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Planning and Highways Committee

Thursday, 18th October, 2018

6.30 pm

Meeting Room A, Blackburn Town Hall

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Date Published: Wednesday, 10 October 2018
Harry Catherall, Chief Executive

PLANNING AND HIGHWAYS COMMITTEE

Thursday, 20 September 2018

PRESENT – Councillors; Smith D (in the Chair), Brookfield (substitute for Akhtar), Casey, Daley, Hardman, Jan-Virmani, Khan Z, Khonat, Oates, Richards, Riley and Slater Ja.

OFFICERS - Gavin Prescott (Development Manager), Rabir Saghir (Legal), Safina Alam (Highways Development Control Engineer) and Wendy Bridson (Democratic Services).

RESOLUTIONS

21 **Welcome and Apologies**

The Chair welcomed everyone to the meeting. Apologies were received from Councillors Hussain Akhtar and Roy Davies.

22 **Minutes of the Previous Meeting**

RESOLVED – That the minutes of the last meeting held on 16th August 2018 be confirmed and signed as a correct record.

23 **Declaration of Interest**

There were no Declarations of Interest received.

24 **Planning Applications**

The Committee considered reports of the Director of Growth and Development detailing the planning applications.

In considering the applications, the Committee took into account representations or submissions provided by individuals with the officers answering points raised during discussion thereon.

RESOLVED – That the following decisions be made on the applications:

24.1 **Planning Application 10/18/0230 - Old School Grounds, Edgworth, BL7 0PU**

Applicant – Mr Shaun Readey

Proposed Development - Full Planning Application for Erection of a single dwellinghouse (C3 Use Class) with associated access, parking and landscaping (resubmission of 10/17/0278)

Decision under Town and Country Planning Acts and Regulations -

Members were minded to approve the application against officer recommendation – considered that the proposed scheme was of exceptional design quality, with the proposed construction methods and design was innovative, and the dwelling would have no significant impact on the openness of the Green Belt and the immediate setting. As such, the proposal was

considered to meet both national and local planning policy. Deferred to next meeting to enable further negotiations on the full conditions to be imposed, in particular the pre-commencement conditions, between the Applicant and the Local Planning Authority.

24.2 Planning Application 10/18/0396 - Land and Properties off Billinge End Road, Blackburn BB2 6PY

Applicant – Mr Sauban Issa

Proposed Development – Full Planning Application for Residential development of 5 no. dwelling following demolition of existing buildings

Decision under Town and Country Planning Acts and Regulations - Approved subject to the conditions highlighted in the Director's Report and further pre-commencement conditions as agreed by the Committee which are outlined below:-

- Tree loss to be kept to an absolute minimum with full replacement of mature trees as soon as possible and continual monitoring by the Arboricultural Manager – separate letter to be sent.
- Additional trees to be planted on the rear boundary.
- Construction Site Manager to ensure that delivery vehicles arrive once construction hours have commenced and not queue at the site entrance beforehand – separate letter to be sent.
- The Bridleway must not be used by construction vehicles or any other vehicle at any time.
- That the route of construction vehicles avoid Pleasington Village.
- Agreed that the Planning Development Manager write to the applicant reminding them they must comply with the pre-commencement conditions before any works commence on site.

24.3 Planning Application 10/18/0502- 11 Vale Street, Edgworth, Bolton BL7 0EB

Applicant – Mr Mark Gregory

Proposed Development – Full Planning Application for Demolition of existing dwelling and erection of replacement dwelling

Decision under Town and Country Planning Acts and Regulations - Approved subject the conditions highlighted in the Director's Report.

25 Implementation of the Revised National Planning Policy Framework (2018) and Other Relevant Updated/New National Planning Guidance

Members were informed of the implementation of the revised National Planning Policy Framework (NPPF) and what it meant in terms of the changes to the planning system.

The report provided Members of the Committee with a concise summary of the main issues and proposed changes set out in the new NPPF and other guidance.

The report included an extract from the five year land supply report which showed the rate of housing delivery since the commencement of the current local plan. A further table included in the report highlighted how housing delivery would be measured when the Housing Delivery Test (HDT) would come into effect in November 2018. Based on the HDT Measurement Rule Book methodology, it was anticipated that BwD would deliver a 71.6% total net and whilst this calculation was subject to potential amendment when the official figures would be published in November 2018, it was clear that BwD would meet the threshold set from November 2018. It was highlighted that where LPAs delivery had fallen below 95% of the housing requirement, that they would be expected to produce an action plan which set out how delivery rates would be improved.

It was noted that Blackburn with Darwen would include reoccupied long term empty properties within the count of additional dwellings.

The Committee was also informed of the most fundamental change in the new NPPF where the use of pre-commencement conditions would be more difficult once it came into effect from 1st October 2018. Importantly, it was highlighted that when Members were considering a planning application, a pre-commencement condition could not be imposed by them and that it would need to be deferred to allow further negotiations, agreeable by the applicants.

RESOLVED – That the Committee Note the content of the Report, the revised NPPF and the Housing Delivery Test Measurement Rule Book from the Ministry of Housing, Communities and Local Government.

26 **Petition objecting to a planning application for the proposed change of use of 282 Blackburn Road, Darwen from a Bed and Breakfast to a 6 bed Therapeutic Centre**

Members were informed of the receipt of a petition objecting to the proposed change of use of 282 Blackburn Road, Darwen, from a Bed and Breakfast to a 6 bed Therapeutic Centre.

Following consultation letters being sent to 22 neighbouring properties, the petition was received on 29th August 2018. Details of the objections were highlighted in the report.

The Committee was informed that the case officer recommendation was yet to be finalised but would be presented to the Chair under the Chair Referral Scheme in due course.

RESOLVED – That the Committee note the petition and that the Lead Petitioner be notified of the decision.

27 **Exclusion of the Press and Public**

RESOLVED – That the press and public be excluded from the meeting during consideration of the following item in view of the fact that the business to be transacted is exempt by virtue of paragraph 5 of Schedule 12A to the Local Government Act 1972.

28 **Enforcement Report**

A report was submitted seeking authorisation to take enforcement action against all persons having an interest in land at 4 Ranken Drive, Hoddlesden, Darwen, BB3 3LT.

Background information including grounds for the request were outlined in the report.

RESOLVED - That authorisation be given to the proposed enforcement action at 4 Ranken Drive, Hoddlesden, Darwen, BB3 3LT.

Signed:

Date:

Chair of the meeting
at which the minutes were confirmed

Material Consideration

“Material Considerations” are not limited to matters relating to amenity and can cover a range of considerations, in regard to public or private interests, provided that there is some relationship to the use and development of land.

Where it is decided that a consideration is material to the determination of a planning application the courts have held that the assessment of weight is a matter for planning judgement by the planning authority, rather than the court. Materiality is a matter of law for the Court, weight is for the decision maker. Accordingly it is for the Committee to assess the weight to be attached to each material consideration, but if a Council does not take account of a material consideration or takes account of an immaterial consideration then the decision is vulnerable to challenge in the courts.

By section 38(6) of the Planning & Compensation Act 2004 Act every planning decision must be taken in accordance with the development plan (taken as a whole) **unless material considerations indicate otherwise**. The policies and guidance contained in the hierarchy of planning documents are important material considerations and the starting point for the Committee in its assessment of development proposals and most decisions are usually taken in line with them.

However, the Committee is legally obliged to consider all material matters in determining a planning application and this means that some decisions will not follow published policy or guidance. In other words, the Committee may occasionally depart from published policy when it considers this is outweighed by other factors and can be justified in the circumstances of the particular case. Similarly, in making a decision where there are competing priorities and policies the Committee must exercise its judgement in determining the balance of considerations

The following provides a broad guide of what may and may not be material, though as with any broad guidance there will on occasions be exceptions

<u>MATERIAL:</u>	<u>NOT MATERIAL:</u>
Policy (national, regional & local)	The identity of the applicant
development plans in course of preparation	Superceded development plans and withdrawn guidance
Views of consultees	Land ownership
Design	Private Rights (e.g. access)
Visual impact	Restrictive covenants
Privacy/overbearing/amenity impacts	Property value
Daylight/sunlight	Competition (save where it promotes a vital and viable town centre)
Noise, smell, pollution	Loss of a private view
Access/traffic/accessibility	“moral issues”
Health and safety	“Better” site or use”
Ecology, landscape	Change from previous scheme
Fear of Crime	Enforcement issues
Economic impact & general economic conditions	The need for the development (in most circumstances)
Planning history/related decisions	

Cumulative impact	
Need (in some circumstances – e.g. green belt)	
Impacts upon and provision of open/amenity space	
existing use/permitted development rights/fall back	
retention of existing use/heritage issues	
fear of setting a precedent	
composite or related developments	
Off-site benefits which are related to or are connected with the development	
In exceptional circumstances the availability of alternative sites	
Human Rights Act 1998 & Equality	

Before deciding a planning application members need to carefully consider an application against the provisions of the Human Rights Act 1998.

Protocol 1 of Article 1, and Article 8 confer(s) a right of respect for a person's private and family life, their possessions, home, other land; and business assets.

Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their representation, and comments,

In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Head of Planning and Transport has concluded that some rights conferred by these Articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that interference is proportionate, in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. Furthermore he believes that any restriction on these rights posed by the approval of an application is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Other duties have to be taken into account in determining planning applications for example the promotion of measures to reduce crime, the obligation not to act in a discriminatory manner and promote equality etc.

NB: Members should also be aware that each proposal is treated on its own merits!

Reasons for Decision

If members decide to go against officer recommendations then it is their responsibility to clearly set out their reasons for doing so, otherwise members should ask for the application to be deferred in order that a further report is presented setting out the background to the report, clarifying the reasons put forward in the debate for overriding the officer recommendation; the implications of the decision and the effect on policy; what conditions or agreements may be needed; or just to seek further information.

If Members move a motion contrary to the recommendations then members must give reasons before voting upon the motion. Alternatively members may seek to defer the application for a further report. However, if Members move a motion to follow the recommendation but the motion is lost. In these circumstances then members should be asked to state clearly their reasons for not following the recommendations or ask that a further report be presented to the next meeting



BwD Council - Development Control

General Reporting

REPORT NAME: Committee Agenda.

REPORT OF THE DIRECTOR OF GROWTH & DEVELOPMENT

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 BACKGROUND PAPERS

There is a file for each planning application containing application forms, consultations, representations, Case Officer notes and other supporting information.
Gavin Prescott, Development Manager – Ext 5694.

NEIGHBOUR NOTIFICATION: The extent of neighbour notification is shown on the location plans which accompany each report. Where neighbours are notified by individual letter, their properties are marked with a dot. Where a site notice has been posted, its position is shown with a cross.

PLANNING APPLICATIONS FOR DETERMINATION Date: 18/10/2018

Application No	Applicant	Site Address	Ward
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10/18/0075	Wainhomes (North West) Ltd & Bowsall Ltd C/O Agent	Land at School Lane Guide Blackburn BB1 2JX	Queens Park
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Full Planning Application for Full application for 45 dwellings with associated new access, landscaping and parking and associated works.

RECOMMENDATION: Permits

10/18/0230	Mr Shaun Readey The Brook House Bury Road Edgworth Bolton BL7 0AR	Old School Grounds Edgworth BL7 0PU	North Turton With Tockholes
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Full Planning Application for Erection of a single dwellinghouse (C3 Use Class) with associated access, parking and landscaping (resubmission of 10/17/0278)

RECOMMENDATION: Permits

10/18/0764	Mr Ian Mathews Ashleigh Primary School Ross Street Darwen BB3 2JT	Ashleigh Primary School Ross Street Darwen BB3 2JT	Darwen South West Pennine Whitehall
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Full Planning Application (Regulation 4) for Replacement of windows to main school hall of primary school

RECOMMENDATION: Permits

REPORT OF THE DIRECTOR

Plan No: 10/18/0075

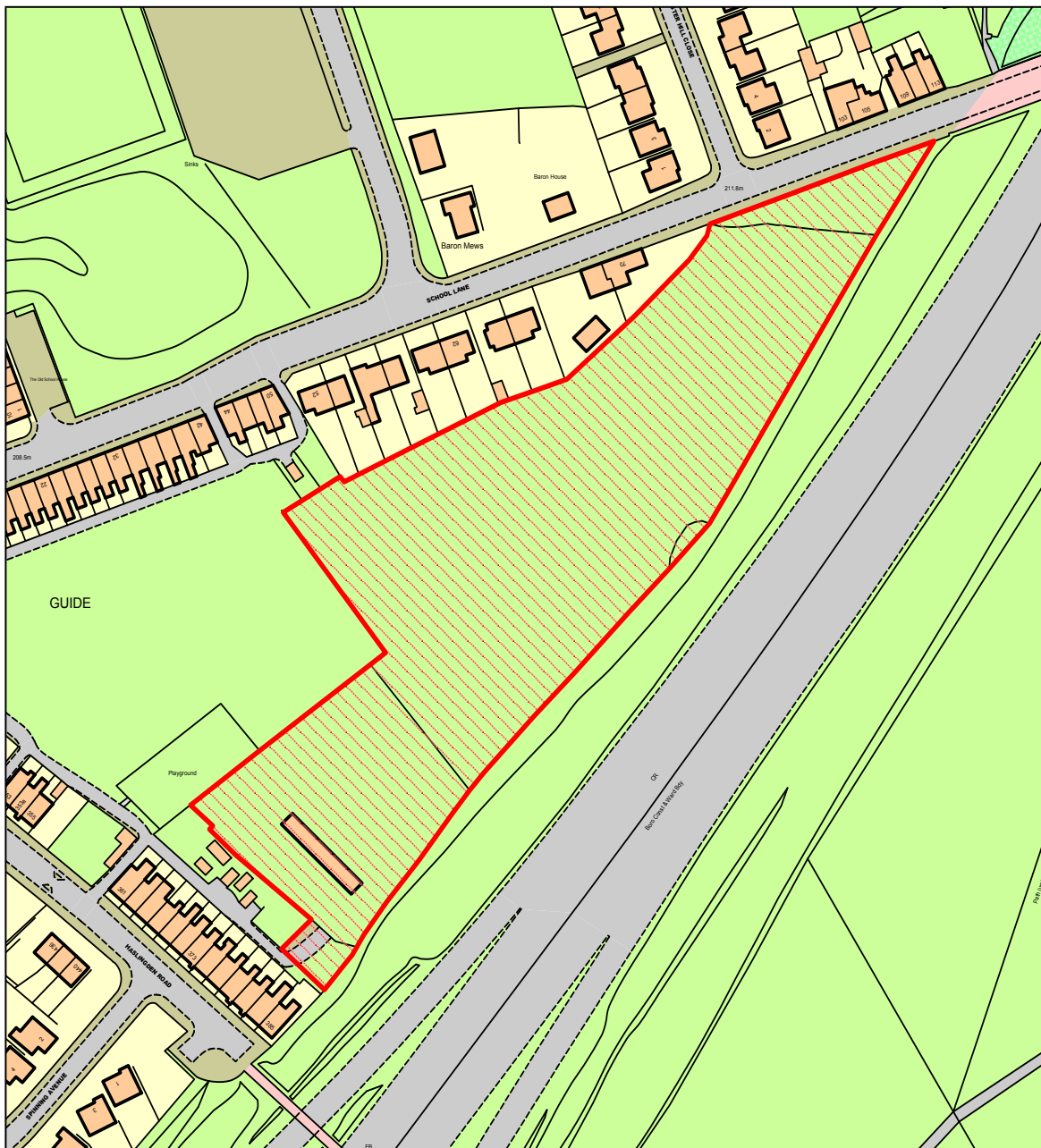
Proposed development: Full Planning Application for Full application for 45 dwellings with associated new access, landscaping and parking and associated works.

Site address: Land at School Lane, Guide, Blackburn, BB1 2JX

Applicant: Wainhomes (North West) Ltd & Bowsall Ltd

Ward: Blackburn South East

**Councillor Andy Kay
Councillor Vicky McGurk
Councillor Jim Shorrocks**



1.0 SUMMARY OF RECOMMENDATION

1.1 APPROVE – Subject to recommended conditions (see paragraph 3.0.).

2.0 DETAILS OF APPLICATION

2.1 Members will recall approving a resolution to support the application at the August 2018 meeting of the Planning & Highways Committee subject to the following:

(i) That delegated authority is given to the Head of Service for Planning to approve planning permission subject to an agreement under Section 106 of the Town and Country Planning Act 1990, relating to the payment of financial contributions which relate to the following matters:

- (a) £36,000 as a contribution towards off-site highway works, for a pelican crossing and speed reduction measures on School Lane, payable prior to commencement of development
- (b) £63,270 as a contribution towards off-site green infrastructure, for improvements to Guide Play Area, payable prior to commencement of development
- (c) £96,230 as a contribution towards the provision of Affordable Housing in the Borough, payable in 2 instalments (£40,000 on completion of the 20th dwelling and £56,230 on completion of the 35th dwelling); and
- (d) £4,500 as a contribution towards sustainable transport initiatives including annual travel surveys of the site, payable on completion of the 20th dwelling

Should the s106 agreement not be completed within 6 months of the date of this resolution, the Head of Service for Planning will have delegated powers to refuse the application

2.2 The S106 Agreement has still not been completed and signed. Since the meeting in August, the applicants have been in negotiations with Highways England relating to the proposed acoustic barrier between the application site and the motorway boundary. The Committee recommended at the August meeting, the following two conditions to be imposed:

1. *No works pursuant to this application shall begin on site until such time as the design, materials and construction methods to be adopted for the proposed acoustic barrier and earth bund have been subject to the full requirements of the Design Manual for Roads and Bridges standard BD2/12 'Highway Structures: Approval Procedures and General Design Approval Procedures', have been given Technical Approval by a competent and independent Technical Approval Authority appointed by the applicant and that this technical Approval has been agreed in writing with Highways England.*

2. *There shall be no direct vehicular or pedestrian access of any kind between the site and the M65 motorway. To this end, a close-boarded fence or similar barrier of not less than 2 metres high shall be erected along the boundary of the site and the M6 motorway that has been agreed with and constructed to the satisfaction of Highways England and the Local Planning Authority. Any fence or barrier shall be erected a minimum of one metre behind the existing motorway boundary fences on the developer's land and be independent of the existing motorway fence.*

2.3 Highways England preference is to accept a scheme (subject to agreeing the Technical Approval) relating to a bund and 3 metre high acoustic barrier fence to be erected at least 1 metre back from the motorway boundary fence (i.e. the foot of the bund or the fence itself is 1.5 metres away from the motorway fence), but without a separate householder garden fence behind it. The applicants have confirmed they are only proposing a fence solution with no bund combination. Highways England have therefore, recommended that the conditions be revised to the following:

1. There shall be no direct vehicular or pedestrian access of any kind between the site and the M65 motorway. To this end, a close-boarded fence or similar barrier of not less than 3 metres in height shall be erected along the boundary of the site and the M65 motorway along the alignment line K to L as indicated on Wainhomes drawing ref. WH/SLG/SL/02. Any fence or supporting earth bund or structure shall not be placed less than 1 metre away from the existing wooden motorway boundary fence.
2. No part of this development shall commence until such time as the design, materials and construction methods to be adopted for the proposed 3 metre high acoustic fence and/or earth bund (along the alignment line K to L as indicated on Wainhomes drawing ref. WH/SLG/SL/02), and referred to in condition (1) above, has been subject to the full requirements of the Design Manual for Roads and Bridges standard BD2/12 'Highway Structures: Approval Procedures and General Design Approval Procedures', has been given Technical Approval by a competent and independent Technical Approval Authority appointed by the applicant and that this Technical Approval has been agreed in writing with Highways England.

2.4 The applicants are happy with this revised wording. The Committee is advised that these conditions have been agreed in writing by the applicant in accordance with the Town & Country Planning (Pre-commencement conditions) Regulations 2018, which came into force on the 1st October 2018.

3.0 RECOMMENDATION: Approve subject to

- (ii) **That delegated authority is given to the Head of Service for Planning to approve planning permission subject to an agreement under Section 106 of the Town and Country Planning Act 1990, relating to**

the payment of financial contributions which relate to the following matters:

- (e) £36,000 as a contribution towards off-site highway works, for a pelican crossing and speed reduction measures on School Lane, payable prior to commencement of development
- (f) £63,270 as a contribution towards off-site green infrastructure, for improvements to Guide Play Area, payable prior to commencement of development
- (g) £96,230 as a contribution towards the provision of Affordable Housing in the Borough, payable in 2 instalments (£40,000 on completion of the 20th dwelling and £56,230 on completion of the 35th dwelling); and
- (h) £4,500 as a contribution towards sustainable transport initiatives including annual travel surveys of the site, payable on completion of the 20th dwelling

Should the s106 agreement not be completed within 6 months of the date of this resolution, the Head of Service for Planning will have delegated powers to refuse the application

(iii) Conditions relating to the following matters

- Commence within 3 years
- Approved details/drawings
- Materials to be submitted and implemented
- Sightlines clearance to be kept in perpetuity for all access points
- Construction management plan to be submitted and implemented
- Prior to the occupation of any of the dwellings hereby approved, details of the proposed arrangements for future management and maintenance of the proposed streets 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 under section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.
- Prior to the construction of any of the streets referred to in the previous condition full engineering, drainage, street lighting and constructional details of the streets shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details.
- Scheme detailing detached garages with a minimum internal dimension of 3m x 6m per vehicle to be agreed.
- Permitted development rights to be removed (Part 1, Classes A to E)
- Land contamination
- Limitation of construction site works to: 08:00 to 18:00 Mondays to Fridays, 09:00 to 13:00 Saturdays, Not at all on Sundays and Bank Holidays.
- A scheme employing best practicable means for the suppression of dust during the period of construction to be agreed/implemented.

- A scheme detailing the provision of acoustic glazing and mechanical extraction ventilation or positive input ventilation system for all dwellings to be agreed.
- No vegetation removal during bird nesting season (Mar to Aug) unless absence of bird nests established by suitably qualified ecologist.
- Development to be undertaken in accordance with recommendations set out in section 5 of the submitted Ecological Survey and Assessment
- Drainage to be undertaken in accordance with the submitted Flood Risk Assessment report
- Scheme for management and maintenance of the surface water drainage to be agreed
- No development shall commence until the design and layout of all boundary design features between the site and the M65 motorway (including but not limited to planting, fencing and retaining walls) together with working method statements have been agreed with Highways England in conjunction with the local planning authority.
- There shall be no direct vehicular or pedestrian access of any kind between the site and the M65 motorway. To this end, a close-boarded fence or similar barrier of not less than 3 metres in height shall be erected along the boundary of the site and the M65 motorway along the alignment line K to L as indicated on Wainhomes drawing ref. WH/SLG/SL/02. Any fence or supporting earth bund or structure shall not be placed less than 1 metre away from the existing wooden motorway boundary fence. There shall be no development on or adjacent to any motorway embankment that shall put any embankment or earthworks at risk.
- No part of this development shall commence until such time as the design, materials and construction methods to be adopted for the proposed 3 m high acoustic fence and earth bund (along the alignment line K to L as indicated on Wainhomes drawing ref. WH/SLG/SL/02), and referred to in condition (1) above, has been subject to the full requirements of the Design Manual for Roads and Bridges standard BD2/12 'Highway Structures: Approval Procedures and General Design Approval Procedures', has been given Technical Approval by a competent and independent Technical Approval Authority appointed by the applicant and that this Technical Approval has been agreed in writing with Highways England.
- There shall be no earthworks within one metre of the M65 eastbound motorway boundary fence.
- No drainage from the proposed development shall run off into the motorway drainage system, nor shall any drainage adversely affect the motorway embankment.
- No works relating to the construction of the facility shall require any temporary closure to traffic of the M65 motorway.
- Access to the site for the purposes of maintaining the existing motorway boundary fence, embankment and motorway boundary landscape planting shall not be withheld to Highways England and its representatives.
- No construction works associated with this planning application shall

be carried out on land in the ownership of the Highways England Company Limited under Title LA723383.

4.0 CONTACT OFFICER: Martin Kenny, Principal Planner, Development Management

5.0 DATE PREPARED: 8th October 2018

REPORT OF THE DIRECTOR

Plan No: 10/18/0230

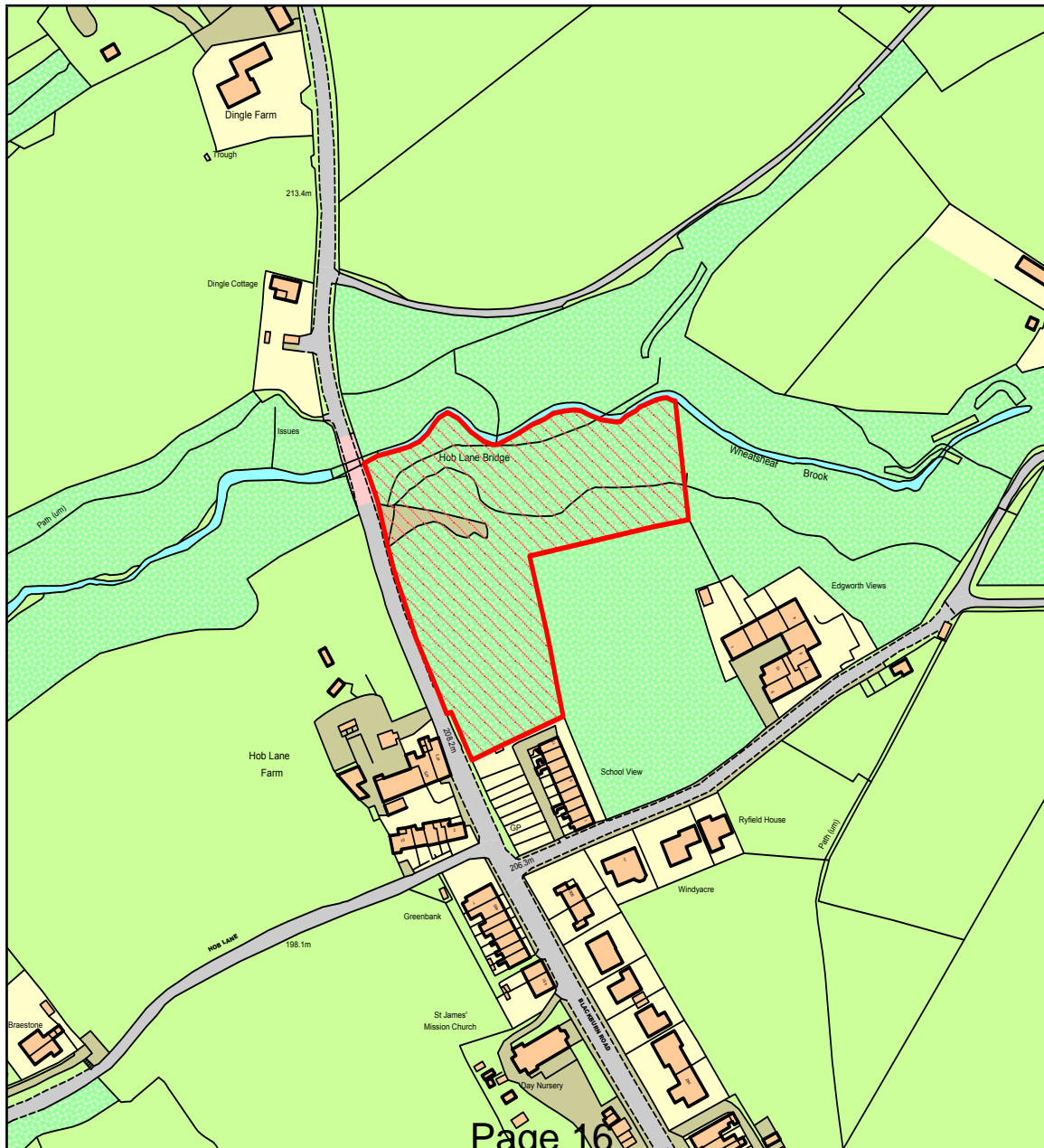
Proposed development: Full Planning Application for Erection of a single dwellinghouse (C3 Use Class) with associated access, parking and landscaping (resubmission of 10/17/0278)

**Site address:
Old School Grounds
Edgworth
BL7 0PU**

Applicant: Mr Shaun Readey

Ward: West Pennine

**Councillor Colin Rigby
Councillor Jean Rigby
Councillor Julie Slater**



Details of application

1.1 Members will recall approving the resolution to support the application at the September 2018 meeting of the Planning and Highways Committee, after voting to overturn the Officer's recommendation to refuse the proposal. Members considered that the proposed dwelling in the Green Belt was of exceptional design quality, with the proposed construction methods and design being innovative, and the dwelling would have no significant impact on the openness of the Green Belt and the immediate setting. As such, the proposal was considered to meet both national and local planning policy. The application was deferred to enable the drafting of conditions as per paragraph 2.0 below.

2.0 Recommendation

2.1 If members of the Committee are minded to approve this application, approval should be granted subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this planning permission.
REASON: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004
2. Prior to the commencement of development hereby approved, samples of all external walling, roofing materials, and their colour to be used in the construction of the building work shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
REASON: To ensure that the external appearance of the development is satisfactory in accordance with Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2 and the adopted Blackburn with Darwen Design Guide Supplementary Planning Document
3. Prior to commencement of the development hereby approved, a Construction Method Statement shall be submitted to, and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - 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 hoarding along the boundary with the Biological Heritage Site
 - V) wheel washing facilities
 - VI) measures to control the emission of dust and dirt during construction
 - VII) a scheme for recycling/disposing of waste resulting from demolition and construction works

REASON: In order to avoid the possibility of the public highway being affected by the deposit of mud/or loose materials which could create a potential hazard to road users, in order to protect the amenity of the occupiers of the neighbouring properties, in order to protect the visual amenities of the locality, in order to protect the Biological Heritage Site, and to comply with Policies 9, 10, 11 and 40 of the Blackburn with Darwen Borough Local Plan Part 2.

4. Prior to the commencement of development hereby approved a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. Trees and shrubs shall be planted on the site in accordance with the landscaping scheme during the first available planting season. The scheme shall include details of materials to be used for hard surfaces, and details of species to be planted, with their siting and planting distances, and shall be implemented during the first available planting season after the commencement of development. Trees and shrubs dying or becoming diseased, removed or being seriously damaged within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted during the first available planting season after the loss of the trees and/or shrubs.
REASON: To ensure that there is a well laid scheme in the interests of amenity in accordance with Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2
5. Prior to the commencement of development, a detailed method statement for the removal or long-term management/eradication of Japanese knotweed on the site shall be submitted to and approved in writing by the local planning authority. The method statement shall include proposed measures to prevent the spread of Japanese knotweed during any operations such as mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds/root/stem of any invasive plant covered under the Wildlife and Countryside Act 1981. It shall finally demonstrate how the methods adopted will not have a harmful impact on the Biological Heritage Site. Development shall proceed in accordance with the approved method statement.
REASON To ensure that the invasive weed species Japanese knotweed present on site is prevented from spreading and/or eradicated, thereby enhancing the amenity of the Biological Heritage Site and its immediate environs, in accordance with Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2.
6. Prior to the commencement of development details of how the recommendations set out in Paragraphs 3.41 to 3.96 inclusive of the Preliminary Ecological Appraisal (revised 21st February 2018, reference 260417 v. 2 Final) are to be carried out are to be submitted to and approved in writing by the Local Planning Authority (LPA). The approved details are to be implemented in full.

Reason: To ensure an appropriate mitigation strategy secures the amenity of the Biological Heritage Site and Green Belt, in accordance with Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

7. The recommendations in Sections 3, 4, and 5 and Appendix 3 and 4 of the Ecological Management Plan dated February 2018 and referenced 2210218 Draft are to be implemented in throughout the construction phase and the lifetime of the development hereby approved. Details of the lighting scheme recommended at 3.5 are to be submitted to and approved in writing by the LPA prior to the commencement of development.

Reason: To ensure an appropriate mitigation strategy secures the retention of the habitats and their species of the Biological Heritage Site and Green Belt, in accordance with Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

8. Prior to commencement of the development hereby approved, a drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail measures for attenuation, the disposal of foul and surface waters, and whether this is to be achieved by septic tank or link to the village drainage network. The development shall be implemented in accordance with the approved details, prior to the occupation of the approved development.

REASON: To ensure a safe form of development that poses no unacceptable risk of pollution to water resources, human health or ecological habitats in accordance with Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

9. Notwithstanding the submitted details, a scheme detailing the storage of bins within a covered area on site are to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The scheme is to be implemented prior to the occupation of the development and thereafter retained.

REASON: To ensure the implementation of a responsible waste storage and management scheme and to ensure there is no unacceptable impact on the environmental amenity of the Green Belt and the water course, in accordance with Policies 9 and 11 of the Blackburn with Darwen Borough Local Plan Part 2.

10. Notwithstanding the provisions of Article 3 and Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment No.2) (England) Order 2015 as amended, no development of the type specified in Classes A, B, C, D, E, F of Part 1 and in Classes A and B of Part 2 of that Schedule shall be carried out unless planning permission has been granted first.

REASON: Due to the restricted nature of the site, whilst the dwelling as approved is acceptable, any further extensions or alterations normally permitted under the above provisions may in this case conflict with the interests of adjacent properties or the amenity of the area generally in

accordance with Policies 3, 8 and 9 of the Blackburn with Darwen Borough Local Plan Part 2.

11. The integral garages hereby approved shall be retained as ancillary garages and not be converted into habitable rooms.
REASON: To ensure the availability of off-street car parking in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.
12. The annex shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling hereby approved.
REASON: Due to the restricted nature of the site, whilst the ancillary accommodation as approved is acceptable, a separate dwelling may in this case conflict with the interests of adjacent properties or the amenity of the Green Belt and the Biological heritage Site, in accordance with Policies 8, 9 and 3 of the Blackburn with Darwen Borough Local Plan Part 2.
13. The construction of the development hereby permitted shall take place only between the hours of 08:00 and 18:00 Monday to Friday, 09:00 and 13:00 on Saturdays and not at all on Sundays or Bank Holidays.
REASON: To safeguard the amenities of the nearby dwellings and the area generally in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.
14. Visibility splays shall not at any time be obstructed by any building, wall, fence, hedge, tree, shrub or other device exceeding a height not greater than 1 metre above the crown level of the adjacent highway. The removal of trees and shrubs within the Biological Heritage Site adjacent to Wheatsheaf Brook should not be undertaken except under supervision of a qualified ecologist.
REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, and to safeguard the ecological habitat along Wheatsheaf Brook, in accordance with Policies 10 and 9 of the Blackburn with Darwen Borough Local Plan Part 2.
15. This consent relates to the submitted details marked received on 8th March 2018 and numbered Project 334 drawings 200 rev E, 102, 103, 201, 203, 204, 205, 206, 207, 208, 209, 210, 211, 219 rev E, 220, 221, 222, 223, and 225 , as amended by plans received on 2nd August and numbered 201 rev E, 202 rev E, 203 rev E, 204 rev E, 205 rev E, 206 rev E, 207 rev E, 208 rev E, 209 rev E, 210 rev E, 211 rev E, 219 rev E, 220 rev E, 222 rev E, 224 rev E, 225 rev E, 226 rev E, 227 rev E, as further amended by plans received on 5th September 2018 and numbered 200 rev F and 201.2 rev E; and any subsequent amendments approved in writing by the Local Planning Authority within 12 months of the date of this decision.
REASON: To clarify the terms of this consent

- 2.2 The Committee is advised that these conditions have been agreed to in writing by the applicant in accordance with The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 which came into force on 1st October.
- 3.0 **CONTACT OFFICER: John Wilson, Planner. 01254 585142.**
- 4.0 DATE PREPARED: 5th October 2018

REPORT OF THE DIRECTOR

Plan No: 10/18/0764

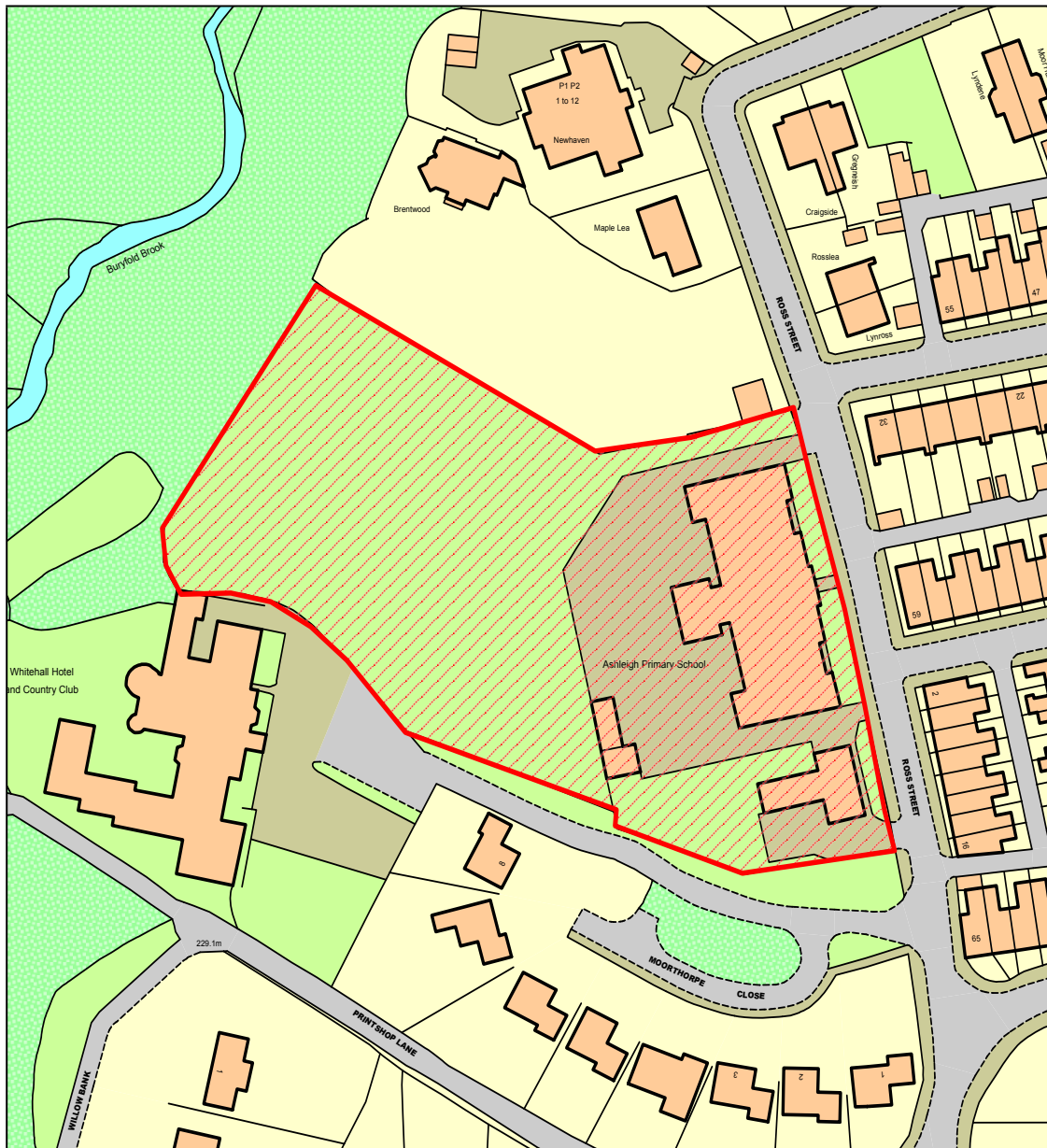
Proposed development: Full Planning Application (Regulation 4) for Replacement of windows to main school hall of primary school

**Site address:
Ashleigh Primary School
Ross Street
Darwen
BB3 2JT**

Applicant: Mr Ian Mathews

Ward: Darwen South

**Councillor Kevin Connor
Councillor Neil Slater
Councillor Lillian Salton**



1.0 SUMMARY OF RECOMMENDATION

APPROVE – Subject to conditions set out in paragraph 4.1 of this report.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 The application is presented to Committee for determination due to the interest of the Local Authority as applicants and land owners of the school; in accordance with Regulation 4 of the Town and Country Planning General Regulations 1992.
- 2.2 The proposal seeks to replace the large timber framed windows in the central element of the building which serves the main entrance and school hall with UPVC frames. The 1914 school building built in local stone and slate with its magnificent arched windows facing Ross Street, is considered to be a non-designated heritage asset.
- 2.3 Paragraph 197 of the Framework requires the effect of an application on the significance of a non-designated heritage asset to be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset.
 - 2.1.1 In understanding the importance of this school within the community it serves, and in trying to minimise the further harm that would be caused to the historic building by replacing the last large arched timber window in the building with UPVC double glazed frames, and to set a standard which can be replicated and enhanced in future renovations of the school, the LPA has sought thinner framed mullions and openers minimise to some degree the harm caused by replacing the 12 timber windows.
 - 2.1.2 In assessing the proposal in accordance with the requirements of Paragraph 197 of the Framework, whilst harm would occur to the heritage asset by the replacement of timber window frames with the thinner UPVC now proposed, the harm would not be substantial and is consequently outweighed by the public benefits arising from the proposal by continuing using the building for the primary school.
 - 2.1.3 Therefore, subject to using the agreed 20mm thinner UPVC frames, the proposal is considered to comply with the requirements of Local Plan Part 2, Policy 39 and Paragraph 197 of the Framework. It is thus recommended that the application be approved subject to conditioning the size of the agreed window frames.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The application relates to Ashleigh Primary School which is located on the west side of Ross Street within the Whitehall area of Darwen. The school faces the gable end of terraced properties on Devon Street and the rear alley serving terraced properties on Cyprus Street.
- 3.1.2 The school buildings appear to date from the early 1900's and is considered to be a non-designated heritage asset. Over the main entrance door it has a date stone with 1914 inscribed on it.

3.2 Proposed Development

- 3.2.1 Permission is sought to remove the existing large timber window in the central section of the building comprising of 12 glazed windows set between stone mullions and replace the timber glazed windows with white UPVC.
- 3.2.2 Permission is required due to the proximity of the school building to the sites boundary, in accordance with the requirements of Part 7, Class M of the The Town and Country Planning (General Permitted Development) Order 2015, as amended.
- 3.2.3 Following negotiations with the

3.3 Development Plan

- 3.3.1 The Development Plan comprises the Core Strategy and adopted Local Plan Part 2 – Site Allocations and Development Management Policies. In determining the current proposal the following are considered to be the most relevant policies:

3.3.2 Core Strategy

Policy CS11: Facilities and Services

Policy CS16: Form and Design of New Development

Policy CS17: Built and Cultural Heritage

Local Plan Part 2

Policy 11: Design

Policy 39: Heritage

3.4 Other Material Planning Considerations

- 3.4.1 National Planning Policy Framework

Of relevance is section 16 of The Framework, which sets out those local planning authorities should be conserving and enhancing the historic environment and recognising the positive contribution that conservation of heritage assets can make to sustainable communities.

3.5 Assessment

3.5.1 The traditional school buildings are considered to be non-designated heritage assets. The buildings, dated 1914 make a valuable contribution to this section of Ross Street.

3.5.2 Section 16 of the National Planning Policy Framework concerns itself with conserving and enhancing the historic environment. Paragraph 192 of the Framework states:

“In determining applications, local planning authorities should take account of:

a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c) the desirability of new development making a positive contribution to local character and distinctiveness.”

3.5.3 Paragraph 197 of the Framework states:

“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

3.5.4 Local Plan Part 2 Policy 39 states:

“Development with the potential to affect any designated or non-designated heritage asset, either directly or indirectly including by reference to their setting, will be required to sustain or enhance the significance of the asset....”

3.5.5 Policy 39 also states:

“2. Development that will negatively impact on the significance of an asset will only be permitted where the impact is outweighed by the public benefit arising from the development...”

3.5.6 This traditional school building has three large arched windows in each of its three sections. This central main window is the most prominent of the three elements given its large arched window forms the raised main entrance to the school and extends around the entrance door. The historic timber windows which serve the main hall in the school are very slender between each of the stone mullions. The stone mullions within the impressive arch are therefore

the prominent feature of the window as intended when the school was built 104 years ago.

3.5.7 It is widely recognised in heritage circles that the introduction of UPVC in historic buildings detracts from the historic significance, character and appearance of historic buildings due to their wider frames and plastic shiny appearance.

3.5.8 It is evident from the replacement of the same arched windows in the road facing gables on either side of the main entrance that the UPVC installed is wholly unsympathetic to the character and appearance of the building and the stone mullions in which wide UPVC frames have previously been installed as they appear overly dominant in comparison to the timber windows in the central archway, subject to this application.

3.5.9 In understanding the importance of this school within the community it serves, and in trying to minimise the further harm that would be caused to the historic building by replacing the last large arched timber window in the building with UPVC double glazed frames, and to set a standard which can be replicated and enhanced in future renovations of the school, Officers have secured thinner framed mullions and openers, which are now widely available on the market.

3.5.10 In the interests of minimising the impact of further wide framed UPVC windows being installed in the building the Council's Principal Building Surveyor has agreed to use these thinner frames. The thinner frames reduce the width of the plastic transoms and mullions by 20mm on the face. The thinner frames therefore would to some degree minimise the harm caused by replacing the 12 timber windows.

3.5.11 In assessing the proposal in accordance with the requirements of Paragraph 197 of the Framework, whilst harm would occur to the heritage asset by the replacement of timber window frames with UPVC, the harm would not be substantial and consequently is outweighed by the public benefits arising from the proposal due to the continuing use of the primary school for local children.

3.5.12 Therefore, subject to using the agreed 20mm thinner UPVC frames, the proposal is considered to comply with the requirements of Local Plan Part 2, Policy 39 and Paragraph 197 of the Framework. It is thus recommended that the application be approved subject to conditioning the size of the agreed window frames.

4.0 RECOMMENDATION

4.1 Approve subject to:

Conditions which relate to the following matters:

- Approved plans, and the,
- Agreed windows,

5.0 PLANNING HISTORY

No planning history is available for this site.

6.0 CONSULTATIONS

6.1 4 neighbours were consulted by letter. No representations have been received in relation to the application.

7.0 CONTACT OFFICER: Claire Booth

8.0 DATE PREPARED: 04 October 2018

GROWTH & DEVELOPMENT DEPARTMENT

**ORIGINATING SECTION: PLANNING (DEVELOPMENT
MANAGEMENT)**

REPORT TO PLANNING & HIGHWAYS COMMITTEE - 18th October 2018

TITLE: APPEALS MONITORING REPORT

WARDS: ALL

1.0 PURPOSE OF THE REPORT

- 1.1 To present Members with an update of recently decided appeals within the last twelve calendar months. You can see from the attached table, 18 appeals in total were determined during the period 5th October 2017 to 5th October 2018. 12no appeals were dismissed, 5no appeals were allowed, and there was one split decision.
- 1.2 The update will be presented to the Cross Party Working Member Group at their meeting on the 16th October 2018.
- 1.3 With regards to the appeals allowed by the Inspectorate, and the reasons provided, these have been duly considered in detail by officers, and have been incorporated in the decision making culture as part of the Planning Service's Performance Improvement Plan, in order to reduce the number of appeals, and subsequently the number of appeals allowed.

2.0 RECOMMENDATION

- 2.1 That the report be noted.

3.0 BACKGROUND PAPERS

- 3.1 See the file numbers referred to.

**4.0 CONTACT OFFICER: Gavin Prescott, Planning Manager
(Development Management)**

5.0 DATE PREPARED 5th October 2018

**APPEALS MONITORING REPORT RELATING TO APPEALS DETERMINED BETWEEN THE PERIOD 5TH OCTOBER 2017 AND 5TH OCTOBER 2018
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APPEAL START DATE	APPEAL REFERENCE	APPEAL SITE ADDRESS & DEVELOPMENT DESCRIPTION	APPEAL TYPE	APPEAL DECISION	APPEAL DECISION DATE	REASONS FOR DECISION
03/08/2017	10/16/1349	Land adjoining Moorthorpe Cottage Chestnut Grove Darwen – Erection of a dwelling	Written Representations	Allowed. Full costs awarded to appellant – Council did not provide enough evidence to substantiate their reason for refusal relating to the impact on the trees.	25/10/2017	The Inspector found that there would be some moderate conflict with Policy 28 of the LPP2, which identifies ‘Long Clough’ as an area for very small scale residential development, providing there is no loss of trees or woodland. However, given the very limited amenity value of the trees to be removed and that a woodland management scheme would be implemented to improve the overall woodland, the Inspector found that it would accord with the LPP2 as a whole. Whilst there would be a loss of trees, which would have limited harm, this would be outweighed by the benefits of a woodland management scheme that would improve the visual amenity of the area and wildlife habitats. The

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						Inspector concluded that the proposed development would have no significantly adverse effect on the character and appearance of the surrounding area. Nor would it be likely to have a long-term effect on protected trees on the site. As such, it would comply with Policy 9 of the Blackburn with Darwen Borough Council Local Plan Part 2: Site Allocations and Development Management Policies (LP2) 2015, which, amongst other matters, seeks to protect trees.
27/11/2017	10/17/0240	Newlands 61 Manor Road Darwen Demolition of existing garage and outbuilding and the erection of a single dwelling.	Written Representations	Dismissed	08/02/2018	The Inspector concluded that should the proposal proceed, the existing dwelling and the new property would each have small garden areas significantly below that of other neighbouring dwellings. Furthermore the area is characterised by a linear pattern of built

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						form with individual properties running along the road with only small domestic outbuildings and garages to the rear. The siting of the proposed dwelling to the rear of the appeal property would be at odds with this pattern of development. The appeal proposal would therefore cause significant harm to the character and appearance of the area. The Inspector felt on balance that the appeal scheme would be more harmful to the character and appearance of the area than the approved annexe.
03/10/2017	10/17/0324	1 Petrel Close Blackburn 2 Storey side and rear extension.	Written Representations	Allowed	29/11/2017	The Inspector considered the proposed two storey side extension would result in the appeal property projecting further towards Hawkshead Bank Road. However, a gap to the pavement would still be retained such that there would be a small side

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						garden area between the appeal property and the highway. Given this and the wide expanse of open grassland to the opposite side of Hawkshead Bank Road in this location, the Inspector found that the proposal would remain in keeping with the area's attributes of greenery and openness identified earlier. The extension would appear subordinate to the original dwelling.
20/11/2017	10/17/0440	15 Percival Street, Blackburn 2 storey rear extension	Written Representations	Dismissed	20/11/2017	The Inspector considered that the large scale and the siting of the extension close to the adjoining properties meant that it would dominate and significantly reduce the outlook from them. In addition due to its size, position and design the proposal would reduce the amount of daylight and sunlight received by Nos 13 and 17 and would result in direct overlooking of the rear extension at No 17 and a

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						consequent significant loss of privacy to the occupiers of that property.
14/11/2017	10/17/0478	Land Adjacent to 3 East Lancashire Road Blackburn Erection of one detached dormer bungalow with on site parking	Written Representations	Dismissed	07/02/2018	The Inspector considered that the appeal proposal would form an intrusion into the attractive open area at the junction of Brownhill Road and East Lancashire Road. This would undermine its importance as a visual break from development, adversely affecting the character and appearance of the area. The proposal would therefore fail to comply with Policy 11 of the Blackburn with Darwen Local Plan Part 2. The appellant argued that there was a lack of 5 year housing land supply. The Inspector though felt there would be significant harm to the character and appearance of the area conflicting with Policy 11. As such, the scheme is for a single dwelling which would make little

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						difference to the overall supply, and therefore attached only limited weight to this benefit. The presumption in favour of sustainable development does not apply.
23/10/2017	10/17/0639	4 Manor House Cottages Blacksnape Road Darwen Demolish existing porch and erect a rear sun lounge	Written Representations	Dismissed	24/11/2017	The proposed development to provide a sun lounge would extend almost the whole width of the front of the property and project out some 3 metres from the front of the cottage. Whilst the materials would be to match existing, the Inspector considered the substantial bulk of the proposed development both in terms of width and depth; the extent of the scale of fenestration would not reflect that of the existing and neighbouring properties, together with the lower pitch of the roof and the loss of the porch. As such, it would appear discordant and significantly adversely

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						impact on the character and appearance of the host property and the other cottages. Consequently, the proposal would be contrary to the principles of good design set out within Policy 11 of LPP2.
22/02/2018	10/17/1168	63 Avondale Road Darwen Proposed first floor rear bedroom extension above existing kitchen	Written Representations	Allowed	26/03/2018	The Inspector considered that the appeal proposal would be a modest addition to the existing property. In addition, the extension would not be sited against neighbouring bedroom windows. The appeal property sits lower than No.65, and therefore the impact on their bedroom window would be minimal.
22/02/2018	10/17/1170	174 Bolton Road Edgworth Rear dormer extension to existing bedroom	Written Representations	Dismissed	19/03/2018	The Inspector considered that the appeal proposal would introduce an unduly prominent feature into the roofscape exacerbated by the introduction of a large window and a small window, neither of which would appear in keeping

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						with the existing fenestration of the host property, or that of neighbouring dwellings. In summary, the Inspector found that the proposed development would harm the character and appearance of the Edgworth Conservation Area.
18/04/2018	10/17/1186	6 Elm Street, Blackburn Erection of double storey with single storey extension to rear.	Written Representations	Allowed	22/05/2018	The Inspector considered the proposed extension's staggered form and low ridge height would ensure that it appears subordinate to the host property. The extension would not be prominent nor would have an adverse impact on the character of the surrounding area.
04/06/2018	10/17/1390	The Coach House Wellington Street St Johns, Blackburn Proposed conversion of existing garage to ground floor and	Written Representations	Dismissed	17/07/2018	The Inspector considered the separation distance between the site and No.21 Shear Brow is substandard , together with the bulk and massing of the extension it would have an overbearing

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		erection of first floor extension to create additional living accommodation.				impact towards No.21.
	10/17/1414	49 St Clement Street Blackburn Proposed part single/two storey rear extension and conversion of front shed into enlarged bathroom	Written Representations	Split Decision	29/06/2018	The appeal is dismissed insofar as it relates to the proposed rear single and double storey extension. The appeal is allowed insofar as it relates to the conversion of the front shed building into an enlarged bathroom and planning permission is granted for the conversion of the front shed building into an enlarged bathroom. The proposed rear extension whilst being subordinate to the host dwelling, would have an impact on the character of the immediate surroundings breaking up the uniformity and pattern. In addition, the extension would have an overbearing impact on No.47. The conversion of the shed to a bathroom would have no impact on

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						the adjacent property or the surrounding area, and as such the Inspector considered this to be acceptable.
21/03/2018	10/17/1421	181 Duckworth Street Darwen Change of use from shop (A1) to hot food takeaway (A5) and installation of an extraction flue	Written Representations	Dismissed	23/05/2018	The Inspector concluded that the proposed use would lead to an over-concentration of non A1 uses within the frontage contrary to Policy 31 of LPP2. The appellant had not provided sufficient evidence relating to the marketing of the site, details of investment required or the repairs. In addition, there was lack of information relating to the required flue and what impact this would have on the conservation area.
13/08/2018	10/18/0064	11 Billinge Street Blackburn Erection of double storey extension to side and rear with single storey extension to side and rear. Replacement of existing 2m high	Written Representations	Dismissed	02/10/2018	The Inspector considered the effect of the proposed extension would be to introduce a large flank wall abutting the public highway which, in combination with the varying roof orientations and heights, would result

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		timber fence with a 2m high wall, Creation of a driveway to rear with concrete hardstanding.				in a dominant and incongruous addition. The Inspector understood the wishes of the appellant to provide more accommodation for his family so that they can remain in the local area. However, these personal circumstances are not sufficient to outweigh the harm that the Inspector has identified
13/08/2018	10/18/0125	15 Devon Road, Blackburn Proposed single storey side extension and outbuilding to rear with flat roof and timber cladding to be used as garden room	Written Representations	Dismissed	02/10/2018	The Inspector considered that the proposed outbuilding would be substantial in size. It would occupy a significant proportion of the garden and would appear unusually large in relation to the house to which it would be associated with. As such, it would be dominant when viewed from neighbouring houses. The single storey side extension as agreed with the Council is permitted development.
16/07/2018	10/18/0248	Tockholes Barn Tockholes Road	Written Representations	Dismissed	01/10/2018	The Inspector considered that the increased floor

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		Darwen Demolition of barn and construction of 1 no bungalow Adj. Hollinshead Terrace (resubmission of 10/17/1206)				area of the new dwelling would have an adverse visual impact on the character and appearance of its setting and the wider area. In addition, the increased area relating to the residential curtilage would also impact on the character and appearance of the surrounding. Whilst being able to control outbuildings through the imposition of a condition removing permitted development rights, domestic paraphernalia associated with gardens would impact on the rural setting of the appeal site.
17/02/2017	Enforcement Appeal – E288	Land at Kiln Bank Hoddlesden, Darwen The breach of planning control as alleged in the notice is the introduction onto the land of two wooden outbuildings.	Informal Hearing	Allowed – Enforcement Notice quashed, and planning permission granted for the wooden building subject to condition - The building hereby permitted shall only be used for housing	18/10/2017	The 'larger' wooden outbuilding was removed from the land prior to the site visit and to this extent the Appellant has complied with the requirement of the enforcement notice. The ground (a) appeal therefore relates only to the smaller

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				live poultry and for no other use		wooden outbuilding. The Inspector considered the outbuilding is for agriculture and is therefore not inappropriate development in the Green Belt, and complies with LP policy 3 and with paragraph 89 of the NPPF.
23/03/2017	Enforcement Appeal – E290	Land at Sett End Woods, Blacksnape, Hoddlesden The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land from a timber storage use within the greenbelt to that of a mixed use, consisting of greenbelt and residential use by virtue of the siting of a caravan with attached wooden storage unit being used for residential purposes. The introduction onto the land one large sea	Informal Hearing	Dismissed – compliance period on the Notice increased to 12 months from 6 months to Cease the residential use of the land and remove from the land the caravan with attached wooden storage. Remove from the land the metal sea container and wooden storage buildings. Partial Award of costs to appellant for the failure to meet notification	20/09/2018	The Inspector concluded in the context of the existing planning permission for the use of the land for timber storage and conversion to firewood regardless of the source of the timber, he considered that in the circumstances these activities do not amount to an extension of the forestry use to the appeal site. The various tools and equipment kept on the site, chainsaws, wood chipping and log splitting plant, are the tools of Mr Thornley’s trade, both forestry and tree surgery, and can be considered as

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		container used for plant storage and three wooden storage buildings.		requirements causing the adjournment of the first Hearing.		directly connected to the permitted use of the site or to the residential use. Keeping that equipment on the appeal site does not, in the Inspector’s view, equate to a forestry use. For the reasons given above the Inspector considered that the matters stated in the notice which appear to constitute the breach of planning control, as amended, have occurred. As a result of this the Inspector considered the development to be inappropriate development because it does not preserve Green Belt openness and it conflicts with one of the purposes of including land in the Green Belt. The Inspector was not persuaded, on the basis of the evidence provided, that an essential need to live on the site had been demonstrated. Overall, the harm due to

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APPEAL START DATE	APPEAL REFERENCE	APPEAL SITE ADDRESS & DEVELOPMENT DESCRIPTION	APPEAL TYPE	APPEAL DECISION	APPEAL DECISION DATE	REASONS FOR DECISION
						inappropriateness, loss of openness, conflict with the purposes of including land in the Green Belt, to the character of the area, and the conflict with the relevant development plan policies, weigh very substantially against the proposal, whereas the material considerations in its favour can only be given very limited weight.
21/04/2018	Enforcement Appeal - E302	Land to the rear of 2 Hawkshaw Avenue, Darwen	Written Representations	Dismissed and notice upheld	5 th October 2018	The Inspector considered that given the position, materials and colours of the piers and the roller shutter door, this part of the unauthorised development looks materially out of place and stark in the street-scene when seen against the long and characterful stone boundary walls which abut the pavement in this part of Blackburn Road. This harm is compounded by the fact that the structure is much higher than the stone boundary walls and

**APPEALS MONITORING REPORT RELATING TO APPEALS DETERMINED BETWEEN THE PERIOD 5TH OCTOBER 2017 AND 5TH OCTOBER 2018
PLANNING & HIGHWAYS COMMITTEE – 18TH OCTOBER 2018**

APPEAL START DATE	APPEAL REFERENCE	APPEAL SITE ADDRESS & DEVELOPMENT DESCRIPTION	APPEAL TYPE	APPEAL DECISION	APPEAL DECISION DATE	REASONS FOR DECISION
						<p>consequently it appears dominant and intrusive in this main road corridor setting. The polycarbonate fascia above the roller shutter door is visible from Blackburn Road. This exacerbates what is a very high and dominant structure in the street scene, particularly when compared to the lower stone boundary walls. Furthermore, this material looks significantly out of place in the street-scene. The Inspector also has have highway safety and traffic movement concerns relating to the effect of the parking of vehicle(s) on the land irrespective of the frequency of such an occurrence. For this reason, the development does not accord with the traffic movement and highway safety aims of Policy 10 of the LP. For the above reasons, the</p>

**APPEALS MONITORING REPORT RELATING TO APPEALS DETERMINED BETWEEN THE PERIOD 5TH OCTOBER 2017 AND 5TH OCTOBER 2018
PLANNING & HIGHWAYS COMMITTEE – 18TH OCTOBER 2018**

APPEAL START DATE	APPEAL REFERENCE	APPEAL SITE ADDRESS & DEVELOPMENT DESCRIPTION	APPEAL TYPE	APPEAL DECISION	APPEAL DECISION DATE	REASONS FOR DECISION
						Inspector concluded that the ground (a) appeal fails. The Inspector upholds the enforcement notice and refuse to grant planning permission on the deemed application

TOTAL NUMBER OF DECISIONS: 18

TOTAL NUMBER ALLOWED: 5 (28%)

TOTAL NUMBER DISMISSED: 12 (67%)

TOTAL NUMBER SPLIT DECISIONS: 1



REPORT OF: THE DEPUTY CHIEF EXECUTIVE
TO: PLANNING AND HIGHWAYS
COMMITTEE

ON: 18th October 2018

ORIGINATING SECTION: PLANNING (DEVELOPMENT
MANAGEMENT SERVICE)

WARDS AFFECTED: ALL

COUNCILLORS: ALL

TITLE OF REPORT:

NATIONAL PLANNING PERFORMANCE TABLES

1. PURPOSE OF THE REPORT

- 1.1 To present Members with an update on the recently published National Planning Performance Tables.

2. BACKGROUND

- 2.1 A report was presented to the 16th August 2018 Committee meeting, informing the Members of the Planning Service's current performance in processing planning applications which followed the Secretary of State for Communities and Local Government publishing a document in November 2016 "Improving Planning Performance – Criteria for Designation". This set out the criteria the Government intend to use for designating a Local Planning Authority as underperforming and the thresholds that Authorities will be assessed against in the designation rounds which started in the first quarter of 2017/18.
- 2.2 Members will recall in the autumn of 2015, the Council received notification from the Secretary of State that at that time during the initial assessment period i.e. the preceding 2 years, the local planning authority were at serious risk of being placed in "special measures" due to the performance of dealing with majors and non-majors application not meeting the criteria set. As a result of this, the Planning Service immediately produced a "Planning Performance Improvement Plan", which set out an action plan and monitoring framework to improve the Service's performance, and reduce any risk of the service being placed in "special measures". This included setting a local planning performance target to be adopted that is equivalent to the upper quartile performance level nationally; recruitment process for three additional planning posts; and the scheme of delegation being revised. With regards to the latter this has been in place now since the 1st October 2015.

3. RATIONALE

- 3.1 The publication of the national quarterly tables P152 and P154 resumed on the 10th August 2017. This followed the resolution of technical concerns raised by the Government relating to some aspects of the appeals data used that led to the tables being suspended in 2015. The latest national planning performance statistics were published on the 20th September 2018, by the Government (up to June 2018). The first round of designation measures start from the September 2018 quarter. These figures will not be published until later in the autumn.
- 3.2 Figures 1 and 2 show extracts from the majors and non-majors tables, and are a fantastic example of how far Blackburn With Darwen Borough Council (BwDBC) has progressed since the Planning Service introduced the Improvement Plan in the autumn of 2015.
- 3.3 In the autumn of 2015, BwDBC were ranked 234th out of 336 local planning authorities relating to the determination of major planning applications within 13 weeks and agreed extensions of time (68.4%). Figure 1 below shows with the current figures published for the quarter ending June 2018, BwDBC rank has now rose to 32nd place with a performance of 98.4%, a significant improvement. The target set by the Government for the 2 preceding years is 60%. Within the Departmental Business Plan 2018/19, the target is 80%.
- 3.4 During the same period with regards to non-majors applications (i.e. within 8 weeks and agreed extensions of time), BwDBC were ranked 332 out of 336 local planning authorities (39%). Figure 2 below shows with the current figures published for the quarter ending June 2018, BwDBC rank has now rose to 27th place with a performance of 97.1%, another significant improvement. The target set by the Government for the preceding 2 years is 70%. Within the Departmental Business Plan 2018 19, the target is 90%.
- 3.5 Whilst the Council is currently meeting the Government's thresholds we must always remain mindful of performance targets as failure to meet the thresholds will see the Local Planning Authority being categorised as underperforming. If the Council were to be designated for poor performance, not only would there be reputational damage and a loss of confidence in the Local Planning Authority but applicants would be able to by-pass the Council and submit applications directly to the Planning Inspectorate for determination. This would be detrimental to the interests of local democracy. Therefore, it is important that the Council retains sufficient resources to enable the targets to be met and exercises caution in the refusal of major planning applications, ensuring that reasons for refusal can be robustly defended in any subsequent planning appeal.

Table P151a: District planning authorities' performance - speed of major development decisions - % within 13 weeks or agreed extensions of time
 England, July 2016 to June 2018 ^P

Local Planning Authority	%	Position
Old Oak and Park Royal Development Corporation ³	100.0	1
Rutland	100.0	2
South Tyneside	100.0	3
North East Lincolnshire	100.0	4
Dudley	100.0	5
Yorkshire Dales National Park	100.0	6
High Peak	100.0	7
St. Helens	100.0	8
Amber Valley	100.0	9
Plymouth	100.0	10
Harlow	100.0	11
Gedling	100.0	12
Three Rivers	100.0	13
Rotherham	100.0	14
Ipswich	100.0	15
Bury	100.0	16
Northumberland National Park	100.0	17
Coventry	100.0	18
Richmondshire	100.0	19
Sedgemoor	100.0	20
Islington	100.0	21
North Tyneside	100.0	22
Haringey	100.0	23
Tamworth	100.0	24
East Lindsey	99.5	25
Lancaster	99.0	26
Allerdale	98.9	27
Sutton	98.7	28
Hartlepool	98.5	29
Fenland	98.5	30
Horsham	98.5	31
Blackburn with Darwen	98.4	32

Figure 1 – National Planning Performance Table – Speed of Major Planning Decisions – July 2016 to June 2018 – extract from MHCLG – Table 151a, Ministry of Housing, Communities & Local Government

Table P153: District planning authorities' performance - speed of non- major development decisions - % within 8 weeks or agreed extensions of time
England, July 2016 to June 2018 ^P

Local Planning Authority	%	Position
Bury	100.0	1
Old Oak and Park Royal Development Corporation	100.0	2
Rotherham	99.9	3
Coventry	99.8	4
Thurrock	99.8	5
East Lindsey	99.5	6
North East Lincolnshire	99.5	7
Northampton	99.5	8
Rutland	99.5	9
Amber Valley	99.3	10
North Tyneside	99.2	11
Ipswich	99.1	12
Lancaster	98.6	13
Northumberland National Park	98.3	14
Castle Point	98.0	15
Mid Sussex	97.9	16
St. Helens	97.9	17
East Staffordshire	97.8	18
Blaby	97.6	19
Mansfield	97.6	20
Dudley	97.5	21
Sedgemoor	97.5	22
Waverley	97.5	23
Kettering	97.4	24
Copeland	97.3	25
Tunbridge Wells	97.3	26
Blackburn with Darwen	97.1	27

Figure 2 – National Planning Performance Table – Speed of Non-Major Planning Decisions – July 2016 to June 2018 – extract from MHCLG – Table 153, Ministry of Housing, Communities & Local Government

4. POLICY IMPLICATIONS

4.1 None

5. FINANCIAL IMPLICATIONS

5.1 None

6. LEGAL IMPLICATIONS

6.1 None

7. RESOURCE IMPLICATIONS

7.1 None

8. EQUALITY IMPLICATIONS

8.1 The report is for information purposes only and does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

9. CONSULTATIONS

9.1. Planning Cross Party Working Group.

10. RECOMMENDATION

10.1 That the Committee note the content of the report

Contact Officer: Gavin Prescott, Planning Manager (Development Management)

Date: 4th October 2018

Background Papers: Planning & Highways Committee Report "*Planning Service Performance (Development Management)*" – 16th August 2018.



REPORT OF: THE DEPUTY CHIEF EXECUTIVE
TO: PLANNING AND HIGHWAYS COMMITTEE
ON: 18th OCTOBER 2018
ORIGINATING SECTION: PLANNING SERVICE
WARDS AFFECTED: ALL
COUNCILLORS: ALL

TITLE OF REPORT:

Blackburn With Darwen Borough Council's Response To The Ministry of Housing, Communities & Local Government (MHCLG) Consultation To Introduce Permitted Development Rights For Shale Gas Exploration, and The Department For Business, Energy & Industrial Strategy (BEIS) Consultation For The Inclusion Of Shale Gas Production In the Nationally Significant Infrastructure Project Regime (NSIP)

1. PURPOSE OF THE REPORT

- 1.1 To inform Members of the Council's response and views on the Government's proposals to amend the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) to extend the permitted development rights to cover non-hydraulic fracturing shale gas exploration sites, together with amending the 2008 Planning Act for NSIP to deal with all major shale gas production projects.
- 1.2 Members are asked to authorise the Planning Manager (Development Management) to submit a response on behalf of the Council to the Government consultation setting out the concerns outlined in this report.

2. BACKGROUND

- 2.1 The Government considers that domestic on-shore gas production, including from shale gas, has the potential to play a major role in further securing energy supplies and creating local and national economic benefits.
- 2.2 Members will recall that in 2016, the Government issued landward Petroleum Exploration and Development Licences (PEDL) under powers granted by the Petroleum Act 1998. Licence holders are then obliged to seek permission from the Oil and Gas Authority (OGA) before they start well operations. It is also important to clarify that a PEDL is not a "fracking license." If a well operation involves hydraulic fracturing, that will be included as part of the initial well design and planning

application. Once a licence is issued, there are many permissions and consents that need to be granted prior to any operations on site. These include, for example, planning permission, environmental permits from the Environment Agency, scrutiny of well design by the Health and Safety Executive, and OGA consents under the terms of the PEDL.

2.3 6no Licences were offered to 4 operators to explore for and extract petroleum (oil and gas – including shale gas) in six 10km x 10km grid squares that covered a large part of Blackburn with Darwen (two only covered a small area), and which also cover the Lancashire County Council area. Similar licenses were offered to various companies in much of Central and East Lancashire. The licenses provide the first step to starting drilling – but do not give absolute agreement to drill.

2.4 Members will also be aware with national press coverage of the planning applications received by Lancashire County Council for exploration sites at Preston New Road and Roseacre Wood on the Fylde, with the site on Preston New Road commencing in January 2017 (two wells have now been drilled). A further application is expected shortly for a site in West Lancashire.

2.5 A joint ministerial statement by Greg Clark (Secretary of State for Business, Energy and Industrial Strategy) and James Brokenshire (Secretary of State for Housing, Communities and Local Government) on the 17th May 2018 reinforced the Government's view that there were likely substantial benefits from safe and sustainable exploration and development of on-shore shale gas resources. The ministers went further by stating they remained committed to making planning decisions faster and fairer for all those affected by new development, and to ensure that local communities are fully involved in planning decisions that affect them. However, from the experience of these types of planning applications being determined by local planning authorities, ministers are of the opinion that planning decisions are very slow when measured against the statutory timescales. The Government therefore remained focussed on ensuring planning applications are determined as quickly as possible.

2.6. With this in mind, the ministerial statement referred to a consultation exercise being undertaken starting in the summer of 2018 on measures the Government consider will encourage and facilitate development relating to shale gas. In July 2018, two consultations started on the following:

- the principle of whether non-hydraulic shale exploration development should be granted planning permission through permitted development rights;
- whether shale gas production projects should be brought within the Nationally Significant Infrastructure Projects Regime

There are 6 questions posed relating to the introduction of permitted development rights relating to non-hydraulic shale exploration. These are:

- Do you agree with this definition to limit a permitted development right to non-hydraulic fracturing shale gas exploration?

- Should non-hydraulic fracturing shale gas exploration development be granted planning permission through a permitted development right?
- Do you agree that a permitted development right for non-hydraulic fracturing shale gas exploration development would not apply to the following?
 - Areas of Outstanding Natural Beauty
 - National Parks
 - The Broads
 - World Heritage Sites
 - Sites of Special Scientific Interest
 - Scheduled Monuments
 - Conservation areas
 - Sites of archaeological interest
 - Safety hazard areas
 - Military explosive areas
 - Land safeguarded for aviation or defence purposes
 - Protected groundwater source areas
- Are there any other types of land where a permitted development right for non-hydraulic fracturing shale gas exploration development should not apply?
- What conditions and restrictions would be appropriate for a permitted development right for non-hydraulic shale gas exploration development?
- Do you have comments on the potential considerations that a developer should apply to the local planning authority for a determination, before beginning the development?
- Should a permitted development right for non-hydraulic fracturing shale gas exploration development only apply for 2 years, or be made permanent?

Both consultations expire on the 25th October 2018.

3. RATIONALE

- 3.1 Permitted development rights are a national grant of planning permission used to speed up the planning system e.g. change of use offices, shops and agricultural buildings to dwellings, and allow people to extend their homes with larger extensions. The rights only cover the planning aspects of the development contained in the Town & Country Planning (General Permitted Development) (England) Order 2015. There are also permitted development rights that relate to mineral exploration which include the drilling of boreholes (other than those for petroleum exploration), undertaking seismic surveys and other excavations for the purposes of exploring for mineral resources. Members are also advised that in recent years permitted development rights have been extended to include the drilling of boreholes for groundwater and seismic monitoring, which were introduced due to the growing interest in shale gas exploration activities (Part 17, Class K).
- 3.2 Whilst these permitted development rights have been introduced in the said Order, they are also subject to a range of conditions to ensure that such activities

can only be classed as permitted development if they are of sufficiently small scale and low environmental impact.

Consultation on introducing permitted development rights for shale gas exploration:

- 3.3 The proposal is for the permitted development rights for this type of exploration development to be for a temporary period of 2 years from which the legislation comes into force. The rights would only apply to shale gas exploration to allow companies to take samples for testing purposes and not for fracking itself. The definition proposed by government would allow *“boring for natural gas in shale or other strata encased in shale for the purposes of searching for natural gas and associated liquids, with a testing period not exceeding 96 hours per section test”*.
- 3.4 Members are therefore advised that the proposal would allow a drilling site to be constructed under permitted development rights for the purposes of taking core samples of shale for testing purposes or other testing operations. However, it would not be appropriate to introduce permitted development rights for sites which will be using the injection of fluids i.e. hydraulic fracturing, as part of the testing process.
- 3.5 The Government proposes that the permitted development rights would not apply in certain circumstances such as when a development would require an Environmental Impact Assessment, and when they would impact upon certain protected areas, such as Areas of Outstanding Beauty, scheduled monuments, or sites of archaeological interest or conservation areas.
- 3.6 Officers consider that there are contradictions between the joint ministerial statement produced in May 2018, and the proposals, the subject of the consultation. Paragraph 2.5 above refers to the Government stating that they wish to make planning decisions faster and ensure that local communities are fully involved in the decision making process. However, the impact of the proposed development rights would be to allow shale gas exploration to proceed on a site without the requirement of formally applying for planning permission. This therefore, will remove any opportunity for the local community to have a say in the development that potentially could have significant local impacts. What officers are concerned about and advise members is, that if the permitted development rights proposal is implemented it is likely to undermine public confidence in the planning system.
- 3.7 The proposal relating to the introduction of permitted development rights appears to include a Prior Approval process similar to other recent permitted development rights introduced e.g. offices to residential which is a 56 day process. It is not confirmed in the consultation whether this would apply for this type of development. Only certain issues can be assessed which will be defined in the legislation but it still will require consultation with statutory consultees.
- 3.8 Whilst it is recognised that the Government proposes that any new permitted development rights would be subject to limitations regarding location and scale, any drilling operation to take cores or to test for gas would be necessity be of

significant scale. Experience from other developments in the country has shown it normally requires a large portion of land take, would generate considerable levels of heavy goods vehicles, and these could give rise to a range of environmental impacts i.e. noise, visual impact, ecological, air quality and land stability, etc. The existing permitted developments rights including the most recent ones introduced under Class Part 17, Class K of the said Order, normally apply to proposals having a limited environmental impact. They certainly do not apply to development on the scale of shale gas exploration. Whilst the consultation is seeking views and comments on what conditions should be set, it is considered that these could be set at such a low level to ensure the impacts are as minimal as possible, it would make the scheme unviable and worthless to the developer.

- 3.9 It is recognised that the Government are proposing a definition of the type of exploration development which would be subject to the new permitted development rights (see paragraph 3.3 above). However, officers consider the definition is too complex and would be very difficult bordering on impossible for local planning authorities to monitor.
- 3.10 There is concern the new process will not provide enough detail on the proposed “boring” drilling operations and what is involved, which could alleviate any concerns from the local community about the processes involved. Having established an exploration drill site under permitted development rights, this would then make it difficult to reject an application for further development on the same site that may be considered inappropriate by virtue of the impacts having already occurred.

What does this mean for Blackburn With Darwen?

- 3.11 In early 2016, 6no Licences were offered to 4 operators to explore for and extract petroleum (oil and gas – including shale gas) in six 10km x 10km grid squares that covered a large part of Blackburn with Darwen (two only covered a small area), and which also covered the Lancashire County Council area. Similar licenses were offered to various companies in much of Central and East Lancashire. The licenses provide the first step to start drilling – but do not give absolute agreement to drill. On top of a license, any further drilling operation will then require planning permission from the Minerals Planning Authority (MPA), as well as permits from the Environment Agency and sign-off from the Health and Safety Executive. The proposed new permitted development rights will relate to the exploration phase in terms of boring holes etc. There is no certainty the licenses will be taken up or even if they are, that proposals will be brought forward for exploration. So far, the County Council has not received any notification or interest from a licence holder in relation to the east of the county. The only other interest (outside of the Fylde) was in West Lancashire, and a planning application is expected to be formally submitted shortly there.
- 3.12 One company Aurora, confirmed to officers at the time in 2016 they were awarded a licence to allow them to undertake initial surveys around the geological data which involved a site encroaching in our borough. Companies then had to decide whether to progress in the area. Aurora confirmed to officers

at that time, they were only at the initial stages, but they did indicate it was highly unlikely the PEDL would proceed in the Borough due to the nature of the geological data. Nothing has been heard since. If the developers accept the licences, they have 5 years to develop (up to 2021). Exploration may begin with seismic investigations to identify prospective structures in accordance with the existing permitted development rights, and potentially in accordance with the new permitted development rights. Licence holders must notify landowners, MPAs, and the OGA of plans to conduct the seismic surveys in the licence areas. The Council have not yet been formally notified by the operators with regards to the investigations in the blocks identified as part of the 2016 Licensing rounds . Confirmation was received from Aurora in 2016, that to date the work has comprised of an evaluation of existing geological data on the block (SD 62, that formed the basis of their application in the 14th Licensing Round at the end of 2015). A limited amount of historical geophysical data exists on the block and the Roddlesworth-1 well was drilled in the south of the block by Amoco in 1987 - the well reaching a total depth of 8,212 ft.

- 3.13 If the new proposals, the subject of the current consultation are confirmed as legislation however, it could lead to further enquiries by the operators relating to the exploratory works. However, this is an unknown perception.
- 3.14 In conclusion, it is considered that the proposals to introduce further permitted development rights risk undermining public confidence in the ability of the planning system to control such controversial forms of development, whilst at the same time introducing a number of challenges in being able to properly regulate shale gas exploration from a land use planning perspective.

Consultation for the Inclusion of Shale Gas Production in the Nationally Significant Infrastructure Project Regime (NSIP):

- 3.15 Currently, there is no specific provision for hydrocarbon development within the Planning Act 2008 regime and all applications for such development have to be made to local authorities under the Town and Country Planning Act 1990. The Government is currently consulting on a proposal to include major shale gas production projects within the Nationally Significant Infrastructure Projects regime and the criteria that should be used to indicate when such projects are nationally significant.

The fundamental question that relates to this consultation is:

“Do you agree with the proposal to include major shale gas production projects in the Nationally Significant Infrastructure Project regime?”

- 3.16 The overwhelming response to this question is NO. The proposal would mean that applications for development falling within the Nationally Significant Infrastructure Projects regime would be made direct to the Secretary of State rather than to Blackburn With Darwen Borough Council (BwDBC) as Mineral Planning Authority. BwDBC would still have a role in the process as there are provisions within the Planning Act 2008 for local authorities to produce a local impact report

setting out its views on the development. There are also statutory provisions for local planning authorities to appear at any examinations or other public hearing sessions that may be organised by the examining panel. However, BwDBC would lose its powers of determination for such applications.

- 3.17 The Planning Act 2008 created a planning process for NSIP in areas of energy, water, waste, road and rail transport etc. If the Act is amended to include major shale gas production projects all future shale gas production projects would be decided by the Secretary of State. This would bring shale gas in line with other energy projects of national significance such as wind farms.
- 3.18 Within the proposed new process there is a pre-application process where the developer must consult with residents and submit a Statement of Community Consultation. The developer must also demonstrate they have had regard to responses from the consultation. The Planning Inspectorate will then consider this information alongside representations made by a local authority. If an application is accepted for Examination, the public have the opportunity to register their interest to participate in the examination. Local Authorities can submit Local Impact Reports.
- 3.19 Officers consider that the implications for including major shale gas developments which are at the production phase in the NSIP regime would have serious adverse impacts on local democracy leading to the decision making process for such highly controversial developments being removed from the local planning authority where the proposal is located. What will be gained from this? It contradicts again the comments raised in the joint ministerial statement in May 2018.
- 3.20 Officers indicate that there is little to be gained from bringing fracking planning applications under the NSIP regime; there is limited evidence that it would speed up the process and will likely increase the mistrust between local communities and the fracking industry. There is a particular concern that, if the NSIP regime were adopted, there would be no relationship between fracking applications and Local Plans in communities. This is particularly important as BwD (Minerals Planning Authority) are currently in the early stages of reviewing the Joint Minerals & Waste Local Plan with Lancashire County Council and Blackpool Borough Council, which will include a separate policy on onshore oil and gas. The production of this plan is guided and scrutinised by elected councillors.
- 3.21 Companies looking to carry out exploratory investigations in BwD, followed by testing and possible extraction of onshore oil and gas, including shale gas, must apply for planning permission to BwD. Applications are assessed under plans and strategies jointly prepared by Lancashire County Council, BwD and Blackpool Borough Council. The Joint Advisory Committee for Strategic Planning oversees the production of these development plan documents, and its membership includes the Council's Executive Member for Regeneration and the relevant Chair of the Planning & Highways Committee. The Plan is currently in the early stages of review with a consultation document published on the 28th September, which consolidates the plans into one document and includes a new

specific policy related to onshore oil and gas (previously there was none). The review of the new plan is detailed on the following link:

<http://www3.lancashire.gov.uk/corporate/consultation/responses/response.asp?ID=355>

- 3.22 It is recognised that under the current regime, there is a final option for a Minister to “call-in “ a decision made by the local planning authority and over-rule a planning decision. However, this still allows the perception to the local communities that the application has been considered by the locally elected Council and their representations have been taken into account as valid material planning considerations.
- 3.23 Whilst the proposal does provide opportunities for consultation with local authorities and communities there will be a significant loss to local decision-making, particularly when local authorities are best placed to understand their local area and consider how fracking can best take place in their local communities. In addition, to this any decisions should also be consistent with Local Plans.
- 3.24 The recently published National Planning Policy Framework (NPPF – July 2018), now requires local planning authorities to review their local plans where they are older than 5 years. In BwD’s case, the review of the Local Plan has now commenced with an Issues and Options paper being produced in December.
- 3.25 In conclusion, for the reasons stated above there is a strong feeling that any proposal to include major shale gas production projects within the NSIP regime would undermine the public’s perception of the planning system similar to the permitted development rights proposal, and introduce developments that could be at odds to any local planning policy. If the Government still wishes to bring such projects within this regime, it is considered that the criteria should be set so that only the most major of shale gas production schemes which are truly of national significance are affected.

4. POLICY IMPLICATIONS

- 4.1 None.

5. FINANCIAL IMPLICATIONS

- 5.1 The proposals set out by Government in this consultation would potentially reduce BwDBC’s involvement in determining applications for shale gas production. BwDBC would lose the fee income that would normally be received for such planning applications, but would still have a significant workload in terms of responding to the Nationally Significant Infrastructure Projects application.

6. LEGAL IMPLICATIONS

- 6.1 None.

7. RESOURCE IMPLICATIONS

7.1 None.

8. EQUALITY IMPLICATIONS

8.1 These are changes proposed to secondary legislation, therefore no local equality impact assessment has been made.

9. CONSULTATIONS

9.1 Planning Cross Party Working Group – 16th October 2018 meeting.

10. RECOMMENDATION

10.1 (i) That the Committee note the issues described in the report.

(ii) That the Committee endorse and recommend that officers be instructed to respond to the consultation as set out in this report before the consultation expiry date of the 25th October 2018.

Contact Officer: Gavin Prescott, Planning Manager (Development Management)
Date: 4th October 2018
Background Papers: “MHCLG Consultation - Permitted development for shale gas exploration” – July 2018
“BEIS Consultation – Inclusion of Shale Gas Production Projects in the Nationally Significant Infrastructure Project Regime” – July 2018

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

PLANNING & HIGHWAYS COMMITTEE
THURSDAY, 18th OCTOBER 2018
UPDATE:

10/18/0764- Ashleigh Primary School, Ross Street, Darwen

AMENDMENT TO PARAGRAPHS 3.2.2 and 3.2.3 OF THE REPORT:

3.2 Proposed Development

3.2.1 Permission is sought to remove the existing large timber window in the central section of the building comprising of 12 glazed windows set between stone mullions and replace the timber glazed windows with white UPVC.

3.2.2 Permission is required due to the proximity of the school building to the sites boundary, in accordance with the requirements of Part 7, Class M of the Town and Country Planning (General Permitted Development) Order 2015, as amended.

3.2.3 Following negotiations with the applicant, it is proposing to replace the windows with slimline UPVC rather than the standard size UPVC frames and mullions.

Gavin Prescott
Planning Manager (Development Management)
18th October 2018