



<b>REPORT FROM:</b>	<b>ASSISTANT DIRECTOR PLANNING, BUILDING CONTROL AND REGULATORY SERVICES</b>
<b>TO:</b>	<b>NELSON, BRIERFIELD AND REEDLEY COMMITTEE</b>
<b>DATE:</b>	<b>4<sup>TH</sup> DECEMBER 2023</b>

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## PLANNING APPLICATIONS FOR COMMENT

### PURPOSE OF REPORT

To comment on the attached planning applications.

## **REPORT TO NELSON, BRIERFIELD AND REEDLEY COMMITTEE ON 4<sup>TH</sup> DECEMBER 2023**

**Application Ref:** 23/0301/FUL

**Proposal:** Full (Major): Erection of 129 dwelling houses, with open space provision, estate roads and landscaping.

**At:** Land At Further Clough Head, Bamford Street, Nelson

**On behalf of:** PEARL Together Ltd

**Date Registered:** 10/05/2023

**Expiry Date:** 09/08/2023

**Case Officer:** Alex Cameron

As this application involves a development of over 60 dwellings it must be determined by Development Management Committee. It is brought before this Committee for comments, which will be reported to Development Management Committee.

### **Site Description and Proposal**

The application site is a 10 Ha parcel of open land to the south of Messenger Street, Wickworth Street and Pinewood Drive in Nelson. There is open land to the south, and east, Pendle Industrial Estate to the west and dwellings and allotments to the north. The site would be accessed from Marsden Hall Road South. Public footpath Nos. 72 and 73 run along the north boundary of the site, No.70 runs alongside the proposed access road and 65 runs from the east boundary of the site to the allotments in its centre. The site is within the settlement boundary of Nelson and the eastern boundary of the site is adjacent to the boundary of the Southfield Conservation Area. Outline planning permission was granted in 2017 granted for up to 200 dwellings on the land and reserved matters for a first phase of 98 dwellings granted in 2020.

This application is an application for full planning permission for 129 dwellings, this would be an alternative to the previously approved development rather than an addition to it.

### **Relevant Planning History**

17/0427/OUT - Outline: Major: Erection of up to 200 dwelling houses, with open space provision, estate roads, landscaping and emergency access road with access from Marsden Hall Road (Access only) (Re-Submission). Approved.

19/0740/REM - Reserved Matters: Major: Erection of 98 dwelling houses (Phases 1-3), with open space provision, estate roads, landscaping and emergency access road with

access from Marsden Hall Road (Appearance, Layout, Landscaping and Scale) of Outline Planning Permission 17/0427/OUT. Approved

### **Consultee Response**

Conservation Consultants – The proposal will preserve the special interest of the Grade II\* listed Lower Townhouse farm. The proposal is likely to cause a low level of less than substantial harm to the significance of Southfield Conservation Area, which could be mitigated or even removed with additional landscaping, the use of stone and retention of dry stone walls.

PBC Environmental Health – No objection subject to construction management and contaminated land conditions.

Coal Authority – No objection subject to conditions for further intrusive investigations, remediation and validation that remediation has been acceptably carried out.

LCC Historic Environment Team – No objection subject to an archaeological investigation condition as attached to the previous permission.

Lancashire Fire and Rescue – Comments related to Building Regulations.

LCC Highways – No objection subject to conditions for construction management, HGV vehicle movements, estate road construction, framework travel plan, estate street phasing, management and maintenance of estate roads, parking, cycle storage, improvements to FP65.

Lead Local Flood Authority – No objection subject to conditions for accordance with the FRA, surface water drainage strategy, surface water construction management, surface water drainage management and maintenance, verification report.

United Utilities – No objection subject to conditions for foul and surface water drainage and maintenance.

Nelson Town Council

### **Public Response**

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

- Overcrowding
- Privacy impacts
- Noise pollution
- Increased strain on school and healthcare facilities

- Safety concerns relating to former coal mine works
- Impacts on wildlife
- The design of the development is not in keeping with the area
- Negative impact on climate targets due to increased commuting
- Increased risk of flooding
- Impacts on archaeology
- Highway safety and inadequate road links to the site
- The public footpath is narrow and unsafe
- Increase in crime
- A large number of dwellings are already being built in the area and those should be taken into account
- There are hundreds of empty properties in Nelson
- The land could be put to better use for farming
- The development is not in accordance with policies SDP2, SUP1, ENV1, ENV2, ENV5, ENV7 and LIV3 of the Core Strategy

## **Officer Comments**

### **Policy**

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

Policy SDP1 takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy SDP2 sets out the roles each settlement category will play in future growth. Nelson is defined as a one of the Key Service Centres which will provide the focus for future growth in the borough and accommodate the majority of new development.

Policy SDP3 identifies housing distribution for the M65 Corridor as 70%, the amount of development proposed here is not disproportionate to the level of housing development Brierfield would be expected to provide, as a minimum, over the plan period.

Policy ENV1 states that the historic environment and heritage assets of the borough (including Listed Buildings, Conservation Areas, Scheduled Monuments, non-designated assets and archaeological remains), including and their settings, will be conserved and where appropriate should be enhanced.

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

Policy ENV7 does not allow development where it would be at risk of flooding and appropriate flood alleviation measures will be provided and/or would increase the risk of flooding elsewhere.

Policy LIV1 sets out the housing requirement identified in Policy SDP3 above. At the present time sites have not yet been allocated in The Pendle Local Plan Part 2: Site Allocations and Development Policies.

Policy LIV4 sets out targets and thresholds for the provision of affordable housing. For the M65 Corridor the target for 15 or more dwellings is 0%.

Policy LIV5 states that layout and design should reflect the site surroundings, and provide a quality environment for its residents, whilst protecting the amenity of neighbouring properties.

### Replacement Pendle Local Plan

Policy 4D (Natural Heritage - Wildlife Corridors, Species Protection and Biodiversity) States that development proposals that would adversely impact or harm, directly or indirectly, legally protected species will not be permitted, unless shown to meet the requirements of The Conservation (Natural Habitats, &c.) Regulations 1994.

Policy 31 of the Replacement Pendle Local Plan sets out the maximum parking standards for development.

### National Planning Policy Framework (The Framework)

Paragraph 11 of the Framework states that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (including where a local planning authority cannot demonstrate a five year supply of deliverable housing sites), granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (including policies relating to designated heritage assets); or

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

## **Principle of the development**

The principle of the acceptability of developing the land for housing has been established by the existing planning permission for up to 200 houses. The site is in a sustainable location adjacent to the settlement of Nelson and the principle of the development is acceptable.

## **Visual Amenity and Landscape Impact**

The development would be surrounded by green spaces and the design of the dwellings would be similar to other new housing in the area. The surrounding housing is a mixture of styles and in this context the proposed design of the development is acceptable.

The site is located on sloping rural land which rises from Clough Head Beck sloping up to the south east. The most prominent public view across the site would be from Windsor Street / Messenger Street, the approach to the site from the main entrance off Marsden Hall Road South and the public footpaths between the site and Barkerhouse Road to the east. Beyond these points the site would be likely to be completely screened by the existing landform, trees and buildings.

The site proposes an area of public open space to the south and east of Messenger Street. This and the existing trees to the north would provide a visual buffer and some level of screening with appropriate landscaping in views from the north. In views from the east the development would appear as a natural extension of the existing development, set against existing adjacent residential and industrial development.

The proposed development does not result in any unacceptable landscape or visual amenity impact in accordance with policies ENV1, ENV2 and LIV5.

## **Heritage Impact**

The north western boundary of the development site lies close to the Grade II listed Further Clough Head Cottage, Lower Townhouse Farm lies approximately 300m to the north east and the eastern site boundary adjoins the Southfield Conservation Area. The Conservation Area at this point consists of open fields which provide a farmland setting for the historic hamlets at the heart of the Conservation Area. There are several listed buildings within these small historic farming hamlets but these are located at some distance from the development site.

The open space area to the north of the site and surrounding trees would act as a buffer and screen views of the development site from the setting of Further Clough Head Cottage. This would ensure that the development would not result in harm to the significance of the Listed Building.

The eastern boundary of the site abuts fields falling within Southfield Conservation Area. Taking into account that the application site rises steeply up to this eastern boundary the proposed development would not be visible/prominent in views from the wider Conservation Area. Appropriate boundary treatments and use of sympathetic materials on the plots adjoining the Conservation Area could be ensured by condition. The development would preserve the significance of the adjacent Conservation Area.

An archaeological assessment has been submitted and this identifies the presence of archaeological deposits on the site. In view of this a condition is necessary requiring a programme of architectural investigation and recording to be approved prior to the development commencing.

### **Residential Amenity**

The proposed development would not result in any unacceptable impacts on privacy, overbearing impacts or loss of light to adjacent dwellings. The proposed layout would also provide an acceptable living environment for future residents of the proposed dwellings.

Residential amenity impacts of construction works would be acceptably controlled by a construction management condition.

### **Ecology**

The ecology survey identifies that the site is frequently used for commuting and foraging bats. Mitigation measures are proposed including limiting external lighting, installation of bat roosting features and surveys of trees before removal. The mitigation measures can be ensured by condition.

The ecology survey found the potential for the site to be used by badgers, further survey work is to be carried out required in relation to this.

Impacts of bird species can be mitigated by ground clearance outside of breeding season and landscaping and bird boxes to enhance habitats.

### **Open Space**

Policy LIV5 requires that provision for public open space and/or green infrastructure is made in all new housing developments. Large areas of public open space are proposed around the site.

## **Drainage and Flooding**

It has been acceptable demonstrated that the development would not result in an increase in the risk of off-site flooding or be at unacceptable risk from flooding. Acceptable drainage can be ensured by condition.

## **Coal Mining Risk**

Sufficient details have been submitted to overcome the Coal Authority's initial objection, subject to conditions for further investigations and remediation.

## **Affordable Housing**

Policy LIV4 sets out targets and thresholds for the provision of affordable housing. For the M65 Corridor the target for 15 or more dwellings is 0%. There is therefore no requirement for affordable housing to be provided on this site.

## **Highways**

The principle of the acceptability of the development in terms of access and its residual impacts of the highway network has been established by the outline approval, the development proposes an acceptable level of off-street car parking and subject to the conditions recommended by LCC Highways the development would not result in any unacceptable highway safety or capacity impacts.

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## REPORT TO NELSON, BRIERFIELD AND REEDLEY COMMITTEE ON 4<sup>TH</sup> DECEMBER 2023

**Application Ref:** 23/0557/VAR

**Proposal:** Variation of Condition: Vary Condition 24 (S.106 Planning Obligation for education contribution) of Planning Permission 22/0774/OUT.

**At:** Site Of Former Riverside Mill And Land Bordering With Charles Street And Baker Street, Reedyford Road, Nelson

**On behalf of:** Foxfield Developments Ltd

**Date Registered:** 15/08/2023

**Expiry Date:** 22/12/2023

**Case Officer:** Alex Cameron

As this application involves a development of over 60 dwellings it must be determined by Development Management Committee. It is brought before this Committee for comments, which will be reported to Development Management Committee.

### **Site Description and Proposal**

The application site is the site of an approved outline planning permission (access only) for housing development for 140 houses at the former Riverside Mill site in Nelson.

The planning permission included a requirement for an education contribution for the provision of 21 secondary school places:

Condition 24 - No part of the development shall commence unless and until a Planning Obligation pursuant to section 106 of the Town & Country Planning Act, 1990 (or any subsequent provision equivalent to that section) has been made with the Local Planning Authority. Unless otherwise agreed in writing by the Local Planning Authority the said obligation shall provide for 21 Secondary School places and the related cost of the Travel Plan service.

This application seeks to vary condition 24 to remove the requirement for the provision of the education contribution:

### **Relevant Planning History**

22/0774/OUT - Outline (Major): Residential development of up to 140 dwellings (access only). Approved

## Consultee Response

Nelson Town Council

## Public Response

Press and site notices posted and nearest neighbours notified. Three responses received objecting on the following grounds:

- There are insufficient school places in the area.
- Privacy impacts of the development
- Impact on wildlife
- Concerns in relation to impact on vehicular access and loading to adjacent businesses
- Concerns in relation to impact on operation of the adjacent recycling facility

## Officer Comments

Where up to date policies set out required contributions they are assumed to be viable, however, paragraph 58 of the National Planning Policy Framework allows for the submission of a viability appraisal by an applicant to demonstrate whether such contributions would result in an individual development being unviable. If that is the case an education contribution cannot be required.

The applicant has submitted a viability appraisal which demonstrates that, even without any contributions the development would result in a loss of 26%. It is therefore very clear that there is no viability for the provision of an education contribution.

The appraisal has been independently assessed and it robustly demonstrates that the education contribution requirement would jeopardise the viability of the development, the Framework is clear that planning contributions cannot be required in such that circumstance. It is recommended that the variation of condition to remove the education contribution requirement is approved.

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