

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

TO: DEVELOPMENT MANAGEMENT COMMITTEE

DATES: 15TH APRIL 2025

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE 15TH APRIL 2025

Application Ref: 24/0094/FUL
Proposal: Full: (Major) Erection of 39 Dwellings
At: Land To East Of, Colne Road, Earby
On behalf of: Dalesview Developments Limited
Date Registered: 15/04/2024
Expiry Date: 03/04/2025
Case Officer: Alex Cameron

This application has been referred to Development Management Committee as West Craven Committee resolved to refuse on the basis of coalescence of settlements and flood risk, this would result in a substantial risk of costs against the Council.

Site Description and Proposal

The application site is agricultural land to the east of Colne Road between Park Side and Brookfield Way. The land is open countryside outside of but adjacent to the settlement boundaries of Earby to the north and Kelbrook and Sough to the south. The site is of no other designation in the Local Plan. The land is divided into two parcels with a hedgerow running between, the southern part of the site falls within the Kelbrook and Sough Neighbourhood Plan area.

The original application comprised a full planning application for 39 dwellings on the northern part of the site and an outline application (access only) for up to a further 31 dwellings to the southern end of the site, this has now been amended removing the outline element and only proposing 39 dwellings on the northern part of the site.

Relevant Planning History

None

Consultee Response

Lead Local Flood Authority – No objection, recommend conditions for surface water drainage strategy, construction surface water management, drainage operation and maintenance, verification report. Those conditions are included in the recommendation in the Committee Report.

Environment Agency – No objection, recommend a condition for accordance with the submitted Flood Risk Assessment. That condition is included in the recommendation in the Committee Report.

Earby and Salterforth IDB - Should surface water be designed to enter the Board's district then Board consent will be required under the Land Drainage Act.

LCC Highways – No objection subject to conditions for: construction method statement, retaining wall details, off site highway works (including bus stop upgrades, tactile paving, right turn lane, shared pedestrian / cycle provision along the frontage, new footway to the east side of Colne Road), visibility splays, management and maintenance of estate roads, estate road construction, car parking and cycle storage.

Active Travel England – No comment

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

LCC Archaeology - Although the proposed development will retain the majority of this boundary in situ, a 10m wide section (C – Access road to run through existing gap in hedgerow, on drawing 3531-100, revision 00) will be needed for the proposed access road, in which both the surface water and foul water sewers will also run. It is anticipated that the excavations required for both the road and the sewers will be to a depth that would cause damage to or destroy surviving archaeological deposits associated with this boundary. Consequently, advise that a section be excavated archaeologically across the boundary, and that such works are secured by means of a condition.

LCC Education - An education contribution is not required at this stage.

PBC Environmental Health – Please attached construction method statement and contaminated land conditions.

Kelbrook and Sough Parish Council – The Development significantly contravenes the neighbourhood plan in several areas.

KS DEV 1 - Protecting and Enhancing the Character of Kelbrook and Sough

OBJ 1: To retain the historical look of Kelbrook village and Sough, maintain and enhance the physical character of the parish.

OBJ 2: To minimise the impact of new development on the settlement areas and within the wider landscape that comprises the Parish.

OBJ 3: To protect local open and green spaces, in particular historic and valuable views, biodiversity, wildlife and cultural heritage and the natural environment, both habitats and landscapes.

The site is designated as countryside outside the settlement boundary of Earby and Sough. It is a Greenfield site.

It is referred to in the Kelbrook and Sough Character assessment which is appendix 3 of the Neighbourhood plan. (This assessment is the guidance used to determine whether planning applications are appropriate to objectives in the NP)

‘Sough is a ribbon development with housing on both sides of the A56. To the east of the A56 there are a number of rows of terraced housing with alleys and further east there is a small development of detached housing arranged around a loop road, Holme Close, which encloses a small piece of greenspace and an area of tarmac. Due to the nature of the rural environment, there are very few green spaces within the village other than fields belonging to local farmers. The green spaces that exist, provide a break in the built up area to enhance the environment.’

Also ‘The main access to and from Kelbrook and Sough is along the A56 and the B6383 and these are the busiest and largest roads in the Parish although there are other vehicular routes into the Parish along narrow rural roads Old Stone Trough Lane and Cob Lane. These routes are frequently classed by Pendle Council as ‘Green & Blue Corridors’ – a description used for areas that are used for activities such as walking, cycling or horse riding, whether for leisure purposes or travel. This also includes canals, rivers, former transport corridors, etc., (Pendle Open Space Audit). They travel through a network of high quality open spaces, that consist of rolling landform and land cover. Travelling along these scenic routes of natural green open landscapes (corridors), it becomes obvious why these unspoilt natural surroundings are vitally important to the people who live in the area.’

- The proposed development would remove a key green space providing a break between other built-up areas and closing the gap that defines the break between the small hamlet of Sough and the larger Township of Earby.
- In the developers planning statement they include under council commentary that ‘The site occupies the only area of remaining open countryside located between Sough and Earby with the site visible from both settlements. The development of all or part of the site will close and merge the two separate settlements or significantly reduce the existing gap. This will cause substantial and irreparable harm to the landscape and townscape character of both settlements and countryside located between.’
- The proposed development would impact on other key views, for example any pedestrians or drivers travelling along the A56 could no longer enjoy the view of open countryside and moorland to the east as the development would block this view.

OBJ 3: To protect local open and green spaces, in particular historic and valuable views, biodiversity, wildlife and cultural heritage and the natural environment, both habitats and landscapes.

The site is designated as countryside outside the settlement boundary of Earby and Sough. It is a Greenfield site.

- This proposal is to develop an important local open green space which directly contravenes this objective to protect green infrastructure.
- The developers admit themselves in their planning statement that development would cause a significant negative effect on the sustainable assessment objective 'To conserve and enhance landscape character and townscapes'
- The Historic Environment Team in their response refers to how patterns of civil parish boundaries have typically evolved over centuries and advises a section of the boundary be excavated archaeologically.

Why is green infrastructure important? Green infrastructure is a natural capital asset that provides multiple benefits, at a range of scales. For communities, these benefits can include enhanced wellbeing, outdoor recreation and access, enhanced biodiversity and landscapes, food and energy production, urban cooling, and the management of flood risk. These benefits are also known as ecosystem services.

KS HOU 1 and KS HOU 2

This section of the Neighbourhood Plan identifies and allocates sites within Kelbrook and Sough that are suitable for housing development. The site in this application IS NOT identified as a suitable site in the neighbourhood Plan.

FLOOD RISK

The site has a history of flooding that is well documented, and this is backed up by the environment agencies report who refer to data indicating the site is inundated during flood events plus the many photos submitted by members of the public in comments on the planning consultation. The Environment Agency have objected to the development.

The proposed site is on a flood plain with part of the site in Flood Zone 3. Although this would not be developed, the surface water runoff from the nearby houses and roads would have an impact on this area. The proposal indicates that a SUDS system would be implemented but there are no details of the nature of the SUDS and how it would be managed. Without this information, it would appear that surface water would be fed into New Cut thus exacerbating the potential flooding impact which would be acute further downstream in Earby.

For all these reasons it was agreed unanimously that we feel application should be REFUSED. We wish to register our OBJECTION to the proposed application.

Public Response

Press and site notices have been posted and nearest neighbours notified. Responses received objecting the proposed development on the following grounds:

- Impacts on the visual amenity and character of the area
- Merging of the settlements of Earby and Sough
- Loss of green space
- Loss of privacy to adjacent dwellings
- Overbearing impact and loss of light to adjacent dwellings
- Loss of view from adjacent dwellings
- Impacts on biodiversity and wildlife
- The development is contrary to the Kelbrook and Sough Neighbourhood Plan
- Impact on local health and education services
- Insufficient services and facilities in Earby and Sough to sustainably serve the development
- Highway capacity and safety impacts
- Increase on-street parking in the vicinity
- The Transport Assessment underestimates the level of traffic that would be generated by the development
- Existing approved development are sufficient to meet housing requirements for the area
- Brownfield land should accommodate the need for housing
- Increased flood risk
- Inadequate foul water sewer infrastructure
- Increase in carbon emissions
- Lack of detail of proposed levels
- House price deterioration

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. Barnoldswick is a key service centre which provide the focus for future growth and will accommodate the majority of new development.

Policy SDP3 identifies housing distribution in West Craven Towns as 18%. The total housing requirement for Pendle at the present time is 5662. The amount of

development proposed here is not disproportionate to the amount Earby could expect to accommodate over the 15 year plan period.

Policy ENV1 of the Replacement Pendle Local Plan seeks to ensure a particularly high design standard that preserves or enhances the character and appearance of the area and its setting. It states that the impact of new developments on the natural environment, including biodiversity, should be kept to a minimum.

Policy ENV2 of the Pendle Local Plan Part 1 identifies the need to protect and enhance the heritage and character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that siting and design should be in scale and harmony with its surroundings.

Policy ENV5 seeks to minimise air, water, noise, odour and light pollution.

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 targets and thresholds for affordable housing provision. For 15 or more dwellings in West Craven towns this is 5%.

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. Provision for open space and/or green infrastructure should be made in all new housing developments.

Replacement Pendle Local Plan

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

Kelbrook and Sough Neighbourhood Plan

Policy KS DEV 1 states that all development should, by virtue of its design, siting, access, use, visual impact, layout, materials, height, scale and location, protect and respond positively to the character and heritage of the natural and built environment. It requires that proposals have regard to impacts on landscape including the separation of settlements and biodiversity.

Policy KS ENV 1 states that improvements to green infrastructure will be supported.

Policies KS HOU 1 and KS HOU 2 allocate sites to meet Kelbrook and Sough's housing needs over the plan period, this site is not included within those allocations.

National Planning Policy Framework

Following changes to the method for calculating housing supply introduced by the revised National Planning Policy Framework published in December 2024 the Council has sufficient housing supply for 2.8 years. As this is below the 5 year supply requirement the Council is in a position of undersupply and the Council's housing policies are out of date. Paragraph 11 of the Framework requires that in this circumstance that applications for housing development are approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, this is referred to as the 'tilted balance'.

Principle of the Development

The site is a sustainable location adjacent to the settlement, until Pendle adopts a Local Plan including site allocations policies SDP2 and LIV1 allow for the development of sustainable site outside but close to a settlement boundary. The amended development does not propose any dwellings within the Kelbrook and Sough Neighbourhood Plan area, which includes full housing site allocations and does not permit other housing development beyond settlement boundaries, just the access and flood water storage area would be within the Neighbourhood Plan area, this would maintain the separation between the settlements and would not conflict with the policies of the Neighbourhood Plan.

The proposed development is therefore acceptable in principle in accordance with SDP2 and LIV1 and the policies of the Kelbrook and Sough Neighbourhood Plan.

Visual Amenity

The design, materials and scale of the proposed housing would be in keeping with the character of the surrounding area, similar to other modern housing development in the vicinity and with features that reflect the character of the area such as their simple form window and doors surrounds and mullions.

Concerns have been raised regarding the merging of the settlement of Sough and Earby, the removal of the proposed housing from the southern part of the site proposal addresses this issue with clear separation between the settlements.

The site sits low in the landscape, adjacent to the existing settlement and whilst the development would result in development where there currently is none, taking into account the economic and social benefits of new housing, this would not result in unacceptable landscape and visual impacts.

The development is acceptable terms of design and visual amenity in accordance with policies ENV2 and LIV5.

Residential Amenity

The side elevation of plots 1 and 39 would be approximately 1.5-3m from the boundary of the rear gardens of properties on Brookfield Way. The Design Principles SPD advises a minimum spacing distance of 12m between a principle habitable room window and a blank two storey elevation. There would be a minimum distance of approximately 15m between the side elevation and the windows of extensions to the rear of dwellings on Brookfield Way. This is in excess of the spacing guidance of the Design Principles SPD. The dwellings would be in close proximity to the rear boundary of the gardens and would cast shadow on the gardens due to their southern orientation, however, they are relatively long gardens and taking that into account the proposed dwellings would not result in an overbearing impact upon those properties.

Concerns have been raised in relation to the impact of plots 1 and 2 on an outbuilding in use as an ancillary living space in the adjacent garden.

The side elevation of plot 1 would be a minimum of approximately 2.8m from the boundary with the rear gardens of 4 and 6 Brookfield Way and approximately 10.8m from the outbuilding referenced above.

The Design Principles SPD advises a minimum separation distance of 12m between a principal window and a two storey elevation. A principal window is defined as habitable room window on the main aspect to the property. This does not apply to ancillary outbuildings such as this which do not benefit from the same level of protection as habitable rooms in the main dwelling. Taking into account that it is an ancillary outbuilding the proposed development would not unacceptably impact upon residents using the outbuilding.

Plots 1 and 39 would have secondary and non-habitable windows in their side elevations facing Brookfield Way, an obscure glazing condition would ensure there is no unacceptable privacy impact from those windows.

Subject to a condition to require obscure glazing of non-habitable side windows the proposed development would provide an adequate level of privacy and living environment for the proposed dwellings in relation to spacing between the buildings and windows and would not result in an unacceptable loss of privacy, light or overbearing impact to any adjacent property.

The development would not result in any unacceptable loss of privacy, light or overbearing impacts to adjacent properties and would provide an acceptable living environment for its residents.

The proposed development is therefore acceptable in terms of residential amenity in accordance with policies ENV2 and LIV5.

Affordable Housing Provision

Policy LIV4 sets a target of 5% affordable housing for developments of this scale in West Craven. The applicant proposes to provide affordable housing within the site, affordable housing requirements are rounded down and therefore one affordable housing unit is required in accordance with the policy LIV4, this can be ensured by condition.

Ecology and Biodiversity

The site is an agricultural field the majority of which is modified grassland has been in use for silage production with regular cutting and therefore that area has limited ecological and biodiversity value, there is an area of species poor neutral grassland to the western side and hedgerow which runs through the site which has greater value.

New Cut runs to the east of the site and there are potential otter habitats identified along the bank. However, the development would not directly impact on that area and mitigation and avoidance measures during construction would ensure that otter habitats are not impacted.

Hedgehogs are likely to be present within the site and the report makes recommendations for mitigation to protect and enhance the sites habitat value.

No potential bat roosts were identified but the site is likely to be used for foraging and commuting, and the site. Mitigation and enhancement measures would ensure that bats are not unacceptably impacted.

There is limited existing potential for ground nesting birds. Mitigation and enhancement measures would ensure that birds are not unacceptably impacted.

No evidence of amphibian habitats were identified and the site conditions are sub-optimal for amphibians.

It has been raised that deer have been seen on the site. Although deer may have passed through and grazed on the land it is not specifically a deer habitat.

Overall the proposed enhancement measures of providing bat and bird boxes creation of an area of species rich grassland, infilling the retained area of existing hedgerow would result in a positive impact on the ecology of the site.

The development is required to result in an uplift of 10% in biodiversity, which should be provided on site if possible. An assessment of the current biodiversity value of the site

has been submitted and it has been proposed that a 10% uplift from the existing biodiversity value can be provided on-site.

Subject to conditions to require that the recommendations of the reports are implemented and for a contribution for the costs of monitoring the BNG provision the development would not result in any unacceptable ecology impacts and would provide a 10% uplift in biodiversity.

Open Space

Policy LIV5 requires that provision for public open space and/or green infrastructure is made in all new housing developments. The proposed layout includes areas of open space and green infrastructure surrounding the site, this would acceptably meet the requirement of policy LIV5.

Highways

The proposed access would be acceptable in terms of visibility and highway capacity, with suitable off-site highway works including a right turn lane the proposed access is acceptable in terms of highway safety. To increase the accessibility of the site it is necessary for a shared pedestrian cycleway to be provided along the footway to the frontage of the site and upgraded bus stops on Colne Road.

Drainage and Flood Risk

The site is within flood zones 2 (medium risk) and 3 (high risk), no dwellings are proposed in the flood zone 3 area in the north eastern corner of the site, however, most of the dwellings would be within the flood zone 2 area. A flood risk assessment has been submitted with the application and it has been acceptably demonstrated that with mitigation in the form of levels and a compensatory area of water storage in the southern area of the land, the proposed development would not result in and unacceptable risk from on-site flooding or increase the risk of off-site flooding. The proposed development is therefore acceptable in terms of drainage and flood risk in accordance with Policy ENV7.

Planning Balance

The Council is in a position of housing undersupply and therefore the tilted balance applies to the consideration of this application, the benefits of the development and level of undersupply must be balanced against the adverse impacts of the development and the application approved unless the adverse impacts significantly and demonstrably outweigh the benefits.

The development would provide economic and social benefits from contribution to the economy from the construction of housing, the provision of new housing and would contribute towards addressing the 2.2 year deficit in the borough's 5 year housing

supply, it would also provide an affordable dwelling. Taking into account the scale of the development at 39 dwellings, those benefits would be moderate. The development would not result in any unacceptable impacts, therefore the tilted balance weighs significantly in favour of the development. The proposed development is therefore acceptable.

Reason for Decision

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

RECOMMENDATION: Approve

Subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans: 3531-101 Rev 02 (1 of 3), 3531-101 Rev 02 (1 of 3), 3531-101 Rev02 (1 of 3), 3531-100 Rev 04, 3531-13, House Type 1, House Type 2, House Type 2a, House Type 2as, House Type 3, House Type 4, House Type 5, House Type 6.

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. Windows in the north facing side elevations of plots 1 and 39, and west facing side elevation of plot 29 shall at all times be glazed with obscure glazing to a minimum obscurity level of Pilkington Level 4 (or equivalent). The windows shall at all times be hung in such a way that prevents the effect of the obscure glazing being negated by opening.

Reason: To ensure an adequate level of privacy to adjacent dwellings in the interest of residential amenity.

6. No development shall commence unless and until details of proposed site levels and finished floor levels of each plot have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of residential amenity and visual amenity.

7. 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.

8. The development shall only be carried out in strict accordance with the recommendations of the Ecological Impact Assessment. Prior to the commencement of the development a scheme of ecological mitigation measures in accordance with the recommendations of the recommendations of the Ecological Impact Assessment, including a timetable for implementation, shall have been submitted to and approved in writing by the Local Planning Authority. The approved mitigation scheme shall be implemented in accordance with the approved scheme and maintained thereafter.

Reason: To ensure protection and enhancement of ecology.

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

- a. the exact location and species of all existing trees and other planting to be retained;
- b. all proposals for new planting and turfing indicating the location, arrangement, species, sizes, specifications, numbers and planting densities;
- c. an outline specification for ground preparation;

- d. all proposed boundary treatments with supporting elevations and construction details;
- e. all proposed hard landscape elements and pavings, including layout, materials and colours;
- f. the proposed arrangements and specifications for initial establishment maintenance and long-term maintenance of all planted and/or turfed areas.

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

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

10. 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.

11. 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:

- 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 control noise and vibration during construction
- h) A scheme for recycling/disposing of waste resulting from demolition and construction works
- i) Details of working hours
- j) Details of timing and routing of delivery vehicles to/from site
- k) Restriction of burning on-site

Reason: To mitigate the impact of the construction traffic on the highway network.

12. Prior to commencement details of the retaining wall along Colne Road shall be submitted including ownership and maintenance and detailed design of works to the wall and any changes in ground level adjacent to the wall within the site by a qualified structural engineer. Works to the wall shall be carried out under an agreed timetable.

Reason: To protect the structural integrity of the highway Colne Road.

13. Within 3 months of commencement a scheme for the site access 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 the southbound bus stop and a new northbound bus stop to quality bus stop standards on Colne Road. b) Provision of tactile paving at the two nearest existing central pedestrian refuges on Colne Road. c) Right turn lane at site access with running lanes 3.25-3.5m and right turn lane 3m wide with new central refuges to the north and south sides to protect the right turn lane. d) Shared pedestrian cycle provision along development frontage with transition on/off carriageway to the north and south sides agreed at suitable locations. e) Grass verge on the east side of Colne Road, between Jagoe Road and Brookfield Way to be changed to footway.

Reason: To mitigate the impact of the development traffic on the highway network.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 there shall not at any time in connection with the development hereby permitted be erected or planted or allowed to remain upon the land hereinafter defined any building, wall, fence, hedge, tree, shrub or other device over 1m above road level. The visibility splay to be the subject of this condition shall be that land in front of a line drawn from a point 4.5m measured along the centre line of the proposed road from the continuation of the nearer edge of the carriageway of Colne Road to points measured 90m to both sides of the proposed access along the nearer edge of the carriageway of Colne Road, from the centre line of the access, in accordance with a scheme to be agreed by the Local Planning Authority in conjunction with the Highway Authority.

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

15. Landscaping adjacent to parking or driveways shall at all times be maintained below 1m high within 2.5m from the edge of the estate road.

Reason: For visibility at junctions and driveways.

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

Reason: To ensure that the infrastructure is maintained in the future.

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

Reason: To ensure that the infrastructure is constructed to a suitable standard.

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

Reason: To ensure that the infrastructure is completed in a timely manner.

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

Reason: To ensure adequate parking provision is provided.

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

Reason: To support sustainable travel.

21. The development shall be carried out in accordance with the submitted flood risk assessment ("Dalesview Developments Ltd – Land off Colne Road, Earby – Flood Risk Assessment & SuDS Audit – 158584/01 – February 2023", reference 158584/01, dated 25/10/2024, compiled by Fairhurst) and the following mitigation measures it details:

- The mitigation measures outlined in section 4.3 shall be fully implemented
 - o Finished floor levels are to be set at a minimum elevation of 134.45m AOD in the north of the site (1% AEP 20%CC 600mm freeboard);
 - o Finished floor levels are to be set at a minimum elevation of 134.76m AOD in the south of the site (1% AEP 20%CC 600mm freeboard);
 - o No dwellings will be constructed in flood zone 3a/3b
- Compensatory storage shall be provided as per drawing number 158584/7001 dated 06/02/2025.
- Compensatory storage shall be provided prior to any development within the design flood event flood extent. These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

22. 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 sitespecific flood risk assessment and indicative surface water sustainable drainage strategy (25th October 2024 / 158584/02 – Issue 4 / Fairhurst) submitted and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly.

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

- a) Sustainable drainage calculations for peak flow control and volume control for the:
 - i. 100% (1 in 1-year) annual exceedance probability event;
 - ii. 3.3% (1 in 30-year) annual exceedance probability event + 40% climate change allowance, with an allowance for urban creep;
 - iii. 1% (1 in 100-year) annual exceedance probability event + 45% climate change allowance, with an allowance for urban creep

Calculations must be provided for the whole site, including all 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 deliver 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 infiltration rates and groundwater levels in accordance with BRE 365.

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

e) Evidence that a free-flowing outfall can be achieved. If this is not possible, evidence of a surcharged outfall applied to the sustainable drainage calculations will be required. The sustainable drainage strategy shall be implemented in accordance with the approved details.

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

23. 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.

24. 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.

25. 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.

26. 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.

27. One of the dwellings hereby approved shall be affordable housing. The affordable housing to be provided shall meet the definition of affordable housing in Annex 2 of The National Planning Policy Framework or any future guidance that replaces it. No dwelling hereby approved shall be occupied unless and until an affordable housing scheme has been submitted to and approved in writing by the Local Planning Authority. The affordable housing scheme shall include:

- i) the type, tenure and location on the site of the affordable housing provision to be made;
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved);
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: in order for the development to contribute to the supply of affordable housing in accordance with the identified need.

28. 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. The obligation shall provide for 10% Biodiversity Net Gain and monitoring for a 30 year period.

Reason: To ensure the provision of 10% biodiversity net gain for a 30 year period.

Biodiversity Net Gain Condition:

1. The development may not be begun unless—

- (i) a biodiversity gain plan has been submitted to the planning authority and
- (ii) the planning authority has approved the plan

Phase plan

- (b) the first and each subsequent phase of development may not be begun unless—
 - (i) a biodiversity gain plan for that phase has been submitted to the planning authority and
 - (ii) the planning authority has approved that plan

Reason: In order to fulfil the obligations for Biodiversity Net Gain, in accordance with the Environment Act 2021, Schedule 14

Notes:

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place: • on or within 8 metres of a main river (16 metres if tidal) • on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal) • on or within 16 metres of a sea defence • involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert • in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

The applicant/occupants should phone Floodline on 0345 988 1188 to register for a flood warning, or visit <https://www.gov.uk/sign-up-for-flood-warnings>. It's a free service that provides warnings of flooding from rivers, the sea and groundwater, direct by telephone, email or text message. Anyone can sign up.

Flood warnings can give people valuable time to prepare for flooding – time that allows them to move themselves, their families and precious items to safety. Flood warnings can also save lives and enable the emergency services to prepare and help communities. For practical advice on preparing for a flood, visit

<https://www.gov.uk/prepare-forflooding>. To get help during a flood, visit <https://www.gov.uk/help-during-flood>. For advice on what do after a flood, visit <https://www.gov.uk/after-flood>.

Connection to Main River The applicant will require an environmental permit from the Environment Agency to discharge to the main river. Information on environmental permits is available at: <https://www.gov.uk/topic/environmental-management/environmental-permits>

Permeable Paving 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.

Application Ref: 24/0094/FUL

Proposal: Full: (Major) Erection of 39 Dwellings

At: Land To East Of, Colne Road, Earby

On behalf of: Dalesview Developments Limited

REPORT TO DEVELOPEMNT MANAGEMENT COMMITTEE ON 15 APRIL 2025

Application Ref: 24/0802/HHO

Proposal: Full planning application for the erection of a single-storey rear extension with associated internal alterations and site works.

At: 39 Elland Road, Brierfield, Lancashire, BB9 5RX

On behalf of: Mr Muhammad Shehzad

Date Registered: 19/11/2024

Expiry Date: 14/01/2025

Case Officer: Negin Sadeghi

This application has been referred to Developemnt Management Committee as the approval of the application would result in a significant departure from policy.

Site Description and Proposal

The application site is a semi-detached dwelling located on Elland Road within the settlement boundary of Brierfield. The property is constructed with pebble-dashed brick and block walls, a slate roof, and white-framed windows. It has a front yard and off-street parking for one vehicle at the side. A green playing field is situated opposite the property. The rear of the site features sloping terrain, with the house positioned at a lower level than the raised rear yard, accessible via 4–5 steps.

The proposal seeks to erect a single-storey rear extension infilling to the side of and building a pitched roof over an existing extension. The proposed extension would infill a 2.7m wide gap between the existing extension and the boundary with the adjoining dwelling No.41.

The proposed extension was originally 8.5m following the previous deferral amended plans were submitted reducing the extension to 6m to match the existing extension.

Relevant Planning History

13/95/0232P – Erection of a rear extension.

Consultee Response

LCC Highways – Lancashire County Council, acting as the local highway authority, has reviewed the submitted documents and conducted a site visit. The authority does not object to the proposed development in principle but has provided the following comments:

- A revised parking plan should be submitted.
- Specific conditions and an informative note should be included in any formal planning approval.

Proposed Development

The proposed development involves the erection of a single-storey rear extension, along with internal alterations and external site works. A third bedroom will be added on the ground floor.

The Existing Site Plan does not accurately reflect the current front layout of the dwelling. Additionally, the Proposed Site/Block Plan is misleading as it suggests an existing access to off-road parking.

The Proposed Site/Block Plan indicates three off-road parking spaces—one at the side of the house and two across the front. However, the available width at the side of the house is insufficient for a car to park with enough space to open its doors. Similarly, the front area lacks sufficient depth to accommodate two parking spaces due to the presence of a front porch.

As a result, the highway authority concludes that only one adequately sized off-road parking space can be provided. While this is below the recommended two spaces for a three-bed dwelling, existing on-street parking is available. Therefore, one off-road space would be accepted in this instance, provided that a properly constructed vehicle crossing is installed.

Public Response

Neighbours notified – No response

Officer Comments

Policy

Local Plan Part 1: Core Strategy

Policy ENV2 (Achieving Quality in Design and Conservation) All new development should viably seek to deliver the highest possible standards of design, in form and sustainability. Policy ENV2 is supported by the guidance of the Design Principles SPD.

Replacement Pendle Local Plan

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

Design Principles SPD

The SPD states that a single storey extension on or immediately next to the boundary with a neighbour will normally be acceptable if it does not project more than 4m from the existing rear elevation. An extension of greater depth will normally only be permitted if it does not breach the 45 degree rule.

To comply with the 45 Degree rule, extensions should be designed so as not to cross the 45 degree line from the neighbour's nearest habitable room window.

Design

The property currently has a single-storey rear extension, which the proposal seeks to extend further to the side and rear. The proposed materials include off-white render, a grey tile membrane roof, and white UPVC windows and doors, which match the existing property.

From a design perspective, the extension's appearance is acceptable.

Residential amenity

The proposed extension would project approximately 6 meters along the shared boundary with No. 41. Whilst there is an existing 6m extension, the proposal would move the side wall 2.7m closer to the boundary.

No. 41 has a lounge window situated just one meter from the boundary the extension would breach the 45-degree rule in relation to that window and would result in an unacceptable overbearing impact to the occupants of No. 41 contrary to policy ENV2 and the guidance of the Design Principles SPD.

This has been raised with the applicant, they do not wish to submit any further amended plans and have requested that the application is determined as it stands.

Highways and Access

The Proposed Site/Block Plan inaccurately suggests three off-road parking spaces. In reality, only one off-road space can be accommodated. This would be acceptable and an acceptable vehicle crossing could be ensured under highways legislation. The availability of on-street parking ensures that highway safety would not be compromised.

RECOMMENDATION: Refuse

For the following reason:

1. The proposed rear extension would result in an overbearing impact on the adjoining property, detrimentally affecting the living conditions of its occupants. As

such, the development does not comply with Policy ENV2 of the Pendle Local Plan Part 1: Core Strategy and the Design Principles Supplementary Planning Document.

Application Ref: 24/0802/HHO

Proposal: Full planning application for the erection of a single-storey rear extension with associated internal alterations and site works.

At: 39 Elland Road, Brierfield, Lancashire, BB9 5RX

On behalf of: Mr Muhammad Shehzad

REPORT TO DEVELOPEMNT MANAGEMENT COMMITTEE ON 15 APRIL 2025

Application Ref: 24/0854/FUL

Proposal: Full: Change of use of part of a ground floor of a dwelling (Use Class C3) to a dessert shop (Use Class E(a)).

At 181 Leeds Road Nelson Lancashire

On behalf of: Mr Mohammad Ibrahim Rana

Date Registered: 12/9/2024

Expiry Date: 2/3/2025

Case Officer: Negin Sadeghi

This application has been referred to Development Management Committee as the approval of the application would result in a significant departure from policy.

Site Description and Proposal

The site is a two-storey terraced building with a shopfront-style façade on the ground floor, facing Leeds Road. Currently, the property is used entirely as a residential home and is located just outside the town centre. However, there are several public amenities nearby, including a sports court, the New Zone Youth Centre, and the Bradley Hub. The property does not have off-street parking.

The proposed development is for the change of use of part of the ground floor of the dwelling (Use Class C3) to a dessert shop (Use Class E(a)).

Relevant Planning History

13/14/0425P – DC: 16.09.2014- APPCON: Full: Erection of single storey extension to rear (amended scheme).

13/95/0271P – DC: 25.05.1995- APPCON: INCORPORATE SHOP INTO HOUSE

13/98/0244P – DC: 12.05.1998- APPCON: REPLACE SHOPFRONT WITH

Consultee Response

Highways:

The National Planning Policy Framework (NPPF) states that 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios' (Paragraph 116).

Having reviewed the documents submitted, Lancashire County Council acting as the local highway authority does not raise an objection regarding the proposed development and concludes that there are no highway grounds to support an objection as set out by NPPF. Whilst there is no associated off-road car parking there is a small, free, public car park adjacent to the gable end of No 177 where customers could park as there is no parking or stopping allowed in front of No 181 except for buses. The highway authority has noted that historically part of the dwelling formed a shop with the shop being incorporated into the house under planning permission 95/0271P. The property is also located within an area of mainly residential properties, the majority within acceptable walking distances. Additionally, there is a signalized pedestrian crossing facility outside No 169, approximately 35m from No 181, which will allow customers from the opposite side of Leeds Road to access the premises safely.

Further to the additional information submitted, our comments of 19.12.24 remain. The National Planning Policy Framework (NPPF) states that 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios' (Paragraph 116). Having reviewed the documents submitted, Lancashire County Council acting as the local highway authority does not raise an objection regarding the proposed development and concludes that there are no highway grounds to support an objection as set out by NPPF. Whilst there is no associated off-road car parking there is a small, free, public car park adjacent to the gable end of No 177 where customers could park as there is no parking or stopping allowed in front of No 181 except for buses. The highway authority has noted that historically part of the dwelling formed a shop with the shop being incorporated into the house under planning permission 95/0271P. The property is also located within an area of mainly residential properties, the majority within acceptable walking distances. Additionally, there is a signalised pedestrian crossing facility outside No 169, approximately 35m from No 181, which will allow customers from the opposite side of Leeds Road to access the premises safely.

Parish/Town Council: No response

United Utilities: No response

Environment Agency:

Flood risk standing advice - advice to LPA The proposed development falls within Flood Zone 3, which is land defined in the planning practice guidance as being at risk of flooding. We have produced a series of standard comments for local planning authorities and planning applicants to refer to on 'lower risk' development proposals. These comments replace direct case-by-case consultation with us. This proposal falls within this category. These standard comments are known as Flood Risk Standing Advice (FRSA). They can be viewed at <https://www.gov.uk/guidance/flood-risk-assessment-for-planning-applications#when-> to follow-standing-advice.

We recommend that you view our standing advice in full before making a decision on this application. We do not need to be consulted.

Public Response

One objection was raised against the application, citing concerns that it would worsen existing traffic and parking issues.

Relevant Planning Policy

Pendle Local Plan Part 1: Core Strategy

Policy ENV4 (Promoting Sustainable Travel) requires new development to have regard to potential impacts that may be caused on the highway network. Where residual cumulative impacts cannot be mitigated, permission should be refused.

Policy ENV7 (Water Management) states that the design of all new developments (Policy ENV2) must consider:

1. The potential flood risk to the proposed development site.
2. The risk the proposed development may pose to areas downslope / downstream. 3. The integrated, or off-site, use of Sustainable Drainage Systems (SuDS) to help reduce surface water run-off from the development.
4. The availability of an adequate water supply and disposal infrastructure.

Policy WRK4 (Retailing and Town Centres) states that applications for retail and main town centre uses, should identify sites or premises that are suitable, available and viable by following the sequential approach, which requires them to be located in order of priority:

1. Town and local shopping centres, where the development is appropriate in relation to the role and function of the centre.
2. Edge-of-centre locations, which are well connected to the existing centre and where the development is appropriate to the role and function of the centre.
3. Out-of-centre sites, which are well serviced by a choice of means of transport and have a higher likelihood of forming links with a nearby centre.

Replacement Pendle Local Plan

Policy 25 'Location of Service and Retail Development' of the Replacement Pendle Local Plan states that new retail and service uses, should be located in the following order of priority:

1. Within the boundary of a defined town centre, local shopping centre or local shopping frontage.
2. On the edge the town centre allocated site (being Clayton Street, Nelson)
3. Within 300m of the boundary of a defined town centre.

4. Elsewhere with preference given to sites that are close to a town centre and have good transport links to the centre.

National Planning Policy Framework (NPPF)

- Ensuring the vitality of town centres

90. Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

94. When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). This should include assessment of:

(a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and

(b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

95. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 94, it should be refused.

Policy 31 (Parking) states that new parking provision should be in line with the maximum car parking standards unless this would compromise highway safety

Officer Comments

Design

As the proposal does not involve any physical changes to the building, there are no design-related concerns.

Residential Amenity

The adjacent property in the terrace is residential dwellings. Shops in themselves do not generate noise or antisocial behaviour. It is a compatible use with the row of residential houses adjacent.

Drainage

The EA have made comments on the application pointing to standing advice. The change of use is from a vulnerable land use to a shop does not result in any increase in vulnerability. The drainage arrangements do not change.

Highways

The development is likely to result in an increase in visits to the property which could

result in additional parking. That is however likely to be short term and there is a local car park that can be used which is a short distance away. The development is not likely to lead to highway safety issues.

Sequential Test

The sequential test seeks to direct retail and leisure developments to the most appropriate locations by assessing the availability, suitability, and viability of alternative sites.

The applicant proposes converting an existing residential dwelling into a dessert shop on the ground floor of a two-storey terrace building, with a shopfront facing Leeds Road. The site, currently a residential property, is located outside the town centre. The applicant states that there are no similar dessert shops within 0.5 miles, and the proposal would provide a local, walkable alternative, reducing the need for residents to drive into the town centre.

The purpose of the sequential test is to prioritise town centre locations for such developments. If suitable units are available in the town centre, out-of-centre developments should generally not be approved to protect the vitality and viability of the town centre. As the town centre is within walking distance, residents should be encouraged to use available retail units there.

The applicant was asked to submit a sequential assessment, and after three versions, the latest supporting statement provides the following summary:

Availability of Alternative Retail Units

- Units within Pendle Rise Centre are not viable, as existing tenants must vacate before demolition in September 2025.
- Other available town centre units were assessed and found by the applicant unsuitable:
 - 16-18 Manchester Road – Already let.
 - 21-23 Manchester Road (Old Lloyds TSB Bank) – Covenant restrictions prevent use as a dessert shop.
 - 54 Manchester Road (PCCU Affordable Loans), Relish Sandwich Bar, and 43 Railway Street – Available for sale but unaffordable for the applicant.

Justification for the Proposed Location

- Operating from the applicant's own property eliminates rental costs, making the business financially viable.
- The proposal would create up to two full-time jobs, contributing to the local economy.

The submitted information indicates that there are retail units in the town centre that are empty and available. The cost of rental is not a matter that is relevant to them being available. As there are sequentially preferable units available the development of this out

of centre location would result in a development that would be harmful to the vitality and viability of the town centre and would be contrary to local and national planning policy on retail development.

RECOMMENDATION: Refuse

The application is for a main town centre use located outside of the town centre for Nelson. There are sequentially preferable sites available in the town centre. The development is thus contrary to policy WRK4 of the adopted Pendle Local Plan (core Strategy) and Paragraph 87 of the National Planning Policy Framework.

Application Ref: 24/0854/FUL

Proposal: Full: Change of use of part of a ground floor of a dwelling (Use Class C3) to a dessert shop (Use Class E(a)).

At 181 Leeds Road Nelson Lancashire

On behalf of: Mr Mohammad Ibrahim Rana