

**REPORT OF:** ASSISTANT DIRECTOR PLANNING, BUILDING  
CONTROL AND REGULATORY SERVICES

**TO:** DEVELOPMENT MANAGEMENT COMMITTEE

**DATES:** 20TH DECEMBER 2023

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## **PLANNING APPLICATIONS**

### **PURPOSE OF REPORT**

To determine the attached planning applications.

## REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE ON 20 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.

### **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 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 constriction management and contaminated land conditions.

PBC Countryside Access - In the site layout plan (Drawing identifier 21073-OD-XX-XX-XX-DR- 90-100 Revision F) the line of public footpath 65 Nelson is shown, together with the proposed diversion of the footpath. The proposed diversion will affect land which lies outside the development boundary, and this will require the consent of the affected landowner. I object to the proposals in relation to the effect on the public footpath on the following grounds:

- There would be no straight-line visibility along the proposed footpath. This may have the effect of making the footpath feel less safe and provide hiding places for potential attackers
- The proposals show steps which would reduce accessibility for people who find steps difficult.
- None of the proposed landscaping is proposed to overlap with the line of the proposed footpath – the result will be an unattractive footpath enclosed by garden fences on either side.
- The proposed footpath appears to be too narrow, and the width has not been stated.
- There is the likelihood of significant disruption to path users over an extended period of time during the course of construction.

I would consider withdrawing my objection if the layout could be amended to avoid placing buildings on the footpath and so avoid the need for the path to be diverted. In addition, I would request that the area of the footpath be landscaped so that the footpath passes through a wide, open, landscaped area so that is attractive and feels safe for pedestrians. The applicant should be asked to submit a document outlining how access to the public rights of way through the site will be impacted during the course of development, indicating whether they intend to apply for the temporary closure of any of the footpaths and the duration of any such closures.

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 – No response

Nelson, Brierfield and Reedley Committee - That the Development Management Committee be advised of the following comments: -

- There should be assurances relating to the stability of the road;
- Negotiating a Section 106 Agreement should be considered;
- Affordable housing should be provided on the site;
- There should be a mix of housing types on the site to be reflective of the local community.

### **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 could not be carried in relation to this due to land ownership issues however a further mitigation scheme is to be submitted.

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 and Housing Mix**

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.

The development does however propose 26 affordable dwellings. Taking into account that there is no policy requirement for this it is not necessary to control the affordable housing provision by condition or s106 agreement.

Concerns have been raised regarding the mix of housing on the site, the development proposes a mixture of 2, 3 and 4 bedroom properties which provides an acceptable mix of housing.



## 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.

An objection has been raised to the proposed footpath diversion, this has been raised with the applicant.

The land stability of the road would be ensured by the Coal Authority's recommended condition.

## Summary

It is recommended that the approval of the application, and any revised or additional conditions necessary, be delegated to the Assistant Director Planning, Building Control and Regulatory Services subject to the acceptable resolution of the objection in relation to the public right of way and acceptable additional ecological mitigation report.

## **Reason for Decision**

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

## **RECOMMENDATION: Delegate Grant Consent**

Subject to the following conditions:

- 1     The proposed development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
  
Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2     The development hereby permitted shall be carried out in accordance with the following approved plans: 21073-ODA-SI-ZZ-DR-AL-90-300, 21073-ODA-SI-ZZ-DR-AL-90-100, 21073-ODA-SI-ZZ-DR-AL-90-112, 21073-ODA-SI-ZZ-DR-AL-90-115, 21073-ODA-A01-XX-XX-AL\_20-001, 21073-ODA-A01-XX-XX-AL\_20-002, 21073-ODA-A01-XX-XX-AL\_20-003, 21073-ODA-A01-XX-XX-AL\_20-004,

21073-ODA-A02-XX-XX-AL\_20-001, 21073-ODA-B01-XX-XX-AL\_20-001, 21073-ODA-B01-XX-XX-AL\_20-002, 21073-ODA-B01-XX-XX-AL\_20-003, 21073-ODA-B01-XX-XX-AL\_20-004, 21073-ODA-B02-XX-XX-AL\_20-001, 21073-ODA-B02-XX-XX-AL\_20-002, 21073-ODA-E01-XX-XX-AL\_20-001, 21073-ODA-E01-XX-XX-AL\_20-002, 21073-ODA-E02-XX-XX-AL\_20-001, 21073-ODA-E02-XX-XX-AL\_20-002, 21073-ODA-S04-XX-XX-AL\_20-001, 21073-ODA-S04-XX-XX-AL\_20-002, 21073-ODA-S04-XX-XX-AL\_20-003, 21073-ODA-S04-XX-XX-AL\_20-004, 21073-ODA-S04-XX-XX-AL\_20-005, 21073-ODA-S04-XX-XX-AL\_20-006, 21073-ODA-S04-XX-XX-AL\_20-007, 21073-ODA-S04-XX-XX-AL\_20-008, 21073-ODA-XX-00-P2-AL-90-010, 21073-ODA-XX-00-P2-AL-90-011, 21073-ODA-XX-00-P2-AL-90-012, 21073-ODA-XX-00-P2-AL-90-013, 21073-ODA-XX-00-P2-AL-90-014, 21073-ODA-XX-00-P2-AL-90-015, 21073-ODA-XX-00-P2-AL-90-016, 21073-ODA-XX-00-P2-AL-90-017, 21073-ODA-XX-00-P2-AL-90-018, 21073-ODA-XX-00-P2-AL-90-019, 21073-ODA-SI-ZZ-DR-AL-90-020, 110.21001-ACE-00-XX-DR-C-03401 - P1, 110.21001-ACE-00-XX-DR-C-03400 - P2, 110.21001-ACE-00-XX-DR-C-02000 - P2, 110.21001-ACE-00-XX-DR-C-02001 - P2, 21073-ODA-A02-XX-XX-AL\_20-002, 21073-ODA-A02-XX-XX-AL\_20-003, 21073-ODA-A02-XX-XX-AL\_20-004, 21073-ODA-A02-XX-XX-AL\_20-005, 21073-ODA-A02-XX-XX-AL\_20-006, 2887-D-A1-REV A, 2887-D-A0-REV A, 221212\_21073-ODA-XX-XX-XX-DR-90-117 REV A, 221212\_21073-ODA-XX-XX-XX-DR-90-116 REV A.

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

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

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

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

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

5. A scheme for the management (including maintenance) of the public open space areas shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the first dwelling. The management arrangements shall be implemented in accordance with approved scheme before the first dwelling is

occupied and the public open spaces shall thereafter be managed in accordance with the approved scheme.

Reason: To ensure the site is properly maintained and managed in the interests of visual amenity.

6. The development shall only be carried out in strict accordance with the recommendations of the submitted Preliminary Ecological Appraisal and Bat Survey. Prior to the commencement of the development a scheme of ecological mitigation measures in accordance with the recommendations of the recommendations of the Ecological Appraisal shall have been submitted to and approved in writing by the Local Planning Authority. The approved mitigation scheme shall be implemented prior to the occupation of the first dwelling, or in accordance with phasing to be agreed as part of the scheme, and maintained thereafter.

Reason: To ensure protection and enhancement of ecology.

7. The landscaping scheme (Drawing Nos. 221212\_21073-ODA-XX-XX-XX-DR-90-117 REV A, 221212\_21073-ODA-XX-XX-XX-DR-90-116 REV A), or an alternative landscaping scheme that has been submitted to and approved in writing by the Local Planning Authority, shall be implemented in its entirety within the first planting season following the substantial completion of the development. Any tree or other planting that is lost, felled, removed, uprooted, dead, dying or diseased, or is substantially damaged within a period of five years thereafter shall be replaced with a specimen of similar species and size, during the first available planting season following the date of loss or damage.

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

8. No ground clearance, demolition, changes of level or development or development-related work shall commence until protective fencing, in full accordance with BS 5837 : 2012 has been erected around each tree/tree group or hedge to be preserved on the site or on immediately adjoining land, in accordance with drawing No. 6196.07 and no work shall be carried out on the site until the written approval of the Local Planning Authority has been issued confirming that the protective fencing is erected in accordance with the Tree Protection Plan. Within the areas so fenced, the existing ground level shall be neither raised nor lowered. Roots with a diameter of more than 25 millimetres shall be left unsevered. There shall be no construction work, development or development-related activity of any description, including the deposit of spoil or the storage of materials within the fenced areas. The protective fencing shall thereafter be maintained during the period of construction. All works involving excavation of soil, including foundations and the laying of services, within the recommended distance calculated under the BS 5837 (2012) of the trees to be retained on the site, shall be dug by hand and in

accordance with a scheme of works which has been submitted to and approved by the Local Planning Authority, prior to the commencement of works.

Reason: To prevent trees or hedgerows on site from being damaged during building works.

9. The development shall not commence unless and until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme and methodology for site investigation and recording, a programme for post investigation assessment, the provision to be made for analysis of the site investigation and recording, the provision to be made for publication and dissemination of the analysis and records of the site investigation, the provision to be made for archive deposition of the analysis and records of the site investigation, and the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation. No development shall take place other than in accordance with the approved Written Scheme of Investigation.

Reason:

10. Prior to the commencement of development the applicant shall have submitted to and have agreed in writing by the Local Planning Authority a method statement which sets out in detail the method, standards and timing for the investigation and subsequent remediation of any contamination which may be present on site. The method statement shall detail how:-

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

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

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

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

Advisory Notes:

- (i) Where land identified as having the potential to be contaminated is undergoing redevelopment, a copy of the leaflet entitled 'Information for Developers on the investigation and remediation of potentially contaminated sites' will be available to applicants/developers from the Council's Contaminated Land Officer. The leaflet will be sent to the developer by request.
- (ii) Three copies of all contaminated land reports should be sent to the Local Planning Authority.
- (iii) This condition is required to be fully complied with before development is commenced. Failure to comply with the condition prior to commencement of work may result in legal action being taken.

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

11. 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.

12. The development permitted by this planning permission shall be carried out in accordance with the principles set out within the site-specific flood risk assessment (8th December 2022 / 110.21001-ACE-ZZ-ZZ-RP-C-0001 – Revision 3 / ADEPT

The measures shall be fully implemented prior to occupation of the development and in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority in consultation with the Lead Local Flood Authority.

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

13. No development shall commence in any phase until a detailed, final surface water sustainable drainage strategy for the site has been submitted to, and approved in writing by, the Local Planning Authority.

The detailed surface water sustainable drainage strategy shall be based upon the site-specific flood risk assessment and indicative surface water sustainable drainage strategy submitted (8th December 2022 / 110.21001-ACE-ZZ-ZZ-RP-C-0001 – Revision 3 / ADEPT) and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly.

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

a) Sustainable drainage calculations for peak flow control and volume control for the:

- i. 100% (1 in 1-year) annual exceedance probability event;
- ii. 3.3% (1 in 30-year) annual exceedance probability event + 40% climate change allowance, with an allowance for urban creep;

iii. 1% (1 in 100-year) annual exceedance probability event + 50% climate change allowance, with an allowance for urban creep

Calculations must be provided for the whole site, including all existing and proposed surface water drainage systems.

b) Final sustainable drainage plans appropriately labelled to include, as a minimum:

- i. Site plan showing all permeable and impermeable areas that contribute to the drainage network either directly or indirectly, including surface water flows from outside the curtilage as necessary;
- ii. Sustainable drainage system layout showing all pipe and structure references, dimensions and design levels; to include all existing and proposed surface water drainage systems up to and including the final outfall;
- iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
- iv. Drainage plan showing flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
- v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building and connecting cover levels to confirm minimum 150 mm+ difference for FFL;
- vi. Details of proposals to collect and mitigate surface water runoff from the development boundary;
- vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;

c) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates and groundwater levels in accordance with BRE 365.

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

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

The sustainable drainage strategy shall be implemented in accordance with the approved details.

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

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

The details of the plan to be submitted for approval shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include for each phase, as a minimum:

- a) Measures taken to ensure surface water flows are retained on-site during the construction phase(s), including temporary drainage systems, and, if surface water flows are to be discharged, they are done so at a restricted rate that must not exceed the equivalent greenfield runoff rate from the site.
- b) Measures taken to prevent siltation and pollutants from the site entering any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

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

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water during each construction phase(s) so it does not pose an undue surface water flood risk on-site or elsewhere during any construction phase.

15. The occupation of the development shall not be permitted until a site-specific Operation and Maintenance Manual for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority. The details of the manual to be submitted for approval shall include, as a minimum:



- a) A timetable for its implementation;
- b) Details of the maintenance, operational and access requirement for all SuDS components and connecting drainage structures, including all watercourses and their ownership;
- c) Pro-forma to allow the recording of each inspection and maintenance activity, as well as allowing any faults to be recorded and actions taken to rectify issues;
- d) The arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme in perpetuity;
- e) Details of financial management including arrangements for the replacement of major components at the end of the manufacturer's recommended design life;
- f) Details of whom to contact if pollution is seen in the system or if it is not working correctly; and
- g) Means of access for maintenance and easements.

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

Reason: To ensure that surface water flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property, and ecological systems, and to ensure that the sustainable drainage system is subsequently maintained.

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

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

Reason: To ensure that surface water flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property, and ecological systems.

17. No development shall take place, including any works of demolition, until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. It shall provide for:
- i) The parking of vehicles of site operatives and visitors
  - ii) The loading and unloading of plant and materials
  - iii) The storage of plant and materials used in constructing the development
  - iv) The erection and maintenance of security hoarding
  - v) Wheel washing facilities
  - vi) Measures to control the emission of dust and dirt during construction
  - vii) Measures to control noise and vibration during construction
  - viii) A scheme for recycling/disposing of waste resulting from demolition and construction works
  - ix) Details of working hours
  - x) Routing of delivery vehicles to/from site
  - xi) Control of burning on site

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

18. For the duration of the construction period the construction HGV traffic movements shall be prevented between 8-9am and 3-4pm Mon-Fri during term time to avoid school start and finish times.

Reason: In the interest of highway and pedestrian safety.

19. Prior to commencement of any development a scheme shall be submitted for the upgrade of the WB and EB bus stops on Barkerhouse Road (2500IMG2717 & 2500IMG2719) and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to first occupation.

Reason: To ensure acceptable access to public transport and offset the impact of the development on public transport use.

Prior to commencement of any development full engineering, drainage, street lighting and constructional details to adoptable standards (LCC specification) of the internal estate roads have been submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details and to at least base course level prior to first occupation of any dwelling, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of highway safety.

20. The Framework Travel Plan shall be implemented in accordance with the timetable contained within.

Reason; To support sustainable travel modes.

21. No development shall be commenced until an Estate Street Phasing and Completion Plan has been submitted to and approved in writing by the Local Planning Authority. The Estate Street Phasing and Completion Plan shall set out the development phases (including the provision of the emergency access link) and the standards that estate streets serving each phase of the development will be completed.

Reason: In the interest of highway safety.

22. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. [The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established].

Reason: In the interest of highway safety.

23. Prior to first occupation the garages, driveways and communal parking areas shall be constructed in a bound porous material and made available for use and maintained for that purpose for the as long as the development is occupied.

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

24. Prior to the occupation of the first dwelling a scheme of improvement works to footpath No.65 within the site and to the point where it meets Southfield Street shall be submitted to and approved in writing by the Local Planning Authority, no dwelling shall be occupied unless and until the works have been completed in accordance with the approved scheme.

Reason: To ensure acceptable pedestrian access along the public right of way.

26. Prior to first occupation each dwelling shall have a secure cycle store in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that adequate provision is made for sustainable transport.

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

Reason: To ensure that adequate provision is made for sustainable transport.

28. No development shall commence unless and until;

- a) a scheme of further intrusive investigations has been carried out on site to establish the risks posed to the development by one recorded mine entry and;
- b) any remediation works and/or further mitigation measures to address land instability arising from the mine entry, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure the stability of the site in the interest of public safety. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or further mitigation necessary to address the risks posed by the mine entry.

Reason: To ensure the stability of the site in the interest of public safety.

29. 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 a contribution to support the development and implementation of the Travel Plan.

Reason: To provide for the impact of the development on local secondary school provision and to support the implementation of the Travel Plan.

Notes:

Under the Land Drainage Act 1991 (as amended by the Flood & Water Management Act 2010), you need consent from the Lead Local Flood Authority if you want to carry out works within the banks of any ordinary watercourse which may alter or impede the flow of water, regardless of whether the watercourse is culverted or not.

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

Enforcement action may be taken against unconsented work. For the avoidance of doubt, once planning permission has been obtained it does not mean that Ordinary Watercourse Consent will be given. It is strongly advised that you obtain any required consent before or concurrently as you apply for planning permission to avoid delays. You should contact the Lead Local Flood Authority to obtain Ordinary Watercourse Consent. Information on the application process and relevant forms can be found here: <https://www.lancashire.gov.uk/flooding/drains-and-sewers/alterations-to-a-watercourse/>

Where permeable paving is included in the hydrological calculations of a development proposal the Local Planning Authority is advised to consider the removal of permitted development rights for permeable paving. Should the Local Planning Authority not remove the permitted development rights for permeable paving on privately owned land, the Lead Local Flood Authority will consider the need to designate such areas under Schedule 1 of the Flood and Water Management Act 2010. The District Council, as a flood risk management authority in its own right, also has these powers to designate.

The grant of planning permission does not entitle a developer to obstruct a right of way and any proposed stopping-up or diversion of a right of way should be the subject of an Order under the appropriate Act.

The grant of planning permission will require the applicant to enter into a Section 38/278 Agreement, with Lancashire County Council as Highway Authority. The Highway Authority hereby reserves the right to provide the highway works within the highway associated with this proposal. Provision of the highway works includes design, procurement of the work by contract and supervision of the works. The applicant should be advised to contact Lancashire County Council, Highway Development Control email – [lhscustomerservice@lancashire.gov.uk](mailto:lhscustomerservice@lancashire.gov.uk) in the first instance to ascertain the details of such an agreement and the information to be provided

**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

## REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE ON 20 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.

### **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 – No response

Nelson, Brierfield and Reedley Committee - That the Development Management Committee be recommended to approve the application for the following reasons: -

- The lack of viability for the provision of an education contribution had been clearly demonstrated;
- The viability of the development should not be jeopardised.

### **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.

### **Reason for Decision**

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material

considerations indicate otherwise. The proposed variation of condition is acceptable. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

**RECOMMENDATION: Approve**

Subject to the following conditions:

- 1 An application for approval of the reserved matters (namely the appearance, layout, scale and landscaping of the site) shall be submitted in writing to the Local Planning Authority before the expiration of three years from 24/05/2023 and the development hereby permitted must be begun two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by the provisions of Article 3 (1) of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Details of the appearance, layout, scale and landscaping (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: In order to comply with the requirements of Section 92 of the Town & Country Planning Act 1990.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans: 8271-LRW-ZZ-00-DR-A-00-121 Rev P02, 8271-LRW-ZZ-00-DR-A-00-127 Rev P03.

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

- 4 No part of the development shall be commenced unless and until a Construction Code-of-Practice has been submitted to and approved in writing by the Local Planning Authority. The code shall include details of the measures envisaged during construction to manage and mitigate the main environmental effects of the relevant phase of the development. The submitted details shall include within its scope but not be limited to:

- a) The parking of vehicles of site operatives and visitors
- b) The loading and unloading of plant and materials
- c) The storage of plant and materials used in constructing the development
- d) The erection and maintenance of security hoarding



- e) Wheel washing facilities
- f) Measures to control the emission of dust and dirt during construction
- g) Measures to limit noise and vibration
- h) A scheme for recycling/disposing of waste resulting from demolition and construction works
- i) Details of working hours
- j) Details of hours of deliveries
- k) Routing of delivery vehicles to/from site
- l) Restriction of burning on-site

The Construction Code-of-Practice should be compiled in a coherent and integrated document and should be accessible to the site manager(s), all contractors and sub-contractors working on site. As a single point of reference for site environment management, the CCP should incorporate all agreed method statements. All works agreed as part of the plan shall be implemented during an agreed timescale and where appropriate maintained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that adequate measures are in place to protect residential amenity and highway safety during construction.

- 5 The development permitted by this planning permission shall be carried out in accordance with the principles set out within the site-specific flood risk assessment (21st October 2022 / 25909-HYD-XX-XX-RP-FR-001-P02 / Hydrock) and Surface Water Modelling Report (17th February 2023 / 23747-HYD-XX-XX-RP-FR-0002 / Hydrock).

The measures shall be fully implemented prior to occupation of the development and in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

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

- 6 No development shall commence in any phase until a detailed, final surface water sustainable drainage strategy for the site has been submitted to, and approved in writing by, the Local Planning Authority.

The detailed surface water sustainable drainage strategy shall be based upon the site-specific flood risk assessment and indicative surface water sustainable drainage strategy submitted (3 rd November 2022 / 23747-HYD-XX-XX-RP-DS-5001-P03 / Hydrock) and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly and

shall be limited to a maximum peak flow rate of 10.5l/s.

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

a) Sustainable drainage calculations for peak flow control and volume control for the:

- i. 100% (1 in 1-year) annual exceedance probability event;
- ii. 3.3% (1 in 30-year) annual exceedance probability event + 40% climate change allowance, with an allowance for urban creep;
- iii. 1% (1 in 100-year) annual exceedance probability event + 50% climate change allowance, with an allowance for urban creep

Calculations must be provided for the whole site, including all existing and proposed surface water drainage systems.

b) Final sustainable drainage plans appropriately labelled to include, as a minimum:

- i. Site plan showing all permeable and impermeable areas that contribute to the drainage network either directly or indirectly, including surface water flows from outside the curtilage as necessary;
- ii. Sustainable drainage system layout showing all pipe and structure references, dimensions and design levels; to include all existing and proposed surface water drainage systems up to and including the final outfall;
- iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
- iv. Drainage plan showing flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
- v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building and connecting cover levels to confirm minimum 150 mm+ difference for FFL;
- vi. Details of proposals to collect and mitigate surface water runoff from the development boundary;
- vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;

c) Evidence of an assessment of any existing on-site ordinary watercourses, open or culverted to be used for the disposal of surface water run-off from the site.

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

e) Evidence of an agreement in principle with the third party asset owner to

connect to the on-site surface water body. The sustainable drainage strategy shall be implemented in accordance with the approved details.

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

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

The details of the plan to be submitted for approval shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include for each phase, as a minimum:

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

b) Measures taken to prevent siltation and pollutants from the site entering any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

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

Reasons To ensure the development is served by satisfactory arrangements for the disposal of surface water during each construction phase(s) so it does not pose an undue surface water flood risk on-site or elsewhere during any construction phase.

- 8 The occupation of the development shall not be permitted until a site-specific Operation and Maintenance Manual for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority. The details of the manual to be submitted for approval shall include, as a minimum:

a) A timetable for its implementation;

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

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

- d) The arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme in perpetuity;
- e) Details of financial management including arrangements for the replacement of major components at the end of the manufacturer's recommended design life;
- f) Details of whom to contact if pollution is seen in the system or if it is not working correctly; and
- g) Means of access for maintenance and easements. Thereafter the drainage system shall be retained, managed, and maintained in accordance with the approved details.

Reason To ensure that surface water flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property, and ecological systems, and to ensure that the sustainable drainage system is subsequently maintained.

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

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

Reason To ensure that surface water flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property, and ecological systems.

- 10 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.

- 11 Prior to the submission of any reserved matters application relating to layout, or simultaneously with that reserved matters application, a scheme for the restoration of the river corridor and associated works and landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be supported by a structural engineers report and demonstrate that any necessary mitigation measures are incorporated into the scheme.

Reason To ensure provision of barrier free access to the main river for essential inspection and maintenance.

- 12 Prior to the commencement of any works adjacent to the Crawford Street and Charles Street highway bridges, details of those works and any measures necessary to ensure the structural integrity of the bridges shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be carried out in strict accordance with the approved details.

Reason: To ensure the structural integrity of highway structures in the interest of highway safety.

- 13 The Reedyford Road access (to the side of 81 Reedyford Road) shall be used for emergency, pedestrian and cycle access only, removable bollards shall be installed to prevent vehicle access other than emergency access and maintained at all times. The accesses on Elizabeth Street, Dover Street and side of 64 Crawford Street shall be used for pedestrian and cycle access only, bollards will prevent vehicle access and maintained at all times.

Reason: The accesses are not suitable for vehicular access, in the interest of highway safety.

- 14 Within 3 months of the commencement of the development a scheme for the site accesses and off-site highway works shall be submitted to and approved by the

Local Planning Authority. The works shall include the following and be implemented prior to the first occupation of any dwelling:

- a. Upgrade of 2 bus stops to quality bus stop standard on Scotland Road 2500LAA07249 and 2500LAA07248.
- b. Reinstatement of existing accesses/dropped kerbs to footway on Charles Street, Baker Street and Crawford Street.

Reason: In order to satisfy the Local Planning Authority that the final details of the highway scheme/works are acceptable.

- 15 Within 3 months of commencement of the development details of the proposed arrangements for future management and maintenance of the estate road within the development shall be submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into with the Highway Authority or a private management and maintenance company has been established.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the users of the highway and the visual amenities of the locality.

- 16 Within 3 months of commencement of the development full engineering, drainage, street lighting and constructional details to adoptable standards (LCC specification) of the internal estate roads have been submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway.

- 17 The internal estate roads shall be constructed in accordance with the approved engineering details (condition 16) and to at least base course level prior to first occupation of any dwelling, unless otherwise agreed in writing with the Local Planning Authority.

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

- 18 Prior to the first occupation of each dwelling a scheme for electric vehicle charging points shall be submitted for approval. Charge points must have a minimum power rating output of 7kW, be fitted with a universal socket that can charge all types of electric vehicle currently available.

Reason: To ensure adequate provision for sustainable transport.

- 19 Prior to the occupation of each dwelling secure, covered cycle storage shall be provided at a ratio of two cycle spaces per dwelling or one space per dwellings, whichever is fewer, in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate provision for sustainable transport.

- 20 Prior to the commencement of development the applicant shall have submitted to and have agreed in writing by the Local Planning Authority a method statement which sets out in detail the method, standards and timing for the investigation and subsequent remediation of any contamination which may be present on site. The method statement shall detail how:-

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

b) a comprehensive remediation scheme which shall include an implementation timetable, details of future monitoring and a verification methodology (which shall include a sampling and analysis programme to confirm the adequacy of land decontamination) will be submitted to and approved in writing by the Local Planning Authority. All agreed remediation measures shall thereafter be carried out in accordance with the approved implementation timetable under the supervision of a geotechnical professional and shall be completed in full accordance with the agreed measures and timings, unless otherwise agreed in writing by the Local Planning Authority.

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

**Advisory Notes:**

(i) Where land identified as having the potential to be contaminated is undergoing redevelopment, a copy of the leaflet entitled 'Information for Developers on the investigation and remediation of potentially contaminated sites' will be available to applicants/developers from the Council's Contaminated Land Officer. The

leaflet will be sent to the developer by request.

(ii) Three copies of all contaminated land reports should be sent to the Local Planning Authority.

(iii) This condition is required to be fully complied with before development is commenced.

Failure to comply with the condition prior to commencement of work may result in legal action being taken.

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

- 21 The development shall be carried out in strict accordance with the recommendations of the Odour Assessment, 3rd November 2022. Prior to the occupation of the first dwelling a scheme of odour mitigation shall have been submitted to and approved in writing by the Local Planning Authority and the measures shall thereafter be implemented prior to the occupation of each dwelling identified to require mitigation measures.

Reason: to ensure an acceptable living environment for occupiers of the dwellings.

- 22 The development shall be carried out in strict accordance with the recommendations of the Acoustic Planning Report, 4th November 2022. Prior to the occupation of the first dwelling a scheme of acoustic mitigation shall have been submitted to and approved in writing by the Local Planning Authority and the measures shall thereafter be implemented prior to the occupation of each dwelling identified to require mitigation measures.

Reason: to ensure an acceptable living environment for occupiers of the dwellings.

- 23 The development shall be carried out in strict accordance with the recommendations of the Ecology Survey and Assessment, November 2022. The first submission of reserved matters shall include any bat surveys of the culvert recommended to be necessary. Prior to the occupation of the first dwelling a scheme for ecological mitigation and enhancement, including timescales for implementation, shall have been submitted to and approved in writing by the Local Planning Authority and it shall thereafter be implemented in accordance with approved timescales.

Reason: To order to ensure that the ecology of the site is preserved and enhanced by the development.

- 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 the related cost of the Travel Plan service.

Reason: To support the implementation of the Travel Plan.

**Notes:**

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

**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

## REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE 20<sup>TH</sup> DECEMBER 2023

**Application Ref:** 23/0603/HHO  
**Proposal:** Full: Erection of timber fencing to front garden area.  
**At:** 41 Carr Road, Nelson, Lancashire BB9 7SP  
**On behalf of:** Mr Mohammad Ayub  
**Date Registered:** 20.09.2023  
**Expiry Date:** 15.11.2023  
**Case Officer:** IC

This application has been referred from Nelson, Brierfield and Reedley Committee under the Council's referral procedure.

### **Site Description and Proposal**

No.41 Carr Road is a large semi-detached stone/blue slate dwelling on a primarily residential frontage.

The proposal is retrospective. It is for wooden fencing on the top of the front yard wall and one side boundary wall, in a position one would ordinarily expect to find metal railings or evidence of such. The fencing is 1.260m higher than the wall.

Within the Settlement Boundary as defined in the adopted Local Plan. Within the Whitefield Conservation Area.

### **Relevant Planning History**

None

### **Consultee Comments**

#### LCC Highways

No objection

#### Parish

Not received to date (09.11.2023)

## **Public Response**

None received to date (09.11.2023)

## **Officer Comments**

### **Policy**

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

Policy SDP1 (Presumption in Favour of Sustainable Development) takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy ENV2 (Achieving Quality in Design and Conservation) identifies the need to protect and enhance the heritage and character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that siting and design should be in scale and harmony with its surroundings.

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

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

The Design Principles Supplementary Planning Document (SPD).

The Conservation Area Design and Development Guidance (SPD).

### **Design**

The Design Principles SPD states that a higher standard of design will apply to development that affects a Conservation Area and that the Council has a statutory duty to consider whether a proposal preserves or enhances the character or appearance of that area. It also states that reference should be made to the Conservation Area Design and Development Guidance (SPD).

In this instance the fencing neither preserves nor enhances the character and appearance of the Conservation Area. It is an incongruous feature that is particularly conspicuous due to the choice of materials, its height and position adjacent to a road.

The Conservation Area Design and Development Guidance (SPD) states in 4.70:

‘Stone boundary walls are important contributors to the character of conservation areas, whether informal dry stone walls, or more formal dressed stone walls and gate posts. They define public and private space. The removal of walls and paving over of gardens is to be discouraged in conservation areas, as this has an undoubted impact on character and appearance. When repairs are needed, these should always be carried out in matching stone, coursing and detailing. It is particularly important to match the dimensions, detail and profile of any coping stones to the wall, as these tend to vary from area to area.’

Furthermore on Page 10 it states:

‘New development should consider and respect local character and distinctiveness, as appropriate to each conservation area.’

Whilst not a removal or repair, the proposal does not accord with the spirit of paragraph 4.70 as matching materials are not used with a corresponding detrimental impact upon character and appearance. Likewise use of wooden fencing on a roadside frontage where metal railings would ordinarily exist does not respect local character.

As such the proposal does not comply with the Design Principles SPD, the Conservation Area SPD nor does it comply with Policy ENV2.

### **Residential Amenity**

The proposal is not directly harmful to residential amenity.

### **Reason for Decision**

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed development would not accord with Local Planning Policy and would not be compliant with the guidance set out in the Framework. The development therefore does not comply with the Development Plan.

Furthermore the Local Planning Authority has acted positively and proactively in determining this application, in accordance with paragraph 38 of the National Planning Policy Framework, by assessing the proposal against relevant planning policies and all material considerations and identifying matters of concern with the application. In this instance, the nature of the planning issues were considered to be so fundamental that no further negotiation was sought with the applicant.

### **Recommendation: Refuse**

Refuse for the following reasons:

1. The fencing is harmful to the visual amenity of the area by virtue of its prominent location, design and choice of non-traditional materials. As such it is contrary to adopted Local Plan Policy ENV2 (Achieving Quality in Design and Conservation), the Council's Design Principles Supplementary Planning Document and to the provisions of the NPPF.
2. The fencing neither preserves nor enhances the character and appearance of the Conservation Area by virtue of its prominent location, design and choice of non-traditional materials. As such it is contrary to adopted Local Plan Policy ENV2 (Achieving Quality in Design and Conservation), the Council's Design Principles Supplementary Planning Document, the Council's Conservation Area Design and Development Guidance and to the provisions of the NPPF.

**Application Ref:** 23/0603/HHO

**Proposal:** Full: Erection of timber fencing to front garden area.

**At:** 41 Carr Road, Nelson, Lancashire BB9 7SP

**On behalf of:** Mr Mohammad Ayub

## REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE 20<sup>TH</sup> DECEMBER 2023

**Application Ref:** 23/0680/FUL

**Proposal:** Full: Demolition of an existing stable, erection of 1 no. self-build eco-home with an attached garage and a new access lane.

**At:** Land to the North of 34 Pasture Lane, Barrowford

**On behalf of:** Mr & Mrs Dean & Helen Cockett

**Date Registered:** 23/10/2023

**Expiry Date:** 18/12/2023

**Case Officer:** Laura Barnes

This application has been referred from Barrowford & Western Parishes Committee under the Council's referral procedure.

### **Site Description and Proposal**

The application site relates to land to the rear of an existing dwelling at 34 Pasture Lane, Barrowford. At the time of the site visit there was a paddock and stable on the land. The application site is adjacent to a Public Right of Way which runs northwest in the direction of Pasture House. The application site is beyond the settlement boundary within the Open Countryside.

The proposal is for the erection of a single two storey detached dwelling.

### **Relevant Planning History**

None relevant

### **Consultee Response**

#### **Barrowford Parish Council**

The proposed site falls outside the Settlement Boundary and within the open countryside. The site abuts a large public open space as designated in the Local Plan. The settlement boundary is there to prevent urban sprawl into the open countryside with few exceptions which have to meet stringent criteria on sustainability. It is disputable as to whether this application meets the sustainability criteria and outweighs the public interest in development outside the settlement boundary. The current Draft Local Plan 2011-2040 4th Edition highlights that Barrowford through other large developments has

met its quota for new housing with the exception of small-scale developments on infill sites within the Settlement Boundary. The design scale and massing of the proposed will dwarf Pasturegate Cottage a late 18th century weavers' cottage, and would adversely impact on the current visual amenity and enjoyment of the open countryside to users of the numerous PROW's that overlook that proposed site. The Parish Council feel that justification for building of a large house within the open countryside outside the Settlement Boundary has not been justified in this case.

#### Pendle Borough Council Environment Officer (Trees)

No objection. The Arboricultural impact Assessment is fully detailed and lays out the relevant areas for tree protective fencing. The protective fencing would need to be in place prior to any works on the site.

#### LCC Highways

##### *Sustainability*

The nearest facilities and bus stops are located in Barrowford Centre which is approximately 600m from the site. The walking route along the lower section of Pasture Lane has a poor sub-standard footway network and narrow carriageway widths which creates a barrier to walking. The nearest primary and secondary school bus stops are located over 1km from the site. These distances exceed the walking distances and the site is not considered to be sustainable or have the infrastructure to support walking to the nearest facilities.

##### *Access Lane*

The site is accessed from a private unnamed lane which joins Pasture Lane which is an unclassified road subject to a 20mph speed limit. The junction is sited on the outside of a bend and has good visibility splays to both sides along Pasture Lane for drivers emerging onto Pasture Lane. The visibility for drivers turning right from Pasture Lane entering the unnamed lane due to the bend is more restricted however this is not anticipated to cause a severe impact to highway safety.

Public footpath 13-2-FP7 runs along the lower section of the unnamed lane. There is a pinch point on the lane between number 34 Pasture Lane which reduces the carriageway to single vehicle width, there is no footway on the unnamed lane and this raises the level of conflict for users of the public footpath.

The unnamed lane is privately maintained and is approximately 100m between the site access and Pasture Lane. There are no passing places on this section. This is likely to result in additional conflict between pedestrian and vehicle movements.

##### *Site access*

The site access driveway requires a visibility splay plan to demonstrate splays of X2.4m by Y25m in both directions along the unnamed lane.

The site access needs to be paved in a bound and porous material for at least the first 5m.

#### *Parking*

The proposed 4+ bedroom dwelling requires 3 car parking spaces. The proposed dwelling has a triple garage and large driveway providing 3+ car parking spaces. Secure cycle parking and electric vehicle charging are provided in the garage.

#### *Conclusion*

To conclude the site is not considered to support sustainable travel with poor infrastructure linking the local facilities and schools.

The additional traffic raises conflict with pedestrians on the lower section of the unnamed lane carrying footpath 13-2-FP7. There are no passing places for vehicles to clear the carriageway whilst other vehicles and pedestrian's pass.

Should the application be considered for approval, a plan showing the visibility splays at the site access should be submitted and subsequently conditioned, together with the site access itself being paved in a bound and porous material for at least the first 5m.

#### United Utilities

National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) advise that surface water from new developments should be investigated and delivered in the following order of priority:

1. into the ground (infiltration);
2. to a surface water body;
3. to a surface water sewer, highway drain, or another drainage system;
4. to a combined sewer.

The applicant should consider their drainage plans in accordance with the drainage hierarchy outlined above.

#### Environmental Health

Requested a condition for construction phase nuisance- construction method statement.

#### **Public Response**

Nearest neighbours have been notified by letter, a site notice has been displayed for wider publicity, no comments have been received.

#### **Officer Comments**

#### **Policy**

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



Policy SDP1 (Presumption in Favour of Sustainable Development) takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) sets out that development should make a positive contribution to the protection, enhancement, conservation and interpretation of our natural and historic environments.

Policy ENV2 (Achieving Quality in Design and Conservation) identifies the need to protect and enhance the heritage and character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that siting and design should be in scale and harmony with its surroundings.

Policy ENV4 (Promoting Sustainable Travel) seeks to promote sustainable travel as well as development impacts and accessibility and travel plans for major developments to mitigate any negative impacts.

Policy LIV1 (Housing Provision and Delivery) This policy makes provision for dwellings which are outside but close to the settlement boundary until such a time that the Council adopts the Pendle Local Plan Part 2: Site Allocations plan.

#### Replacement Pendle Local Plan

Saved Policy 31 sets out the maximum parking standards for development.

#### National Planning Policy Framework

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

#### **Principle of Development**

In this case, although the application site is outside the settlement boundary within the Open Countryside it is close to the settlement boundary. As such, this case relies on Policy LIV1 of the Core Strategy which states that until such a time that the Part 2 Site Allocations document is adopted, sites close to the settlement boundary which are sustainable and make a positive contribution to the housing supply will be supported. In this case, although there is a neighbourhood plan in Barrowford and the application site is within the neighbourhood area, the neighbourhood plan does not make any site allocations. As such, Policy LIV1 still applies here.

The proposed development is just 40m from the settlement boundary of Barrowford, 320m from Booths supermarket, 780m from St. Thomas' C of E Primary school and 500m from many of the shops in the local shopping frontage in Barrowford this is a sustainable location. Further, there was a decision made by Barrowford & Western Parishes Area Committee further up Pasture Lane which it regarded as a sustainable location for residential development (Pasture Barn West). This development is closer to the settlement than the previously approved application which was said to be in a sustainable location. As such, it cannot be argued that this location is locationally unsustainable or isolated from the village.

## **Design**

The proposed dwelling is to be a large detached dwelling with accommodation across two floors. The internal accommodation is to comprise: a double garage and garden store, a ground floor bedroom, utility room, snug, living / kitchen dining room, covered seating area (outdoor), pantry, games room, gym and swimming pool. To the first floor there are to be 4 bedrooms and a home office.

The building is arranged around a courtyard which forms the central area of outdoor space with seating and planting within this area.

There is a two storey L-shaped part of the proposed dwelling which is to have a pitched roof covered in slate to one side of the L-shape and a pitched roof with a green roof to the other side of the L-shape. The element of the roof which is to be covered in slate is to have a chimney to each gable, reflecting the character of the main dwelling at 34 Pasture Lane.

To the proposed north west elevation, this forms the main entrance to the dwelling. There is a glazed central section at double height along with three floor to ceiling windows to the first floor and two sections of floor to ceiling glass to the ground floor. Although there are floor to ceiling height windows these do not look out of proportion with the building because of the solid to void ratio. There is also a roof light to the green roof serving a corridor between bedroom 3 and bedroom 4. To the south east elevation there are just two areas of glazing visible to the first floor due to a wall running along the boundary, which is screened by a landscaping belt, which runs around the ground floor. To the south west elevation there are also two first floor areas of glazing visible which would serve a corridor and a window in the master bedroom. To the north east elevation there is much more glazing, this is the least visible side of the dwelling from Pasture Lane and would form the principle rear elevation overlooking the rear garden.

In terms of materials, the walls are to be constructed of linear staggered bricks in a cream / off-white colour. It is acknowledged that there are a variety of building materials in this area of Pasture Lane with the main house being stone which has a white wash, whilst the dwellings on Shap Close and Appleby Drive are predominantly brick built and the semi-detached dwellings towards the top of Pasture Lane are finished with pebble dash. There is also a dwelling finished in artificial stone on the same side of Pasture

Lane as 34, whilst the traditional cottages lower down Pasture Lane are stone built. As such, there is not a prevailing character in this location. The design has taken cues from the dwelling at 34 Pasture Lane with the pale coloured walls, gable chimneys and slate roof. The Design Principles SPD recommends the use of traditional materials, the brick and slate along with a small amount of timber cladding are traditional. The sedum / green roof is more modern but would assist in assimilating the proposed development into the wider context, as such it would be a suitable material. In terms of the exact colour and texture of the proposed brick, this is something which could be secured by condition.

Given the extensive amount of proposed landscaping which surrounds the site, the proposals would not result in an unacceptable landscape of visual impact.

Overall, the proposal accords with Policy ENV2 of the Local Plan: Part 1 Core Strategy and the Design Principles SPD in this regard.

## **Heritage**

The application site is adjacent 34 Pasture Lane which is also known as Pasturegate House. It is listed on the Historic Environment Record but is not a Listed Building or within a Conservation Area. Given that the proposed development is to the north west of Pasturegate House and there is a modern garage between the application site and the existing dwelling, the proposed development would have a neutral impact upon the existing dwelling. As such, it accords with Policy ENV1 of the Local Plan: Part 1 Core Strategy and paragraph 202 of the Framework is not engaged.

## **Residential Amenity**

The proposed dwelling is to be sited so that the single storey element is just 5m from the existing detached garage serving 34 Pasture Lane. However, there are no windows to this elevation (swimming pool and gym) and the existing garage is not a habitable room. The nearest window at the proposed dwelling is in the two storey element (which is to have the green roof), windows within the closest elevation of the proposed dwelling are to be 40m from the existing dwelling. As such there would not be a neighbouring amenity issue here.

To the south west there is an area of allotments, there are no dwellings within 21m of this elevation of the proposed dwelling. To the other sides is open countryside and there would be no unacceptable neighbouring amenity issue. To the south west elevation, closest to Pasture Lane there are to be two first floor windows visible from the Public Right of Way. These are set back by 28m from the Public Right of Way and would sit behind an extensive belt of landscaping.

Given that the proposal is adjacent to residential development, the Environmental Health Officer has recommended a construction method statement. In this case the proposed dwelling is not to be built amongst a cluster of existing dwelling and the

nearest neighbour that would be affected is a dwelling owned by the applicant. As such, it would be unreasonable to apply a construction method statement condition in this case.

The proposed development would not result in any unacceptable neighbouring amenity issue.

## **Ecology**

The application is accompanied by an Ecological Assessment which considered any impact upon protected species. It recommends landscape planting, habitat creation and the application of positive habitat management in the long-term to achieve measurable gains for biodiversity and compliance with the NPPF, local planning policy and best practice. The enhancements recommended can be secured by appropriately worded planning conditions.

## **Highways**

The Highways Authority have set out that this location is not sustainable. However, there is a footpath on the opposite side of Pasture Lane than the application site which runs all the way to the supermarket. Equally, there is a footpath on the opposite side of Pasture Lane which can be used to access the primary school. The Local Planning Authority do not agree with the Highway Authority that this is an unsustainable location.

The applicant has provided the visibility splays which the Local Highway Authority has requested and has also included a passing place which could be used as a refuge for pedestrians / users of the Public Right of Way and vehicles travelling on this section of access up the lane towards Pasture House.

The proposal provides an adequate level of car parking and would not result in a serious highway safety danger.

## **Drainage**

The application site is within Flood Zone 1, which is at least risk from flooding. Development in this location would not result in an increase to flood risk elsewhere. United Utilities have requested that the foul and surface water drainage are on separate systems and that the sequential assessment in terms of drainage hierarchy is followed. This can be secured by condition.

## **Trees**

The plans indicate that the proposal would require the removal of one tree in order to facilitate the access. The proposals indicate an adequate amount of space for a mitigation scheme to compensate for the loss of this tree. It also sets out a Tree Protection Plan to ensure that all other existing trees on the Tree Survey would not be

damaged during the construction phase. This is something which could be secured by condition.

### **Ground conditions**

The applicant has submitted a Phase 1 Ground Investigation Report which concludes that further intrusive investigation would be required, consisting of boreholes and tests to confirm the presence / absence and extent of contamination on the site. This is something which could be secured by condition.

### **Other Matters**

In order to prevent any further extension resulting in a potentially sprawling and unacceptable effect upon the wider landscape, Permitted Development rights could be removed. This would prevent large out buildings from being erected upon the extensive garden area without express planning permission.

### **Reason for Decision:**

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed development would accord with Local Planning Policy and would be compliant with the guidance set out in the Framework. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

### **RECOMMENDATION: Approve**

Subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 01, Proposed Site Plan 03, Site Plan 04, Proposed Ground Floor Plan 05, Proposed First Floor Plan 06, Proposed Elevation Plan 07, Proposed Elevation Plan 08, General Arrangement Plan 09, Hard Landscaping Plan 10, Proposed Boundary Treatment Plan 12

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

3. Prior to any external works commencing, samples of all the externals including materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter times be carried out in strict accordance with the approved materials.

Reason: To ensure a satisfactory form of development in the interest of visual amenity of the area.

4. Prior to commencement of works on site, a foul and surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority and has been fully installed and completed in accordance with the approved details.

The drainage scheme 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;
- (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); and
- (iii) A timetable for its implementation.
- (iv) Details of how foul and surface water will be disposed of.

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

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

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

5. All windows shall be set back from the external face of the walls by a minimum of 70mm.

Reason: To ensure a satisfactory appearance to the development in the interest of visual amenity.

6. The development hereby approved shall be carried out in strict accordance with the Preliminary Ecological Appraisal 2023-216.

Reason: In order to safeguard protected species.

7. The development hereby approved shall be carried out in strict accordance with the Arboricultural Impact Assessment LTC200 dated September 2023.

Reason: in order that the trees are adequately protected during the construction phase.

8. The development hereby permitted shall not be commenced until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted at a scale of 1:200 and shall include the following:
  - a. the exact location and species of all existing trees and other planting to be retained;
  - b. all proposals for new planting and turfing indicating the location, arrangement, species, sizes, specifications, numbers and planting densities;
  - c. an outline specification for ground preparation;
  - d. all proposed boundary treatments with supporting elevations and construction details;
  - e. all proposed hard landscape elements and pavings, including layout, materials and colours;
  - f. the proposed arrangements and specifications for initial establishment maintenance and long-term maintenance of all planted and/or turfed areas.

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

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

9. No development shall commence unless and until a method statement which sets out in detail the method, standards and timing for the investigation and subsequent remediation of any contamination which may be present on site has been submitted to and approved in writing by the Local Planning Authority. The method statement shall detail how:-
  - a) an investigation and assessment to identify the types, nature and extent of land contamination affecting the application site together with the risks to receptors and potential for migration within and beyond the site will be carried out by an appropriately qualified geotechnical professional (in accordance with a methodology for investigations and assessments which shall comply with BS 10175:2001) will be carried out and the method of reporting this to the Local Planning Authority; and
  - b) a comprehensive remediation scheme which shall include an implementation timetable, details of future monitoring and a verification methodology (which shall include a sampling and analysis programme to confirm the adequacy of land decontamination) will be submitted to and approved in writing by the Local Planning Authority.

All agreed remediation measures shall thereafter be carried out in accordance with the approved implementation timetable under the supervision of a geotechnical professional and shall be completed in full accordance with the agreed measures and timings, unless otherwise agreed in writing by the Local Planning Authority. In addition, prior to commencing construction of any building, the developer shall first submit to and obtain written approval from the Local Planning Authority a report to confirm that all the agreed remediation measures have been carried out fully in accordance with the agreed details, providing results of the verification programme of post-remediation sampling and monitoring and including future monitoring proposals for the site.

Advisory Notes:

(i) Where land identified as having the potential to be contaminated is undergoing redevelopment, a copy of the leaflet entitled 'Information for Developers on the investigation and remediation of potentially contaminated sites' will be available to applicants/developers from the Council's Contaminated Land Officer. The leaflet will be sent to the developer by request.

(ii) Three copies of all contaminated land reports should be sent to the Local Planning Authority.

(iii) This condition is required to be fully complied with before development is commenced.

Failure to comply with the condition prior to commencement of work may result in legal action being taken.

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

10. Prior to the commencement of development on site a method statement shall be submitted to the Local Planning Authority for written approval which shall include the following:

i) the parking of vehicles of site-operatives and visitors

ii) loading and unloading of plant and materials

iii) storage of plant and materials used in constructing the development

iv) the erection and maintenance of security hoardings including decorative displays, where appropriate

v) wheel-washing facilities

vi) measures to control the emission of dust and dirt during construction

vii) a scheme for re-cycling/disposing of waste resulting from demolition and construction works the development shall proceed strictly in accordance with that method statement.

viii) Details of construction working hours

Reason: In the interest of the amenity of the area and highway safety during construction work.



11. The proposed development should not be brought into use unless and until the parking area shown on the approved plans has been constructed, laid out, surfaced in bound porous materials and appropriately signed. The parking area shall thereafter always remain available for the parking of domestic vehicles associated with the development.

Reason: In order to ensure satisfactory levels of off-road parking are achieved within the site to prevent parking on the highway to the detriment of highway safety.

12. Prior to first occupation the dwelling shall have an electric vehicle charging point to be installed in accordance with details to be approved by the local planning authority. Charge points must have a minimum power rating output of 7kW and be fitted with a universal socket that can charge all types of electric vehicle currently available.

Reason: To ensure that the development provides the infrastructure for sustainable forms of transport.

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

Reason: To enable the Local Planning Authority to control any future development on the site in order to safeguard the character and amenity of the area and impacts on neighbour properties.

**Application Ref:** 23/0680/FUL

**Proposal:** Full: Demolition of an existing stable, erection of 1 no. self-build eco-home with an attached garage and a new access lane.

**At:** Land to the North of 34 Pasture Lane, Barrowford

**On behalf of:** Mr & Mrs Dean & Helen Cockett