley Road, speed compliance measures on Castle Road and contributions to the local public transport service and local cycle strategy. However as detailed above additional information is required to complete the assessment of the transport impacts. This may result in additional mitigation requirements

### **National Highways**

No comments to make on the application.

### **Growth Lancashire (Heritage Comments):**

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Land To The East Of Windermere Avenue Colne Lancashire

#### *Designations*

The southern portion of the site, which runs along Skipton Old Road, lies with Lidgett and Bents CA.

Standroyd - Grade 2 Listed Building lies on the south side of Skipton Old Road outside of the application site.

#### *Duty under Act - Legislation*

The principle statutory duty under the Planning (Listed Building and Conservation Areas) Act 1990 is to preserve the special character of heritage assets, including their setting. LPA's should, in coming to decisions, consider the principle Act. Which states the following:



### *Listed Buildings –s.66*

In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

### *Conservation Areas – s.72*

In undertaking its role as a planning authority the Council should in respect to conservation areas pay special attention to the desirability of preserving or enhancing the character or appearance of that area. In relation to conservation area decision makers should consider the impacts on the character and appearance of a conservation area (which includes its setting) separately and that development proposals need to satisfy both aspects (to preserve or enhance) to be acceptable.

### *NPPF*

In determining planning applications LPA's should take account of;

- a. The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b. The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c. The desirability of new development making a positive contribution to local character and distinctiveness.

P.199 states that when considering the impact of proposals on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be applied. This is irrespective of whether any harm is identified as being substantial, total loss or less than substantial harm to its significance.

P.200 states that loss or harm to the significance of designated heritage assets needs clear and convincing justification.

P.202 identifies that where a proposal would lead to *less than substantial* harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

## *Local Plan*

Policy ENV 1 and Policy ENV 2 of the Pendle Local Plan (2011-2030) - Protecting and Enhancing Our Natural and Historic Environments.

Lidgett and Bents Conservation Area CA – March 1999.

## **Assessment**

I visited the site and the wider area around the site to help me in my appreciation of the site and to assess its contribution to the setting of those nearby heritage assets identified above and in the various reports, as part of the submission.

I have read through the relevant submission documents which include a Heritage Statement, Planning Statement, Design and Access Statement and landscape and Visual Appraisal. I have also read the Inspectors Appeal Decision letter of the Appeals made in 2016 for sites A and B. of particular interest are the comments in relation to Appeal B (APP/E2340/W/15/3131975).

The key issues for the LPA to consider are; whether the proposal would harm either the character or appearance of the Lidgett and Bents CA (through largely impact on its setting) and or cause harm to the setting of the Grade 2 listed Standroyd.

Historic England's advice on setting is contained in its Planning Note 3 (second edition) entitled The Setting of Heritage Assets describes the setting as being the surroundings in which a heritage asset is experienced and explains that this may be 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 and how views allow the significance of the asset to be appreciated.

Dealing with Standroyd (and adjacent converted barn) first, taking the HE guidance into account it is clear that there is little inter-visibility between the proposed housing site, which lies some way north of Skipton Old Road, and the listed building. In this regard I do not feel the contribution made by the site to the significance of that asset is of any consequence. Whilst I note the Planning Inspectors comments in this regard in his 2016 decision letter (paragraphs 30-31) I feel the changes to the scheme have largely eliminated any discernible harm on significance.

The bigger issue is that relating to the character of the Lidgett and Bents CA, which forms part of a wider setting to the site. From my visit I noted that the proposed housing, which is now confined to the northern part of the site, would not be visible from Skipton Old Road, which is the key historic route-way within this CA. I noted also how the built out approved houses on Windermere Avenue and Lob Common Lane

have created a new boundary to the open land to the east (known as The Rough). This is somewhat reinforced by the defined footpath (FP139) which runs alongside. The approval of housing on this parcel has changed the appreciation of the lower part of the CA, especially when travelling westwards along Skipton Old Road.

In terms of the setting to the CA I can understand the views expressed re the rural character contributing to the wider landscape setting and the significance of the Lidgett and Bents CA. The open landscape and views from outside the CA provide historic context to how this area developed and illustrates the transition, within these small hamlets and from an agrarian (cottage handloom) weaving industry into a more urban industrialised process. This change in character was discussed at length by the Planning Inspector in the 2016 decision letter. The current boundary to the CA is really not very helpful in the assessment of the level of harm. The boundary is not defined by any natural feature of boundary. I do however agree (with the previous Planning Inspector) that the land immediately outside the boundary does contribute, in a positive way, to the setting and the character and appearance of the CA.

However, since then the context has changed with the construction of the smaller phase (appeal site A). The scheme now proposed allows more open land to be retained, preserving some visual connection to the open landscape, north of Skipton Old Road. In this context, whilst the new housing will still cause some visual harm to the landscape, the impact on the setting to the CA, and to its key characteristics and significance, is lessened and would, in my view, be low. I am also mindful that when considering impacts on conservation areas that we are required to take into account the impact on the area as a whole. In this instance as the scheme has no direct impact of the properties within the CA (and the significance of the CA generated by the dispersed farms and later weavers cottages).

I note the comments/assessment in the applicants HS and the spatial analysis provided in the D&A Statement. I do agree that the setting to the conservation is a contrasting one with more urban elements along the southern and south western portions and a more open dispersed feel in the north and eastern parts. I also acknowledge that the CA is more readily viewed/experienced from the network of roads/lanes including Skipton Old Road and Bent Lane. Because of the nature of the roads and field boundaries wider views of the proposed housing, from within the CA, will be somewhat limited.

The Planning Inspector noted in Paragraph 39 of the decision letter that the wider experience of the CA would be lost, in that area, as a result of the development of houses on Appeal B site (which included the southern portion of the site down towards Skipton Old Road). That is not the case with the current scheme which seeks to retain more of the openness around the northern part of the CA.

In this context, having read through the documents, given that proposed housing is set well back from the CA boundary and preserves an open aspect to the northern boundary of the CA along Skipton Old Road I feel any harm on the CA would, in my view, be at the very low end (negligible) of the 'less than substantial' range.

I note and welcome the attempts to create a more open edge to the new housing along the exposed southern and eastern boundaries and whilst this largely has no effect on my view on the impact on the CA I feel it will help provide a softer edge to the development.

I do not feel the works and alterations to the Pump House will cause any substantive harm to the Lidgett and Bents CA. The current building is not a positive contributor to the CA. I welcome the proposal to repair and bring the building back into an active use.

### *Conclusion*

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

NPPF Paragraph 199 states that great weight should be given to the conservation of heritage assets (which includes the contribution made by their setting) regardless of the level of harm. High Court decisions have been clear that even lower levels of harm does not equate to a lesser objection given the principle duty under the Act is to preserve. As indicated above I have assessed the harm caused by the proposed housing on the Lidgett and Bents CA to be at the low end of the *less than substantial* range. I have found that the changes to the layout and the retention of the southern portion of the site to have largely removed the previous concerns over the impact on setting, with any residual impact being of a negligible scale.

I do not feel the scheme causes any harm to the significance of Standroyd or any other listed buildings in the vicinity of the site nor to any non-designated assets.

Paragraph 202 of the NPPF allows LPA's to weigh the level of harm (in this case limited – negligible harm) against the public benefits of the scheme, ensuring to give *great weight* (P.199) to any harm. If in undertaking that weighted balance a positive balance can be achieved, then the proposal would be in accordance with the requirements of Chapter 16 of the NPPF and comply with Policy ENV 1 and Policy ENV 2 of the Pendle Local Plan (2011-2030).

## **Campaign for the Protection of Rural England (CPRE)**

Site not allocated.

No need.

Climate and biodiversity crisis.

Impact on rural character in the area known as the Rough which is enjoyed by many people.

This will result of loss of farmland.

CPRE considers there is more brownfield land than is recorded in the brownfield register and this should be developed first.

There are a number of access and site connectivity issues that are insurmountable and there is not enough community infrastructure delivered.

Furthermore, on 22nd of December 2022 the Government published the proposed changes to the NPPF and it is seeking more effective ways at utilising brownfield land under the Levelling Up agenda. CPRE has been urging the Government to improve the way brownfield land is reused. This is what the public wants, a more sustainable approach to the delivery of needed houses and jobs on accessible previously used land to prevent blight of existing communities and protect unbuilt greenfields from needless development and all the harms that follow. 5 How to better protect Best and Most Versatile land in the NPPF is also being discussed. We do need to balance the competing demands for farming, housing and energy needs, while also meeting legally binding net zero targets. Prioritising a 'brownfield first' approach to reduce the pressure of development on our green fields. And the research we've just published shows there is an urgent need for a firm presumption against development on our best agricultural land.

## **PBC Landscape Officer:**

Site

Situated approximately 1500m north east of Colne town centre, the area for the proposed development is currently open agricultural land characterised by occasional singular and groups of self-seeded trees around the boundaries and mostly fragmented hawthorn hedges internal to the site that denotes old field boundaries.

Assessment

The applicant has submitted a fully detailed 'Arboricultural Impact Assessment'

(AIA) that attempts to grade the trees on the site in accordance with the relevant BS 5837 'Trees in relation to design, demolition and construction – Recommendations'. As part of the development proposals, the intention is to remove 5 individual trees and tree groups comprising of mostly hawthorn hedgerows, subject to the final design layout. The indicative landscape masterplan is showing the planting of approximately 138 new trees as mitigation for trees lost.

## **Landscape Impact**

All new development should conserve and not detract from the character of the existing local landscape. These proposals will inevitably lead to a major change in the visual impact on the existing landscape as the key characteristics are of open grassed land with some boundary trees and associated vegetation. It is paramount that protection is afforded to the existing vegetation and ideally the provision of open land around these areas along with compensatory planting, management and enhancing mitigation measures are considered.

## **Conclusion**

When designing the layout of new development consideration must be given to any existing trees and hedges as well as other vegetation on the site. The retention of good quality vegetation is important and care should be taken to retain as much as possible with any new layout being designed around the existing vegetation that is to be retained. Existing vegetation and trees in the vicinity of new buildings creates a maturity of landscape, positively enhances the development and can add significant value in the form of wildlife benefits as well as providing amenity value.

By agreeing a sustainable design layout this allows adequate room for existing trees and buildings and removes the pressures that can be caused post development. The BS 5837 adds weight to getting the design right in Section 5.3: 'Proximity of structures to trees'. Part D mentions "Future pressure for removal" and describes the relationship of buildings to large trees can cause apprehension to occupiers or users of nearby buildings or spaces, resulting in pressure for the removal of the trees. It goes on to say "Buildings and other structures should be sited allowing adequate space for a tree's natural development, with due consideration given to its predicted height and canopy spread".

If you are minded to approve this application in principle, I would suggest an Arboricultural Method Statement (AMS) is submitted upfront prior to approval. This would detail how a precautionary approach towards tree protection would be adopted and any operations, including access, proposed within the RPA (or crown spread where this is greater) should be described that demonstrates that operations can be undertaken with minimal risk of adverse impact on trees to be retained. The AMS would also include a Tree Protection Plan that show methods of tree protection in accordance with BS5837:2012.

Also, a fully detailed compensatory landscaping scheme should be conditioned that covers in detail all aspects of how the loss of trees on the site are to be mitigated.

## **PBC Public Rights of Way:**

I have not seen a plan showing the public rights of way on the site. Nevertheless, I can see from the plans that the proposals as they currently stand will require the diversion of both footpaths, which the applicant has acknowledged by the answer to the relevant question in the application form. The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and therefore the potential consequences in as far as the footpaths are affected should be taken into account.

The proposed development will have significant consequences for the enjoyment of users of these footpaths by altering the open character of the land from being rural land on the edge of town to one of being within the urban environment. However, it is noted that the proposed open space at the south of the site is intended to retain the character of the landscape which these footpath pass through currently.

One effect of the proposed development is that the use of the footpaths is likely to increase in consequence of the additional residents moving into the new houses. The increase in use could be for the purpose of recreation or journeys on foot for work, education or shopping etc. For example, footpath 216 would form a direct walking route to Christ Church Primary School on Bents Lane. As a condition of planning permission either at this stage or reserved matters the developer should be required to upgrade the existing public rights of way as far as the nearest road junction, or to enter into a binding agreement with the Council to fund the costs of such improvements.

The developer should note that the grant of planning permission at the reserved matters stage does not entitle them to obstruct the rights of way. It cannot be assumed that an order to divert the footpaths will invariably be made and confirmed. Development, in so far as it affects a right of way, should not be started and the right of way should be kept open for public use, unless or until the necessary order has come into effect.

The Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) provides that development affecting a public right of way must be advertised in a local newspaper and by posting a notice on the site. It is requested that the effect on the footpath be advertised as such at the reserved matters stage.

The proposed development will have significant consequences for the enjoyment of users of these footpaths by altering the open character of the land from being rural land on the edge of town to one of being within the urban environment. However, it is noted that the proposed open space at the south of the site is intended to retain the character of the landscape which these footpath pass through currently.

## **PBC Environmental Health:**

### **East Lancs NHS:**

Request a contribution of £34,130 for non-recurrent capital costs and recurrent service provision costs for year one service provision. The comments were subsequently withdrawn.

**United Utilities:** Request the developer submit a detailed layout of the development which overlays the proven location of the sewer.

We request the following drainage condition is attached to any subsequent approval: **CONDITION** 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.

### **Lead Local Food Authority**

Objects: Inadequate surface water sustainability strategy. In particular failure to justify runoff destinations. Calculation for SuDs discharge does not include permeable areas.

Further information has been supplied with the LLFA commenting further:

Maintain objection. No information on post development discharge rates as the areas of open space have not been included on run off rate calculations.

**LCC School Planning Team:** If the education contribution assessment identifies the need for a contribution and/or land to be provided Lancashire County Council is, in effect, objecting to the application. A developer contribution to deliver school places and/or land meeting the school site requirements as detailed in the assessments, including indexation will, in most cases, overcome the objection. If a developer does not agree to payment of the requested education contribution or the local planning authority does not pursue Lancashire County Council's, Lancashire County Council cannot guarantee that children yielded by the development will be able to access a school place within reasonable distance from their home, so the development could be



considered to be unsustainable. Furthermore, if the planning application is approved without the required education contribution LCC would request that the local planning authority confirm how the shortfall of school places, resulting from the development, will be addressed. (Please see page 10 of the Education Contribution Methodology).

The response sets out the methodology for assessing the need for school places resulting from a development based on existing place provision and a yield of pupils arising from the new houses.

The development will not result in a need for primary school places as there will be a net surplus in the design years but there will be a net increase of 14 places needed for secondary school places. A contribution of £346,542 is requested to provide 14 places at secondary schools in Colne.

A further assessment has been undertaken. That concludes:

“An education contribution is **not** required at this stage in regards to this development.”

**Lancashire Constabulary:** Strongly recommend that the development is built to secured by design standards using the SBD “Homes 2019” design guide specification.

**Colne Town Council:**

Detailed comments have been submitted based on the following:

The applicant is not a developer and will not deliver the site themselves and it cannot be conditioned that a future developers in accordance with the illustrative material.

The starting point for considering applications is the development plan. As the Council has more than a 5 year supply of housing land paragraph 11d of the Frameworks does not apply.

The naming of the site is not the Upper Rough as known to residents and the terminology underplays the significance of the site to local people.

The development is not a Phase 2 as suggested by the developer.

The LP policy framework is set out including LP policies SPD2, LIV 1 and ENV1.

The site lies outside of the development limits. As the development is not one of the exceptions in the Framework for development outside of a settlement it is contrary to SDP2 of the Local Plan.

Refers to the Main Modifications for the LP Inspector’s report indicating that sites outside of a settlement but which are close to it can come forward in a sustainable way.

The site is low in accessibility and is not in a sustainable location.

What is in the SHLAA is irrelevant to a planning application.

Policy ENV 1 requires development to make a positive contribution to the protection, enhancement, conservation and interpretation of our natural and historic environments. The Upper Rough is not a protected wildlife site. In such instances where Habitats and Species of Principal Importance are found: “The potential effects of a proposed development on species and habitats of principal importance [ 85 as identified by Section 41 of the NERC Act 2006] will be a material consideration in the determination of planning applications. Consideration will be given to the extent and significance of any adverse effects on the habitats or species concerned.”

The site is a key nesting ground for Curlew and mistle thrush – red listed birds. It has the potential to be enhanced for further breeding. 2 breeding curlew and one pair of lapwing would be displaced with no compensatory habitat offered.

The proposed development by seeking to build 150 houses on open countryside fails to safeguard or enhance the landscape character of the area and is contrary to this section of Policy ENV1.

The other relevant part of Policy ENV1 deals with Historic environment and built heritage, such assets will be conserved and should be enhanced in a manner appropriate to their significance.

The applicant has sought to deal with these matters by suggesting the southern portion of the Upper Rough remain open land. This helps them to draw the conclusion that whilst there is still less than substantial harm this is now at the low end of the scale. This fails to address the key impacts identified by the 2016 Inspector:

- For a substantial proportion of their length, the footpaths (Nos. 139 and 216) and part of the Winewall Circular Walk, East Colne Way and Two Toms Walk would still be encompassed by housing development, inescapably altering the experience of those leaving or arriving at the Conservation Area along these routes.
- To longer distance views, the definition between Lidgett and Bents would be eroded (applicant’s Landscape and Visual Appraisal photopoints EDP7 – EDP11), and the experiences of those within the Conservation Area, where views of the development would be achieved, would be of increased enclosure and a lost connection to an important element of the agricultural setting.

The less than substantial harm remains and is not outweighed by any benefits.

Although the pump house is to remain on some form of community use it has no delivery mechanism.

The Colne Neighbourhood Development Plan (CNDP) has reached examination stage. The CNDP is, therefore, at an advanced stage of preparation. Unresolved objections will be considered at the CPD examination.

The CNDP submitted for examination includes the following policies that are considered relevant to this planning application:

- Policy CNDP3 – Design in Colne and the Colne Design Code
- Policy CNDP4 – Development Affecting Non-Designated Heritage Assets
- Policy CNDP7 - Protecting Local Green Space
- Policy CNDP13 - Conserving and Enhancing Valued Landscape Features
- Policy CNDP14 – Rural Identity and Character

The applicants planning statement fails to consider in a proper manner:

- The Colne design code
- Development affecting non-designated assets
- The site is a designated green space
- The contribution the open landscape areas make in conserving and maintaining the area's distinct settlements
- The retention of the rural identity and character of the neighbourhood area. The development would be serviced by an inadequate access and inadequate highway provision particularly on Castle Road.

No visibility splays are shown on the access drawings.

There is very limited accessibility for forms of transport other than the car. The applicant's Transport Assessment Plan VN212171 – G102 shows only four bus stops, two convenience stores and a supermarket within the 1km catchment. The nearest bus stop being Fern Street is for school buses. The nearest convenience the Premier on Keighley Road 400m/10 minutes' walk at its **closest** point. Contrary to their assertion, there is no supermarket within the 1km walking catchment.

No real solutions have been presented to improve the sustainability of the site.

Based on the proposed access junctions on Windemere Avenue and Castle Road, a bus route could not safely access the site based in the proposed carriageway widths of 5.5m and 6m respectively.

The Design and Access Statement (DAS) was published over a month after the consultation on the application began and should be afforded little, or no, weight.

The final form of the indicative design is still an urban/suburban intrusion into this rural landscape (evidenced by the applicant's own indicative views in the DAS) and a design that still results in a less than substantial harm to the Lidgett and Bents Conservation Area and its setting.

The DAS indicates that there is a deficit in housing supply which is not the case in Pendle.

The DAS conclusion is that there is "no material harm to the conservation area arising from these proposals". This is not the test that should be applied and this is at odds with comments elsewhere in the applicant's submitted documents that there remains "less than substantial harm".

## Conclusions

68.This planning application is in outline only with all matters other than access reserved. The two issues to consider, therefore, are the principle of development and the means of access.

69.This statement has demonstrated that the proposal is contrary to the following policies of the development plan:

- SDP2 Spatial Development Principles
- LIV1 Housing Provision and Delivery
- ENV1 Protecting and Enhancing Our Natural and Historic Environments
- ENV4 Promoting Sustainable Travel

70.The Town Council is also of the opinion that Pendle Borough Council should afford significant weight to the emerging CNDP and its policies. The planning application is considered to be in conflict with the following:

- Policy CNDP7 - Protecting Local Green Space
- Policy CNDP13 - Conserving and Enhancing Valued Landscape Features
- Policy CNDP14 – Rural Identity and Character

71.The Upper Rough, being of low accessibility by travel modes other than the private car and remote from local facilities, is also not a sustainable location for housing development.

72.In terms of the only matter not reserved, access, the applicants have failed to demonstrate that safe and achievable access can be gained from Windermere Avenue and Castle Road.

73.The application should be refused as being contrary to the Pendle Development Plan, contrary to emerging policy in the Colne Neighbourhood Development Plan, as the Upper Rough is not a sustainable location for development, and that safe and achievable access cannot be gained to this Open Countryside location

**Lancashire Fire and Rescue:** The scheme design should fully meet the requirements of Building Regulations Document B (Fire Safety)

### **Lancashire, Manchester and North Merseyside Wildlife Trust**

I am writing on behalf of the Wildlife Trust to OBJECT to the proposed development on the following grounds:

1. The National Planning Policy Framework (NPPF, current version dated July 2021) refers to ecological networks in paragraphs 174d, 179a and 179b. Paragraph 174 requires planning decisions to contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. However, the Ecological Impact Assessment (version 4.0 dated September 2022), and paragraph 3.27 in particular, has not taken the Lancashire Ecological Networks for grassland or woodland into consideration, hence the EIA is deficient and incomplete and, as a consequent, the findings and conclusions may be inaccurate and in need of being updated and amended accordingly. Whilst I am pleased to see, and support the inclusion and application of, the EIA taking a precautionary approach to the prediction of impacts (paragraph 2.18); that “information provided by third parties, including publicly available information, is assumed to be correct at the time of publication (paragraph 2.26); and “where there is any doubt, except where specifically noted, species are assumed to be present, and the impact assessment assumes a higher level of significance (within the spectrum of possible significance)”, I am disappointed that this has not been applied to the use of the site by Eurasian Curlew for breeding, as has been seen by local residents and reported in the findings of a conservation advisor from the RSPB in March 2021. The loss of two pairs of breeding Curlew from within an Impact Risk Zone (IRZ) of the South Pennine Moors Special Protection Area has not been taken fully into account or compensated for. As a consequence, the statements in paragraphs 3.39, 3.42, 3.43, 4.32, 4.34 and 5.23, and the conclusions in paragraphs 6.3, 6.4 and 6.5 of the EIA, are all incorrect.

3. The EIA refers to the presence of Species of Principal Importance (as listed in Section 41 of the Natural Environment and Rural Communities Act 2006), also known as ‘Priority Species’. In respect of bird species, the list in paragraph 3.40 of the EIA includes seven Priority Species: Curlew, Herring Gull, House Sparrow, Lapwing, Reed Bunting, Starling and Song Thrush. Priority Species are a material planning condition, and all public bodies have a ‘Biodiversity Duty’ under the Act to “have regard to the purposes of conserving biodiversity in a manner that is consistent with the exercise of their normal functions such as policy and decision-making”. The application and EIA as it stands does not have regard to the conservation of Priority Species found on the site.

4. The impact of development on the site upon the ‘notable species’ of breeding birds, including Priority Species and Birds of Conservation Concern, as listed in paragraphs 3.40-3.43, is not specified in section 4.0 of the EIA, hence appropriate mitigation and/or

compensatory measures have not been identified or recommended. For example, a planning application in Ribble Valley that displaced a pair of Lapwing and two pairs of Skylark from approx. one hectare (10,000 square metres) of nesting habitat, required 7.27 hectares of offsite land to be brought into suitable management as compensation. It is envisaged that a full planning application on the land east of Windermere Avenue would displace two pairs of Eurasian Curlew and possibly one pair of Lapwing, hence sufficient offsite compensatory habitat would have to be created and/or managed for 30 years as required under the Environment Act 2021.

5. A total of 177 species of vascular plants have been recorded during the surveys of the site between 1998 and 2022, see list below. Of the 177 plant species, 17 (9.6%) are listed in guideline Gr3 of the Biological Heritage Site guidelines for site selection (LCC/LWT 1998)<sup>1</sup>, and 21 (11.9%) are listed in guideline Gr4 of the District Wildlife Site guidelines for site selection (LWT 2005 for Pendle, and 2015 for Lancashire). However, the 2022 EIA recorded just 61 plant species (34.5% of 177), hence I believe it is reasonable to suggest that the biological diversity and ecological value of the site have been underestimated.

6. Regarding paragraphs 4.21 and 5.10 of the EIA, I can confirm that Bluebells were recorded on the site during the surveys by ERAP in May 2015 and LWT in June 2016, hence the EIA needs to be amended accordingly.

Note 1: The National Planning Policy Framework (NPPF 2006 as amended, current version dated July 2021) requires development to deliver net gain in biodiversity/nature and, from November 2023, all planning applications will have to deliver a minimum of 10% Biodiversity Net Gain (BNG) under the requirements of the Environment Act 2021. Whilst the application may claim to be able to deliver BNG within the red line curtilage of the site, this is an outline application, hence the design will inevitably change and any figures quoted are irrelevant at this stage of the planning process. Furthermore, all calculations from consultants claiming to deliver BNG need to be checked and confirmed by a suitably qualified independent ecologist using the current version of Defra's biodiversity metric (v3.1 as of December 2022). In my experience, consultants tend to underplay the baseline condition of habitats present on sites and overvalue the quality of the habitats that they claim will be created and managed post development. This results in over-exaggerated amounts of BNG, which facilitates the application being approved yet ultimately will not be delivered, hence biodiversity will continue to suffer and decline in contrast to the aims and intentions of Circular 06/2005, the NPPF, the Lawton Review (2010), the government's 25-year Environment Plan (2018), and the Environment Act (2021).

Note 2: The EIA contains a substantial number of spelling mistakes, botanical and other errors despite the September 2022 report being version 4.0 and having been checked and approved by two people over and above the authors. The fact that this has happened could be used to support claims that the EIA and its conclusions are unreliable. Whilst I may be being pedantic in pointing out mistakes and errors, I am also a full member of the Chartered Institute of Ecology and Environmental Management

(CIEEM) and want to see standards of professional conduct in the environmental sector raised and maintained in order that we are best placed to address the biodiversity and climate crises, reverse the declining trends in biodiversity, and help nature's recovery during this and subsequent decades. I trust that this OBJECTION will be taken fully into account and would be grateful if you could let me know the outcome of this application and inform me if there are any subsequent applications for the site.

## **The Ramblers Association**

This area is used extensively by walkers and the local community in the Colne area and beyond and is a major walking route between Skipton Old Road and Castle Road. The East Colne Way and The Winewall Circular walks, cross the Upper Rough and give long range views of the surrounding countryside and Colne itself. Hundreds of people every year walk these Pendle Borough Council approved and promoted circular walks and if this development proceeds, the stunning views and mental health benefits for walkers will be lost forever in a mass of houses. The Upper Rough is an open 'green' space and has been designated as such by the people of Colne in the upcoming Colne Neighbour Plan. It is full of wildlife including the ground nesting bird the curlew, which nests on the land during the spring to summer months and raises their chicks. A development like this would destroy their habitat.

This green area has been accessible and used by local people for at least 175 years. This is shown on the first edition OS maps from 1841, where a track is shown across The Rough, which the existing footpath follows today.

During the pandemic more and more people used the Upper Rough to exercise and improve both their physical and mental health

As this is a major construction project, the safety of any walkers during any construction phase cannot be guaranteed by the developers and the public footpaths will effectively be 'off limits', and have to have Temporary Closure Notices applied. The proposed new line of paths 139 to the west and 216 to the east, which would have to have diversion orders applied for, through this large estate will not only take away the pleasure of these well publicised and well used routes but will add stress and potential danger as these walkers negotiate the many drive ways and subsequent cars.

The Government and local councils are, supposedly, committed to increasing the health of the local community, and areas like The Upper Rough not only needs to be protected for environmental reasons but also the well-being and health of the local residents.

This is, in effect, taking away the open spaces that are a great feature and asset of this area by stealth. No doubt there will be plans to swallow up the rest of The Rough with further houses. This will be a great pity, for many reasons.

There has to be more suitable sites that will not have such an impact on the beauty of the area and on local health and wellbeing.

## **Lidgett and Beyond**

Detailed comments have been submitted based on the following:

The starting point for considering applications is the development plan. As the Council has more than a 5 year supply of housing land paragraph 11d of the Frameworks does not apply.

The LP policy framework is set out including LP policies SPD2, LIV 1 and ENV1.

The site lies outside of the development limits. As the development is not one of the exceptions in the Framework for development outside of a settlement it is contrary to SDP2 of the Local Plan.

Refers to the Main Modifications for the LP Inspector's report indicating that sites outside of a settlement but which are close to it can come forward in a sustainable way.

The site is low in accessibility and is not in a sustainable location.

What is in the SHLAA is irrelevant to a planning application.

Policy ENV 1 requires development to make a positive contribution to the protection, enhancement, conservation and interpretation of our natural and historic environments.

The site is a key nesting ground for Curlew and mistle thrush – red listed birds. It has the potential to be enhanced for further breeding. 2 breeding curlew and one pair of lapwing would be displaced with no compensatory habitat offered.

The proposed development by seeking to build 150 houses on open countryside fails to safeguard or enhance the landscape character of the area and is contrary to this section of Policy ENV1.

The other relevant part of Policy ENV1 deals with Historic environment and built heritage, such assets will be conserved and should be enhanced in a manner appropriate to their significance.

The applicant has sought to deal with these matters by suggesting the southern portion of the Upper Rough remain open land. This helps them to draw the conclusion that whilst there is still less than substantial harm this is now at the low end of the scale. This fails to address the key impacts identified by the 2016 Inspector:

- For a substantial proportion of their length, the footpaths (Nos. 139 and 216) and part of the Winewall Circular Walk, East Colne Way and Two Toms Walk would still be



encompassed by housing development, inescapably altering the experience of those leaving or arriving at the Conservation Area along these routes.

- To longer distance views, the definition between Lidgett and Bents would be eroded (applicant's Landscape and Visual Appraisal photopoints EDP7 – EDP11), and the experiences of those within the Conservation Area, where views of the development would be achieved, would be of increased enclosure and a lost connection to an important element of the agricultural setting.

The less than substantial harm remains and is not outweighed by any benefits.

Although the pump house is to remain on some form of community use it has no delivery mechanism.

The Colne Neighbourhood Development Plan (CNDP) has reached examination stage. The CNDP is, therefore, at an advanced stage of preparation, one step from the referendum needed to approve Neighbourhood Plans. The CNDP should therefore be accorded significant weight in the consideration of the planning application.

The CNDP submitted for examination includes the following policies that are considered relevant to this planning application:

- Policy CNDP3 – Design in Colne and the Colne Design Code
- Policy CNDP4 – Development Affecting Non-Designated Heritage Assets
- Policy CNDP7 - Protecting Local Green Space
- Policy CNDP13 - Conserving and Enhancing Valued Landscape Features
- Policy CNDP14 – Rural Identity and Character

The development would be serviced by an inadequate access and inadequate highway provision particularly on Castle Road.

No visibility splays are shown on the access drawings.

There is very limited accessibility for forms of transport other than the car. The applicant's Transport Assessment Plan VN212171 – G102 shows only four bus stops, two convenience stores and a supermarket within the 1km catchment. The nearest bus stop being Fern Street is for school buses. The nearest convenience the Premier on Keighley Road 400m/10 minutes' walk at its **closest** point. Contrary to their assertion, there is no supermarket within the 1km walking catchment.

No real solutions have been presented to improve the sustainability of the site.

Based on the proposed access junctions on Windemere Avenue and Castle Road, a bus route could not safely access the site based in the proposed carriageway widths of 5.5m and 6m respectively.

The Design and Access Statement (DAS) was published over a month after the consultation on the application began and should be afforded little, or no, weight.

The final form of the indicative design is still an urban/suburban intrusion into this rural landscape (evidenced by the applicant's own indicative views in the DAS) and a design that still results in a less than substantial harm to the Lidgett and Bents Conservation Area and its setting.

The DAS indicates that there is a deficit in housing supply which is not the case in Pendle.

The DAS conclusion is that there is "no material harm to the conservation area arising from these proposals". This is not the test that should be applied and this is at odds with comments elsewhere in the applicant's submitted documents that there remains "less than substantial harm".

## **Conclusion**

70. This planning application is in outline only with all matters other than access reserved. The two issues to consider, therefore, are the principle of development and the means of access.

71. This statement has demonstrated that the proposal is contrary to the following policies of the development plan:

- • SDP2 Spatial Development Principles
- • LIV1 Housing Provision and Delivery
- • ENV1 Protecting and Enhancing Our Natural and Historic Environments
- • ENV4 Promoting Sustainable Travel

72. Lidgett and Beyond are also of the opinion that Pendle Borough Council should afford significant weight to the emerging CNDP and its policies. The planning application is considered to be in conflict with the following: • Policy CNDP7 - Protecting Local Green Space

- Policy CNDP13 - Conserving and Enhancing Valued Landscape Features
- Policy CNDP14 – Rural Identity and Character

The Upper Rough being of low accessibility by travel modes other than the private car and remote from local facilities is also not a sustainable location for housing development.

74. In terms of the only matter not reserved, access, the applicants have failed to demonstrate that safe and achievable access can be gained from Windermere Avenue and Castle Road.

75. The application should be refused, being contrary to the development plan, contrary to emerging policy in the Colne Neighbourhood Development, by way of the fact that the Upper Rough is not a sustainable location for development, and that safe and achievable access cannot be gained to this open countryside location.

## **Public Response**

Press and site notices were posted and 242 neighbours notified. There has been a high degree of public comments on the following issues:

- Main requirement is a bypass to alleviate traffic problems
- The development is unsustainable.
- There are plenty of brownfield options available
- It will destroy the habitat of the endangered curlew
- The area does not have the infrastructure for the amount of people.
- The roads do not have the capacity
- Not enough dentists now so this will place greater strain on the services
- We all saw during lockdown the importance of the green open spaces and countryside for our physical and mental well being. If this is approved the planning officers and councillors are showing that they do not care about this or indeed us, the local people who they represent.
- The traffic calming will devalue our property.
- Castle Road will have restricted visibility when leaving our house and we will not be able to exit safely.
- Concern about stagnant water in the pond.
- Will tree roots grow into our drains?
- The wildlife surveys were carried out in winter and this is not an accurate representation of the life that depends on the Rough
- It will be a blot on the landscape
- Park high school is already over subscribed.
- It is very obvious that this is purely a money-making venture and is not caring about the community. The people behind this plan clearly do not know or live in this area because if they did this plan would not be proposed.
- Windermere Avenue has got busier due to the new development.
- There are always children playing on Windermere avenue or using it to come to and from school. If the road is used as an access point then this could become very unsafe for pedestrians.
- Traffic noise would also increase to all neighbouring properties. We would be able to hear the increased traffic in our back gardens.
- There are two walks that exist across the Rough, the East Colne Way and the Three Villages Walk. These take advantage of the views available from the elevated position of the Rough. These walks encourage visitors from both the local area and afar. It is a green space well used by local residents.

- Due to the elevated position of the proposed site, it has obviously not been thought through as it will mar the landscape.
- As a resident who lives on the edge of the Rough I have witnessed the wildlife that uses it. There are curlews, lapwings, kestrels, buzzards, barn owls and woodpeckers. The bats may be seen every evening flying around the Rough looking for food.
- Long range views which will be ruined and likewise the view from areas looking on to the Rough will be destroyed.
- We don't need another park for teenagers to come, hang out and be a nuisance to residents. All parks create are dirty litter ridden unkept areas.
- Who is going to afford these houses when we are in the middle of the biggest credit crisis of our generation.
- There is no need for a café. Ball Grove already has one.
- It has been proven in research that lack of green spaces affect mental health and do not create a healthy area for children's growth.
- This land was subject to a planning application which was turned down by the government inspector in 2016 on appeal. Many of the reasons for this refusal to allow development remain. For example, Paragraph 17: states that there must be due regard paid to preserving the setting of listed buildings and 'this does not mean that those areas outside the boundary do not contribute to the setting of the CA.' Paragraphs 32-34 talk of the importance of views and settings and nothing has changed regarding the long range views which should be preserved. Paragraph 39 states that 'were the site in question developed then this would encompass both footpaths and notwithstanding the potential for future landscaping, would inescapably alter the experience of those leaving or arriving at the CA along these routes. To longer distance views the definition between Lidgett and Bents would be eroded, and the experiences of those within the CA, where views of the development would be achieved, would be of increased enclosure and a lost connection to an important element of the agricultural setting.
- We have a 5 year supply of land unlike for the previous appeal.
- Already along Skipton Old Road it is impossible for a pedestrian to walk with a pram without having to take the pram off the pavement and onto the actual road.
- If a cafe/play area is at the south of this site then people logically will park on Skipton Old Road instead of driving round and round a winding estate to find a car park and make this situation even more dangerous for children walking to Christ Church Primary.
- Possible chemical leakage from old Reservoir.
- Flash Flooding. On this site when there is a period of heavy rain the water literally runs off as the soil is heavy clay based. Skipton Old Road has in the past been shut by the Police due to over an inch depth of consistent water like a fast flowing stream running over the tarmac making the road unsafe to use.
- Proposed 3 storey houses. On an highly elevated site this would be detrimental to the town.
- As for the design of the houses, they don't fit in with the conservation areas close to the development, nor the countryside around it as it clashes (traditional dry stone walls etc), nor to the houses on Castle Road, Skipton Old Road.

- Need to support local farmers who are fighting to keep land.
- Any housing development will result in significant urbanisation resulting in the loss of a large percentage of accessible green space within Colne.
- Within the Colne Significant View Assessment which supports the preparation of the Colne Neighbourhood Plan and draft Policy CNDP15; clearly recommends that the Upper Rough is mapped as Significant Views and is to be retained.
- East Lancashire NHS Trust has stated on other planning applications in Colne that "without the provision of additional facilities and services it is not possible to accommodate the health impact of the development (which is smaller in size) with the existing provision which is available." A largescale development such as this has the potential to impact the health and wellbeing of current Colne residents.
- United Utilities, as part of the Pendle Strategic Housing Land Availability Assessment, have previously indicated capacity issues at Colne Waste Water Treatment Works.
- The Upper Rough is an excellent area for water retention. With 50% of the total development area estimated to be impermeable (FRA) the development will increase surface flooding, impact existing residential properties and increase flood risk in the wider waterbody.
- There have been numerous gas leaks on Coniston Grove due to heavy traffic
- There is also a problem with water drainage on this site. When it rains heavy the run off from this land creates a river onto Windermere Avenue and Venables Avenue.
- Colne residents have objected to this site for decades.
- The claims that residents can easily utilise public transport and not rely on cars are inaccurate.
- The ecology report shows an ignorance of the needs of Curlew.
- Where will they go next if this is developed.
- The development is prejudicial to emerging policy in the Colne NP.
- Several mature trees on site present roosts for bats.
- It is clear that that this matter cannot be dealt with at this stage of the planning process as an Outline Application deals just with the "principle of development" on site and all other matters are reserved for the future including such matters as landscaping, public access to a community café and an area of public open space.
- A more fundamental reason for objecting to this Application is that the Government has just agreed to changes to the National Planning Policy Framework which aim to protect Greenfields from unwarranted developments, do away with arbitrary figures for new housing imposed by Government on Local Authorities and, instead, focus on meeting local housing needs on Brownfield sites.
- When there is heavy rain there is huge run off from this site.
- Restricted access to 120 and 122 Castle Road
- The width of Castle Road is inaccurate
- Traffic on Castle Road is already heavy
- The Pendle Borough Council Green Belt Assessment (September 2017) lists the Upper Rough as a Protected Area, which should not be developed (p41). It is regarded as a 'Major' influence in "Checking the unrestricted sprawl of large built up areas." (Table 12).

- Busses are not within walking distance
- The outline development plan purports to respect the Lidgett conservation area by avoiding development in this zone. However the fact is missed that the Upper Rough would be built over and the undeveloped portion of the Rough would be converted from natural fields into a cultivated public open space.
- The previous application sought to give public benefits which were then removed by application to vary conditions. Any public benefits should be assured this time.
- The proposed access point on Castle Road, is at a pinch point on the road, with an absence of pavements on either side. The proposed design for the traffic control around the entrance would result in queuing on the road, chaos as residents on Castle Road attempt to enter & leave their properties & access for larger emergency vehicles would be nigh on impossible.
- Its findings (TEP report) have not been checked and confirmed by a qualified independent ecologist It fails to take account of the Lancashire Ecological Networks for grassland or woodland in its estimate on the ways in which this development will impact on, and provide net gains for, biodiversity.
- The TEP report makes no reference to reports officially recorded by both local residents and the conservation advisor from the RSPB in relation to the loss of two pairs of breeding curlew from within an Impact Risk Zone of the South Pennine Moors Special Protection Area. Its recording of vascular plants (61) differs markedly from those conducted by independent surveyors in earlier years (177). The difference is so great it is reasonable to suppose that the consultant (whose remit is to support development) have underestimated the biological and ecological diversity of the site.
- There will be light pollution from the development.
- Under the Clean Neighbourhoods and Environment Act 2005 & Environmental Protection Act 1990 to cover artificial light emitted from premises, Councils have a duty & responsibility to safeguard that new developments must NOT be seen to have a detrimental / intrusive effect on human lifestyle patterns or the immediate environment, ecology or biodiversity. This development if given permission will undoubtedly have an effect on all of the above.
- This assessment supports the preparation of Colne Neighbourhood Plan and draft Policy CNDP15. This policy identifies six landmarks that are important to the landscape and visual amenity of the area, and seeks to retain and protect these views from future development. Following public consultation on the draft Plan a further three landmark areas were identified as important. The assessment considers the landscape character and visual amenity of the nine landmarks in relation to 21 valued viewpoints in and around Colne. It describes the key landscape and visual characteristics of the prominent views and their relationship to the town's setting, assessing their sensitivity to change, value and importance.
- The Upper Rough development falls into and exceeds the criteria stated by the UK Government for an Ecological Impact Assessment (EIA) to be carried out before any decision is made by the local council.
- I particularly would be directly affected if the proposed development went ahead, My wife and I live directly opposite the fields on which these plans would be developed. We chose this house specifically because of the fabulous natural view, building

another 150 houses on this land would completely ruin that view and would cause a negative impact on the long-range views within the area.

- There would also be a detrimental impact upon the Lidgett and Bents Conservation Area. Key objectives and policies within the Core Strategy include protecting, maintaining and enhancing sites that make a positive contribution to character and townscape; conserving and enhancing heritage assets and their settings. I feel this development would be counter to this aim. The Planning Inspector has previously stated that important buildings of the conservation area 'present a concise summary of the historic and social development of the area, from the imposing, prominent Heyroyd set on the high point of the Conservation Area to the small, self-contained weaver's cottages in Bents. This social history is clearly read into the existing buildings and their relationship with the surrounding agricultural land and forms an important part of the CA's significance' and 'Although Skipton Old Road is lower than the surrounding fields, the view towards appeal Site B (The Upper Rough) in particular is an important one in terms of this agricultural relationship.
- Pendle is building significantly in excess of the SM housing figure and is ahead in the three year delivery test. There is therefore no requirement to build another 150 new homes.
- There will be polluting carbon emissions from the development.
- The footpath will be built on private land.
- 122 Castle Road could not be safely accessed.
- The Rough has helped with people's mental well being including during the Covid pandemic.
- There have been a number of applications to the council of late for holiday cottages, glamping pods, increased camping facilities which is an indicator of the increased demand for tourism and visitors to the area, a demand that has these rural characteristics, green spaces and open views as a core foundation and the development would harm tourism.
- Loss of green belt.
- We are informed that the Land speculator that has submitted this applications is not the developer and therefore should this go ahead any developer could substantially change the application. I note that Mr Watson and his planning team have failed to make this clear in the application. I find this at best to be unprofessional, I also understand that there is a £500 per house incentive from the government for new developments paid to the Council which also has not been published. I am disappointed that the Mr Watson appears to disregard the views of the local inhabitants in this and previous planning applications.
- There is significant national pressure on Curlews and their loss.
- The contribution for school places is inadequate. If a one off payment of £25K is the contribution for each new school place, then based on the above assumptions LCC should be seeking a contribution of somewhere between £2,700,000 and £4,000,000 from the developer, not a paltry £347,000.
- There has been a 60% decrease in flying insects over the last 20 years and many species are in decline and there is a climate crisis.
- With regard to the spurious "Visualisations" I do not see the need for another children's play area when there is a large one on nearby Skipton Road. I cannot see

the wisdom of having small ponds near where children will be playing. I do not see the need for a Cafe on the Community open space either.

## **Planning Policies**

### **Development Plan**

- 5.1 The Planning and Compulsory Purchase Act 2004 sets out the statutory requirement for taking decisions on planning applications and appeals. It requires that decisions on development must be taken in accordance with the development plan unless material considerations indicate otherwise.
- 5.2 Pendle adopted its Core Strategy on 17<sup>th</sup> December 2015. This will be referred to in this report as the “LP”. There are also saved policies from the Replacement Pendle Local Plan (adopted 2006) as detailed in Table B1 (page 237) of the LP. There are also adopted Neighbourhood Plans which form part of the development plan but as these do not cover Colne they have no bearing on the application.
- 5.3 The Colne Neighbourhood Plan (“the NP”) has completed its Regulation 16 consultation and has been examined. The Council has agreed that it should go forward to referendum. The weight to be given to the NP and its policies will be considered in more detail later in the report. At this stage the NP is not part of the Development Plan for Pendle although the report of the Inspector has been received and, with modifications, the Plan has been found to meet the basic conditions.
- 5.4 The Council has a five year supply of housing land and that is accepted in the supporting statement of the developer. Housing delivery is currently at 227% as measured in the National Housing Delivery Test results.

### **Listed Buildings Act 1990**

- 5.5 Section 66 of the Act requires that In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 5.6 Section 72 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. In relation to conservation area decision makers should consider the impacts on the character and appearance of a conservation area (which includes its setting) separately and that development proposals need to satisfy both aspects (to preserve or enhance) to be acceptable.



## **Pendle Local Plan Core Strategy**

- 5.7 Policy SDP2 sets out a settlement hierarchy for Pendle. It indicates that development proposals should be of a scale and nature proportionate to the role of the settlement. Colne is a key service centre in the M65 corridor and as such the policy seeks to focus growth within it.
- 5.8 The policy accepts that greenfield sites will be needed to meet the housing needs of the Borough. These need to be in a sustainable location. Sites also need to be well related to an existing settlement. This is both spatially well related as well as well related in terms of other impacts. This latter part of the policy is a restraint on development as it requires a wide view of how well a site is related to a settlement to be considered. The physical impacts and relationships of development to existing settlements cannot be ignored in decision making.
- 5.9 Policy SDP3 sets out the housing distribution for the Borough. It states that 70% of the Borough's requirement should be located in the M65 corridor, and within each spatial area, the provision for housing should follow the settlement hierarchy set out in Policy SDP2. Whilst this policy seeks to restrict housing distribution within Borough the figures are approximate targets.
- 5.10 Policy LIV1 sets out the amount of new housing required to meet the Borough's Objectively Assessed Needs (OAN) over the plan period (2011-2030). It sets out the annual housing requirement and sets the housing numbers against which the provision of deliverable sites to meet the five year housing land supply will be assessed.
- 5.11 Until the Council adopts a new Local Plan then sustainable sites for housing developments outside but close to a Settlement Boundary, which make a positive contribution to the five year supply of housing land, including those in the Strategic Housing Land Availability Assessment (SHLAA) will be supported.
- 5.12 The policy sets a minimum amount of housing to be brought forward. It provides for a positive mechanism to bring forward housing prior to the adoption of the new LP.
- 5.13 Policy LIV3 states that in order to meet the housing needs of different groups in the community; the Council will encourage and support the provision of a range of residential accommodation. It gives "high" priority to the provision of "larger homes" and "medium" priority to the provision of "smaller homes of suitable tenures in accessible locations".
- 5.14 Policy LIV 4 sets out the level of affordable housing that would be required for new developments. It is however not a policy that would affect the deliverability of either appeal site as there is a 0% requirement.

- 5.15 Policy SDP1 (Presumption in Favour of Sustainable Development) addresses the presumption in favour of sustainable development and how the decision maker takes a positive approach that reflects how this issue underpins the Framework. This stance enables development to be approved that can improve the economic, social and environmental conditions in the area.
- 5.16 Where there are no policies relevant or the relevant policies are out of date at the time of making the decision then permission will be granted unless material considerations indicate otherwise - taking into account whether:
- Any adverse effects of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
  - Specific policies in the Framework indicate that development should be restricted. This policy is important because it enshrines the contents of paragraph 14 of the NPPF within adopted development plan policy.
- 5.17 Policy ENV2 (Achieving Quality in Design and Conservation) states that all new development should seek to deliver the highest possible standards of design and meet future demands whilst enhancing and conserving our heritage assets.
- 5.18 Policy ENV1 states that the development should make a positive contribution to the protection, enhancement, conservation and interpretation of our natural and built environment. It deals with how proposals affecting sites with biodiversity interest should be dealt with which are not relevant to the Council's objection to the scheme.
- 5.19 Development proposals should wherever possible aim to safeguard or enhance the landscape character of the area and should show how they respond to the particular landscape character type they are located within. The protection of the landscape will affect sites that are located outside of settlements and green field sites. The policy would have a potential impact on the supply of housing as many sites that are required to meet the housing needs of the Borough are peripheral greenfield sites. The policy states that developments should show how they respond to the particular landscape character type they are located in. The impacts that a development has on landscapes cannot be ignored in taking planning decisions. Clearly the greater the impact the greater the weight should be given to the policy which seeks to protect the landscape. Whilst the policy will affect the supply of housing land weight needs to be accorded to it particularly where landscape and heritage impacts are significant.
- 5.20 The historic environment and heritage assets of the Borough will be conserved and should be enhanced according to their significance. Protecting and enhancing heritage assets is one of the objectives set out in the Framework. Indeed the Framework has a policy of restriction in it for developments affecting the significance of heritage assets. The Planning (Listed Buildings and Conservation

Areas) Act 1990 also has the statutory requirement for decisions makers to have regard to preserving and enhancing conservation areas.

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

### **Replacement Pendle Local Plan Saved Policies**

- 5.22 The Pendle Local Plan Part 1: Core Strategy has replaced parts of the RPLP as set out in Table B1 (page 237). Some of the policies in it have been saved.
- 5.23 Policy 1 (Development in the Open Countryside) is a restrictive policy that requires development to be located in settlements unless in the circumstances set out in the policy. It conflicts with policy LIV 1 which allows sustainable development to come forward outside of settlement boundaries in the period up to the adoption of the new LP. No weight should be attached to it.
- 5.24 Policy 3A (Protected Areas) states that no development will be permitted which would prejudice the open character of the area or its potential for long term development, during the plan period up to 2016. This policy is out of date with the need for more housing being identified in the Core Strategy. Policy 3A should be given no weight. This has been tested at appeal in Pendle under reference APP/E2340/W/15/3035915. This appeal related to a housing site in a policy 3A protected area in a situation where the Council had a five year supply of housing. The Inspector afforded no weight to the policy and no weight should be afforded to it.
- 5.25 Policy 17 (Location of New Housing Development). This is a restrictive policy which seeks to limit the amount of housing that can be built. It also has within it a sequential approach to site selection. The policy has been replaced by the policies in the Part 1 Plan. It does not accord with the policies set out in the Framework. No weight should be attached to this in the determination of these appeals.
- 5.26 Policy 4D (Natural Heritage) seeks to protect and enhance biodiversity including those protected under the Conservation (Natural Habitats etc) Regulations 1994.
- 5.27 Policy 6 (Development and Flood Risk) was raised as a policy consideration in the draft statement of common ground. It has been replaced by policy ENV7 (Water Management) of the Part 1 Plan.

- 5.28 Policy 8 (Contamination and Pollution) has been partly replaced by ENV5 (Pollution and Unstable Land) of the Part 1 Plan which seeks to reduce the impact of pollution from developments.
- 5.29 Policy 10 (Areas of Special Architectural or Historic Interest) seeks to ensure a high design standard that preserves or enhances the character and appearance of the area and its setting. The requirements of this policy are expanded upon by the Conservation Area Design and Development Guidance SPD. This policy still has some weight and is compliant with Section 12 of the Framework.
- 5.30 Policy 13 (Quality and Design of New Development) states that the Council will protect and enhance the heritage and character of the Borough and the quality of life for its residents by encouraging high standards of quality and design in new development. The policy has been replaced by Part 1 Plan policies ENV2, LIV5, WRK6 and SUP4. It should not be given weight in reaching decisions on these appeals.
- 5.31 Policy 16 (Landscaping in New Development) requires that all development proposals which involve new building include a landscaping scheme sympathetic to the site's character. This policy should be given significant weight and is compliant with Section 7 of the Framework which requires developments to reflect their surroundings.
- 5.32 Policy 20 (Quality Housing Provision) has been replaced by policy LIV5 of the Part 1 Plan.

### **Colne Neighbourhood Plan (the "NP")**

- 5.33 The following information looks at the policies contained in the NP including the proposed changes of the Inspector which will make it comply with the Basic Conditions. The Council has agreed for the NP to go forward to referendum based accepting all of the changes proposed by the Inspector. This section will not deal with the weight to be given to the NP which is discussed in the Officer Comments section later in the report.

#### **Policy CNDP3 Design in Colne and the Colne Design Code**

Seeks high quality, beautiful and sustainable buildings with designs informed by the defining characteristics of the Settlement Focus Areas of Colne. There is a requirement for developments to show how they have responded to the Design Code Elements. Building form and layout to respond to and be sympathetic to the Urban Character Area they are in.

Policy CNDP4 – Development Affecting Non-Designated Heritage Assets.  
Proposals to be assessed having regard to the scale and harm or loss and the

significance of the non-designated heritage asset with proposals applying a balanced judgment.

CNDP5 Urban Character Areas – development should respond positively to street patterns, use traditional materials, retain features of local vernacular and respect the layout of the UCA it is in.

CNDP6 – New housing will be supported within the defined Pendle Local Plan Proposals Map for Colne.

Policy CNDP7 - Protecting Local Green Space. To make the Plan meet the basic conditions the Rough was taken out of the list of proposed Local Green Spaces. The Inspector indicated that the Upper Rough met the 3 criteria for green spaces but that there was a need to look at future development needs for the area so the NP would not be sound if it allocated the site as a Local Green Space.

Policy CNDP13 - Conserving and Enhancing Valued Landscape Features -  
Policy CNDP13 - Conserving and Enhancing Valued Landscape Features -

Development proposals should conserve and where practicable enhance the landscape in the neighbourhood area. Landscape impacts are to be assessed against criteria relating to industrial heritage, woodland/trees, network of habitats and the contribution that open landscape areas make in conserving and maintaining the area's distinctive settlements.

A series of viewpoints are then set out as being important in the context of the NP's Significant Viewpoints Assessment.

Policy CNDP14- Rural identity and character. Development should retain and enhance the rural identity and character of the neighbourhood area. Criteria a) states:

*The proposal maintains the existing settlement pattern of the town and its relationship with the surrounding countryside.*

Weight to be attached to the Colne NP will be considered further in the Officer Comments section of the report.

### **Supplemental Planning Guidance:**

Development in the Open Countryside (Sept 2002).  
The following criteria are set for the assessment of development:

- development should consist of “rounding off” of an existing settlement and should be defined by settlement form, natural landform and established planting.
- walling materials should be in natural colours, tones and textures such as neutral grey.
- roofs in dark grey/blue or stone coloured materials.
- where development is closely related to an existing building group, massing and details of new buildings should be based on existing form, avoiding free-standing detached buildings.
- screening should be through careful siting, relationship with existing buildings and tree groups and new tree planting.
- avoid visibility against the skyline.
- minimise building across contours.
- minimal ancillary-built elements, tanks or storage.
- boundary treatment restricted to stone walls (in rolling farmland) or substantial hedges in locally native species (in drumlins), supplemented, if necessary, by stockproof fencing.
- no prominent equipment, aerals or signs that could be visible from the surrounding countryside.
- minimal surface area of site to be used for hardstanding and surfacing restricted to permeable crushed stone or similar; and
- garden areas of decorative planting and other domestic uses sited to minimise visibility from surrounding routes and the countryside.

### **National Planning Policy Framework and its implications for decision making**

- 5.34 National planning policy is principally contained in the National Planning Policy Framework (“the Framework”).
- 5.35 The Framework states in Paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. The Framework states at Paragraph 8 that there are three dimensions to sustainable development: economic, social and environmental.
- 5.36 Paragraph 11 of the Framework sets out the presumption in favour of sustainable development being the golden thread running through plan-making and decision-taking.

For decision making this means approving development that accords with an up to date development plan. where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

#### 5.37 Paragraph 48

Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

Paragraph 49 adds:

However, in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

5.38 Section 5 sets out the Governments objectives of significantly boosting the supply of homes and it states that would be on a variety of land. Para 68 states that polices should identify enough land for years 1-5 of a LP. This is supplemented by para 74 which requires a 5 year supply of housing land to be maintained using the SM figure when a LP is more than 5 years old as is the case in Pendle.

5.39 Para 98 emphasises the need for access to a network of high quality open spaces with opportunities for sport and physical activity.

5.40 Section 7, requiring good design, establishes the importance to the design of the built environment. Paragraph 58 sets out these criteria which include:

- How the development will function and add to the quality of the area not just for the short term but over the lifetime of the development
- Establish a strong sense of place to create attractive and comfortable places to live
- Optimise the site and include green and public space
- Respond to local character and history and reflect the identity of local surroundings
- Create safe and accessible environments; and
- Are visually attractive.

5.41 Paragraph 74 guides on the provision of housing land:

Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.

Pendles housing policies are more than 5 years old and hence the SMN figure is used for calculating available housing land. Pendle has a 5.61 year supply of available housing land.

- 5.42 Para 134 states that permission should be refused for development that is not well designed.
- 5.43 Paragraph 76 requires housing action plans to be produced where the housing delivery test for a Council falls below 98%. Pendle has a current housing delivery figure of 227%. Although full monitoring of delivery for the 2022-2023 year is not complete the delivery test figure is highly likely to rise.
- 5.44 The role of high quality open spaces and opportunities for recreation in the health and well-being of communities is recognised at paragraph 73.
- 5.45 Paragraph 75 recognises the need to protect and enhance public rights of way.
- 5.46 There is recognition that local communities should be able to identify green areas of special importance to them in paragraph 76. To designate a Local Green Space needs to be in close proximity to the community it serves and where it is demonstrably special to the local community.
- 5.47 Part 8 seeks to promote healthy and safe communities and to make sure developments are safe and accessible. Support9tngelathy lifestyles through the



provision of safe and accessible green infrastructure, sports facilities and local shops is encouraged.

5.48 Provision of open space and recreation and access to that is important to health and well being of communities set out at para 98.

5.49 Section 9 related to sustainable transport. These issues need to be dealt with from the earliest stages of development proposals. Impacts on the transport networks have to be addressed and walking, cycling and public transport use need to be identified and pursued.

5.50 Para 11 states:

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

5.51 Section 11 of the Framework relates to conserving and enhancing the natural environment with paragraph 109 relating to protection and enhancement of valued landscapes and paragraph 113 advocating the setting of criteria based policies against which proposals for development on or affecting landscape areas will be judged.

5.52 Section 12 gives an emphasis to ensure that well designed places are achieved and the creation of high quality, beautiful and sustainable buildings is seen as fundamental to what the planning system should achieve. The use of design codes is encouraged. Para 134 indicates that development that is not well designed should be refused.

5.53 In relation to development affecting heritage assets paragraph 131 of the Framework states that in determining planning applications, local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness.

5.54 Conserving and enhancing the natural environment is considered in section 5. Para 174 states:

*Planning policies and decisions should contribute to and enhance the natural and local environment by:*

*a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*

*b) recognising the intrinsic character and beauty of the countryside, and the*

*wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*

*c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*

*d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*

- 5.55 The historic environment is considered in section 16. Applicants are expected to describe the significance of heritage assets including any contributions setting makes to them. .
- 5.56 Paragraph 199 requires that “when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation.”
- 5.57 Paragraph 202 states “*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*”

## **Officer Comments**

The application has been submitted in outline with only the access arrangements to be considered at this stage. This is the basis that the application needs to be determined on as well as the parameters that the applicant has sought to outline through the design and other information that has been submitted. These issues will be explored in more detail below.

There have been a significant amount of comments made comparing this application with a prior one that was dismissed at appeal. Whilst there are issues covered in the two prior appeals that will be relevant to this application it needs to be set out at the start of the consideration of the merits of this application that the application is not the same as has been previously submitted. The proposal is materially different in three overall ways.

Firstly what is being proposed is different in terms of scale and extent so the potential impacts will not be the same and will require a full assessment of its individual merits. Secondly there is a different context to the application in that the western side of the site is now developed. The third change is that there is an altered policy context both in terms of a revised Framework and the emerging Colne Neighbourhood Plan.

The individual merits of this application need to be assessed and a decision taken on the merits of the amended scheme. The fact that a previous scheme has been

dismissed at appeal does not automatically lead to a conclusion that this application should be refused, as many comments have suggested. It is a different application with different material considerations to weigh in the planning balance.

## **2. Principle of Development**

The development of housing in the Borough is strategically set out under the policies in the LP.

### **Housing Supply**

The Framework contains Government policy on how the supply of housing has to be calculated depending on the age of the Local Plan. Where a Local Plan is more than 5 years old the Framework requires the calculation to be undertaken based on the nationally set Standard Methodology figure.

As Pendle's Local Plan is more than 5 years old, the SM figure is used to calculate the five year lands supply. Pendle has a supply above the 5 year figure at 5.61%. In terms of the supply of housing therefore the presumption in the Framework at paragraph 11, d,(ii) is not engaged and the normal planning balance is applied when assessing the development.

Policy LIV 1 of the LP allows for sustainable housing sites outside of a settlement to come forward which are close to a settlement boundary until a Part 2 LP is adopted. The Colne NP has policy CNDP6 relating to future housing growth. This indicates that new housing will be supported within the defined Pendle Local Plan Proposals Map. The application site lies outside of the settlement boundary.

The NP policy is however silent on how it would approach development outside of the defined settlement boundary. This differs for example with the Trawden NP which is clear in defining what development will be permitted both inside and outside of the settlement boundary.

In the absence of any commentary in the Colne NP regarding development outside of a settlement the application would fall to be determined in principle against adopted policy LIV 1 of the LP.

The Colne NP had proposed to allocate the site as a Local Green Space under policy CNDP7. That allocation was found not to meet the basic conditions and the Inspector recommended it be removed. That has been agreed and the CNP is going forward to referendum with the site not being proposed to be a Local Green Space.

In overall terms there is no policy objection as a matter of principle to the site being considered for a housing development.

## **Colne Neighbourhood Plan (“CNP”)**

The CNP has now been through its examination and has been assessed as meeting the basic conditions with the modifications set out by the Inspector. The referendum on the NP is due to take place on 20<sup>th</sup> July 2023.

The CNP is at its last stage of adoption and has gone through all stages but the referendum. All the objections to it have been resolved to the extent that an Inspector has assessed them and determined that with modifications the CNP meets the basic conditions. The CNP has been assessed against the Framework and would not be sound were the policies in it not to meet the policies in the Framework.

The Council should give significant weight to the policies in the CNP whilst acknowledging that the Plan is not a formal part of the Development Plan for Pendle and hence cannot be given the full weight that an adopted Plan must be afforded.

## **Affordable Housing Provision and Viability**

The requirement for affordable housing in the Borough is as set out in Policy LIV 4 in the Local Plan. The Local Plan was independently assessed and the conclusion were that viability in the area was insufficient to require any affordable housing to be delivered. There is therefore a zero target in the Local Plan.

Pendle is consulting currently on its Issues and Options Local Plan. The evidence in the Housing Needs Assessment is clear in indicating that there is a high need for affordable housing units in the Borough. Delivery is still a challenging though as viability in the Borough is generally low. The majority of affordable housing that has been delivered has been through either direct delivery through an RSL or through a special purpose delivery vehicle.

The application proposes to deliver 5% of affordable housing. This would deliver up to 15 affordable units on a site that under current policy would not deliver any. As the Borough is in need of affordable housing there are some planning benefits to the scheme delivering affordable units.

## **Design Approach and Parameters Plan**

The application has been produced with the intention of integrating the development into the landscape and having a high quality design to produce a development that would fit into the townscape and landscape effectively. This is sought to be achieved by having a parameters design plan setting out the standards of design that would be a minimum for the development.

The Design and Access Statement (“the D&A”) sets out the approach which incorporates looking at guidance from several sources which result in 12 key parameters being considered. The D&A is informed by the LVIA and Conservation Area Appraisal documents submitted by the applicant.

The design is generally well conceived but there are elements that would need to be considered further and which would not likely be acceptable. For example parking of vehicles would be proposed on the southern boundaries (Indicative view 11) giving an urban feel to the transition from the built form of the estate to the open countryside. The play area would appear stark and obtrusive in the upper area of the site and would be visually disjointed in the views up from the southern extents of the site. There would need to be changes to the illustrative layouts to make the design work to an acceptable standard.

### **Impact On Designated and Non-Designated Heritage Assets**

The application site incorporates land that runs down from Castle Road to Skipton Old Road on the southern end. Here the Lidgett and Bents Conservation Area covers a section of land running parallel with Skipton Old Road. The conservation area.

Standroyd is a Grade II Listed farmhouse sitting opposite the site of Skipton Old Road to the application site. The property is some distance from the proposed area where housing is and I concur with the comments of Growth Lancashire that the distance involved negates any discernible impact on the setting of the Listed Building. The pump house is proposed to be augmented with an extension the design of which is not yet known. However the pump house exists and any extension would need to be complementary to its own design and this is highly unlikely to have any impact on the setting of the listed building. No harm will therefore be caused by the development to the listed building.

I also concur with the comments for Growth Lancashire that the bigger material issue to consider is the impact on the setting of the Lidgett and Bents Conservation Area (“the CA”) such that an impact on significant of the asset would occur.

The CA’s special interest lies in its history, architecture and contrasting rural appearance and character as set out in the CA character appraisal. The interest is also around the transition from agriculture to hand loom weaving as the area survived with that industry longer than most other places. The interaction between the buildings and the fields helps to understand the historic development of the industry. It was accepted by the Inspector in the dismissed appeal on the site that it was correct that the CA did not extend further towards Castle Road but that land beyond would contribute to the setting of the CA.

There would be an area from the CA towards where the houses are proposed that would remain open, although that openness would be affected by the play area, pond,

car parking and extension to the pump house that would detract from the setting of the CA. The wider experience of the CA from the fields would be to a degree lost but that would be from some distance from the CA and there would be an open area, albeit with the items referred to above in it, between the building form and the CA. These would also be elevated above the CA.

The appraisal submitted with the application assesses the impact as being less than substantial harm. It places a positive impact on the restoration of the pump house to a community use and that this would enhance the area. Whilst I concur that the impact overall would be less than substantial the proposed works to the pump house may have a negative impact on it. The accompanying extension and car parking may detract from the visual quality of the CA. The design concept in the Design and Access Statement shows a proposed design of an extension of the pump house which would be inappropriate. However that is only a concept drawing and the full impact would not be known until detailed plans would be submitted.

The development of up to 150 houses would have public benefits. These would include providing extra housing in the area, providing affordable housing, jobs in construction and the supply chain in particular.

Within the meaning of section 16 of the NPPF, the 'less than substantial harm' that would be caused to the significance of the CA would be at the lesser end of the scale of impact. On balance, the public benefits of the scheme would outweigh such harm and the application is not recommended for refusal in terms of heritage impacts.

### **Community Café**

The application proposes to have a community café as part of the scheme. This seeks to provide community facilities and enhance the CA through the re-use and renovation of the building.

There has been no evidence supplied to indicate that a café/community use there provides a service which is otherwise lacking in the area. There is no evidence of this filling a community need that is not there. A café would in any event require a sequential assessment being a town centre use not in a town centre.

As indicated in the heritage appraisal section the development of the building could have either a negative or positive impact on the CA depending on the nature of the use, the level of car parking and design. The design shown in the D&A would harm the design of the building but as it is not a fixed design that can be given little weight at this outline stage.

No weight should be given to the community facility in the decision making balance as there is neither an identified use or deficit in provision that has been identified which it would fill and there is uncertainty whether this aspect of the development would have a positive or a negative impact on the CA.

## **Residential amenity**

The submitted layout plan indicates that the proposed development could be acceptably accommodated on the site without unacceptably impacting upon the residential amenity of surrounding properties in accordance with policies. The impact of the final detailed layout would be assessed in a subsequent reserved matters application.

The site is near to Park High School. The school sits in a residential area with housing on all but its east side where the application site is. The school has sports pitches that would lie adjacent to the site. The pitches, both grass and artificial, lie adjacent to existing residential properties and are not a nuisance to those properties. The relationship with the school sports pitches is acceptable.

The proposal seeks to have open recreation on the southern portion of the site. This would take the form of open land with informal use on it. The land is sloping and would not be usable for any formal sports games such as football. The low intensity recreational use of the land would be compatible with the residential units on the south and west sides.

## **Ecology**

The application has been submitted with an accompanying ecological impact assessment as well as a biodiversity net gain assessment using the large site metric. Pendle is consulting on but does not currently have a biodiversity net gain requirement of 10% in its policies. Nationally the 10% requirement will not be required until some point in November 2023 when the statute enacting the start time for the requirement is issued by Government.

There have been a considerable number of comments relating to wildlife on the site and the ecological value of the flora on it. This includes comments regarding the use of the site by the Red Listed Curlew which is cited by many in their comments on the wildlife and quality of the site.

Lancashire Wildlife Trust have made comments on the application as set out earlier in this report. The wildlife trust indicates that it has undertaken surveys but there is unfortunately no details on when and what results were found at each of the surveys. This impacts on how the results can be interpreted. Surveys relating to the ecological impact assessment were undertaken for birds on 6 occasions during 2022 from March to July. Habitat surveys were carried out by a walkover survey in January 2022 and a detailed survey on 13<sup>th</sup> June 2022. These are appropriate times to carry out surveys.

Pendle has sought independent advice from the Greater Manchester Ecology Unit ("GMEU"). on the ecological impacts including on the comments submitted by the Wildlife Trust.

The ecological impact assessment submitted by the applicant was accompanied by a Biodiversity Net Gain Plan. Both were assessed by GMEU.

Overall the evidence has not found that the site, in terms of its bird interest, does not have a direct impact or relationship to designated sites which lie some distance from the site. There is concern that residents from the new site may disturb birds in future on other sites such as Foulridge Reservoir but that is not a justification to refuse the application.

The evidence that has been submitted differs in terms of who is submitting it. The submitted ecological impact assessment does not find that there are any breeding Curlews on the site. The Wildlife Trust indicate the site is likely to support breeding Curlews but do not provide evidence of that. That the Curlew forage on the site and use it is not disputed by any party.

In terms of the evidence on the distribution of botanical species the evidence by the Wildlife Trust does not give details about distribution or abundance which are important requirements in survey work. It is therefore difficult to give that evidence weight over the ecological survey evidence in the ecology impact assessment.

The site has two hedgerows that meet the guidelines for a Habitat of Principal Importance as well as a section of trees on the site which run in a roughly north west to south east direction. These would be lost in the development and this is reflected in the BNG assessment.

The development would lead to the loss of 4 TPOd trees in accordance with the illustrative plans submitted with the arboricultural report. The report indicates though that with some movement of the internal layout that the trees may be able to be retained. The loss of the hedgerow of Principal Importance in the centre of the site could not however be avoided.

Mitigation would be planting of a further estimated 138 specimen trees.

The exact design of the scheme has not yet been determined. The loss of the trees could be avoided with an alternative design to that shown on the plans.

Policy 4D of the Local Plan refers to the safeguarding of legally protected species. Paragraph 118 of the Framework requires LPAs to conserve and enhance biodiversity by refusing planning permission where significant harm resulting from a development cannot be avoided, mitigated or compensated for.

Biodiversity net gain has been assessed although it is not a current policy in the LP. The assessment concludes that the development as set out will not result in the 10% net gain that is sought. An alternative design of scheme may however achieve that. There would likely be the need to have an offsetting strategy. Offsetting is permissible within



the net gain framework and it would be for the developer to propose that in any subsequent net gain plan. It is also noted that the development could be altered to improve the onsite net gain. This would need to be explored at the reserved matters stage as the emphasis is to provide net gains on site if that is possible.

The requirement for net gains to be established on the lower southern side of the site would not necessarily be compatible with recreational use which would involve people using the area and walking over areas of grassland that will need improving. Any net gain plan that would come forward would need to deal with that possible conflict and ensure that net gains were not affected by recreational use.

In overall terms, the advice that we have is that there is insufficient evidence to conclude that the wildfire interest of the site and the impact the development would, have on that is sufficient to refuse the application provided that a full mitigation plan is developed and implemented. This would be predicated on the developer being required to submit a comprehensive biodiversity offsetting strategy to look not only at net gain but for ecological impacts. A condition requiring this would ensure that ecological interests are maintained and enhanced proportionate to the impact.

### **Trees and Landscaping**

The proposal would involve the removal of 5 trees from the site which are predominantly Hawthorne. The development itself does not have an unacceptably impact on the most important trees that lie to the north and north east of the site.

As recommended by the Council's Environment Officer any approval should be accompanied by a condition requiring an Arboricultural Method Statement that would set out how the existing trees on site would be protected as part of development of the site.

Concerns have been raised about how works to trees could take place without damaging trees and how the potential impacts on them could be mitigated. A suitable condition could be attached to any permission granted to require details of tree protection measures to be submitted to the LPA and for those measures to be implemented before work affecting the trees is commenced.

### **Flood Risk, Foul and Surface Water and Water Supply**

The application has been accompanied by a Flood Risk Assessment. The application is in outline so the purpose of the FRA is to establish the risks of flooding both onto and off the site and to establish the parameters of the details that would be required were planning permission to be granted on outline.

The site is not at risk of fluvial flooding. It lies outside of flood zones 1 and 2. The main issue is that of pluvial flooding and the impacts the development would have down stream.

The site has drainage ditches on it which help channel water away from it. The main area of channelled water runs from east to west past the south east side of Park High School.

The proposal is to implement a Sustainable Urban Drainage Scheme that would discharge via infiltration supported by future permeability testing. Any remaining surface water would be drained via gravity fed pipes and SuDs features. An indicative plan of the strategy shows discharge via SuDs features to the drainage ditch to the south side of the site and to the north of the site on Castle Road. A further discharge is proposed to the watercourse below Park High School.

The Lead Local Flood Authority initially objected to the application and asked for further information. That was supplied but not all of the issues were dealt with. Further details were asked for on post development discharge rates as some areas had not been included in the submitted valuations. Further information has been supplied which the LLFA are currently considering. An update on this will be given at the meeting.

The principle of what is proposed is acceptable subject to final detailed comments from the Lead Local Flood Authority.

## **Contaminated Land**

A Desk Study Report was submitted with the application and concludes that there would be a low risk of contamination on the site. The land has a low potential risk of contamination and a condition requiring this to be assessed and confirmed as part of any consent issued would deal with the potential for contamination adequately.

## **Air Quality**

The air quality assessment does not identify any substantive issues of air quality that would be detrimentally affected by the development and I concur with that view.

## **Highways**

This application site would be accessed off Castle Road and Windermere Avenue by vehicular traffic with further pedestrian and cycle access off Skipton Old Road.

The Appellant points in its Transport Assessment to the comments of the Inspector in the decision taken in 2016 at paragraph 83. It indicates that the inspector concluded that the transport impacts for the 270 unit scheme were acceptable. That is not correct.

The decision letter at para 55 makes clear that the conclusions only relate to the 90 unit scheme. There has been no agreement by an Inspector that the highway impacts relating to the larger scheme are acceptable.

Vehicular access is proposed to be from two points. The first is joining onto the access that connects to Windermere Avenue via the recently constructed housing development on the south west of the site.

A second access is proposed on Castle Road. Concerns have been expressed that the road width on the Windermere Avenue estate is not adequate and cannot cater for public transport and that the proposed alterations at Castle Road are poor and cannot be achieved.

The application was accompanied by a Transport Assessment. That considered the issues of the road network capacity and highway safety, traffic forecasts and the accessibility of the site. The initial documentation was commented on by Lancashire County Council as set out earlier in this report.

The capacity of the highway network to accommodate the increase in traffic that would be generated by the development was acceptable with the information that was submitted in the TA. However details of committed schemes were not included in the data which the applicant has been asked to add in. This has been supplied to LCC who are assessing the information.

Concerns have been raised about the accessibility of the site and that it is in an unsustainable location. The site is located on the periphery of Colne. There are a number of facilities that can be accessed and it is whether these are reasonably located, or can be made to be reasonably located, that will determine if the site is accessible.

There are both high and junior schools in close proximity which would be able to be accessed by foot. The junior school at Bents would be via single lane streets with limited footways. Colne Park Primary School would be able to be accessed via good footpaths and a controlled crossing point. Park High School is close and would be similarly be able to be accessed on foot via good footpaths.

There are a small number of shops on the south side of the roundabout at the east end of Byron Road. These could be accessed on foot from the Windermere Avenue access to the site.

Bus stops are in place at either end of Venables Avenue with buses at hourly intervals. These are within 400m of the site. These bus stops will be upgraded through the existing agreement with the development to the west of the site. The application also contains a proposal to divert the bus service through the development site. This could be achieved through a section 106 agreement for a contribution and would bring public transport directly to the development.

Further contributions are sought to enhance cycle routes to the North Valley.

In overall terms the site is well related to facilities. It is accepted that it is some distance from the railway station and the town centre but public transport to those would be made available as part of the application.

Concerns have been raised that a bus may not be able to use the access into the site from the Windermere Avenue direction and that the work on Castle Road to restrict the access will not work.

Windermere Avenue is capable of having a bus pass parked cars which are sometimes present on the highway. The new section of carriageway from Windermere Avenue to the new site is a standard design and the access from that into the proposed new estate would have to be constructed to be capable of taking larger vehicles. The indicative plans show the internal road layout on the new development. The design of that would need to be considered at a later stage but it could be designed to accommodate a bus.

The proposed restriction to the width of Castle Road has received objections based on it not working and that it would result in access to properties not being able to be achieved. The access arrangements have been reviewed and a design submitted with swept path analysis to demonstrate that vehicles can access Lower Clough House and 122 Castle Road. This includes access of vehicles to Lower Clough House and car and caravan access to 122 Castle Road. The information is being assessed by LCC and an update on this will be given to the meeting.

The proposal to restrict Castle Road to a single width carriageway is an acceptable solution to having a carriageway that would not allow two vehicles to pass. It would be clear through signage that the road narrows there and that there would be priority traffic. The road is not heavily trafficked and there would be no unacceptable highway dangers caused by the restriction.

The Local Highway Authority do not object to the principle of development. The site is not unacceptably poorly related to other infrastructure and services to warrant refusal of the application. It can also be made more accessible with the provision of enhanced public transport. Provided that there are no safety concerns and the design of the reconfigured section of Castle Road are acceptable there are no objections on highway grounds.

### **Public Rights of Way**

Many concerns have been raised regarding the impact of the proposed development on the use of the site as a public amenity space for walking, walking dogs, children playing etc. However, the site is private land which is not designated as open space. The only formal public amenity function of the land is as a public right of way and this is limited to the routes of the footpaths, the remainder of the site is private land to which the public

have no specific rights of continued access to, it could be fenced off tomorrow without express permission being required.

Access to and along the footpaths would be maintained within the proposed development and would be likely to offer improved accessibility over what is currently a predominantly unmarked footpath across land susceptible to being waterlogged.

The enjoyment of the footpaths will be affected by the development as will the final route of the path through the estate. The paths run from along Skipton Old Road up the rising land to the higher level where they merge at the egress point onto the road. Users experience an emergence into open countryside where the further north the path is the greater the sense of being in a countryside setting as opposed to one dominated by a sense of being in an urban area. The footpath to the west is experienced with the context of the new housing estate on the Lower Rough but there is still a significant sense of being on a site emerging into open countryside. The site forms part of the East Colne Way. This is a 5 mile walk around the east side of Colne which takes participants around valued sites of the community around the east of Colne.

The experiences using both footpaths will be significantly detrimentally affected when walking along the upper section of the site where the housing would be located. The sense of emerging and being in open countryside would be largely lost. The experience of using the footpath on the western side would be affected by the development of the pump house, attenuation pond and play area and then through the housing estate. The rural experience it currently offers will be removed and transformed into one of being in an urban setting.

### **Infrastructure Impact**

Numerous concerns have been raised regarding the impact of the proposed development on local infrastructure and services such as schools, doctors, dentists and hospitals, with many responses stating that these services are already at capacity and could not accommodate additional residents in the area.

As part of the evidence base for the Core Strategy the Council has prepared and had approved by Members a Strategic Housing Market Assessment (SHMA) and an Infrastructure Strategy. The SHMA predicts the housing needs of the borough based upon a range of housing, economic and demographic factors, trends and forecasts. The Infrastructure Strategy assesses the quality and capacity of existing infrastructure provision and takes account of the need for new strategic infrastructure. No significant infrastructure was identified as being needed as part of the LP process.

In terms of other infrastructure the infrastructure providers have made the comments they need to and where infrastructure has been needed comments have requested that be provided. The main issue is that of transport and the need for off site works and contributions to bus services.

## Visual Amenity and Landscape Impact

The application has been submitted with a Landscape and Visual Impact Assessment ("LVIA") alongside a Verified Views assessment and a Design and Access Statement setting out design parameters. The latter has been informed by the findings of the first two assessments in formulating the design approach. The Council commissioned consultants to review the landscape documentation to which the applicant have submitted further details to clarify their position in respect of those comments.

The verified views have been submitted to show the short term impacts of the development. Many of the views show that there would be some impacts locally but the short term views do not show the extent of the built form of the new development and there are no submitted views for example from the southern boundary looking north.

The application site lies on the edge of Colne lying adjacent to Park High School and to the recently developed housing site to the west of the site. The new development lies on lower land to the application site and the pre-developed land had a much greater visual link to the urban area being partially surrounded by the cottages on Skipton Old Road and to the housing on Favordale Road and Windermere Avenue. Both from nearby locations and from locations some distance away this site was a less prominent feature on the edge of Colne than the application site which is both higher in elevation and is much more visually prominent.

The application site has public footpaths across it. It can, and is, experienced by many people and is a site that is important to the local community as can be seen in the significant level of concerns about its loss expressed as part of this and other planning applications.

The site is predominantly in Landscape Character Area 35 – Lancashire Valleys - which, in the Landscape Strategy for it advises that caution should be taken in considering development in the area. A small part of the southern section lies in the South Pennines NCA – 36.

The CNP had within it a Significant Viewpoints Assessment. This assessed the site in terms of it being one of 9 identify landmarks considered in the context of 17 significant viewpoints. The site is identified in the assessment as being important to the pastoral setting of Colne and as being important to the wider rural setting of Colne. The LVIA recognises that the site sits next to open countryside with it having a strong relationship with the urban edge of the settlement. The site does have a close relationship with the urban edge and I agree with the LVIA in that respect. The LVIA recognises that the site has a wildness as part of its character. I agree with this. The wildness of the site adjacent to the urban edge gives the site value, a value that is recognised by the local community.

When viewed from areas such as Mire Ridge, one of the identified important viewpoints in the CNP, the site is clearly one that is seen not as part of the urban context but as an integral part of the open countryside, notwithstanding its juxtaposition next to the urban edge of Colne.

There would be a significant change in the character of the site which would not be mitigated by the management and landscaping proposals that are put forward. The site's character would adversely change with both the housing on the upper sections being a major change alongside the lower area which is unmanaged and natural in its current form, being impacted adversely by the man made features and paths which could be added. The natural feel of entering the open countryside would be replaced by an area heavily influenced by man made features.

The experience of users of the footpaths would also then change. The sense that users currently have of walking from the conservation area into rising land opening out to the countryside would be replaced by an experience of a site with man made features and a semi-urban feel through to a strong urban feel on the upper developed area. The experience of users would be significantly diminished.

The visual impact of the development would be higher than assessed in the LVIA. It would not conserve the visual amenity of the area and would have a detrimental impact on the urban setting of Colne which would be unacceptable. The experience of users of the public rights of way across the site would be significantly adversely affected.

The local landscape character impact has been under represented in the LVIA and the impact on landscape character would be adverse. Combined with the visual harm the development would have and the detrimental impact on the experience of users the development would cause unacceptable harm.

The development would result in a poorer relationship of the urban area to the countryside due to the reasons set out above and the development would thus be contrary to Policy CNDP14 of the emerging Colne Neighbourhood Plan.

## **Other Issues**

Concerns have been raised about light pollution. Whilst the development would be lit it lies adjacent to a main settlement where there is already lighting. It would not adversely affect an area bereft of man made light. The form of lighting could be controlled by condition to prevent pollution.

Comments have been made that the development exceeds the thresholds under the Town & Country Planning (Environmental Impact Assessment) Regulations 2017. The threshold in the Regulations for mandatory EIA are not reached. The advisory

thresholds in Schedule 2 are reached but there has to be an overall assessment of the environmental impact and a decision made about whether an EIA is required. A screening opinion has been issued indicating that EIA is not required. None was required for the previous applications or appeals.

The loss of the land to farming has been raised. The land is not the best and most versatile land that should be protected per se from development and the loss of farmlands is not a justification to refuse the application.

### **Weight to be Given to Planning Policies**

The Colne Neighbourhood Plan has now been through examination and has been found, with modifications, to meet the basic conditions. There will be a referendum on the Plan in July 2023.

The NP policies will be in line with the Framework as that has been examined and alterations to ensure they comply have been made. There are no unresolved objections as these have now all been concluded through the examination process.

The NP is nevertheless not made so the policies cannot be afforded statutory weight under Section 38A of the Planning Act. However significant weight should be afforded to the policies which have reached an advanced stage in the adoption process.

### **Contributions**

An initial request was made by LCC for an education contribution of £346,542. A further assessment was carried out by LCC who have subsequently confirmed that no contribution is required.

A request had been made for £34,130 towards the NHS for year one service provision but this request was later withdrawn.

Lancashire County Council have made requests for highway contributions relating to enhanced bus services, cycle routes and travel plans. Should Committee be minded to approve the application these contributions should be considered to be required as part of a section 106 agreement.

## **16. Conclusion and Recommendation**

The application would provide housing in the Borough and would contribute to the supply of both open market housing and affordable housing. The supply of housing and its contribution in the Borough to supporting general prosperity and to providing accommodation to support economic growth are both recognised and which will provide positive benefits to the Borough.



The development can be provided with safe access arrangements and with the upgrade of highway infrastructure alongside an augmented bus service the development would be sustainable in transport terms.

Whilst the development would cause harm to the significance of the conservation area this would be less than substantial harm which would be at the lower end of the scale and which would be outweighed by the public benefits brought by this housing scheme.

The development could also be provided with a drainage scheme that would prevent flooding off site and which would be resilient to climate change.

There would be ecological harm caused by the development both in terms of loss of species of Principal Importance and loss of habitat for the red list Curlew. There would also be a need to improve habitats to achieve the 10% net biodiversity net gain as set out in the Metric 3.1 BNG assessment. There would need to be a net gain plan to be produced to set out how both net gain would be achieved as well as to compensate for the ecological impacts.

There would be planning benefits to the scheme but as set out above there would be harm to landscape and visual amenity which would not be outweighed in the planning balance. The Council is in a position where it has more than a five year supply of land. It is also in a position where delivery of housing is significantly above its Housing Delivery Test target. The development would not therefore be one that would help to address significant lack of choice in available housing land or which would address under delivery. The tilted balance is not applicable in Pendle and hence the development needs to be assessed on the normal planning balance.

The landscape impact would be unacceptable. The Colne Neighbourhood Plan identifies this as being important in the context of the views of Colne and the development would not preserve the landscape in which it sits contrary to Policy CNDP 13 of the emerging NP. This has to be given significant weight in the planning balance.

Overall, harm to local landscape and visual amenity would not be outweighed by the planning benefits brought by the scheme. As a result, the proposed development would be contrary to Policy ENV 2 of the adopted Pendle Local Plan (Core Strategy), Policies 13 and 20 of the adopted Replacement Pendle Local Plan, Policy 13 of the emerging CNDP and paragraph 137 of the NPPF. Accordingly, the proposed development would not comply with the adopted development plan when read as a whole and there are no material considerations which would lead to a different result. Planning permission should be refused.

## **RECOMMENDATION**

It is recommended that the application be refused for the following reason:

The proposed development would result in the unacceptable loss of a prominent greenfield site to the east of the settlement of Colne that currently makes a significant contribution to the landscape character and quality of the area. The development would lead to a poor relationship with the town and countryside. In visual terms, there would be unacceptable impacts on views looking towards the application site from the east, in particular from the opposite side of the valley and for users on the footpaths approaching and passing through the site. The proposed development would be contrary to policies ENV 2 of the adopted Pendle Local Plan (Core Strategy), policies 13 and 20 of the adopted Replacement Pendle Local Plan, policies CNDP 13 and CNDP 14 of the emerging Colne neighbourhood Plan and paragraph 137 of the National Planning Policy Framework.