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Planning and Highways Committee

Wednesday, 15th July, 2020

6.30 pm

Virtual Meeting

[Join Meeting Here](#)

AGENDA

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2. Minutes of the Previous Meeting
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134
5. Diversion of Public Footpaths Parts of 207, 211 & 212
and Upgrade of Public Footpath 208 Darwen to a
Bridleway
Report 135 -
Cranberry Lane Development Proposed Changes to 141

PROW Network

6. Appeal Decision – Land Adjoining Moorthorpe Cottage, Park Road, Darwen

1.1 To inform Members of the recent appeal decision relating to the outline planning application for the erection of 9 dwellings and detached garages on land adjoining Moorthorpe Cottage, Park Road, Darwen.

Appeal Decision – Land adjoining Moorthorpe Cottage, Park Road, Darwen 142 -
154
Appeal decision letter - Land at Moorthorpe Cottage 05.06.2020.pdf
Appeal costs decision - Land at Moorthorpe Cottage 30.06.2020.pdf

7. Petition - Objecting to a Planning Application Proposing a Change of use of Land to Residential Garden Space Associated with no. 29 Greenhead Avenue, Blackburn.

To inform Members of the receipt of a petition objecting to a current planning application (ref. 10/20/0434) proposing a change of use of land to residential garden space associated with no. 29 Greenhead Avenue, Blackburn. The application is submitted by Mr Khan, who owns 29 Greenhead Avenue.

Petition Report 155 -
MP Response.pdf 161

Date Published: Tuesday, 07 July 2020
Denise Park, Chief Executive

PLANNING AND HIGHWAYS COMMITTEE

Thursday, 18 June 2020

PRESENT – Councillors, Councillor David Smith (Chair), Akhtar, Casey, Khan, Khonat, Hardman, Slater, Jan-Virmani, Oates, Riley, Browne, Harling and Marrow.

OFFICERS - Gavin Prescott (Development Manager), Rabia Saghir, Safina Alam, Shannon Gardiner and Phil Llewellyn

RESOLUTIONS

91 **Welcome and Apologies**

The Chair welcomed everyone to the meeting.

There were no apologies received.

92 **Minutes of the Previous Meeting**

RESOLVED – That the minutes of the previous meeting held on 20th February 2020 be confirmed and signed as a correct record.

93 **Declaration of Interest**

RESOLVED – There were no Declarations of Interest received.

94 **Planning Applications for Determination**

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

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

94.1 **Planning Application 10/19/0662**

Speakers – Mr Darren Marsden (Objector)
 Mr Paul Jones (Applicant)

Applicant – Kingswood Homes & Rule Five Land LTD

Location and Proposed Development – Land off Moorland Drive, Blackburn

Hybrid planning application seeking full planning permission for residential development of 155 dwellings and outline planning permission with all matters reserved except for access for residential development for up to 280 dwellings

Decision under Town and Country Planning Acts and Regulations –

RESOLVED – Approved subject to delegated authority is given to the Head of Service for Planning and Infrastructure to approve planning permission subject

to an agreement under Section 106 of the Town & Country Planning Act 1990, relating to the payment of a commuted sum of £1,000,000 and the provision of 1.6 Hectares of fully serviced land as a site for a new primary school.

Should the Section 106 agreement not be completed within 6 months of the date of the planning application being received, the Head of Service for Planning and Infrastructure will have delegated powers to refuse the application.

94.2 Planning Application 10/20/0265

*Speakers – Mr Andrew Darbyshire (Applicant)
Mr Tayyab Shafi (Objector)*

Applicant – Landway Properties Ltd

Location and Proposed Development – Land off Ramsgreave Drive, Blackburn

Full planning application - Construction of 63 dwellings and associated infrastructure.

Decision under Town and Country Planning Acts and Regulations –

RESOLVED - Approved subject to delegated authority is given to the Head of Service for Growth and Development to approve planning permission subject to an agreement under Section 106 of the Town & Country Planning Act 1990, relating to the payment of a commuted sum of £450,000 towards: off-site highway improvements; contribution towards off-site affordable housing provision; and contribution towards education infrastructure in the North Blackburn locality.

Should the Section 106 agreement not be completed within 6 months of the date of the planning application being received, the Head of Service for Planning and Infrastructure will have delegated powers to refuse the application

94.3 Planning Application 10/20/0332

Speakers – Mr Dave Kirkpatrick (Objector)

Applicant – Mr A Hussain

Location and Proposed Development – 32 Eden Park, Blackburn

Discharge of planning condition for Discharge of Condition No.1 pursuant to planning application 10/19/1232

Decision under Town and Country Planning Acts and Regulations –

RESOLVED - The proposed landscaping condition attached to 10/19/1232 is approved, with the planting to be implemented during the first available planting season, and be thereafter retained to the satisfaction of the local planning authority.

95 **Extension to Construction Hours on Development Sites - Blackburn With Darwen BC Approach**

Members were informed of the guidance published by the Government in relation to local planning authorities adopting a flexible approach to allow developers to extend their construction working hours on development sites.

The Government announced through their Written Ministerial Statement on the 13th May, that “Our Plan to Rebuild: the UK Government’s COVID-19 recovery strategy” published by the Government on Monday 11th May, makes clear that construction work can be undertaken across England providing sites are able to operate safely in line with the new COVID-19 Secure guidelines.

A number of developers have already announced plans to restart work on sites. The purpose of this Written Ministerial Statement is to make clear that, with immediate effect, local planning authorities should take a swift and positive approach to requests from developers and site operators for greater flexibility around construction site working hours. This is to ensure that, where appropriate, planning conditions are not a barrier to allowing developers the flexibility necessary to facilitate the safe operation of construction sites during the response to the COVID-19 pandemic and to proceed at pace with work otherwise delayed as a result of COVID-19.

Developers should expect their local planning authority to grant temporary changes to construction working hours until 9pm or later, 6 days a week, wherever possible and where construction working hours are controlled by planning condition. This flexibility is in relation to controls imposed by the planning system only.

RESOLVED –

- That the Committee noted the issues described in the report.
- That the Committee endorsed and approved the proposed approach in relation to extending the hours of construction.

96 **Proposed Stopping Up Path Off Shorrock Lane, Blackburn**

Members were informed of a request received from Tyson Construction Ltd to formally stop-up a path off Shorrock Lane Blackburn (as per the attached plan) and to ask Members to authorise the Director of HR, Legal and Governance to apply to the Magistrates’ Court to obtain the necessary Order.

Blackburn with Darwen Highways received a formal request on 21st February 2020 from Tyson Construction Ltd, for the Stopping Up and an undertaking to bear all costs in obtaining the Stopping Up Order as described in the Council’s fees and charges list.

Tyson Construction’s client, Great Places Housing Group have obtained planning approval for a development of 16 new houses on land adjacent to Shorrock Lane. The footpath proposed for permanent closure lies within the curtilage of the site and is no longer required as part of the proposed development. It is reasonable to take the view that the path will have no role as a public highway and is therefore eligible to be stopped up under the terms of S 116 of the Highways Act 1980.

RESOLVED - That Committee authorised the Director of HR, Legal and governance to progress with the Order.

97 Petition Report - Planning Application 10/19/1229

A report was submitted informing the Committee of the receipt of a petition relating to Planning Application 10/19/1229, the grounds for which were outlined in the report submitted.

A planning application for the above development was received on 30 December 2019 and was registered on the 05 February 2020.

One petition containing 19 names and addresses against the proposal was received on 25 February 2020.

The Committee was advised that the application had not yet been determined.

RESOLVED – That the Committee note the receipt of the petitions.

98 Petition Report - 3 Vincent Court

A report was submitted informing the Committee of the receipt of a petition relating to Planning Application 10/20/0337, the grounds for which were outlined in the report submitted.

A planning application for full planning permission for a single storey extension to each side of the existing property to form two separate self-contained supported living spaces and a new detached outbuilding to the rear to form gym for service user use at No. 3 Vincent Court, Blackburn. The application was received on 26th March 2020.

A petition containing 9 individual names was received on 27th April 2020, objecting, not to the proposed development, but to the existing parking and access issues experienced by the street and the need to address them to avoid their being exacerbated by the proposed business at No. 3. None of the named people have signed the petition owing to the COVID-19 lockdown.

RESOLVED - That the Committee note the receipt of the petition.

99 Petition Report - 35 Baywood Street

A report was submitted informing the Committee of the receipt of a petition relating to Planning Application 10/19/0891, the grounds for which were outlined in the report submitted.

A planning application for full planning permission for a residential development comprising of 4no. apartments at No. 35 Baywood Street, Blackburn. The application was received on 17th September 2019. The initial proposal was to develop the site for six apartments.

A petition containing seven individual addresses was received on 8th April 2020, objecting to the proposed development as set out in the amended plans.

RESOLVED – That the Committee note the receipt of the petition.

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

MATERIAL:	NOT MATERIAL:
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: 15/07/2020

Application No	Applicant	Site Address	Ward
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10/20/0106	Ms G Lomax Moorthorpe Cottage, Park Road	Land Adjoining Moorthorpe Cottage Park Road Darwen BB3 2LQ	West Pennine Whitehall
Outline Planning Application for Outline planning application with all matters reserved except for access for erection of 4 dwellings with detached garages			

RECOMMENDATION: Permits

10/20/0107	Pillars Darwen Ltd Miss Nassima Mogra Pillars Darwen Ltd Business First Suite 4-6 Davyfield Road Blackburn BB1 2QY	Land at Hollins Grove Street Darwen BB3 1HG	Darwen East
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Full Planning Application/Outline Planning Application for Hybrid planning application for Full permission for 37 dwellings including creation of a new vehicular access to the Southern end of the site and Outline permission with 'Access' (with all other matters reserved) for B1, B2, and B8 uses including alterations to the existing access to the Northern end of the site

RECOMMENDATION: Permits

10/20/0265	Landway Properties Ltd Landway Properties Ltd Mr Mark Wilkinson Jupiter House Mercury Rise Altham Business Park Altham BB5 5BY United Kingdom	Land off Ramsgreave Drive Blackburn	Billinge & Beardwood Roe Lee
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Full Planning Application for Construction of 63 dwellings and associated infrastructure

RECOMMENDATION: Permits

Application No	Applicant	Site Address	Ward
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10/20/0536			
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Blackburn With Darwen Borough Council Growth & Development Julia Simpson One Cathedral Square Blackburn BB1 1EP	11- 27 Blakey Moor Blackburn	Blackburn Central
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Full Planning Application (Regulation 4) for Refurbishment of existing units to provide 2 new restaurant/cafe units (Use Class A3) at ground and first floor, new frontages, and first floor south facing terraced area to the rear, and rear courtyard area (existing single storey rear extensions to the original building will be demolished)

RECOMMENDATION: Permits

REPORT OF THE DIRECTOR

Plan No: 10/20/0106

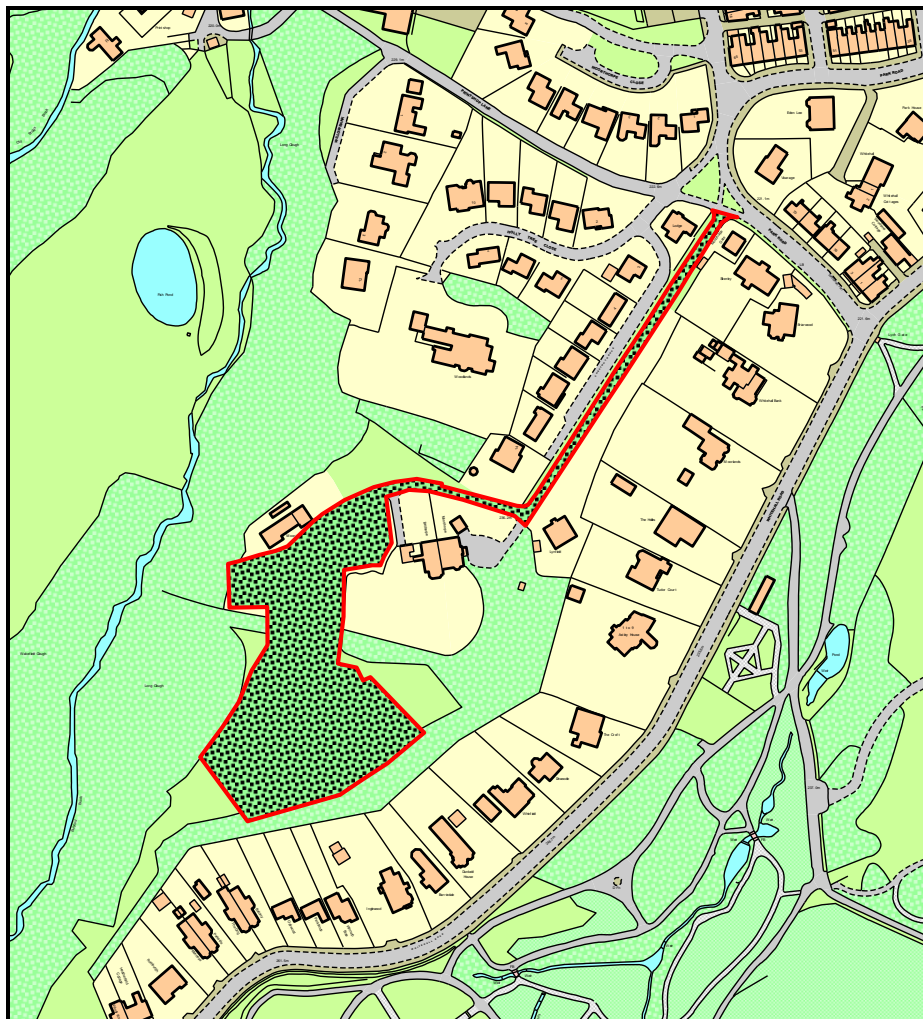
Proposed development: Outline Planning Application with all matters reserved, except for access, for the erection of 4no. dwellings with detached garages.

**Site address:
Land Adjoining Moorthorpe Cottage
Park Road
Darwen
BB3 2LQ**

Applicant: Ms G Lomax

Ward: West Pennine

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



1.0 SUMMARY OF RECOMMENDATION

1.1 APPROVE - Subject to conditions; as set out in paragraph 4.1.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 The application is reported to Committee due to the volume of objections received.
- 2.2 The proposal is in outline form. It seeks to establish the principle of the residential development of the site for 4no. dwellings with detached garages and access from the public highway at Park Road. All other details are to be addressed under a subsequent application for *Reserved Matters*.
- 2.3 The proposal is considered demonstrably acceptable. It corresponds with the Council's overarching housing growth strategy through delivery of high quality family housing consistent with the surrounding area; in accordance with the strategic aims and objectives set out in the Core Strategy and Local Plan Part 2. The proposal is also satisfactory from a technical point of view, with all issues having been addressed through the application, or capable of being controlled or mitigated through planning conditions.
- 2.4 The application is submitted following refusal, by the Planning and Highways Committee in June last year, of an Outline Application for 9no. dwellings with detached garages, access and layout, with all other matters reserved, for the following reason:

The proposal consisting of 9no. dwellings and associated highway infrastructure in addition to the previously approved dwelling under planning application 10/16/1349, is considered to represent a scale of development that is disproportionately large, taking into account the local context, and transition with the countryside area. This is considered contrary to the requirements of Policy 28 of the Local Plan Part 2, which sets out that residential development in the "Long Clough" allocation (28/10), shall be "very small scale, in the immediate vicinity of the existing dwelling (Moorthorpe Cottage), ensuring "no loss of trees".

- 2.5 Subsequent to this decision, the applicant lodged an appeal with the Planning Inspectorate (ref: APP/M2372/W/19/324341). On 5th June 2020, the appeal was allowed and outline planning permission was granted, subject to the conditions listed in paragraph 5.1
- 2.6 The appeal decision is a very significant material consideration in arriving at a recommendation for this application, assessment of which was in the context of outline planning permission existing for 9no. dwellings with detached garages, access and layout; in contrast to this application for a smaller development of 4 dwellings, detached garages and access, set within a reduced site area, as defined by the red edged site plan. Layout in this case

is not included and would, therefore, be considered as a reserved matter, in the event of the outline permission being granted.

- 2.7 For clarity, Member's are advised that the current application site sits within a significant portion of the site accommodating the approved development. This proposal represents an alternative smaller development. It is not the case, therefore, that both developments could be implemented to result in an additional 13 dwellings.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The application site is primarily allocated as a 'Development Opportunity'; identified as 'Long Clough, Darwen'; in accordance with the Adopted Policies Map of the Local Plan Part 2 for Darwen. The private drive that serves to access the site, off Park Road, is not included in the allocation and is instead unallocated. The entirety of the site lies within the outer confines of Darwen's Urban Boundary, adjacent to open countryside
- 3.1.2 The application site is privately owned. It comprises 0.49 hectares in area and is located within the Whitehall district of Darwen, to the north of Whitehall Road. Access is taken off Printshop Lane / Park Road to the north east, along a private drive that currently serves 5 dwellings. The drive runs adjacent to the length of Chestnut Grove to the west. Moorthorpe Cottage and its associated curtilage lies to the north of the proposed dwellings and is the property closest associated with the development. The site area to be developed is grass and shrub land, bordered by mature trees and woodland groups protected by Preservation Order. The private access drive is hard surfaced. Land levels rise gently from east to west.
- 3.1.3 The immediate locality features large family dwellings set in spacious grounds within a wider area characterised by woodland and adjacent countryside. A woodland belt separates the application site from dwellings located along Whitehall Road to the south east, beyond which lies the Grade II listed Whitehall Park. The Grade II listed property 'Woodlands' is located to the north of the site.
- 3.1.4 Darwen Town Centre is approximately 1.3 miles to the north, accessible by public transport along the A666. It offers a typical range of amenities and includes public rail and bus transport hubs which provide convenient connections to locations such as Blackburn, Bolton, Preston and Manchester. The M65 motorway lies approximately 3.2 to the north.

3.2 Proposed Development

- 3.2.1 Outline planning permission is sought for a residential development of 4no. dwellings with detached garages. The application is limited to the principle of residential development and access from the public highway into the site. The remaining details with reference to appearance, design, landscaping, layout and scale (including bedroom numbers / internal layout) will be considered under a subsequent application for *Reserved Matters*.



extract from submitted site plan

3.3 Development Plan

- 3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.

- 3.3.2 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:

3.3.3 Core Strategy

- CS1 – A Targeted Growth Strategy
- CS5 – Locations for New Housing
- CS6 – Housing Targets
- CS7 – Types of Housing
- CS8 – Affordable Housing Requirement
- CS15 – Ecological Assets
- CS16 – Form and Design of New Development

- CS18 – The Borough’s Landscapes
- CS19 – Green Infrastructure

3.3.1 Local Plan Part 2

- Policy 1 – The Urban Boundary
- Policy 7 – Sustainable and Viable Development
- Policy 8 – Development and People
- Policy 9 – Development and the Environment
- Policy 10 – Accessibility and Transport
- Policy 11 – Design
- Policy 12 – Developer Contributions
- Policy 18 – Housing Mix
- Policy 28 – Development Opportunities
- Policy 39 – Heritage
- Policy 40 – Integrating Green Infrastructure and Ecological Networks with New Development
- Policy 41 – Landscape

3.4 Other Material Planning Considerations

3.4.1 Green Infrastructure (GI) SPD

3.4.2 National Planning Policy Framework (The Framework)

The Framework sets out the government’s aims and objectives against which planning policy and decision making should be considered. The following sections of the Framework are considered relevant to assessment of the proposal:

- Section 5 – ‘Delivering a sufficient supply of homes’. In particular paragraph 59 which advocates the Government’s objective of significantly boosting the supply homes through delivery of a sufficient amount and variety of land where it is needed; that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- Section 8 – Promoting healthy and safe communities
- Section 11 – Making effective use of land
- Section 12 – Achieving well-designed places

3.5 Assessment

3.5.1 In assessing this application, the following important material considerations have been taken into account:

- Principle;
- Highways and access;
- Ecology;

- Trees;
- Amenity impact;
- Affordable Housing
- Green Infrastructure

Principle

3.5.2 Members are advised that the principle of residential development is established by the sites allocation as a *Development Opportunity*; as set out in Policy 28/10 of the Local Plan Part 2. The policy supports development of *very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland*. Very small scale is not defined by the Policy, though it is considered that 4no. dwellings is consistent with the term *very small scale*. In this context, a previous permission for a single dwelling within the allocation is included in consideration of very small scale (ref. 10/16/1349). It should also be recognised that the site allocation is significantly larger than the application site and that the principle of residential development within the entirety of the allocation is accepted, notwithstanding a wider assessment. Moreover, the aforementioned appeal decision establishes that 9no. dwellings within the allocation is *very small scale*. The Inspectors report recognised the outline permission granted at a similar Development Opportunity Site at nearby Eilerslie House, for 22no. dwellings, established the principle of *small scale* (as set out in the relevant Policy 28/12) and determined, therefore, that 9no. dwellings should be considered as *very small scale*, as extracted below from the appeal decision letter:

This is a similar sized site identified by LP Policy 28 as a development opportunity for “small-scale residential” development. Here, the Council has granted outline planning permission for 22 dwellings at a density of some 9.56 dwellings per hectare (dph). On the appeal site, the development and the one allowed on appeal would produce a density of some 4.41dph. In this context, the development of 9 dwellings on the appeal site would be consistent with the policy reference to very small-scale.

3.5.3 The proposal will deliver housing in a location consistent with the strategic growth objectives of Core Strategy Policies CS1 and CS5. Although a subsequent reserved matters application will consider house typology, it is considered that the site can accommodate family sized homes consistent with the requirements of Core Strategy Policy CS7 and Local Plan Part Policy 18.

3.5.4 As a minor development, Section 106 contributions do not apply.

3.5.5 The principle of the proposed development is considered acceptable and in accordance with the provisions of the Development Plan and The Framework.

3.5.6 Local residents have expressed concern as to the principle of a residential development in this locality. Members are advised that the sites Local Plan Part 2 allocation as a *Development Opportunity* ensures that a residential development is acceptable in principle; as justified by the aforementioned approach.

3.5.7 Beyond acceptance of the principle of the development, the following matters are to be assessed:

3.5.8 Amenity

Policy 8, supported by the SPD, requires a satisfactory level of amenity and safety is secured for surrounding uses and for occupants or users of the development itself; with reference to noise, vibration, odour, light, dust, other pollution or nuisance, privacy / overlooking, and the relationship between buildings.

3.5.9 As an outline application limited to principle, quantum and access, a detailed residential amenity assessment with reference to the relationship between proposed and existing dwellings cannot be undertaken. This will instead be assessed at reserved matters stage. Indicatively, however, the position of the red line boundary in relation to existing dwellings demonstrates sufficient separation can be achieved in order to ensure acceptable mutual levels of amenity. Moreover, the approval of the larger scheme, which included assessment of a submitted layout within a larger application site, demonstrated acceptable relationships between proposed and existing dwellings, in accordance with adopted separation standards set out in the SPD.

3.5.10 Intensification of vehicular use of the private drive would be less than that experienced from the approved larger scheme. No significant detriment to existing residential amenity would arise from its use.

3.5.11 Application of planning conditions are recommended by the Council's Public Protection consultee to require assessment of sub-surface conditions, to guard against ground contamination, and provision of electric vehicle charging points to mitigate air quality impact (in accordance with the Council's adopted Air Quality Planning Advice Note). A degree of disturbance during construction phase of the development is acknowledged as inevitable. This disruption is, however, temporary and considered acceptable, subject to application of a condition limiting hours of construction, in order to secure appropriate noise and vibration protection during construction works.

3.5.12 Accordingly, the proposal, with reference to safeguarding amenity, is considered compliant with the Development Plan and The Framework.

3.5.13 Environment

Policy 9 requires that development will not have an unacceptable impact on environmental assets or interests, including but limited to climate change (including flood risk), green infrastructure, habitats, species, water quality and resources, trees and the efficient use of land.

3.5.14 Ecology

Policy 9 sets out that; development likely to damage or destroy habitats or harm species of international or national importance will not be permitted. Development likely to damage or destroy habitats or species of principal and local importance will not be permitted unless the harm caused is significantly

and demonstrably outweighed by other planning considerations and an appropriate mitigation strategy can be secured.

3.5.15 Significant local objection has been received with reference to impact on ecological assets. An Ecological Impact Assessment has been submitted in support of the application. The submission has been peer reviewed by the Greater Manchester Ecology Unit (GMEU) who acknowledge that the proposal will, overall, have less ecological impacts than the approved larger scheme; their review is summarised as follows:

3.5.14 Grassland: The floristic community in the grassland will be affected by the built development, with bluebell present and wood anemone closer to the margins. Although translocation of some of the more interesting plant species present (including the bluebells) could be considered during any site clearance works, this may be problematical because of the presence of significant amounts of Himalayan Balsam in the field, the spread of which needs to be avoided. The following is recommended:

- That any future detailed layout plans for the development take account of the need as far as possible to avoid the areas of more interesting flora, particularly closer to the woodland edges. This ought to be possible partly within the previously suggested 'buffer zones' between the built development and the surrounding woodland but may mean that private garden spaces need to be made smaller to avoid the loss of native flora wherever possible. This will be considered following submission of a layout, at reserved matters stage.
- That any future landscaping plans for the site which should be required as part of any reserved matters applications if the development is approved include suitable native species planting reflecting the plant species currently present in the southern field. Any woodland management plans prepared for the area should include provision for enhancing woodland ground flora.
- Any requirement for the provision of off-site landscaping or public open space provision should include new native species planting schemes. Note - off site landscaping is neither proposed or required.

3.5.15 Trees and Woodland: The proposed development will not affect any specially designated nature conservation sites but it is very close to (and surrounded by) mature broadleaved woodland and high quality trees, representing habitats with high local value for conservation. The following is recommended:

- Although few trees, if any, will be directly lost to the development minimum 'stand-offs' (buffer zones) will be needed between retained trees and built development to protect the surrounding woodland. Robust tree protection measures will also be needed and should be required during the course of any approved development, particularly if any changes to landforms and/or cut and fill operations need to be undertaken to facilitate the preparation of development platforms. The

advice in BS 5837:2012 for protection of trees on construction sites should be followed.

- To prevent unnecessary disturbance access into the woodland from the houses should be discouraged and the woodland areas should not be included in any public open space provision which may be required by the scheme. If for overriding reasons access is to be provided this access should be managed as part of a holistic woodland management plan prepared for the wider area.
- Replacement tree planting should be required to compensate for any trees directly lost to the scheme.

3.5.16 Protected Species: It is accepted that the development is unlikely to significantly affect the conservation status of Otters, Great Crested Newts, Bats or Reptiles. Although no further survey work is required for these species, further precautions to safeguard protected Reptiles, Great Crested Newts and other amphibian species are recommended as follows:

- As a Condition of any permission which may be granted to the scheme a Reasonable Avoidance Measures (RAMs) mitigation plan for reptiles and amphibians is required to be prepared by a suitably qualified person and once agreed is implemented in full.

3.5.16 Badgers are known to be present in the area and setts have been recorded in the nearby woodland. The habitats on and close to the site are suitable for use by Badgers and Badgers are mobile in their habits. Badgers and their setts are protected under the terms of the Protection of Badgers Act 1992, although Badgers are not endangered and the legislation is in place to protect them from deliberate persecution. The following is recommended:

- As a Condition of any approval a pre-construction survey for Badgers shall be carried out by a suitably qualified person. If Badgers are found likely to be affected by the development, a Method Statement will need to be prepared giving details of measures to be taken to avoid any possible harm to Badgers and their setts. The applicant should be advised that a License (separate from the grant of planning permission) may need to be obtained from Natural England to implement the Method Statement.

3.5.17 Invasive Plant Species: Himalayan balsam is common on the site and Rhododendron and variegated Yellow Archangel are present. The spread of these plants in the wild is proscribed under the terms of the Wildlife and Countryside Act 1981 (as amended). The following is recommended:

- As a Condition of any permission granted to the scheme a Method Statement should be required to be prepared by a suitably qualified person giving details about how invasive plants are to be controlled during the course of any development. The Method Statement should be implemented in full.

3.5.18 Protection of Nesting Birds: All nesting birds their eggs and young are protected under the terms of the wildlife and Countryside Act 1981 (as amended). The applicant should be advised that no tree felling or vegetation clearance required to facilitate the scheme should take place during the optimum time of year for bird nesting (March to August inclusive) unless nesting birds have been shown to be absent by a suitably qualified person. Such requirement will be secured by condition.

3.5.19 Accordingly, in accordance with this independent review, no ecological objection is offered against the proposed development; subject to adherence to all of the above recommendations / conditions.

3.5.20 Trees

The proposal represents a significantly reduced area to that approved on appeal. It is anticipated that no tree removal will be necessary. This will, however, be determined at reserved matters stage, in the event of outline permission being granted, when a detailed layout will be submitted for consideration.

3.5.21 Member's are advised of a response to the previous application, comment was from the Woodland Trust on 28th May 2019, recommending the introduction of a 15m 'buffer zone' between the woodland and the built environment. This is notwithstanding that the Trust accepts that the area of woodland within the site (Long Clough) is not designated as ancient on Natural England's Ancient Woodland Inventory and the absence of such a recommendation from the Council's Arboricultural and Ecology consultees at the time. To reiterate, arboricultural impact will be robustly assessed at reserved matters stage.

3.5.21 Drainage

Appropriate drainage methodology is required to be implemented, with foul and surface water to be drained on separate systems. Surface water drainage shall be achieved in accordance with the non-statutory Technical Standards for Sustainable Drainage Systems (March 2015); to be secured by condition.

3.5.22 Accordingly, the proposal with reference to safeguarding environmental assets is considered compliant with the Development Plan and The Framework.

3.5.23 Highways

Policy 10 requires that road safety and the safe, efficient and convenient movement of all highway users is not prejudiced, and that appropriate provision is made for off street servicing and parking in accordance with the Council's adopted standards.

3.5.24 A Highways and Transport Technical Note (TTN) has been submitted in support of the application. The proposal is accepted as sufficiently modest so as not to warrant a more detailed formal assessment of associated transport

impacts on the wider highway network. Although the TTN is that submitted for the approved larger scheme, it is accepted as valid for the purpose of this assessment as it sets out a worse case scenario.

- 3.5.25 Access to the site is by means of a private access road that currently serves Moorthorpe Cottage and 5 other dwellings. The Council's highway's consultant has previously expressed concern at the restricted width of the access road. Whilst a single passing point is proposed just beyond the entrance to Belthorpe, no other passing points are achievable, on account of the limited width of the access road and third party ownership of land either side.
- 3.5.26 Significant public objection has been raised with reference to the adequacy of access arrangements, including the limited width between the columns that define entry to the private access road, as there were with the previous application. The width of the road was assessed by Officers at a site visit undertaken on 4th June 2019, in relation to the previous application. Measurements across its width were taken at 5m intervals, from the gate posts at the entrance up to Moorthorpe Cottage. Measurements taken represent the approximate width of the metalled surface, which is somewhat difficult to establish due vegetation growth on either side. Regardless, the principal width between the gate posts was recorded at 3.7m; The narrowest point between the overhang at the top of the gate posts is circa 3.5m. The width of the road thereafter varies between a minimum of 3.9m and a maximum of 4.7m, up to the c.90 degree turn that leads into the confines of Moorthorpe Cottage. The 'sweep' at the turn is measured at a maximum of 6.9m, narrowing to 5.9m between the gate post at Moorthorpe and the kerb edge. Measurements thereafter, taken across the width at 10m intervals, establish a minimum of 3.7m and a maximum of 4.6m. No material change to the width of the access road has occurred since this assessment.
- 3.5.27 To re-iterate the previous assessment; the Manual for Streets publication advocates a minimum width of 4.1m for 2 cars to pass side by side on a straight road. It is accepted that the majority of vehicles using the access road will be private cars. A maximum increase of 3 vehicles per hour at peak times is anticipated by the TTN, amounting to average peak hour flows of 1 vehicle every 8.6 minutes along the access road. The volume of additional traffic is considered to be manageable, regardless, of the narrowest 3.9m width of the access road up to the 90 degree turn, given that this measurement is present at only a single 5m interval in a total of 32 intervals measured. Every other measurement is equal to or in excess of the minimum 4.1m passing width. Beyond the c.90 degree turn, width is accepted as consistently narrower than 4.1m, at generally 3.7 / 3.8m. The aforementioned passing point will alleviate the threat of excessive vehicle conflict within this stretch of the access.
- 3.5.28 With reference to emergency service vehicles, the access serves existing dwellings and is considered sufficient for the 9 additional dwellings granted outline permission.

- 3.5.29 Taking into account the established acceptance of access / egress arrangements, by virtue of the approved larger scheme, it follows that the same arrangements are acceptable to serve this smaller scheme.
- 3.5.30 In order to support pedestrian safety, a delineated footway is recommended along the length of the access road. The footway will form a shared surface with motor vehicles.
- 3.5.31 Details relating to the internal highway layout and off-street parking will be assessed at reserved matters stage.
- 3.5.32 A condition requiring submission of a Construction Management Statement, to safeguard highway users and residential amenity alike during construction phase of the development, shall be secured be condition.
- 3.5.33 Policy CS22 requires new development to be located within accessible locations so as to minimise the need to travel. The proposal has good access to public transport links along the A666 into Darwen Town Centre, from where the rail network can be accessed. The M65 corridor is also close by.
- 3.5.34 Accordingly, the proposal with reference to safeguarding highway safety and efficiency, is considered compliant with the Development Plan and The Framework.
- 3.5.35 Design
Policy 11 requires a good standard of design and will be expected to enhance and reinforce the established character of the locality and demonstrate an understanding of the wider context towards making a positive contribution to the local area.
- 3.5.36 A full design assessment will be undertaken at *Reserved Matters* stage, with reference to the appearance, landscaping, layout and scale of the development.
- 3.5.37 Heritage
Policy 39 requires development with the potential to affect designated or non-designated heritage assets to sustain or enhance the significance of the asset.
- 3.5.38 The Grade II listed property 'Woodlands' and Grade II listed Whitehall Park are located in proximity to the application site, to the north and south respectively. Impact on these designated heritage assets should, therefore, be considered. Woodlands lies physically separate to the application site, visually separated by mature trees. The proposal, notwithstanding the absence of aforementioned reserved matters detail, would not adversely impact on inward or outward vistas of the property. The same is true for Whitehall Park which is physically and visually separated by mature trees to the south of the application site. Accordingly, no harm to either heritage asset is identified.

3.5.39 Other Matters

Third party ownership of the private access road is acknowledged. Consequently, a Certificate B declaration has been served on each alternative owner to the applicant, thereby ensuring that the correct procedural application process has been followed. Members are advised that ownership of the access track is not material to the determination of the application. Any right of access to be considered in conjunction with this proposed residential development is, therefore, a private legal matter independent from the scope of this assessment.

3.5.40 Summary

This report assesses the full range of material issues affecting this Outline planning application for the residential development of land at Moorthorpe Cottage, Darwen, in arriving at an informed and balanced recommendation.

4.0 RECOMMENDATION

4.1 Approve subject to:

Delegated authority is given to the Director for Growth and Development to approve planning permission, subject to conditions which relate to the following matters:

- Application for approval of all reserved matters must be made not later than the expiration of three years beginning with the date of this permission. The development hereby permitted shall be begun not later than the expiration of two years from the date of the approval of the last of the reserved matters to be approved. Details of the following matters (subsequently referred to as the reserved matters) shall be submitted to and be approved in writing by the Local Planning Authority before the commencement of any works:-
 - a) Appearance
 - b) Landscaping
 - c) Layout
 - d) Scale
- Prior to commencement of development, submission of external walling and roofing materials.
- Prior to commencement of development, submission of boundary treatment details.
- Prior to commencement of any works on site, submission of Arboricultural Method Statement and tree protection measures.
- Prior to commencement of development, submission of Woodland Management Plan.
- Prior commencement of development, submission of a landscaping scheme.
- Prior to commencement of development, submission of a Reasonable Avoidance Measures (RAMs) mitigation plan for reptiles and amphibians.
- Prior commencement of development, submission of a Badger activity survey.

- Prior to commencement of development, submission of a Control / Eradication Method Statement for management of invasive species.
- No tree felling or vegetation clearance between March and August, unless the absence of nesting birds has been established.
- If construction of the development has not commenced within two years of the date of submitted Ecological Impact Assessment (Boowland Ecology – May 2018), an updated Ecology Report shall be submitted to and approved in writing by the Local Planning Authority. Any required mitigation shall inform the Biodiversity Enhancement Strategy and landscaping strategy for the development.
- Foul and surface water to be drained on separate systems.
- Prior to commencement of development, submission of a sustainable urban drainage system (SUDS).
- Prior to commencement of development, submission of a sustainable drainage management plan for the lifetime of the development.
- Prior to commencement of development, submission of a delineated footway scheme along the access road.
- Prior to commencement of development, submission of a Construction Management Statement.
- Visibility splays not to be obstructed by any building, wall, fence, tree, shrub or other device exceeding 1m above crown level of the adjacent highway
- Prior to commencement of development, submission of a comprehensive desk study, including a preliminary Conceptual Site Model and detailed proposals for site investigations.
- Prior to occupation of development, submission of validation report demonstration effective remediation.
- Unexpected contamination.
- Prior to implementation of the development, submission of a scheme for provision of dedicated motor vehicle charging points.
- Prior to commencement of development, submission of dust suppression scheme
- Limited hours of construction:
 - 08:00 to 18:00 Mondays to Fridays
 - 09:00 to 13:00 Saturdays
 - Not at all on Sundays and Bank Holidays
- Development in accordance with submitted details / drawing nos.

5.0 PLANNING HISTORY

5.1 The following historic planning application is of relevance to the proposal:

10/16/1349 – Full planning permission for a single dwelling – allowed on appeal in October 2017.

10/18/1153 – Outline Planning permission for 9no. dwellings, including layout and access – allowed on appeal on the 5th June 2020, subject to the following conditions:

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

2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: Nos. C3697-1 Site Plan; LP-01 Rev B Location Plan; 17-116 SK01(t)-B Sketch Layout; 17-116 SK01(T)-C Curtilages; D6647.002 Tree Removal and Retention Plan; 18167 Measurements and SCP/18167/ATR01 Rev A General Arrangement and Swept Path Analysis but only in respect of those matters not reserved for later approval.

5) Prior to commencement of the development hereby approved, samples of all external walling and roofing materials, including their colour, to be used in 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.

6) Prior to the commencement of any works on site, a Badger Activity Survey shall be carried out to determine the presence of badgers in the area. The survey shall be carried out by a suitably competent ecologist, during the time of year when badgers are active. The results of this survey and any recommendations or mitigation measures shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out in accordance with the approved badger activity survey.

7) Prior to the commencement of any works on site, an Otter Activity Survey shall be carried out by a suitably qualified ecologist; in accordance with national survey guidance. The results of this survey and any recommendations or mitigation measures shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out in accordance with the approved Otter Activity Survey.

8) Prior to the commencement of any works on site, a Great Crested Newt presence/absence survey of the 2 ponds identified in Section 3.25 of the Bowland Ecology "Ecological Impact Assessment" shall be carried out by a suitably qualified ecologist in accordance with Great Crested Newt survey guidelines (Natural England 2001). The results of this survey and any recommendations or mitigation measures shall be

submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out in accordance with the approved Great Crested Newt presence/activity survey.

9) Prior to the commencement of any works on site, a Reasonable Avoidance Measures (RAMs) mitigation plan shall be produced, in order to mitigate the threat of light spill on bats. The RAMs mitigation plan shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out in accordance with the approved plan.

10) Prior to the commencement of any works on site, a Reasonable Avoidance Measures (RAMs) mitigation plan shall be produced, in order to mitigate risk to reptiles. The RAMs mitigation plan shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out in accordance with the approved plan.

11) Prior to the commencement of any works on site, a detailed Invasive Plant Species Survey of the site shall be carried out by a remediation/invasive species specialist. The results of this survey and any recommendations or mitigation measures shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out strictly in accordance with the approved details.

12) No site clearance or construction works on site shall be carried out during the bird nesting season (1 March to 31 July), unless the absence of nesting birds has been confirmed by further survey work or on-site inspections.

13) Prior to the commencement of any works on site, a Woodland Management and Access Plan shall be produced to safeguard retained woodland (Long Clough) at the site. This plan should consider the following issues during the clearance, construction and operational phases of the development; i) formalising access/egress into the woodland and pathways to prevent desire lines dissecting the habitat;

- ii) zoning of natural habitat to ensure an appropriately restricted and undisturbed area for wildlife;*
- iii) non-native species management to prevent spread to gardens of new residential properties;*
- iv) implementation of traditional woodland management techniques such as felling, coppicing and pollarding, where appropriate;*
- v) retention of standing and fallen dead wood;*
- vi) creation of artificial habitats such as bird/bat boxes, hedgehog hotels and felled log piles for invertebrates;*

- vii) provision of education packs for homeowners about the value of the surrounding habitat and rationale for habitat protection measures;
- viii) creation of a buffer zone (in accordance with BS5837:2012) during the construction phase and adoption of working practices when carrying out any works near trees or woodland; in accordance with BS5837:2012 guidelines, in order to reduce negative impact on biodiversity.

The Woodland Management and Access Plan shall be submitted to and approved in writing by the local planning authority. All recommended mitigation measures shall be carried out in accordance with the approved plan.

14) Should no clearance or construction works be carried out on site within 2 years of the date of the Bowland Ecology "Ecological Impact Assessment" (EIA) an updated EIA shall be produced. The updated EIA shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out strictly in accordance with the approved assessment.

15) Prior to commencement of the development hereby approved, a Construction Method Statement (CMS) shall be submitted to and approved in writing by the local planning authority. The approved CMS shall be adhered to throughout the construction period. The CMS 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 including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities, including a method statement outlining how the developer intends to use and manage the facility. The approved wheel wash shall be put in place at all vehicle access points onto the public highway when work commences and shall remain in operation throughout the period of development;
- 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.

16) Visibility splays at the site access/egress and all driveways shall not at any time be obstructed by any building, wall, fence, hedge, tree, shrub or other device exceeding a height greater than 1 metre above the crown level of the adjacent highway.

17) Foul and surface water shall be drained on separate systems.

18) *Prior to the commencement of the development hereby approved, a sustainable surface water drainage scheme shall be submitted to and approved in writing by the local planning authority. The drainage scheme must include: i) an investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;*

- ii) a restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and*
- iii) a timetable for its implementation.*

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

19) *Prior to commencement of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum; i) arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a residents' management company; and*

- ii) arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime. The development shall subsequently be completed, maintained and managed in accordance with the approved plan.*

20) *Prior to the implementation of the development hereby approved, a scheme shall be submitted to and approved in writing by the local planning authority detailing provision of an electrical vehicle charging point for each dwelling. The approved scheme shall be implemented prior to first occupation of the development.*

21) *Prior to the commencement of development hereby approved, the developer must submit to the local planning authority for written approval: i) a comprehensive desk study report, including a preliminary Conceptual Site Model (CSM) in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the CSM;*

- ii) findings of the approved site investigation work (where necessary), including an appropriate assessment of risks to both human health and the wider environment, from contaminants in, on or under the land (including ground gas). If unacceptable risks are identified, a remedial options appraisal and detailed*

remediation scheme should be presented, along with an updated CSM. No deviation shall be made from this scheme without the written agreement from the local planning authority.

22) Prior to the occupation of the development hereby approved, a comprehensive Validation Report shall be submitted to and approved in writing by the local planning authority. The Validation Report shall demonstrate effective remediation in accordance with the agreed remediation scheme and updated Conceptual Site Model. All the installed remediation must be retained for the duration of the approved use, and where necessary, the local planning authority should be periodically informed in writing of any ongoing monitoring and decisions based thereon.

*23) Should contamination be encountered unexpectedly during redevelopment, all works should cease, and the local planning authority should be immediately informed in writing. If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented and agreed in writing by the local planning authority.
No deviation shall be made from this scheme without the written express agreement of the local planning authority.*

24) Prior to commencement of the development hereby approved, a scheme of boundary treatment(s) shall be submitted to and approved in writing by the local planning authority. The scheme shall provide for the precise location, height and construction materials of all boundaries. The approved scheme of boundary treatment(s) shall be implemented prior to first occupation of the development and retained thereafter.

25) Prior to commencement of any works at the site, an arboricultural method statement and tree protection plan shall be submitted to and agreed in writing by the local planning authority. The method statement shall clearly state how the trees to be retained on site will be protected during construction works. The agreed method statement shall be implemented in full prior to the undertaking of any on site works and retained for duration of the demolition and construction works.

26) Prior to commencement of the development hereby approved, a scheme for the suppression of dust during the period of construction shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be used throughout the construction process.

27) The construction of the development hereby permitted shall only take place between the following hours: Monday to Friday - 08:00 to 18:00; Saturday - 09:00 to 13:00; Sundays or Bank Holidays - No site operations.

6.0 CONSULTATIONS

6.1 Ecology consultee: GMEU

No objection subject to consideration of the following at reserved matters stage:

- Layout to avoid areas of flora interest
- Appropriate landscape strategy
- Areas of woodland not to be included in any public open space and general access discouraged
- If access is to be provided, this should be managed as part of an holistic woodland management plan.

Recommended conditions:

- Pre-construction Badger survey / possible licence requirement from NE
- No tree felling / vegetation clearance during bird nesting season unless nesting birds have been shown to be absent by a qualified person
- Submission of an Invasive Species Method Statement.

6.2 Drainage

No objection. Recommended conditions:

- Submission of drainage scheme
- Foul and surface water to be drained on separate systems

6.3 United Utilities

No objection subject to consideration of drainage hierarchy.

6.4 Public Protection

No objection subject to:

6.4.1 *Amenity*

Recommended conditions:

- Site working hours to be limited to between 8am-6pm (Monday-Friday) and 9am-1pm on Saturdays. No works on Sundays or Bank Holidays.
- Standard contaminated land

6.4.2 *Air Quality*

- Provision of a dedicated electric vehicle charging point at all dwellings.
- Limitation of gas powered boiler types to control emissions.

6.5 Highways Authority

Concern expressed as to access arrangements but support offered. Assessment of internal highway, including width and vehicle tracking will be undertaken at reserved matters stage, on receipt of a proposed layout. Recommended conditions;

- Submission of Construction Method Statement.
- Delineation of footway and provision of service maintenance strip

- 6.6 Strategic Housing
No objection in recognition of the proposal contributing towards the Council's housing offer and growth strategy; subject to Section 106 contribution towards affordable housing and GI.
- 6.7 Environmental Services
No objection
- 6.8 Lancashire Fire Service
Concern expressed about limited width of access into the site, for emergency service vehicles.
- 6.9 Public consultation has taken place, with 42 letters posted to neighbouring addresses and display of three site notices on 17th November 2018 and again on 16th January 2019; as a result of amended detail being submitted. In response, 45 representations were received and 3 general comments which are shown within the summary below.
- 7.0 **CONTACT OFFICER: Nick Blackledge, Senior Planning Officer – Development Management.**
- 8.0 **DATE PREPARED: 25th June 2020.**

9.0 SUMMARY OF PUBLIC REPRESENTATIONS

Objection – Robert and Victoria Eyre, Parkland, Whitehall Rd. Rec 15.05.2020

Regarding Blackburn with Darwen outline Planning Application 10/20/0106 dated 11th February 2020 and amendment to site plans / layout dated 24th April 2020

To whom it may concern,

This is a letter of objection to the outline Planning Application 10/20/0106 land adjoining Moorthorpe Cottage BB3 2LQ dated 11th February 2020. with the amended site location and plan drawings dated 22/04/2020 drawing numbers 00031897 and 0003198

The amended area for the proposed 4 dwellings has been drawn back slightly however overall I still believe the damage and disruption which it will cause to trees and wildlife as well as run off and safety of access and egress has not been reduced. So our objection letter still stands with all points below still relevant to the amended planning application.

Firstly I would like to start by highlighting the fact that following review of the previous proposal for 9 dwellings, Blackburn with Darwen council rejected the 10/18/1153 proposal unanimously on the two following points;

1. The scale of the development
2. The extensive loss of trees

The Blackburn with Darwen Local Plan Part 2 highlights the residential development opportunity in the long Clough allocation and states the following;

‘Very small scale residential in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland.’

Scale of development

The development isn't small scale and barely reduces the footprint from the previous 9 dwellings proposed, it is maximising the whole area available, even though it is now 4 dwellings this contravenes the first element of this requirement.

The plan to construct 4 dwellings into a space of woodland this size is incompetent, the environment, wildlife and trees will be negatively affected on a permanent basis. Due to this natural land being lost, the issue on the environment downstream will be negatively affected due to water run-off from more concreted / paved areas in an area that already receives its fair share of water run-off, this land is more or less

always boggy, but as it is surrounded by trees the area as a whole acts as a large sponge to alleviate water run-off.

Extensive Tree Loss

The residential development opportunity states; no loss of trees

The development clearly requires a significant number of trees to be felled.

All trees on the site fall under a TPO (Moorthorpe Whitehall TPO 2003). So all trees earmarked for removal are under the TPO. This means they can't be removed unless they are causing a danger to the environment / life or council give approval. The development will cause the loss of a significant amount of trees. The supplemental supporting statement dated 4th February 2020 states the band of trees G5 will escape removal, I don't believe this will be the case, the Plant and Equipment used to construct properties will no doubt cause more loss of trees due to damaging of tree route infrastructure, including the tree belt of G5, who would monitor this and prevent it from happening? Once the trees are damaged / felled you can't reverse the process.

Wildlife

The damage to wildlife affected by this development will be irreversible, this includes bats, owls, badgers and deer, which will all lose their habitat, this is only the animals which can be seen regularly, there are all the smaller mammals birds insects which live in this environment that will be turfed out of their natural habitat.

With regards to bats from Spring through to Autumn we have significant numbers of bats to the front and rear of our property, this inevitably means their roosts must be local within the woodland behind our property. Has a thorough investigation and survey been made to determine the location of the roosts for both breeding and hibernating?

Site Access

The single track road proposed for the development again seems an inadequate route with no footpaths and a restricted gate access at the entrance, this may have a health and safety impact throughout construction with vehicle and pedestrian access, then ongoing into the life span of the houses once occupied.

In keeping with the Area

Light pollution in the woodland will also be an issue throughout the year in particular the winter months and would have a negative effect on wildlife taking shelter / hibernating in the woodland.

It appears for the character of the area at present that the developer is trying to maximise the number of houses on the land without any thought for appearance, disturbance and the wildlife which lives there.

The proposed development looks completely out of keeping when compared to the existing houses on Whitehall road and Chesnut Grove

In Summary

this a blatant attempt to get a smaller scale development approved due to the number of dwellings being reduced, however the negative impact on the environment and wildlife of the 'so called' smaller development will still be as great.

In summary the objection to the proposed development is;

- It will have an adverse effect on all sorts of wildlife and plant life
- Scale of the development in the middle of woodland
- Negative affect on environment and water run off
- The developer will inevitably remove trees which are protected under the TPO in areas around the perimeter of the proposed development
- Out of keeping with surrounding land, buildings and properties
- It will affect the privacy and will overlook residents on Whitehall road
- Restricted site access
- It will cause light and noise pollution to the area
- Blackburn with Darwen Council have nearly 10 years of deliverable housing land available

We believe a housing development in the middle of a wood on the edge of Darwen Moors is not something which should be approved and would be irresponsible to do so, due to the points made above,

To conclude Blackburn with Darwen council have nearly 10 years of deliverable housing land available, so this sort of development smacks in the face of common sense, utilising an important part of woodland / countryside when there are far more suitable areas to be constructing housing developments. So we strongly object to the outline planning application 10/20/0106 amendment 24/04/2020 based on the above points and our previous objection letter to application 10/18/1153 issued 15th January 2019

Regards,

Victoria and Robert Eyre

Objection – Judith A Wright, The Grig, Whitehall Rd, Darwen. Rec 14.05.2020

Dear sir, My main objection to the above is as it was before, reduction in biodiversity, even allowing for the reduced size of the intended Plot. We should be increasing our efforts to conserve our fauna and flora, which has fallen drastically in the last fifty years, not decreasing the same. The wonderful bank of bluebells and great swathes of wild garlic are aesthetically pleasing as well as very precious. The songs of blackcaps and a cuckoo especially lovely at this time of the year. That's to say nothing about the "resident" population of fauna. All this wild life would be mightily disturbed by noisy building work, as well as suffering reduction in habitat.

The objections to access remain the same as for the other plans, totally unsuitable and present safety issues as before.

Yours sincerely,

Judith A Wright

Objection – Mrs Lynda Ahmed, 14 Chestnut Grove, Darwen. Rec 14.05.2020

Dear Mr Blackledge,

I write to once again object to the above planning application in its entirety.

Of course it does not state at this stage where the proposed houses plus detached garages are going to be built.

My objections are .

Totally unsuitable access

There needs to be no loss of trees.

Small scale development??????

Gates at the point of entrance too small- they measure by laser ...3.5m to small for a fire engine with a turntable ladder hence not safe.

NB...as you wrote in your letter to Mr Hammond..."for a refuse vehicle I feel the turn around is tight"

Refuse vehicles can't get up this access road in forward gear due to sharp 90 degree turn at the top.....they still come up Chestnut grove in reverse gear...more than 20 metres....note this is illegal .no more than 20m in reverse.

I have many more very valid objections all of which were recorded before and are still relevant....eg no street lighting/no working drains/no pavement so dangerous for disabled access /no gas supply/overhead electricity cables need moving etc etc

I am sure mr Blackledge you are well aware of my reasons I do not agree to this planning application....I did hope you would have supported us in this area with our disagreements as the planning committee supported us...but I gather you are in agreement...I'm extremely dissatisfied and disappointed with your stance but never the less we fight on.

Regards

Mrs Lynda Ahmed

Objection – Mrs B A Starbuck, Belthorpe, Park Road, Whitehall, Darwen. Rec 14.05.2020

I am writing in objection to the outline planning application for 4 dwellings with detached garages at Moorthorpe Cottage, Darwen.

Although the applicants Supplemental Supporting Planning Statement and recently the amended site location boarder does not show a precise layout for these large houses with detached garages – they state that there will still be trees removed to make room for the access road at the south side of the site. Until the exact site layout is known how can it be guaranteed that there will categorically be no further trees destroyed? This does not comply with the requirements set out in the Local Plan part 2 Policy 28 are that any development in the Long Clough allocation shall be 'very small scale ensuring no loss of trees'.

I don't believe that 4 dwellings with detached garages will fit into the small area shown without damage to tree roots, loss of trees and a threat to wildlife.

The concerns the Highways consultee report identified on the Private road and the impact 9 large houses would have must be taken into consideration for 4 dwellings.

1.The road was not intended for a greater number of houses. There are no additional passing places proposed to support the possibility of larger vehicles passing one another.

2. I am concerned that the access is not adequate to provide access for a further 9 houses. (Is it adequate for 4 dwellings?)

3.Sightlines at all drives should be compliant for both pedestrians and vehicles.

The access drive has no street lighting nor pavement and the entrance through stone gate posts is 3.5m wide. The Road narrows at the top to 3.8m wide with no

passing place and poor sightlines. The refuse vehicles do not drive along the private access road due to the narrow access and sharp right corner towards the top. Long wheel based vehicles cannot manoeuvre round the corner. Large vehicles delivering building materials to the house now constructed (app number 10/16/1349) had to off load before the corner and were manually carried to the build. They then had to reverse back down the Private Drive onto Park Road.

A new in depth report should be carried out by Highways. I also request that the application goes to Committee to be consistent with the previous application.

Once again - this application contradicts the requirements set out in the Local Plan part 2 Policy 28 and the new application does not address the reasons for refusal of 10/18/1153. The size and scale of the proposed development is not conducive with the surroundings and not in the context of the setting.

I wholeheartedly oppose this application.

Yours faithfully

Mrs B A Starbuck

Objection – Jonathan Ashton, 12 Chestnut Grove, Darwen. Rec 13.05.2020

Good evening I would like to object to the planning application for 4 dwellings ref 10/20/0106 land adjoining Moorthorpe Cottage I would like to object firstly on access, the gateway entrance width as measured by the council is below the minimum width as set out in building regulations approved document B for access for fire service vehicles and should not be granted purely on this alone. The road with is also not suitable for fire service vehicles to access and there are no suitable passing places for LGV's to pass even a car. The sweep measurements provided for the 90 degree bend are also misleading as no HGV could make the corner without "shunting" or driving on private land, which creates a huge risk to pedestrians and other road users. The access therefore puts lives at risk in day to day activities but also that of an emergency situation, and the application should be rejected in line with building regulations .

Also as previously stated there must be no loss of trees for the development, and I object if any tree is to be removed to build this development.

Please ensure that the objection is raised appropriately.

Jonathan Ashton

Objection – Diane Hartley, 8 Chestnut Grove, Darwen. Rec 13.05.2020

Dear Mr Prescott,

I am writing to state my objections to the above planning application for 4 dwellings with detached garages on land adjoining Moorthorpe Cottage, Park Road, Darwen.

I object on the following grounds:-

- Access to the site is from a private road which runs parallel to Chestnut Grove. This road has two stone pillars at the entrance to it. The tops of the pillars overhang and restrict the width of the access. This is measured at 3.5m and is not sufficient for heavy goods vehicles or large construction vehicles. The road itself widens to approximately 3.7m. Both sides of the road are lined with woodland, shrubs and decaying leaves, which due to the nature of the tree canopy, are never completely cleared no matter what the time of year. This leaves the road slippery and muddy at the edges. The road is already in a very poor state with potholes and large areas of tarmac worn away. I would also like to point out that as the road is narrow, there is insufficient room for a large vehicle or lorry and a car to pass side by side at any point on this road. Neither are there any passing points on the road. Indeed, the weekly council refuse vehicle does not use this road to empty the bins of residents who already live there. Instead the residents leave their bins outside number 14 Chestnut Grove and they are pulled across the grass verge and emptied by the refuse collectors and left. If this road was easily accessible, why is Chestnut Grove being used? At the top of the road there is a 90° turn to the right which makes it very difficult, if not impossible, for large or long commercial vehicles to make this bend. This would also be the case for emergency vehicles such as fire appliances. The development would create a significant increase in traffic, and whilst the majority of the road is straight, there are no pavements or street lighting. This would increase the danger for pedestrians which include children who walk along it to get to school.

- Ashleigh Primary School is very close to the entrance of the road. Traffic increases at the beginning of the school day and particularly at the end when most parents are waiting to collect children at the same time. I notice from the traffic survey carried out on 21/09/18 for the original planning application for 9 dwellings (10/18.1153) that 3.30pm, the end of the school day, was not included and would have indicated a more substantial increase in traffic and a significant amount of parked cars along Ross Street, Park Road and the surrounding streets. Also, because of the geography of the area, heavy goods vehicles would only be able to access the road from Park Road (which joins the A666), rather than travelling along Queens Road, right onto Park Road, and turning left through the stone pillars (this would not be possible due to the sharp and narrow turn).

•The whole area marked for development as well as the area including Chestnut Grove and Holly Tree Close has a blanket TPO on it. As residents we were informed a number of years ago by the council about this and reminded that we were not allowed to fell or cut back any of the trees. In the original refusal by Blackburn with Darwen Borough Council it stated that the development should be “very small scale..... ensuring no loss of trees.” This development would still include a loss of trees T31, T32, T33, T34 and T35 with three of the trees being deemed “high quality or moderate quality” (Planning Statement). I strongly object to the impact this development would have on the environment and on the number of trees that would have to be felled to accommodate it. This would affect local wildlife including deer, and as you are aware, there are also bats and badger sets on this woodland site.

•We are aware of more than one instance of the drains being blocked on the road and raw sewage running down the surface. A further housing development would increase the environmental health hazard and I would also question the viability of services to this site.

•As referred to in the Lancashire Evening Telegraph, Blackburn with Darwen has already exceeded government and local targets on the number of houses needed to be built in the borough

<https://www.lancashiretelegraph.co.uk/news/17326913.blackburn-with-darwen-borough-housing-starts-and-sales-on-the-rise/>. Therefore there is no need for further developments in this area.

•I would also like to comment on how difficult it is to object to a planning application that includes no information on the size of the houses to be built or exactly where they are to be situated. “Although detail on layout is not included with this application, the site plan does illustrate how 4 houses could sit on the site. This layout includes the position of 4 of the houses shown in the original application for 9 houses” (Supplemental Supporting Statement). How can this application be considered without this information? Are the houses 10 bedrooomed and where exactly are they to be sited? Surely this is significant and necessary information in any application. This is not a “very small scale” development. The size of the development, and the ecology and environmental issues, for which Blackburn with Darwen Borough Council originally refused the application, still remain the same.

Yours sincerely

Diane Hartley

Objection – Joanne Mackey, Lynfield, Park Road, Darwen. Rec 12.05.2020

Dear sirs

Thank you for your recent correspondence regarding the above planning application.

I would like the following objection to be considered by the planning committee

I have reviewed the documentation submitted and my initial concern is that the revised plan is just the old plan with 5 houses removed - if this plan is approved the houses are positioned perfectly for a subsequent planning application to go in thus making it the plan you refused initially?

The application also states that it is for 4 dwellings with detached garages - it would be easy to assume that they would look like the plan but there is no detail in the plan - this could change to 4 mansions as the bedroom numbers are not specified in the application form?

The build that has just taken place has caused damage to my garden, as the vehicles that have to access the site simply cannot gain access without driving over my garden, we have only lived here for a short period of time and have not managed to complete the landscaping of our garden yet we have let this go however it is our intention to start this in the near future. This is likely to include a 1 metre high wall around our boundary which will seriously reduce the road width. I have also seen that Miss Lomax has gone to the trouble of measuring the road for your delight and edification however, I own a large proportion of the road and what I chose to do with that in the future may compromise the width of the road so I would ask you to discount this information.

There are inaccuracies in the 'highways technical notes' - the refuse vehicle does not come up the PRIVATE access road, all our bins are collected from Chestnut Grove these are placed on the relevant day adjoining my property for collection thus reducing the road width even further. In fact this plan has been poorly edited from the original application, it has been edited at the beginning to reflect the application for 4 houses but whoever edited it has obviously thought we wouldn't bother reading it again so hasn't changed the later pages from the original 9 house application. In the original transport survey shows only 1 vehicle entering and leaving Park Road on the day of the survey. This again is inaccurate, and possibly manipulated. The timings of the vehicle it recorded are definitely mine, however, unless my husband and daughter developed some magical powers to be able to teleport to their destinations they have not been logged. In addition to this there is a new build further up from me and nobody is recorded as working on that on the day of the survey. The daughter of the lady who lives at Belthorpe certainly visits her elderly mother at least

twice a day everyday. And did the applicant and her family not go to work that day either? Because they certainly go every other day? It has also not recorded the applicants newspaper delivery man or the postman who also comes up in a vehicle? is this survey trying to hoodwink you into believing that this is a quiet road and a few more cars wont make a difference?

I am objecting to this application on the basis that, access to this site will have to be over my property and I am NOT giving consent for that.

I also have many other points on which to object:

Noise pollution

Damage to the woodland area and the impact on the Moorthorpe TPO

Impact on the wildlife - we regularly have deer in our garden, but there is also foxes, owls and a whole host of birds from cuckoos to woodpeckers.

Damage to my garden by the delivery vehicles and potential residents as the bend is very tight

Traffic management? The bend outside my house is very tight and if taken at any sort of speed will result in a car ploughing into the front of my house. The road is, at very best only wide enough for 1 car, on the rare occasion you encounter another car you have to pull onto the verge (which is also on my land) in order for the other to pass. As it is a private road there is no street lighting and this proposal will increase the risk of accidents as my children play freely outside our house with children from Chestnut Grove. i have attached photos of the damage to the kerbs placed on my boundary - this has been caused by the traffic already frequenting this road and i fear a bin wagon having to access this road would cause more damage to my property.

Additional maintenance costs for the road - who will become responsible for those?

Is this development necessary given that there are 3 very large developments already offering a variety of housing options with another in the pipeline plus a smaller scale one in Hoddlesden that will offer executive homes, the impact on the environment that this development will have will far outweigh the number of homes proposed?

i don't understand why you would look at an application that has no means of access to it - i would invite you to review the land registry document i have attached that shows not only do i own the road but the verge between Park Road and Chestnut Grove

So to clarify for all the reasons stated above - I am objecting to this proposal

Should you have any questions regarding this please do not hesitate to contact me.

Joanne Mackey





Objection – Mark Taylor, Dunkeld House, Whitehall Rd. Rec 12.05.2020

Dear Sir, Every reason for the previous refusals still stand. The destruction of the unique woodland , permanent displacement of badgers, rabbits, deer, squirrels, voles, bats, owls, and numerous other birds. The change in the size of this "development" does not make the access twice as big.

If the land was scrub or a brownfield site with suitable access, of which do exist in the area I would have no problem with it.

Thanks, Mark Taylor.

Objection – Mr & Mrs B Glynn, Montrose, Whitehall Rd. Darwen, Rec 12.05.2020

Comments on planning application – 10/20/0106 - Land adjoining Moorthorpe Cottage, Darwen

1. 2.2 of revised planning statement (following on from original application 10/18/1153) acknowledges that detail on layout is not included in this application and only suggests *how* the 4 properties *could* sit on the site. The properties could be taller/more square footage etc seemingly reducing the number from 9 to 4 but will that be the reality in terms of size, number of bedrooms/occupants/cars etc? This application is vague.
2. 2.3 suggests development is low density. However, regardless of guidelines of number of houses per hectare, the local context has not been fully considered in that statement, especially considering the transition within this countryside site.

I do question how this woodland site ever made it onto the Council's list of designated development land. It needs to be re-designated as totally unsuitable for development of any kind.

3. There are still TPO trees that need to be removed.
4. Access from Park Road/Printshop Lane to the land owned by applicant is not a public right of way (it is a private road) and therefore not a public highway. The application includes use of that land and is not in the applicant's sole ownership, it is privately owned by 3 residents on the drive. It is a single track with no lighting or pavements and is required to be of an adoptable standard and it does not satisfy this.
5. Additionally, the Highways report has not reported the full reality and should be challenged, service vehicles **do not** use this road due to the following issues. This track is narrow, unsuitable for two vehicles passing, with 3 blind spots. Also the nature of the tight turn, especially where the drive meets Moorthorpe House, access by longer vehicles is impossible. This track is bordered by private land with large TPO trees either side and is totally unsuitable for further vehicles.
6. 3.5/3.6 of the original planning statement mentions:
There are no public rights of way on the site although a public footpath is located to the south of the woodland strip to the south. SSSI known as the West Pennine

Moors is located to the west of the site. **“It is possible for the proposed development to connect to the moors via a dedicated footpath”**. The detrimental effects this will have on wildlife is clear and must not happen.

7. The ecological report recognises the area is regularly used by roe deer, bats are plentiful and quite possibly roosting on site. Badger setts are present with foxes also (to name a few of the major mammals). Four houses are as detrimental as 9 taking to the flora and fauna, upsetting the ecological balance in the context of this area.
8. Additionally, Japanese Knotweed is present, very, very close to the applicant’s land, close to the start of the public footpath to the moors, at the South of the plan. Any footpath would risk spreading this invasive species into the woodland if it hasn’t spread already onto the applicant’s land.
9. I also question the electricity supply which runs through the woodlands, via pylons overground, down to properties on/near the applicant’s land currently. If these powerlines are to be used to support any development I suspect they will have to be increased and possibly buried, again disrupting the natural habitat. Where are the plans for proposed services?

Conclusion:

- No detailed-layout plans supporting this application, application is vague.
- The local context of the countryside space is being ignored when size of development is being discussed.
- TPO trees to be removed
- Ecology report confirms presence of bat species and the need to establish whether bats are roosting on site. Protection of a unique area designated originally as a “special landscape” with many TPOs.
- No public highway to the proposed development, majority of track not owned solely by applicant.
- Access to site is not of an adoptable standard and unsuitable for further vehicles. The Highway Survey is inaccurate in parts, with the access lane narrow with 3 blind spots and dangerous and unsuitable for larger service vehicles.

- Original Planning statement suggests a possible footpath joining development to public footpath at the south. This isn't incorporated into any of the red edged boundary and completely at odds with the applicant's wish to preserve the integrity of the remaining ancient woodland.
- Presence of Japanese Knotweed nearby a risk of contamination onto site, if not already on the land edged in blue on plan (even more so if a footpath is built).
- Presence of bat species and the need to establish whether bats are roosting on site. Protection of a unique area designated originally as a "special landscape" with many TPOs.

We request that consideration is given to all the points above and the planning application is refused on the above grounds.

Mr and Mrs B Glynn

Objection – Keith B Ainsworth, The Grig, Whitehall Road. Darwen, Rec 11.05.2020

Dear Mr Prescott,

I am sending this e-mail on behalf of Mr Keith Ainsworth The Grig, Whitehall Road ,Darwen BB3 2LH who because of Self Isolating cannot send a letter and has no access to sending you an e-mail.

Dear Sir,

My first objection to the above application is that its only description is " four dwellings with detached garages ". What size of dwelling ? How many garages ? Where exactly within the sketch of the boundary is it hoped to build ?

Secondly access to the land in question is via a narrow private access road, totally un-suitable for an increased number of vehicles and impossible for use by large wagons, plant and emergency vehicles or refuse disposal trucks. There is no passing place; road safety would be prejudiced, any increase in traffic at all would add to the safety issues around Ashleigh Primary and Woodlands special schools.

Furthermore, it appears that there is no right of access along this private drive and also that a restricted covenant prevents any building on land adjacent to Moorthorpe Cottage .

The Governments National Planning Policy Framework asks that any development “ deliver measurable improvements for wildlife “.How can that possibly be met by major disturbance to the badger setts, bat roosts and the lovely wild flowers notably bluebells shortly to come into bloom. ? Ecological matters are paramount ; there would be a loss of fine mature trees and damage to a significant are of natural beauty, a haven for wildlife. Any development would harm the Winter shelter for Deer, and the increase in noise and light pollution would have a profound effect. The Councils “ Green Infrastructure and Ecological Networks “ document as well as Government policy, states that any planning policy must pursue opportunities for net gains in biodiversity. Who would deny that this goal is sorely needed ?

I urge you to ensure the concerns are recorded and refuse this unnecessary application.

Your sincerely

Keith B Ainsworth.

Objection – M & L, Unknown Address, Rec 11.05.2020

Dear Sir / Madam sent by email & post

We write to request you to please, consider the following:

Safety of Children

1) There has been an overwhelming opposition from the residents, for the safety of young children who attend local school in the vicinity (additional traffic generation & access issues).

Detrimental Effect - Habitat, Environmental & Trees

2) We fear that number of mature trees (many with preservation order), will Need to be sacrificed for this development, in our view will have detrimental effect on current habitat & environment.

Access Issues via a Private Road

3) Access is via a private road, which is unsuitable for additional traffic and access for service vehicles i.e. household waste removal, emergency services and others

We hope you will consider the merit of the case & refuse the application

Regards & thank you

M & L

Objection – Mr C Royle, 10 Chestnut Grove, Rec 07.05.2020

Dear Mr Prescott,

Please find listed below comments with regards to planning application of the erection of 4 dwellings at land adjoining Moorthorpe Cottage, Off Park Road Darwen, BB3 2LQ.

Firstly the Private Road which is proposed as access to the 4 dwellings is only narrow and it is not possible for cars to pass safely as there is privately owned dense woodland and kerbed edge bordering the road. Large Vehicles especially the Council Refuse Vehicle do not use this road as stated as they cannot safely get through the gate posts at the bottom which are only 3.5 Mtrs wide not 4.8 Mtrs wide as stated and indeed the road only widens to 3.65 Mtrs. Instead they come up Chestnut Grove and the bins are brought across through a gap in a bush onto Chestnut Grove. On reading Chapter 2 core policies page 13 Policy 10 i believe you state that Development will be permitted provided it has been demonstrated that road safety and the safe, efficient and convenient movement of all highway users (including refuse collection vehicles, the emergency services, cyclists and pedestrians) is not prejudiced.

I would also like to advise you that on three occasions the top of one of the gate posts has been knocked off by only a relatively small commercial vehicle which again confirms access is difficult and unsafe. The left hand gate post top is still on the floor after being hit three months ago by a Curry's delivery van not a large wagon, fire engine or refuse truck a small van. Had any pedestrian been close by they would have been killed. When the top of the gate post is on the measurement at the top is only 3.5 mtrs and i believe that the minimum width for Pump Fire Engines according to the Building Regulations is 3.7 mtrs with a turning circle of 16.8 mtrs both are unachievable on this access road.

The private road at the top then turns at 90 degrees and at this point cars coming down from Moorthorpe Cottages have a blind spot which is unsafe for both drivers and pedestrians and the lack of any lighting makes it unsafe and dangerous. The house currently being built with the agreement of Lynfield the bungalow on the left at the top of the road let building supplies be dropped onto his garden and taken round to the house by smaller vehicles as it was impossible for these vehicles to make the 90 degree turn so how can access be made to develop a further 4 dwellings.

The junction at the bottom of the Private Road is not safe especially when school children are being dropped off at Ashleigh School and cars are left unattended on the bend and side road close to the entrance. There is also a lot of traffic going through the entrance to the right of the Private Road which go up to the Special Needs School and access is often in front of the Private Road then a left turn made up Holly Tree Close. There will be a large impact on traffic in the Queens Road /Whitehall/Park Road area with traffic exiting and joining the A666 effecting especially during school times. Highway safety would be compromised greatly. I should mention at this stage that on maps issued by Blackburn with Darwen Council the property which is now a school behind Chestnut Grove which uses the access down Holly Tree Close is down as a nursing Home. This School currently has over 30 pupils who are dropped off Monday to Friday along with over a dozen members of staff.

Noise and pollution of large vehicles must be taken into consideration if building was to go ahead and also the continuous traffic caused by what could be more than 15 cars per day not including delivery/service vehicles.(if they can get up)

Surface water is already a problem from Moorthorpe Cottages as it comes directly into the garden at No 14 Chestnut Grove and finds its way coming down Chestnut Grove. We also currently have problems with sewage as the sewage overflows from the man hole cover on the land just in front of No 14s garden wall and makes its way down Chestnut Grove. This constantly needs rodding and has tree roots pushing up the cover. The drains in this area are over 100 years old and are not adequate now for the four properties. After the two recent storms No 14 has had to spend hundreds of pounds on drainage at the side of her house due to water coming across her garden and underneath the rockery directly outside the side of the house which has never happened in the 37 years they have lived there. The field has always been very wet and in places is a bog if 4 houses are built and a concrete road/drives etc this water will be worse as it will run down onto Chestnut Grove finding its lowest point.

Environmentally there are many trees in the meadow which are subject to TPOs and this area was originally designated as an area of special landscape and as such the proposal could be contrary to your Policy New Residential Development of the Local Plan in that the proposal will detrimentally affect the character of the area. Impact on trees must be dealt with now and not left to condition. Arboriculture Officers should have the information needed to carefully consider the impacts. There is a need for a

detailed landscaping scheme now and not as Reserved Matters due to the character of the site and this cannot and should not be deferred.

The land has a lot of wildlife including deer ,badger sets and is full of bluebells.The woodlands are governed by regulations in relation to destruction or re-shaping of trees that have been providing wood,shelter,shade,oxygen and a habitat for wildlife for hundreds of years.It will not be possible for these trees to regenerate themselves as they have done over many decades if this planning is approved denying our future generations the beauty of this Woodland area.Indeed Blackburn's own ecology policy is CS15 and point 3 states "General habitats which may support species of principal importance either for shelter,breeding or feeding purposes(both natural and built features) ,will be protected from development ,in accordance with the Environmental Strategy set out in policy CS13.I would expect the Council to take care when considering this policy in respect of the application.

Also is the original Ecology report still valid as the original application was over 18 months ago and although an Ecology Report can be used up to 24 months non of the residents are aware when the original report was done and now the field is full of bluebells and the badgers from the two setts are very active and have been seen in neighbouring gardens bordering the field on Whitehall road.

The Governments latest consultation (ended January 2019) guidelines not just loss of ecologic value but rather developments to deliver a "biodiversity net gain necessary for developments when granting planning permission.Biodiversity net gain is an approach which aims to leave the natural environment in a measurably better state than before hand.Therefore this must be considered strongly at the outline planning stage.

As there are still no plans to show the proposed 4 house development only a border how do we know what type of houses are being built are they 4/5 bedroom 6/7 bedroom where are they being built ,are trees going to be cut down.Is it not normal that with planning you should have an idea what is actually being built and the proposed access/structure to support the 4 houses

Can you please consider all my points some which may not be applicable as I know there are only certain issues you take into account and refuse this application on the above grounds where necessary.

Mr C Royle

Objection – Mr & Mrs A Molloy, Whinfield, Whitehall Road, Darwen, Rec 29.04.2020

Dear Mr Blackledge,

I wish to object to the above development on the following grounds:

1. There are still to be a large number of trees to be felled, the majority of which are mature trees some with TPO'S.
2. The Council have still not completed an in depth survey of the trees in the area in question.
3. There are without doubt deer, badgers, bats and other wildlife on the land involved in the proposed development.
4. There are one pair and possibly two pairs of birds of prey in the adjacent woods within 30 metres or a proposed roundabout.
5. There are already flood problems on the adjacent properties lower down and adjacent to the proposed development and more concrete and loss of grass will only exacerbate the situation.
6. The access is very dangerous and not suitable for the properties already there. Doubling the number of properties which this new development would do if granted would be an accident waiting to happen. There is no opportunity to widen the road or remove the narrow 90° bend.
7. Emergency vehicles cannot reach the site and cannot traverse the sharp 90° bend.

Please consider the above points when deciding the outcome of this application.

Objection - Mr G Church, 4 Chestnut Grove, Darwen, Rec 28.04.2020

Dear Sir.

I have recently received a communication with regards to the above planning application and would like to object as follows.

Firstly, in late 2019 the previous application for 9 dwelling's was refused by the planning committee, the reasons as stated were:- Under planning application 10/16/1349, is considered to represent a scale of development that is disproportionately large taking into account the local context, and transition with the countryside area. This is considered contrary to the requirements of policy 28 of the local plan part 2, which sets out that residential developments in the "Long Clough" allocation (28/10), shall be "very small scale" in the vicinity of the existing dwelling (Moorthorpe cottage), "Ensuring no loss of trees"

Further from the documents as listed on the planning web site I would take issue with the diagram of the access road.

- The private access road to the proposed site is 4.8 metres wide I believe this statement is inaccurate. As indicated in the document the narrow point is stated to

be 3.5 metres wide at the gate entrance the access road then widens to 3.65 metres wide. Not as indicated 4.8 metres. This access road is not only very narrow, but is also in an extremely poor state of repair with potholes and large areas of tarmac worn away, producing a very uneven surface. There is no foul water drainage and the roadway is further affected by overgrown and dense woodland / shrubs which would severely hamper the passage of large commercial service vehicles. There is no point on this straight stretch of access road that a large commercial service vehicle could pass a parked private vehicle. The road at the point of Moorthorpe house then turns at 90 degrees which makes the manoeuvring of large commercial service vehicles problematic.

- It is also stated that council refuse vehicles (large commercial service vehicles) regularly use this road. This point I would take issue with as in the three years I have lived at 4 Chestnut Grove I have never witnessed the council refuse vehicle use this roadway. The residents at the top of this roadway bring their waste bins to the top of Chestnut Grove to enable the bins to be emptied. Chestnut Grove is serviced by the council refuse vehicle (this statement can be checked by asking the council refuse department to validate this comment) I have however, from time to time, witnessed a much smaller service vehicle, Iveco 3.5 cwt with a cage fitted to the rear of the vehicle make collections from the resident's homes situated at the top of this access road.

- It is also stated that large commercial service vehicles and private cars have space to pass safely with care. At no point on this access road would this be possible due to the narrow track and dense woodland bordering the roadway.

- The access road as proposed in this application, is totally unsuitable for any such consideration, it has not been maintained, suffering from pot holes, uneven surface, very narrow width, obstructed by trees shrubs and vegetation, there is no street lighting / illumination, no drainage, water run's down the incline washing away the surface in any wet conditions, in repeating myself at the point of Moorthorpe House the road turns 90 degrees to the right, any deliveries by commercial vehicles beyond this point require the offloading of any items which are then manually transported to any location beyond this point, this I have witnessed several times, this totally blocks the road to any other user for the duration of the off load, further the commercial vehicle then has to reverse the entire length of the access road to exit onto Park road, before any other vehicle can gain access, in the event of any emergency such as ambulance / fire engine, what would the outcome be ? I have also witnessed a recent event when a fire engine was called to the location due to a small fire in the woodland beyond the application area, the fire engine could not gain access due to the narrow road and 90 degree turn at Moorthorpe house and had to turn around in the private driveway of the Moorthorpe House ??.

- The damage to the local woodland and ecology would be devastating, the refusal of the last application listed no loss of trees, but it can quite clearly be seen

that any development would mean the loss of several mature trees and severe damage to the local wildlife.

At the planning meeting in 2019, this application was refused on the grounds of many points as listed above, it was refused by every member of the local planning committee, all members had visited the site and had viewed first-hand the unsuitability/ potential danger of such a development.

Yours faithfully

Mr G Church

Objection - Ken & Anne Grimson, Parkside, Whittehall Rd Darwen, Rec 27.04.2020

Dear Mr Prescott

We live adjacent to the proposed development site and are writing to ask that BWD Borough Council refuse this planning application from Ms G Lomax.

Herein are our objections relating to this latest planning application:

1 It has always been our understanding, along with that of our neighbours, that this area and its trees were protected. We note that it has been described in the application documents as "available for development".

We would certainly like to know when, how and by whom this was changed. We had never been notified of this possibility and would like details of how such a change could have taken place without any proper notification to residents.

We note that you have yet to supply this information from our request in relation to the previous application for 9 houses i.e.10/18/1153.

2 The development will overlook our property; this will lead to a loss of residential amenity and privacy and will certainly impact on the peaceful enjoyment of our home and garden which we have had for over 30 years. The loss of the existing views from our house and garden will also be detrimental to us. There will be new traffic close to our garden and home causing noise, light pollution and disturbance at all times of the day and night.

3 It will be totally out of character for this area of natural, ancient woodland and private surrounding housing. It is totally inappropriate for this part of Darwen. Such a development would be totally out of keeping with the neighbouring properties, which are mainly Victorian-era stone built houses with quiet secluded gardens. There is no shortage of new housing available or under construction in the town.

4 The affect on the flora & fauna present in the woodland will be catastrophic. Not only the permanent loss of habitat for the construction of the houses & garages, but the ongoing affect on our wonderful garden birdlife (goldcrest, woodpecker, nuthatch, tree-creeper, goldfinch, bullfinch, siskin, redpoll, blackcap, blue/coal/great/long-tailed tits), roe deer, badger, red squirrel, the springtime show of bluebells.

Several species of bat are present here too and various raptors such as tawny & little owl, sparrowhawk, merlin and kestrel hunt and nest in these woods. There is also a large annual migration of amphibians such as toads, frogs and newts through this area in the spring/summer.

5 The proposed access road appears to be wholly unsuitable and leads onto an already congested, dangerous junction. This is especially so due to the proximity of Ashleigh Primary School. This additional traffic will cause problems and create a safety hazard for other motorists and young schoolchildren.

6 As far as we know, the applicant does not have right-of-way access along the shared, private drive for anything other than her existing dwelling. The single-track driveway is not of an adoptable standard with no lighting or passing places. There are several blind spots on narrow bends.

Environmental Services are still unable to use this access road. Emergency Services vehicles would also have great difficulty in gaining quick access to attend a house or garage fire which could then spread to the woodland and adjacent properties.

7 We do not agree that the current application proposal meets the requirements stated in Planning Statement, para. 6.1.3.6 Policy 28 "Development Opportunities" which states that potential is "***for very small scale residential in the immediate vicinity of the existing dwelling with no loss of trees or woodland.***"

This clearly is intended to limit any development to no more than one or two dwellings and **with no loss of trees or woodland.** We do not think this could be much clearer.

8 We also feel that there are no details of these dwellings, such as the number of bedrooms etc. to estimate the numbers of additional people and cars that this development will generate in the area.

We invite you to visit our home to verify that these objections are valid.

Therefore, we ask that Blackburn with Darwen Borough Council refuse this Planning Application to retain the character of this beautiful area of the town.

Should you require any additional information, clarification of any comments made, or would like to arrange a visit to our home; do not hesitate to contact us on 01254 703994.

Yours Sincerely

Mr & Mrs KAJ Grimson

Objection - Deborah Perricone, Werneth Brae, Whittehall Rd Darwen, Rec
27.04.2020

Dear Mr Blackledge

Thank you for notifying us on the proposed change to the planning application 10/20/0106.

Please take my previous letter dated 01/03/20 into account as discussed with you today.

I am concerned about the timeline with this application within the current climate, when the country is fighting the Corona virus.

A lot of residents are in isolation and perhaps unable to further comment on it.

Yours sincerely

Deborah Perricone

Objection - Mrs Lynda Ahmed, 14 Chesnut Grove, Whittehall, Darwen, Rec
05.03.2020

Firstly I must object in the strongest possible terms to this application due to the following reasons

There are no proposed plans shown on the planning portal only on the planning statement..stating "it could be " /"it may be"... there are no definable definitive borders.

There are still going to be trees which are under TPO removed this of course was the reason the application for 9was thrown out.

There are no provisions for access of refuse vehicles/no hammerhead turnaround

Proposed access to this said development is via a private drive through gateposts of 3.5m given that an emergency fire and rescue turntable ladder needs a 4m clearance then this would obstruct emergencies being dealt with at this proposed development.

Policy 10 sec 3.5.39. Highways suggest safe efficient movement of users...no pavement, no drainage, no street lighting,no passing points and non proposed, no disabled access...this proposed access is wholly inadequate and unsafe to serve 4 properties , 5 including mr Mcinerys new build.

Removal of trees means more surface water coming down the proposed drive into my garden and onto my paths...I have just paid a number of hundred pounds for new drains to take water from my paths to exit drain Having lived here 37years I have never had water through my garden onto my paths until the new house has been built.i dread to think what more houses will leave my garden/house like

There is of course a covenant which is on Ms Lomax garden which does not allow for access to where is would appear the houses are going to be built which should be adhered to.

One wonders if these houses are going to be built of the same materials that Elerslie/or the back of Watery lane Darwen... Totally not in keeping with houses already in-situ

This proposed development would by virtue of its access,location, arrangement , and.building materials to be used would have an adverse impact on the character and appearance on this area of countryside.

As most people in planning are aware of my displeasure at this proposed planning application I must object in the strongest possible terms and hope it is dismissed in its entirety.

Yours Sincerely

Mrs Lynda Ahmed.

Objection - Mark & Charlotte Taylor, Dunkeld House, Whittehall Road, Darwen, Rec 04.03.2020

Further to this most recent application for development of this site, I strongly object to this development for the same reasons I objected to the larger development proposed for this site. Even though fewer houses are now being proposed this will not reduce the impact on the area, as access is severley limited, the destruction to wildlife habitat and the removal of protected trees will all still be the same and the additional vehicles it will bring along with light & noise pollution will all still have a detrimental impact to the area.

I trust my views will be considered along with this application

Regards

Mark & Charlotte Taylor

Objection - Mrs B A Starbuck, Belthorpe, Park Road, Whitehall, Darwen, Rec
04.03.2020

I am writing in objection to the outline planning application for 4 dwellings with detached garages at Moorthorpe Cottage, Darwen.

Although the applicants Supplemental Supporting Planning Statement does not show a precise layout for these large houses with detached garages – they state that there will still be trees removed to make room for the access road at the south side of the site. Until the exact site layout is known how can it be guaranteed that there will categorically be no further trees destroyed? This does not comply with the requirements set out in the Local Plan part 2 Policy 28 are that any development in the Long Clough allocation shall be ‘very small scale ensuring no loss of trees’.

I don’t believe that 4 dwellings with detached garages will fit into the small area shown without damage to tree roots, loss of trees and a threat to wildlife.

The concerns the Highways consultee report identified on the Private road and the impact 9 large houses would have must be taken into consideration for 4 dwellings.

1.The road was not intended for a greater number of houses. There are no additional passing places proposed to support the possibility of larger vehicles passing one another.

2. I am concerned that the access is not adequate to provide access for a further 9 houses. (Is it adequate for 4 dwellings?)

3.Sightlines at all drives should be compliant for both pedestrians and vehicles.

The access drive has no street lighting nor pavement and the entrance through stone gate posts is 3.5m wide. The Road narrows at the top to 3.8m wide with no passing place and poor sightlines. The refuse vehicles do not drive along the private access road due to the narrow access and sharp right corner towards the top. Long wheel based vehicles cannot manoeuvre round the corner. Large vehicles delivering building materials to the house now constructed (app number 10/16/1349) had to off load before the corner and were manually carried to the build. They then had to reverse back down the Private Drive onto Park Road.

A new in depth report should be carried out by Highways. I also request that the application goes to Committee to be consistent with the previous application.

Once again - this application contradicts the requirements set out in the Local Plan part 2 Policy 28 and the new application does not address the reasons for refusal of 10/18/1153. The size and scale of the proposed development is not conducive with the surroundings and not in the context of the setting.

I wholeheartedly oppose this application.

Yours faithfully

Mrs B A Starbuck

Objection - Joanne Mackey, Lynfield, Park Road, Whitehall, Darwen, Rec
04.03.2020

Dear sirs

Thank you for your recent correspondence regarding the above planning application.

I would like the following objection to be considered by the planning committee

I have reviewed the documentation submitted and my initial concern is that the revised plan is just the old plan with 5 houses removed - if this plan is approved the houses are positioned perfectly for a subsequent planning application to go in thus making it the plan you refused initially?

The application also states that it is for 4 dwellings with detached garages - it would be easy to assume that they would look like the plan but there is no detail in the plan - this could change to 4 mansions as the bedroom numbers are not specified in the application form?

The build that has just taken place has caused damage to my garden, as the vehicles that have to access the site simply cannot gain access without driving over my garden, we have only lived here for a short period of time and have not managed to complete the landscaping of our garden yet we have let this go however it is our intention to start this in the near future. this is likely to include a 1 metre high wall around our boundary which will seriously reduce the road width. I have also seen that Miss Lomax has gone to the trouble of measuring the road for your delight and edification however, I own a large proportion of the road and what I chose to do with that in the future may compromise the width of the road so I would ask you to discount this information.

There are inaccuracies in the 'highways technical notes' - the refuse vehicle does not come up the PRIVATE access road, all our bins are collected from Chestnut Grove these are placed on the relevant day adjoining my property for collection thus reducing the road width even further. in fact this plan has been poorly edited from the original application, it has been edited at the beginning to reflect the application for 4 houses but whoever edited it has obviously thought we wouldn't bother reading it again so hasn't changed the later pages from the original 9 house application. In the original transport survey shows only 1 vehicle entering and leaving Park Road on the day of the survey. This again is inaccurate, and possibly manipulated. The timings of

the vehicle it recorded are definitely mine, however, unless my husband and daughter and developed some magical powers to be able to teleport to their destinations they have not been logged. In addition to this there is a new build further up from me and nobody is recorded as working on that on the day of the survey. The daughter of the lady who live at Belthorpe certainly visits her elderly mother at least twice a day everyday. And did the applicant and her family not go to work that day either? Because they certainly go every other day? It has also not recorded the applicants newspaper delivery man or the postman who also comes up in a vehicle? is this survey trying to hoodwink you into believing that this is a quiet road and a few more cars wont make a difference?

I am objecting to this application on the basis that, access to this site will have to be over my property and I am NOT giving consent for that.

I also have many other points on which to object:

Noise pollution

Damage to the woodland area and the impact on the Moorthorpe TPO

Impact on the wildlife - we regularly have deer in our garden, but there is also foxes, owls and a whole host of birds from cuckoos to woodpeckers.

Damage to my garden by the delivery vehicles and potential residents as the bend is very tight

Traffic management? The bend outside my house is very tight and if taken at any sort of speed will result in a car ploughing into the front of my house. The road is, at very best only wide enough for 1 car, on the rare occasion you encounter another car you have to pull onto the verge (which is also on my land) in order for the other to pass. As it is a private road there is no street lighting and this proposal will increase the risk of accidents as my children play freely outside our house with children from Chestnut Grove.

Additional maintenance costs for the road - who will become responsible for those?

Is this development necessary given that there are 3 very large developments already offering a variety of housing options with another in the pipeline plus a smaller scale one in Hoddlesden that with offer executive homes, the impact on the environment that this development will have will far outweigh the number of homes proposed?

i don't understand why you would look at an application that has no means of access to it - i would invite you to review the land registry document i have attached that shows not only do i own the road but the verge between Park Road and Chestnut Grove

So to clarify for all the reasons stated above - I am objecting to this proposal

Should you have any questions regarding this please do not hesitate to contact me.



Objection - Harry Kang, Briarwood, Whitehall Road, Darwen, Rec 04.03.2020

Dear Sirs

In reference to the above application, I strongly object. This has already been dealt with on the first application and rightly rejected so it is beyond me why it has resurfaced again in a poorly disguised, makeshift alteration of the first application.

This area is not suitable for the proposed dwellings for a number of reasons. There are access issues, there will be increased traffic in a currently quiet part of the area. I can guarantee there will be a felling of trees which is atrocious considering the maturity of these trees. Also, how will emergency services and environment services access these dwellings.

I have not seen the size of the proposed development - how large are these houses?
This is one of very few naturally beautiful areas in Darwen so why spoil this!

For this, and all the other objections raised at the first application, I entreat the
planning committee to reject this proposal.

Objection – Robert and Victoria Eyre, Parkland, Whitehall Rd, Rec 04.03.2020

To whom it may concern,

This is a letter of objection to the outline Planning Application 10/20/0106 land adjoining
Moorthorpe Cottage BB3 2LQ dated 11th February 2020.

Firstly I would like to start by highlighting the fact that following review of the previous
proposal for 9 dwellings, Blackburn with Darwen council rejected the 10/18/1153 proposal
unanimously on the two following points;

1. The scale of the development
2. The extensive loss of trees

The Blackburn with Darwen Local Plan Part 2 highlights the residential development
opportunity in the long Clough allocation and states the following;

*'Very small scale residential in the immediate vicinity of the existing dwelling,
ensuring no loss of trees or woodland.'*

Scale of development

The development isn't small scale and barely reduces the footprint from the previous 9
dwellings proposed, it is maximising the whole area available, even though it is now 4
dwellings this contravenes the first element of this requirement.

The plan to construct 4 dwellings into a space of woodland this size is incompetent, the
environment, wildlife and trees will be negatively affected on a permanent basis. Due to this
natural land being lost, the issue on the environment downstream will be negatively affected
due to water run-off from more concreted / paved areas in an area that already receives its
fair share of water run-off, this land is more or less always boggy, but as it is surrounded by
trees the area as a whole acts as a large sponge to alleviate water run-off.

Extensive Tree Loss

The residential development opportunity states; no loss of trees

The development clearly requires a significant number of trees to be felled.

All trees on the site fall under a TPO (Moorthorpe Whitehall TPO 2003). So all trees earmarked for removal are under the TPO. This means they can't be removed unless they are causing a danger to the environment / life or council give approval. The development will cause the loss of a significant amount of trees. The supplemental supporting statement dated 4th February 2020 states the band of trees G5 will escape removal, I don't believe this will be the case, the Plant and Equipment used to construct properties will no doubt cause more loss of trees due to damaging of tree route infrastructure, including the tree belt of G5, who would monitor this and prevent it from happening? Once the trees are damaged / felled you can't reverse the process.

Wildlife

The damage to wildlife affected by this development will be irreversible, this includes bats, owls, badgers and deer, which will all lose their habitat, this is only the animals which can be seen regularly, there are all the smaller mammals birds insects which live in this environment that will be turfed out of their natural habitat.

With regards to bats from Spring through to Autumn we have significant numbers of bats to the front and rear of our property, this inevitably means their roosts must be local within the woodland behind our property. Has a thorough investigation and survey been made to determine the location of the roosts for both breeding and hibernating?

Site Access

The single track road proposed for the development again seems an inadequate route with no footpaths and a restricted gate access at the entrance, this may have a health and safety impact throughout construction with vehicle and pedestrian access, then ongoing into the life span of the houses once occupied.

In Keeping with the Area

Light pollution in the woodland will also be an issue throughout the year in particular the winter months and would have a negative effect on wildlife taking shelter / hibernating in the woodland.

It appears for the character of the area at present that the developer is trying to maximise the number of houses on the land without any thought for appearance, disturbance and the wildlife which lives there.

The proposed development looks completely out of keeping when compared to the existing houses on Whitehall road and Chesnut Grove

In Summary

this a blatant attempt to get a smaller scale development approved due to the number of dwellings being reduced, however the negative impact on the environment and wildlife of the 'so called' smaller development will still be as great.

In summary the objection to the proposed development is;

- It will have an adverse effect on all sorts of wildlife and plant life
- Scale of the development in the middle of woodland
- Negative affect on environment and water run off
- The developer will inevitably remove trees which are protected under the TPO in areas around the perimeter of the proposed development
- Out of keeping with surrounding land, buildings and properties
- It will affect the privacy and will overlook residents on Whitehall road
- Restricted site access
- It will cause light and noise pollution to the area
- Blackburn with Darwen Council have nearly 10 years of deliverable housing land available

We believe a housing development in the middle of a wood on the edge of Darwen Moors is not something which should be approved and would be irresponsible to do so, due to the points made above,

To conclude Blackburn with Darwen council have nearly 10 years of deliverable housing land available, so this sort of development smacks in the face of common sense, utilising an important part of woodland / countryside when there are far more suitable areas to be constructing housing developments. So we strongly object to the outline planning application 10/20/0106 based on the above points and our previous objection letter to application 10/18/1153 issued 15th January 2019

Regards,

Victoria and Robert Eyre

Objection – M & L, unknown Address, Rec 04.03.2020

Dear Sir

We write to request you to please, consider the following aspects,;

- i) Previous application on this site was refused
 - ii) Environmental / Ecological Implication
 - iii) Inadequate Access (access via private, narrow road)
- l) Safety issues for Emergency Access

v) As your department is well aware, there has been an overwhelming opposition from the residents,

for the safety of young children who attend local school in the vicinity (additional traffic generation & access issues).

vi) Number of mature trees (with preservation order), will be sacrificed for this development, this in our view will have detrimental effect on current habitat & environment of this locality

We hope you will consider the merit of the case & refuse the planning application

Regards & thank you

Objection – Miss J Kang, Whitehall Bank, Whitehall Road, Darwen , Rec 04.03.2020

Dear Sirs

I write with reference to the above planning application. I strongly object to this proposal for the same reasons a previous planning application was rejected.

This area is one of very few remaining with unspoilt landscapes homing a variety of wildlife. Please could you leave this corner of Darwen alone. Please would you not erect these houses for which we have not seen any plans indicating their size or exact location.

I imagine that there will be felling of the beautiful trees in this area to accommodate these houses - again, this is unthinkable. My nephews and nieces have all grown up this part of Darwen, attending the local primary school and climbing a lot of the trees in the neighbourhood. They are lucky to have had such a blessed childhood - please do not destroy or diminish this beautiful environment for other children who will grow up here.

I am concerned about the badger sets and other wildlife which will be affected by this development. I am also concerned about the access to the development - which I assume will be over a private road.

The first application was rejected for solid reasons. This application holds no additional merit and should be judged using the same criteria.

In light of all current concern over climate change and greener, more sustainable living, I welcome Blackburn with Darwen Council to embrace the increasingly conscientious respect for our environment.

Yours sincerely

Miss J Kang

Dear Sir / Madam

Having taken on board The reduction in number of dwellings from 9 → 4 (unfortunately not having been given the opportunity to see the plans!), my objections to the above development are as follows:-

1. Reduction in biodiversity and animal habitat. This, at a time when this is being lost at an alarming rate, indeed the government's "National Planning Policy Framework" asks that developments "deliver measurable improvements for wild life."

PTO .

2. Access :- The private road that would afford access is very narrow, and surely would constitute a severe health and safety issue regarding emergency vehicles.
3. I believe there is a covenant restricting any development to land adjacent to Moorhorpe Cottage?

Dear Mr. Blackledge, My first comment relating to the above application is how difficult it is to make meaningful and relevant objections when a plan of the proposed development is not made readily available and its only description is "four dwellings with detached garages". What size? How many garages? Where exactly in this precious woodland?

Secondly, access to the land in question is via a private access road, totally unsuitable for an increased number of vehicles and impossible to use for large wagons, plant, emergency vehicles or refuse disposal trucks. There is no passing place; road safety would be prejudiced; any increase in traffic would add to the safety issues around Ashleigh Primary and Woodlands Special Schools.

Furthermore, it appears that there is, in fact, no right of access along this private drive and also that a restricted covenant prevents any building on land adjacent to Moorhouse Cottage.

The government's National Planning Policy Framework asks that any development "deliver measurable improvements

for wildlife". How can that possibly be met by huge disturbance to the badger setts, bat roosts and the lovely wildflowers shortly to come into bloom? Ecological matters are paramount; there would be a loss of fine, mature trees and damage to a significant area of natural beauty, a haven for wildlife. Any development would harm the winter shelter for deer and the increase in noise and light pollution would have a profound negative effect. The Council's "Green Infrastructure and Ecological Networks" document, as well as government policy, states that any planning policy must pursue opportunities for net gains in biodiversity. Who would deny that this goal is sorely needed?

I urge you to ensure these concerns are recorded and refuse this unnecessary application.

Objection – Dr D Duxbury, Inglewood, Whitehall Road, Darwen , Rec 03.03.2020

Dear Mr Prescott,

Access

Access on to and off the main straight drive way leading to Moorthorpe Cottage comes off a sharp corner onto Ross Street; this being a congested road serving Ashleigh School. Traffic surveys supporting this application do not reflect this. To access the main driveway to Moorthorpe Cottage off Ross Street there are three small tracks, which converge at the two stone gate posts at the bottom of the two stone gate posts at the bottom of the drive, enclosing a small grass triangle of TPO protected trees. The gate posts are only 3.5 metres wide and unsuitable for motor vehicles. The exit/entrance between the two stone posts and adjoining walls form a blind junction with the Print Shop track running across it. The main driveway already services six large houses all with the capacity to park or garage four cars, the drive being a single track with no passing areas and the land either side being privately owned and bordered by large TPO trees. The narrowest point is 3.2 metres wide and the widest being 4.2 metres wide. Where the drive meets Moorthorpe House it turns a sharp right at 90 degrees, thus any vehicle larger than six metres cannot access this. It is also a blind corner.

The proposed development is via a private drive. A fire and rescue vehicle with a turntable ladder needs a clearance of 4 metres. Given the gatepost is only 3.5 metres wide this would obstruct emergencies being dealt with at this proposed development.

Drainage and structure

All drainage from the present dwellings are under the drive. It is frequently blocked and has tree root issues and there are not gullies, kerbs or gutters. There is also free water running across its surface. There are no pavements.

Servicing vehicles and emergency services

The refuse wagon cannot access the driveway in its full length in a forward direction as it cannot turn around, this is contrary to what is stated in the application. The wagon has to reverse up the drive which frequently unseats the header stones on the stone pillars at the entrance to the drive. When the wagon reaches the right hand 90 degree turn at the top of the drive, it cannot access any further up. The Fire Brigade and Ambulance services can

access the drive but cannot go further than Moorthorpe House; they cannot turn at the top of the drive as there is no space.

Environment and ecology

The area of land proposed for building is an area of natural beauty and supports a diverse ecology. This includes deer, bats, owls, badgers, woodpeckers and a wide range of flora and fauna. As recently as 2012 there has been an extensive ecological and environmental improvement. There are many TPO trees. Losing this to housing would be a massive blow to the local environment and devastating to wildlife.

Covenant

There is a legal document that states that building is prohibited on the land. This covenant is contained within the deeds.

Conclusion

The new development plans only strengthen and highlight the majorly inadequate nature of the existing access, drainage, safety and speed issues. The devastation to wildlife would be unbearable.

Objection – Mr & Mrs S Bentley, Windy Knowe, Whitehall Road, Darwen , Rec 03.03.2020

Re outline planning application Ref 10/20/0106
4 dwellings with detached garages.

The last application for dwellings on this particular piece of land was unanimously rejected by the council.

This application although for less houses, the criteria still applies to reject the development.

- 1/ No mention of the size of the dwellings, and their position on the said land. The dwelling could be any size.
 - 2/ Will trees be affected that have preservation orders on them.
 - 3/ Access - Environmental services still do not use the road because of the width.
 - 4/ Emergency services could not service the development.
 - 5/ Ecology reasons as there are bats, badger sets, and deer on the land or the proximity of the land.
- Hoping the objections listed are looked upon favourably and the application is rejected.

Objection – Mr & Mrs B Glynn, Montrose, Whitehall Road, Darwen, Rec 03.03.2020

Comments on planning application – 10/20/0106 - Land adjoining Moorthorpe Cottage, Darwen

1. 2.2 of revised planning statement (following on from original application 10/18/1153) acknowledges that detail on layout is not included in this application and only suggests how the 4 properties could sit on the site. The properties could be taller/more square footage etc seemingly reducing the number from 9 to 4 but will

that be the reality in terms of size, number of bedrooms/occupants/cars etc? This application is vague.

2. 2.3 suggests development is low density. However, regardless of guidelines of number of houses per hectare, the local context has not been fully considered in that statement, especially considering the transition within this countryside site.

I do question how this woodland site ever made it onto the Council's list of designated development land. It needs to be re-designated as totally unsuitable for development of any kind.

3. There are still TPO trees that need to be removed.

4. Access from Park Road/Printshop Lane to the land owned by applicant is not a public right of way (it is a private road) and therefore not a public highway. The application includes use of that land and is not in the applicant's sole ownership, it is privately owned by 3 residents on the drive. It is a single track with no lighting or pavements and is required to be of an adoptable standard and it does not satisfy this.

5. Additionally, the Highways report has not reported the full reality and should be challenged, service vehicles do not use this road due to the following issues. This track is narrow, unsuitable for two vehicles passing, with 3 blind spots. Also the nature of the tight turn, especially where the drive meets Moorthorpe House, access by longer vehicles is impossible. This track is bordered by private land with large TPO trees either side and is totally unsuitable for further vehicles.

6. 3.5/3.6 of the original planning statement mentions:

There are no public rights of way on the site although a public footpath is located to the south of the woodland strip to the south. SSSI known as the West Pennine Moors is located to the west of the site. "It is possible for the proposed development to connect to the moors via a dedicated footpath". The detrimental effects this will have on wildlife is clear and must not happen.

7. The ecological report recognises the area is regularly used by roe deer, bats are plentiful and quite possibly roosting on site. Badger setts are present with foxes also (to name a few of the major mammals). Four houses are as detrimental as 9 taking to the flora and fauna, upsetting the ecological balance in the context of this area.

8. Additionally, Japanese Knotweed is present, very, very close to the applicant's land, close to the start of the public footpath to the moors, at the South of the plan. Any footpath would risk spreading this invasive species into the woodland if it hasn't spread already onto the applicant's land.

9. I also question the electricity supply which runs through the woodlands, via pylons overground, down to properties on/near the applicant's land currently. If these powerlines are to be used to support any development I suspect they will have to be increased and possibly buried, again disrupting the natural habitat. Where are the plans for proposed services?

Conclusion:

- No detailed-layout plans supporting this application, application is vague.
- The local context of the countryside space is being ignored when size of development is being discussed.
- TPO trees to be removed
- Ecology report confirms presence of bat species and the need to establish whether bats are roosting on site. Protection of a unique area designated originally as a "special landscape" with many TPOs.
- No public highway to the proposed development, majority of track not owned solely by applicant.
- Access to site is not of an adoptable standard and unsuitable for further vehicles. The Highway Survey is inaccurate in parts, with the access lane narrow with 3 blind spots and dangerous and unsuitable for larger service vehicles.
- Original Planning statement suggests a possible footpath joining development to public footpath at the south. This isn't incorporated into any of the red edged boundary and completely at odds with the applicant's wish to preserve the integrity of the remaining ancient woodland.
- Presence of Japanese Knotweed nearby a risk of contamination onto site, if not already on the land edged in blue on plan (even more so if a footpath is built).
- Presence of bat species and the need to establish whether bats are roosting on site. Protection of a unique area designated originally as a "special landscape" with many TPOs.

We request that consideration is given to all the points above and the planning application is refused on the above grounds.

Mr and Mrs B Glynn

Objection – Mr V & Mrs D Perricone, Werneth Brae, Whitehall Road, Darwen, Rec
02.03.2020

Dear Mr Prescott,

Access

Access on to and off the main straight drive way leading to Moorthorpe Cottage comes off a sharp corner onto Ross Street; this being a congested road serving Ashleigh School. Traffic surveys supporting this application do not reflect this. To access the main driveway to Moorthorpe Cottage off Ross Street there are three small tracks, which converge at the two stone gate posts at the bottom of the two stone gate posts at the bottom of the drive, enclosing a small grass triangle of TPO protected trees. The gate posts are only 3.5 metres wide and unsuitable for motor vehicles. The exit/entrance between the two stone posts and adjoining walls form a blind junction with the Print Shop track running across it.

The main driveway already services six large houses all with the capacity to park or garage four cars, the drive being a single track with no passing areas and the land either side being privately owned and bordered by large TPO trees. The narrowest point is 3.2 metres wide and the widest being 4.2 metres wide. Where the drive meets Moorthorpe House it turns a sharp right at 90 degrees, thus any vehicle larger than six metres cannot access this. It is also a blind corner.

The proposed development is via a private drive. A fire and rescue vehicle with a turntable ladder needs a clearance of 4 metres. Given the gatepost is only 3.5 metres wide this would obstruct emergencies being dealt with at this proposed development.

Drainage and structure

All drainage from the present dwellings are under the drive. It is frequently blocked and has tree root issues and there are not gullies, kerbs or gutters. There is also free water running across its surface. There are no pavements.

Servicing vehicles and emergency services

The refuse wagon cannot access the driveway in its full length in a forward direction as it cannot turn around, this is contrary to what is stated in the application. The wagon has to reverse up the drive which frequently unseats the header stones on the stone pillars at the entrance to the drive. When the wagon reaches the right hand 90 degree turn at the top of the drive, it cannot access any further up. The Fire

Brigade and Ambulance services can access the drive but cannot go further than Moorthorpe House; they cannot turn at the top of the drive as there is no space.

Environment and ecology

The area of land proposed for building is an area of natural beauty and supports a diverse ecology. This includes deer, bats, owls, badgers, woodpeckers and a wide range of flora and fauna. As recently as 2012 there has been an extensive ecological and environmental improvement. There are many TPO trees. Losing this to housing would be a massive blow to the local environment and devastating to wildlife.

Covenant

There is a legal document that states that building is prohibited on the land. This covenant is contained within the deeds.

Conclusion

The new development plans only strengthen and highlight the majorly inadequate nature of the existing access, drainage, safety and speed issues. The devastation to wildlife would be unbearable.

Yours sincerely

Mr V & Mrs D Perricone

Objection – Julie M Pye, Unknown Address, Rec 02.03.2020

Dear Sir/Madam,

I am writing to express my concern and opposition to the referred planning application. As a resident of the area, I am very concerned about such issues as the trees, many of which I believe to be protected, traffic and access, and the impact the development would have on local wildlife which includes deer, bats, badgers, not to mention numerous species of birds. The development would no doubt have a serious detrimental affect on people's lives and wildlife and I urge you to refuse permission.

Yours sincerely,

Julie M. Pye

Objection – Diane Hartley, 8 Chestnut Grove, Darwen Rec 02.03.2020

Dear Mr Prescott,

I am writing to state my objections to the above planning application for 4 dwellings with detached garages on land adjoining Moorthorpe Cottage, Park Road, Darwen.

I object on the following grounds:-

- Access to the site is from a private road which runs parallel to Chestnut Grove. This road has two stone pillars at the entrance to it. The tops of the pillars overhang and restrict the width of the access. This is measured at 3.5m and is not sufficient for heavy goods vehicles or large construction vehicles. The road itself widens to approximately 3.7m. Both sides of the road are lined with woodland, shrubs and decaying leaves, which due to the nature of the tree canopy, are never completely cleared no matter what the time of year. This leaves the road slippery and muddy at the edges. The road is already in a very poor state with potholes and large areas of tarmac worn away. I would also like to point out that as the road is narrow, there is insufficient room for a large vehicle or lorry and a car to pass side by side at any point on this road. Neither are there any passing points on the road. Indeed, the weekly council refuse vehicle **does not** use this road to empty the bins of residents who already live there. Instead the residents leave their bins outside number 14 Chestnut Grove and they are pulled across the grass verge and emptied by the refuse collectors and left. If this road was easily accessible, why is Chestnut Grove being used? At the top of the road there is a 90° turn to the right which makes it very difficult, if not impossible, for large or long commercial vehicles to make this bend. This would also be the case for emergency vehicles such as fire appliances. The development would create a significant increase in traffic, and whilst the majority of the road is straight, there are no pavements or street lighting. This would increase the danger for pedestrians which include children who walk along it to get to school.
- Ashleigh Primary School is very close to the entrance of the road. Traffic increases at the beginning of the school day and particularly at the end when most parents are waiting to collect children at the same time. I notice from the traffic survey carried out on 21/09/18 for the original planning application for 9 dwellings (10/18.1153) that 3.30pm, the end of the school day, was not included and would have indicated a more substantial increase in traffic and a

significant amount of parked cars along Ross Street, Park Road and the surrounding streets. Also, because of the geography of the area, heavy goods vehicles would only be able to access the road from Park Road (which joins the A666), rather than travelling along Queens Road, right onto Park Road, and turning left through the stone pillars (this would not be possible due to the sharp and narrow turn).

- The whole area marked for development as well as the area including Chestnut Grove and Holly Tree Close has a blanket TPO on it. As residents we were informed a number of years ago by the council about this and reminded that we were not allowed to fell or cut back any of the trees. In the original refusal by Blackburn with Darwen Borough Council it stated that the development should be “**very small scale..... ensuring no loss of trees.**” This development would still include a loss of trees T31, T32, T33, T34 and T35 with three of the trees being deemed “high quality or moderate quality” (Planning Statement). I strongly object to the impact this development would have on the environment and on the number of trees that would have to be felled to accommodate it. This would affect local wildlife including deer, and as you are aware, there are also bats and badger sets on this woodland site.
- We are aware of more than one instance of the drains being blocked on the road and raw sewage running down the surface. A further housing development would increase the environmental health hazard and I would also question the viability of services to this site.
- As referred to in the Lancashire Evening Telegraph, Blackburn with Darwen has already exceeded government and local targets on the number of houses needed to be built in the borough <https://www.lancashiretelegraph.co.uk/news/17326913.blackburn-with-darwen-borough-housing-starts-and-sales-on-the-rise/>. Therefore there is no need for further developments in this area.
- I would also like to comment on how difficult it is to object to a planning application that includes very little information on the size of the houses to be built and the layout. How can this application be considered without this information? Are the houses 10 bedroomed and where exactly are they to be sited? Surely this is significant and necessary information in any application. This development still requires a new road and two roundabouts. This is not a “very small scale” development. As far as I can tell, there is little difference between this application and the original application for 9 dwellings. The size of the development, and the ecology and environmental issues, for which Blackburn with Darwen Borough Council originally refused the application, still remain the same.

Yours sincerely
Diane Hartley

Objection – David Kay, 10 Holly Tree Close, Darwen Rec 02.03.2020

Dear Sirs,

I write as a resident of Holly Tree Close, Darwen (BB3 2NG) to object to the above proposed development on the following grounds:

1. Loss of habitat and damage to the ecology of the area - bats, badgers and other wildlife.
2. Restricted access - I believe bin lorries do not use the access road and know well that emergency services would find access awkward, if not impossible in any numbers.

I firmly believe and cannot stress enough that this proposed development is a wholly inappropriate for the location involved.

Yours Faithfully

David Kay

Objection – Ken & Anne Grimson, Parkside, Whitehall Road, Darwen Rec 02.03.2020

Dear Mr Prescott

We live adjacent to the proposed development site and are writing to ask that BwD Borough Council refuse this planning application from Ms G Lomax.

Herein are our objections relating to this latest planning application:

1 It has always been our understanding, along with that of our neighbours, that this area and its trees were protected. We note that it has been described in the application documents as "available for development".

We would certainly like to know when, how and by whom this was changed. We had never been notified of this possibility and would like details of how such a change could have taken place without any proper notification to residents.

We note that you have yet to supply this information from our request in relation to the previous application for 9 houses i.e.10/18/1153.

2 The development will overlook our property; this will lead to a loss of residential amenity and privacy and will certainly impact on the peaceful enjoyment of our home

and garden which we have had for over 30 years. The loss of the existing views from our house and garden will also be detrimental to us. There will be new traffic close to our garden and home causing noise, light pollution and disturbance at all times of the day and night.

3 It will be totally out of character for this area of natural, ancient woodland and private surrounding housing. It is totally inappropriate for this part of Darwen. Such a development would be totally out of keeping with the neighbouring properties, which are mainly Victorian-era stone built houses with quiet secluded gardens. There is no shortage of new housing available or under construction in the town.

4 The affect on the flora & fauna present in the woodland will be catastrophic. Not only the permanent loss of habitat for the construction of the houses & garages, but the ongoing affect on our wonderful garden birdlife (goldcrest, woodpecker, nuthatch, tree-creeper, goldfinch, bullfinch, siskin, redpoll, blackcap, blue/coal/great/long-tailed tits), roe deer, badger, red squirrel, the springtime show of bluebells.

Several species of bat are present here too and various raptors such as tawny & little owl, sparrowhawk, merlin and kestrel hunt and nest in these woods. There is also a large annual migration of amphibians such as toads, frogs and newts through this area in the spring/summer.

5 The proposed access road appears to be wholly unsuitable and leads onto an already congested, dangerous junction. This is especially so due to the proximity of Ashleigh Primary School. This additional traffic will cause problems and create a safety hazard for other motorists and young schoolchildren.

6 As far as we know, the applicant does not have right-of-way access along the shared, private drive for anything other than her existing dwelling. The single-track driveway is not of an adoptable standard with no lighting or passing places. There are several blind spots on narrow bends.

Environmental Services are still unable to use this access road. Emergency Services vehicles would also have great difficulty in gaining quick access to attend a house or garage fire which could then spread to the woodland and adjacent properties.

7 We do not agree that the current application proposal meets the requirements stated in Planning Statement, para. 6.1.3.6 Policy 28 "Development Opportunities" which states that potential is "for very small scale residential in the immediate vicinity of the existing dwelling with no loss of trees or woodland."

This clearly is intended to limit any development to no more than one or two dwellings and with no loss of trees or woodland. We do not think this could be much clearer.

8 We also feel that there are no details of these dwellings, such as the number of bedrooms etc. to estimate the numbers of additional people and cars that this development will generate in the area.

We invite you to visit our home to verify that these objections are valid.

Therefore, we ask that Blackburn with Darwen Borough Council refuse this Planning Application to retain the character of this beautiful area of the town.

Should you require any additional information, clarification of any comments made, or would like to arrange a visit to our home; do not hesitate to contact us on 01254 703994.

Yours Sincerely

Mr & Mrs KAJ Grimson

Objection – Caroline Hodson, the Hollies, Whitehall Road, Darwen Rec 02.03.2020

Good morning,

I am emailing you in response to the letter dated 12 February 2020 received regarding the above planning application.

I wish to comment that I am extremely concerned about the detrimental effect on woodland and the massive negative environmental impacts that the development will have on the local area despite the reports commissioned by the applicant. I previously submitted my concerns online regarding the development of 9 houses on the proposed site and these sill remain valid for the amended application of 4.

kind regards

Caroline Hodson

Objection – Mr C Royle, 10 Chesnut Grove, Rec 28.02.2020

Dear Mr Kelly,

Please find listed below comments with regards to planning application of the erection of 4 dwellings at land adjoining Moorthorpe Cottage, Off Park Road Darwen, BB3 2LQ.

Firstly the Private Road which is proposed as access to the 4 dwellings is only narrow and it is not possible for cars to pass safely as there is privately owned dense woodland and kerbed edge bordering the road. Large Vehicles especially the Council

Refuse Vehicle do not use this road as stated as they cannot safely get through the gate posts at the bottom which are only 3.5 Mtrs wide not 4.8 Mtrs wide as stated and indeed the road only widens to 3.65 Mtrs. Instead they come up Chestnut Grove and the bins are brought across through a gap in a bush onto Chestnut Grove. On reading Chapter 2 core policies page 13 Policy 10 i believe you state that Development will be permitted provided it has been demonstrated that road safety and the safe, efficient and convenient movement of all highway users (including refuse collection vehicles, the emergency services, cyclists and pedestrians) is not prejudiced.

I would also like to advise you that on three occasions the top of one of the gate posts has been knocked off by only a relatively small commercial vehicle which again confirms access is difficult and unsafe. The left hand gate post top is still on the floor after being hit three months ago by a Curry's delivery van not a large wagon, fire engine or refuse truck a small van. Had any pedestrian been close by they would have been killed. When the top of the gate post is on the measurement at the top is only 3.5 mtrs and i believe that the minimum width for Pump Fire Engines according to the Building Regulations is 3.7 mtrs with a turning circle of 16.8 mtrs both are unachievable on this access road.

The private road at the top then turns at 90 degrees and at this point cars coming down from Moorthorpe Cottages have a blind spot which is unsafe for both drivers and pedestrians and the lack of any lighting makes it unsafe and dangerous. The house currently being built with the agreement of Lynfield the bungalow on the left at the top of the road let building supplies be dropped onto his garden and taken round to the house by smaller vehicles as it was impossible for these vehicles to make the 90 degree turn so how can access be made to develop a further 4 dwellings.

The junction at the bottom of the Private Road is not safe especially when school children are being dropped off at Ashleigh School and cars are left unattended on the bend and side road close to the entrance. There is also a lot of traffic going through the entrance to the right of the Private Road which go up to the Special Needs School and access is often in front of the Private Road then a left turn made up Holly Tree Close. There will be a large impact on traffic in the Queens Road /Whitehall/Park Road area with traffic exiting and joining the A666 effecting especially during school times. Highway safety would be compromised greatly. I should mention at this stage that on maps issued by Blackburn with Darwen Council the property which is now a school behind Chestnut Grove which uses the access down Holly Tree Close is down as a nursing Home. This School currently has over 30 pupils who are dropped off Monday to Friday along with over a dozen members of staff.

Noise and pollution of large vehicles must be taken into consideration if building was to go ahead and also the continuous traffic caused by what could be more than 15 cars per day not including delivery/service vehicles. (if they can get up)

Surface water is already a problem from Moorthorpe Cottages as it comes directly into the garden at No 14 Chestnut Grove and finds its way coming down Chestnut Grove. We also currently have problems with sewage as the sewage overflows from the man hole cover on the land just in front of No 14s garden wall and makes its way down Chestnut Grove. This constantly needs rodding and has tree roots pushing up the cover. The drains in this area are over 100 years old and are not adequate now for the four properties. After the two recent storms No 14 has had to spend hundreds of pounds on drainage at the side of her house due to water coming across her garden and underneath the rockery directly outside the side of the house which has never happened in the 37 years they have lived there. The field has always been very wet and in places is a bog if 4 houses are built and a concrete road/drives etc this water will be worse as it will run down onto Chestnut Grove finding its lowest point.

Environmentally there are many trees in the meadow which are subject to TPOs and this area was originally designated as an area of special landscape and as such the proposal could be contrary to your Policy New Residential Development of the Local Plan in that the proposal will detrimentally affect the character of the area. Impact on trees must be dealt with now and not left to condition. Arboriculture Officers should have the information needed to carefully consider the impacts. There is a need for a detailed landscaping scheme now and not as Reserved Matters due to the character of the site and this cannot and should not be deferred.

The land has a lot of wildlife including deer, badger sets and is full of bluebells. The woodlands are governed by regulations in relation to destruction or re-shaping of trees that have been providing wood, shelter, shade, oxygen and a habitat for wildlife for hundreds of years. It will not be possible for these trees to regenerate themselves as they have done over many decades if this planning is approved denying our future generations the beauty of this Woodland area. Indeed Blackburn's own ecology policy is CS15 and point 3 states "General habitats which may support species of principal importance either for shelter, breeding or feeding purposes (both natural and built features), will be protected from development, in accordance with the Environmental Strategy set out in policy CS13. I would expect the Council to take care when considering this policy in respect of the application.

The Government's latest consultation (ended January 2019) guidelines not just loss of ecologic value but rather developments to deliver a "biodiversity net gain necessary for developments when granting planning permission. Biodiversity net gain is an approach which aims to leave the natural environment in a measurably better state than before hand. Therefore this must be considered strongly at the outline planning stage.

As there are no plans to show the proposed 4 house development how do we know what type of houses are being built are they 4/5 bedroom 6/7 bedroom where are they being built, are trees going to be cut down. Is it not normal that with planning you

should have an idea what is actually being built and the proposed access/structure to support the 4 houses

Can you please consider all my points some which may not be applicable as I know there are only certain issues you take into account and refuse this application on the above grounds where necessary.

Mr C Royle

Objection – Mr G Church, 4 Chestnut Grove, Darwen, Rec 17.02.2020

Dear Sir.

I have recently received a communication with regards to the above planning application and would like to object as follows.

Firstly, in late 2019 the previous application for 9 dwelling's was refused by the planning committee, the reasons as stated were:- Under planning application 10/16/1349, is considered to represent a scale of development that is disproportionately large taking into account the local context, and transition with the countryside area. This is considered contrary to the requirements of policy 28 of the local plan part 2, which sets out that residential developments in the "Long Clough" allocation (28/10), shall be "very small scale" in the vicinity of the existing dwelling (Moorthorpe cottage), "Ensuring no loss of trees"

Further from the documents as listed on the planning web site I would take issue with the diagram of the access road.

- The private access road to the proposed site is 4.8 metres wide I believe this statement is inaccurate. As indicated in the document the narrow point is stated to be 3.5 metres wide at the gate entrance the access road then widens to 3.65 metres wide. Not as indicated 4.8 metres. This access road is not only very narrow, but is also in an extremely poor state of repair with potholes and large areas of tarmac worn away, producing a very uneven surface. There is no foul water drainage and the roadway is further affected by overgrown and dense woodland / shrubs which would severely hamper the passage of large commercial service vehicles. There is no point on this straight stretch of access road that a large commercial service vehicle could pass a parked private vehicle. The road at the point of Moorthorpe house then turns at 90 degrees which makes the manoeuvring of large commercial service vehicles problematic.

- It is also stated that council refuse vehicles (large commercial service vehicles) regularly use this road. This point I would take issue with as in the three years I have lived at 4 Chestnut Grove I have never witnessed the council refuse vehicle use this roadway. The residents at the top of this roadway bring their waste bins to the top of Chestnut Grove to enable the bins to be emptied. Chestnut Grove is serviced by the council refuse vehicle (this statement can be checked by asking the council refuse department to validate this comment) I have however, from time to time, witnessed a much smaller service vehicle, Iveco 3.5 cwt with a cage fitted to the rear of the vehicle make collections from the resident's homes situated at the top of this access road.

- It is also stated that large commercial service vehicles and private cars have space to pass safely with care. At no point on this access road would this be possible due to the narrow track and dense woodland bordering the roadway.

- The access road as proposed in this application, is totally unsuitable for any such consideration, it has not been maintained, suffering from pot holes, uneven surface, very narrow width, obstructed by trees shrubs and vegetation, there is no street lighting / illumination, no drainage, water run's down the incline washing away the surface in any wet conditions, in repeating myself at the point of Moorthorpe House the road turns 90 degrees to the right, any deliveries by commercial vehicles beyond this point require the offloading of any items which are then manually transported to any location beyond this point, this I have witnessed several times, this totally blocks the road to any other user for the duration of the off load, further the commercial vehicle then has to reverse the entire length of the access road to exit onto Park road, before any other vehicle can gain access, in the event of any emergency such as ambulance / fire engine, what would the outcome be ? I have also witnessed a recent event when a fire engine was called to the location due to a small fire in the woodland beyond the application area, the fire engine could not gain access due to the narrow road and 90 degree turn at Moorthorpe house and had to turn around in the private driveway of the Moorthorpe House ??.

At the planning meeting in 2019, this application was refused on the grounds of many points as listed above, it was refused by every member of the local planning committee, all members had visited the site and had viewed first-hand the unsuitability/ potential danger of such a development.

REPORT OF THE DIRECTOR

Plan No: 10/20/0107

Proposed development: Hybrid planning application for Full permission for 37 dwellings including creation of a new vehicular access to the Southern end of the site and Outline permission with 'Access' (with all other matters reserved) for B1, B2, and B8 uses including alterations to the existing access to the Northern end of the site.

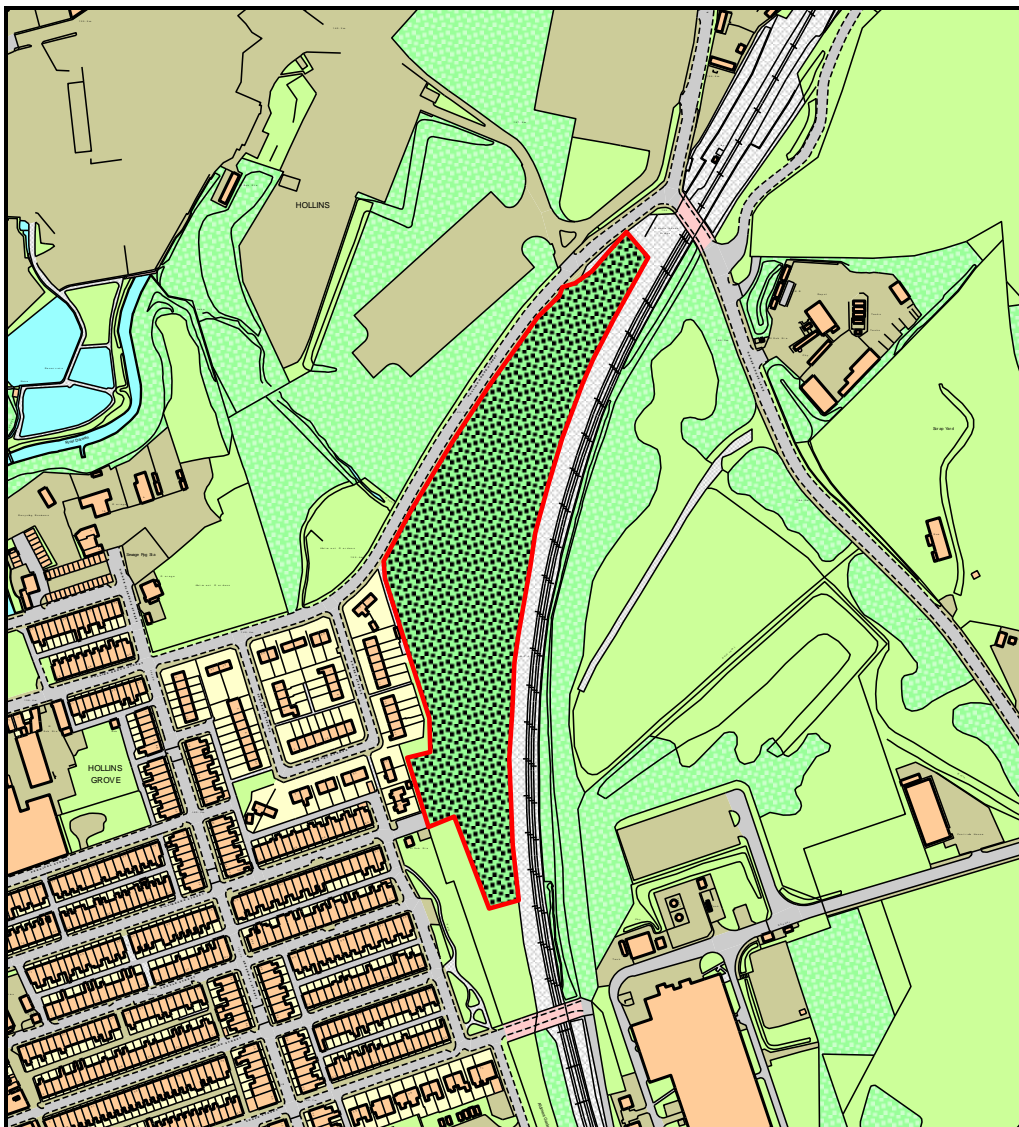
Site address:

**Land at Hollins Grove Street
Darwen
BB3 1HG**

Applicant: Pillars Darwen Ltd

Ward: Darwen East

Councillors: Jane Oates, Roy Davies, Paul Browne



1. SUMMARY OF RECOMMENDATION

- 1.1 APPROVE – Subject to conditions as set out in paragraph 4.1 and the applicant entering in to a Section 106 legal agreement relating to financial contributions towards off-site highway works for the Darwen East Corridor.

2. KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1.1 This application is presented to the Committee in accordance with the Scheme of Delegation, Chair Referral Process. The application site has been vacant for a considerable amount of time and the proposals seeks to bring forward a viable mixed use development.
- 2.1.2 The proposed residential portion of the development would encroach in a minor way in to a long-standing vacant employment allocation, however, the proposal needs to be viewed in its entirety and the proposed development would see a notable employment development at the site which will be supportive of Policy 13: 'Employment Land Allocations' and Policy CS3: Land for Employment Development which will secure the site for future B1, B2 and B8 uses.
- 2.1.3 The site is located within the Inner Urban Area with the southern part of the site located adjacent to the residential core of Darwen. Housing on the southern, unallocated end of the site, which abuts dwellings on Surrey Avenue and Gillibrand Street and those terraces which extend off it, is thus acceptable in principle.
- 2.1.4 The housing mix proposed is similarly acceptable as the proposals indicate a housing offer, which responds to the Council's growth strategy and the layout of the residential development will provide a satisfactory development, which, subject to all of the suggested conditions will ensure that future occupants and those bordering the site are not significantly harmed by the proposals.
- 2.1.5 The suggested planning conditions will also ensure that the businesses located with the Primary Employment area will not be significantly harmed by the proposals. Similarly, other suggested conditions will protect the safety of all railway users and seek to secure a sustainable development which will be landscaped to provide mitigation and net-gains for biodiversity and mitigate against the air quality impacts of the development.
- 2.1.6 For all the above reasons, subject to all of the recommended conditions a sustainable development will be achieved. On this basis it is thus recommended that conditional planning permission be granted subject to the applicants signing a S106 agreement for the monies towards highway works on the Darwen East Corridor.

3. RATIONALE

3.1.1 Site and Surroundings

3.1.2 The application site is located on the east side of Hollins Grove Street opposite the rear boundary and access of Crown Paints Ltd which exists to the west of the site. The Blackburn-Bolton railway line exists to the west of the site.

3.1.3 The site is irregular in shape being long and narrow and tapering to the northern and southern ends. It is relatively flat and is raised up from Hollins Grove Street. The site is bounded with a metal fence on all sides.

3.1.4 Aggregate Industries (Express Asphalt) exist to the north of the application site. Approximately 100m to the south-east is Lucite International Ltd. (LIL) who is understood to develop and manufacture acrylic-based products and operate 24hrs a day. Crown Paints Ltd headquarters exists to the west of the site. The Manchester Victoria to Blackburn railway line runs along the entire eastern site boundary and is at grade with the proposed development site. Hollins Grove Street exists along the north-west boundary of the site and is set below the site. This boundary is mostly bounded by deciduous trees and the metal industrial fencing. No trees are present at the existing vehicular access point. Along the south-western boundary, residential properties exist on Surrey Avenue, Gillibrand Street and 53 Hollins Grove Street.

3.1.5 1.3 hectares of the site at its northern end is allocated as Primary Employment Area and is allocated an Employment site within the adopted Local Plan Part 2 (LPP2). The existing vehicular access point lies towards the northern point of the allocated Employment site.

3.1.6 The site is within a High Risk Coal Mining Area, is in a high risk contamination area and is constrained on the west side by Hollins Grove Street and the East side by the railway line.

4. Proposed Development

4.1.1 The proposal is a hybrid application seeking full permission for 37 residential units comprising a mix of 3 and 4 bed properties with associated parking and gardens on the southern portion of the site, alongside an outline planning permission (with all matters reserved except for 'Access') for B1, B2 and/ or B8 uses on the northern half of the site, along with associated new access points, landscaping, parking and associated works including the remediation of the land.

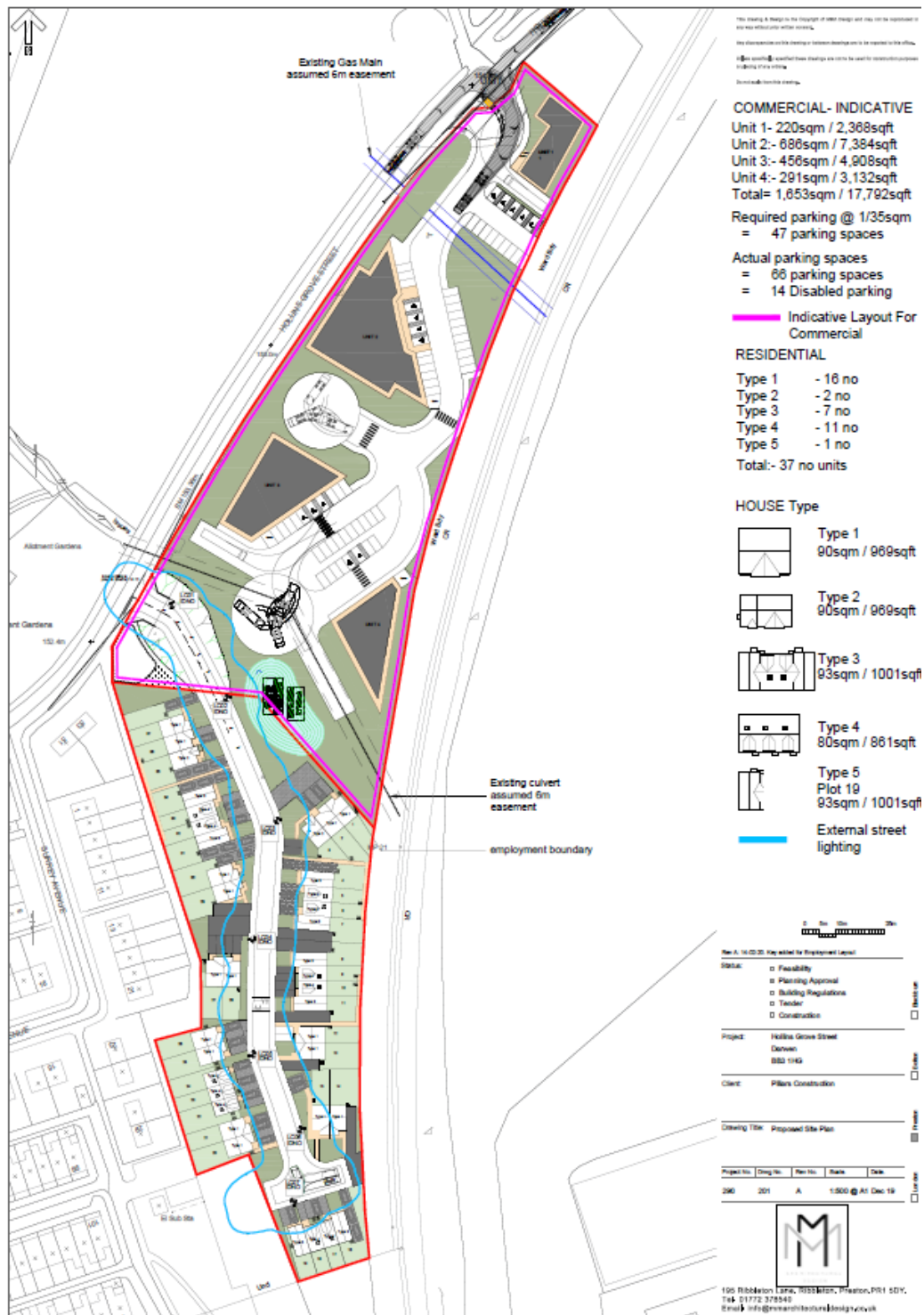
4.1.2 The dwellings are to be a mix of 2 and 3 storeys in height and faced in a mix of brick and render under tile roofs. Each dwelling is to have at least two parking spaces and a private garden.

4.1.3 Indicative layout proposals relating to the proposed employment uses on the northern half of the site also accompany the application which illustrates

approximately 1653 sq.m of employment uses could likely be accommodated on the site.

4.1.4 Both parts of the site are to have their own vehicular accesses on to Hollins Grove Street. The existing access at the northern end of the site. An acoustic barrier is proposed to separate the employment uses from the residential half of the site.

Extract from submitted Site Plan:



5. Development Plan

5.1 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:

5.2 Core Strategy (2011)

- Policy CS1 – A Targeted Growth Strategy
- Policy CS3 - Policy CS3: Land for Employment Development
- Policy CS4 – Protection and Re-Use of Employment Sites
- Policy CS5 – Locations for New Housing
- Policy CS6 – Housing Targets
- Policy CS7 – Types of Housing
- Policy CS8 – Affordable Housing Requirements
- Policy CS9 – Existing Housing Stock
- Policy CS13 – Environmental Strategy
- Policy CS15 – Protection and Enhancement of Ecological Assets
- Policy CS16 – Form and Design of New Development
- Policy CS21 – Mitigation of Impacts / Planning Gain

5.3 Local Plan Part 2 (2015):

- Policy 1: The Urban Boundary
- Policy 2: Inner Urban Boundary
- Policy 8: Development & People
- Policy 10: Accessibility & Transport
- Policy 11: Design
- Policy 12: Planning Contributions
- Policy 12: Employment Land Allocations
- Policy 14: Primary Employment Areas
- Policy 18: Housing Mix
- Policy 26: Climate Change
- Policy 40: Integrating Green Infrastructure & Ecological Networks with New Development

5.4 Supplementary Planning Documents (SPDs) and other relevant documents

- Residential Design Guide SPD
- Biodiversity and Ecological Networks SPD
- Housing and Economic Needs Survey (December 2018)

5.5 National Planning Policy Framework (NPPF) – 2019:

The National Planning Policy Framework (Framework) is a material consideration in planning decisions. The Framework sets out a presumption in favour of sustainable development, which is the “golden thread” running

through both plan-making and decision-taking. In this regard Paragraph 8 of the NPPF states:

“Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

a) an economic objective– to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective– to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and

c) an environmental objective– to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy”

Paragraph 11 of the Framework explains that for decision taking, this means approving development proposals that accord with an up-to-date development plan without delay.

5.6 Other Relevant Legislation

- Human Rights Act 1998
- Natural Environment and Rural Communities (NERC) Act 2006 (any rural site)
- The Conservation of Habitats and Species Regulations 2010
- Localism Act
- Section 17 of the Crime and Disorder Act, 1998

6. **Assessment**

In assessing this application there are a number of important material considerations that need to be taken in to account. They are;

- Principle of Development
- Effect on neighbouring businesses
- Highway Safety
- Design and visual amenity
- Residential Amenity and amenity of future occupiers

- Biodiversity
- Flood Risk and Drainage
- Viability and Planning Contributions

6.1 **Principle of Development**

6.1.1 These hybrid proposals seek Outline planning permission for B1, B2 and/ or B8 uses on the northern half of the site and to erect 37 dwellings on the southern part of the site. The acceptability of the proposals in principle are accordingly discussed below:

Employment Site: Outline Proposals

6.1.2 The northern half of the site is within a Primary Employment area. Local Plan Part 2, Policy 14 concerns itself with development in these area and states;

6.1.3 *“Within the Primary Employment Areas as defined on the Adopted Policies Map, planning permission will be granted for development in Use Classes B1, B2 and B8, provided there is no conflict with the overall function and developability of the Area.*

6.1.4 1.33 hectares of the northern part of the site is allocated as a designated Employment Site within the Blackburn with Darwen Local Plan Part 2 under Site 13/11 within Policy 13: ‘Employment Land Allocations’. This policy similarly requires the site to be used for B1, B2 or B8 employment generating uses. This Hybrid application proposes a mix of B1, B2 and/ or B8 uses on the majority of the allocated Employment site and is thus in accordance with Policy 14.

6.1.5 However, the residential access road and joint soft landscaping and a drainage attenuation pond encroach in to part of the designated Employment site.

6.1.6 Given the area of the employment site will still partly be utilised by the allocated Employment site to provide a landscaped area/buffer between the residential units and the allocated employment land therefore ensuring the long-term use of the allocated employment site this would not significantly prejudice the amount of business and industrial land in the Borough.

6.1.7 The re-development of this site which has been vacant in excess of a decade and has a spoiled appearance which detracts from visual amenity is welcomed, as to are the proposed residential units bounding housing to the south and south-west of the site which will be more preferable than an industrial/business use with regards to neighbouring residential amenity.

6.1.8 In addition, in 2012 Outline permission was granted for the erection of 48 residential units and to develop the allocated employment site for commercial employment generating uses over the same extent of land. Whilst the BwD Local Plan was updated in December 2015, the policy for employment uses and particularly this site have not markedly altered.

6.1.9 The commercial area design is still based on the previous scheme recommended by the Local Authority. Whilst it is recognised that the previous scheme had one central access to serve both the employment and residential uses, the Highway Authority requested separate accesses to avoid vehicular conflict and prevent queuing occurring entering the site on Hollins Grove Street and impacting on the junction with Goose House Lane.

6.1.10 Whilst it is acknowledged that the proposed residential portion of the development would encroach in a minor way in to a long-standing vacant employment allocation, on balance, the proposal needs to be viewed in its entirety and the proposed development would still see a notable employment development at the site which will be supportive of Policy 13: 'Employment Land Allocations' and Policy CS3. Even if the section of land was to remain as an Employment Allocation, it would not necessarily result in additional employment floor space being created as a portion of this land will be used for landscaping and water attenuation purposes for both parts of the development. Indeed it will be explored later in this report that it is likely that this area of land be used as a landscape buffer to protect both future occupiers of the residential half of the site and in turn protect any future users of the site being overly restricted by the southern half of the site.

6.1.11 LPP2 Policy 13/11 specifically states the key development considerations for this site are;

- 1. Careful consideration should be given to the design and use of employment developments in close proximity to the residential dwellings;*
- 2. Development should be designed to provide an active frontage towards the adjacent railway line and also towards Hollins Grove Street;*
- 3. The amenity of employees within the site should be protected in terms of potential noise from the railway;*
- 4. Potential land contamination due to industrial history of the site, likely to require remediation.*

These matters are addressed in full during the course of this report and will be discussed in the relevant sections.

Residential Site: Full permission proposals

6.1.12 The southern half of the site is not included within the Primary Employment Area designation. A portion of the land is however included within the allocated Employment site.

6.1.13 In respect of the proposed residential dwellings on the southern end of the site, the principle of the location of the residential element of the proposed development needs to be considered against policies CS1 and CS5 in Core Strategy; and Policy 2 of the Local Plan Part 2.

- 6.1.14 Policy CS1 identifies that the “...majority of new development in the Borough will be in the urban areas of Blackburn and Darwen, with a larger proportion being in Blackburn”.
- 6.1.15 Policy CS5 reinforces the geographical distinctions set out in Policy CS1 by confirming the “...preferred location for new housing, where market conditions permit its delivery, will be the inner urban areas of Blackburn and Darwen”. The application site is within the inner urban area of the borough, specifically Darwen.
- 6.1.16 Policy 2 relates to the Inner Urban Area. The identified and adopted Inner Urban Area is considered to be located in close proximity to services and amenities.
- 6.1.17 The site is located within the Inner Urban Area. The southern part of the site is located adjacent to the residential core of Darwen Housing on the southern, unallocated end of the site, which abuts dwellings on Sydney Avenue and Gillibrand Street and those terraces which extend off it is therefore acceptable in principle.
- 6.1.18 The housing mix proposed is acceptable as the proposals indicate a housing offer, which responds to the Council’s growth strategy and the residential scheme abuts an existing residential area. Local Plan Part 2, Policy 18: ‘Housing Mix’, seeks high quality family housing and the proposals provide this.
- 6.1.19 During assessment of the submitted Transport Assessment it is evident that nearby Public Rights of Way need to be upgraded to assist pedestrian linkages and accessibility to services and amenities to and from the site.

5 Year Housing Land Supply

- 6.1.20 The submitted Planning Statement which discusses the proposals compliance with the Council’s adopted Plan policies, states the Council does not have a 5 year housing land supply and therefore this should be given significant weight in the assessment of this application. This assertion is based on 2018 figures and therefore is now incorrect. This Council is able to demonstrate a 9.9 year land supply. As this is the case, paragraph 11 of the National Planning Policy Framework indicates that applications should be assessed in accordance with Council’s development plan. It is recognised that a 5 year supply is not a maximum and therefore the sustainability of sites should be considered to ensure houses are located in sustainable locations. For the reasons stated above, these dwellings are considered to be suitably located in the Inner Urban Core.

Affordable Housing

6.1.21 It is important that developments provide at least 20% of the site for high quality affordable housing. In appropriate circumstances, where a financial contribution is preferable to an on-site solution for other planning reasons, and, where the Council agrees, it is instead to be provided through a financial contribution of £12,750 per unit.

6.1.22 The application was accompanied by a Viability Assessment. This has been reviewed by an Independent assessor who confirms that the site would become financially unviable to provide, amongst other things, affordable housing. The matter of planning contributions will be discussed later in this report.

Principle of Development Conclusions

6.1.23 The site is located within the boroughs Inner Urban Area which is considered to be the most suitable area for providing new homes.

6.1.24 In the main, the proposed B1, B2 and B8 uses on the allocated employment site accord with Policies 14 and 14 of the LLP2.

6.1.25 Whilst it is acknowledged that the proposed residential portion of the development would encroach in a minor way in to a long-standing vacant employment allocation, on balance, the proposal needs to be viewed in its entirety and the proposed development would still see a notable employment development at the site which will be supportive of Policy 13: 'Employment Land Allocations' and Policy CS3: Policy CS3: Land for Employment Development.

6.1.26 Overall these hybrid proposals are acceptable in principle.

6.2 Effect on Neighbouring Businesses

6.2.1 Paragraph 182 of the NPPF states;

“Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.”

6.2.2 LPP2 Policy 9 also concerns itself with the impact on neighbouring properties.

6.2.3 There are several B2 industrial uses in the locality that could adversely impact the amenity of future residents of the proposed dwellings.

- 6.2.4 Both Express Asphalt located to the north of the site on the north site of Goose House Lane and Crown Paints, located to the west of the application site on the opposite side of Hollins Grove Street raised queries about how their businesses and their operations will be protected and have requested that the local planning authority carefully assess this. Lucite International is also located to the south-east of the site.
- 6.2.5 The local planning authority has duly done this by properly considering the requirements of Paragraph 182 of the Framework.
- 6.2.6 The local planning authority is satisfied that retention of the allocated Employment Site will provide an appropriate buffer between Express Asphalt and the new properties. Similarly, the allocated employment site also abuts the rear boundary of Crown Paints therefore, they will also be safeguarded from future residents affecting their operations. This will however, be subject to the dwellings having suitable protective glazing and thus conditions will be required to protect all surrounding business. Subject to the imposition of suitable conditions neither future occupants nor existing businesses will be adversely affected.
- 6.2.7 Crown Paints Ltd also wanted confirmation from the local planning authority that the electricity supply to their headquarters will not be compromised by the construction works associated. A response from Electricity North West Ltd (ENWL) identified that their assets and easements exist on the site. The applicants provided additional information to the local planning authority in conjunction with ENWL to ensure the development can be constructed without causing disruption to Crown Paints Ltd operations. Crown Paints para-legal team have reviewed the additional information received and subject to the imposition of planning conditions to secure the protection of ENWL's assets and ultimately to safeguard the operations of all local businesses, raise no additional concerns. Their required conditions will duly be imposed.

6.3 **Highway Safety/Accessibility**

- 6.3.1 In considering this aspect Core Strategy Policy 22: Accessibility Strategy and Local Plan Policy 10: Accessibility and Transport, aim to ensure that new developments provide appropriate provision for access, car parking and servicing so as to ensure the safe, efficient and convenient movement of all highway users is not prejudiced, as well as ensuring the wider sustainability agenda is supported.
- 6.3.2 The application is supported by a Transport Assessment, which has been independently reviewed. Whilst some amendments have been sought by the Highway Authority and local planning authority, on the whole, the Council agrees with the contents of the Transport Assessment that the proposed development will not cause a material harm to the safety of the highway network.

- 6.3.3 A planning contribution is to be paid towards the highway works along the East Darwen Corridor and also to upgrade two Public Footpath's in close proximity to the site.
- 6.3.4 BwD Highway Authority has also reviewed both the full and outline proposals. In terms of the Outline portion of the site, the only matter applied for is 'Access'. The Highway Authority is satisfied that the point of access and the necessary widening is acceptable subject to the access being suitably constructed and visibility splays being kept clear the proposals are considered to accord with the requirements of LPP2 Policy 10.
- 6.3.5 In terms of the residential portion of the site, the scheme presents a suitable access, sufficient off-road parking provision for each dwelling and a turning head within the development to allow all users of the residential development, including three-axle vehicles such as refuse wagons, to enter and leave the site in a forward gear.
- 6.3.6 The initial proposals provided details of the turning for four-axle vehicles, such as fire engines. BwD Highway Authority considered this turning to be 'tight'. When questioned, they are satisfied that a Refuse Wagon can turn easily within the Turning Head which will visit the site on a regular basis. 4-axle vehicles are considered not to be regular vehicles to residential estates and advise that the application should not be refused on this basis.
- 6.3.7 The Highway Authority has raised concern about the straightness of the access road which they consider will lead to higher than safe speeds occurring. They have suggested incorporating 'build-outs' in to the final road layout or other such traffic-calming measures and the imposition of a suitably worded planning condition will secure these.
- 6.3.8 In order to prevent these hybrid proposals being reliant solely on the private car, as well as the development contributing to the nearby footpath(s) being upgraded, a condition requiring a Travel Plan will also be imposed. The Travel Plan is also required to mitigate against the air quality impact of the proposals and their future occupation. This Travel Plan will be secured by condition.
- 6.3.9 Subject to the usual highway conditions relating to the construction processes of both parts, safe construction of the site access, clear visibility splays, implementation of the car parking layout proposed, the development being designed to adoptable standards, the site being adequately drained, and traffic-calming measures being implemented, the residential proposals and the Access details relating to the Employment site accord with the requirements of LPP2, Policy 10.

6.4 **Design and Visual Amenity**

- 6.4.1 The National Planning Policy Framework makes clear that creating high quality buildings and places is fundamental to what the planning and development process should achieve.

6.4.2 Local Plan Part 2 (LPP2), Policies 8 and 11 require proposals to contribute positively to the overall physical, social, environmental and economic character of the area in which the development is sited, demonstrate an understanding of the wider context and make a positive contribution to the local area.

6.4.3 The dwellings are to be a mix of render and brick under tile roofs. The properties on the corner of Hollins Grove Street and Surrey Avenue are render under slate roofs. The properties on Surrey Avenue are constructed of brick under slate roofs. Provided the roofs are covered in slate or a suitably slate coloured tiled, the proposed mix of materials will complement the existing materials in the immediate locality. A condition requiring samples of the walling, roofing, and window materials and colours will be imposed to ensure that the dwellings achieve an acceptable appearance.



Typical example of the elevations relating to one of the house types:

6.4.4 LPP2 Policy 13/11 requires all development on the site to have a forward facing frontage towards the railway line. Whilst the residential layout does not achieve this, all rear elevations have been given windows to serve main habitable rooms and some dwellings are orientated to side on to the railway and have windows positioned in the gable to add some interest. Whilst this does not meet the requirements of this part of LPP2 Policy 13/11, we have to take in to account that the proposals propose to develop a long-term vacant site. This outweighs this requirement.

6.4.5 A soft landscaping plan accompanies the application and whilst on the whole landscaping is satisfactory, due to the proposals failing to provide any information on the impact on biodiversity, any necessary mitigation or enhancement, it is considered to be premature to agree to the submitted landscaping scheme. A condition securing satisfactory landscaping which addresses neighbouring amenity, air quality mitigation and biodiversity mitigation and net-gain will be secured by planning condition.



Extract from submitted soft landscaping plan:

6.4.6 Subject to the above-mentioned conditions, the proposals are considered to accord with LPP2 Policy 11 and the relevant parts of Policy 13/11.

6.5 **Residential amenity and amenity of future occupants of the application site**

6.5.1 Policy 8 of the LPP2 relates to the impact of development upon people.

6.5.2 Importantly, at section (ii) of the policy there is a requirement for all new development to secure satisfactory levels of amenity for surrounding uses and future occupants of the development itself. Reference is made to matters including; noise, vibration, odour, light, dust, privacy/overlooking and the relationship between buildings. Policy 8 (iii) deals with safely remediating

contaminated sites, with iv) focusing on Air Quality and point (v.) focussing on designing development to avoid crime.

Noise

- 6.5.3 The proposed employment uses must not cause significant loss of residential amenity at the proposed dwellings or extant dwellings in the locality. The local planning authority therefore suggest that the applicant plans this part of the development site very carefully to minimise the likelihood of loss of amenity. The applicant should also be aware that it is likely that the hours of use, particularly in respect of proposed B2 and B8 premises, will be limited appropriately to protect residential amenity. The final layout of this area should reflect the need to separate the B2 and B8 uses from dwellings by creating a 'B1 buffer zone' and utilising the orientation and design of all the units to shield residents from likely causes of loss of amenity e.g. noise, vibration, flood lighting, odour, dust. These matters will be considered under the Reserved Matter of Layout at that stage.
- 6.5.4 The submitted enviro/solution 'Noise Assessment' (dated Feb., 2020) recommends noise control in their assessment of the noise implications of the proposed employment use and its impact on the proposed occupiers of the residential half of the site
- 6.5.5 The submitted enviro/solution 'Noise Assessment' (dated Feb., 2020) provides noise control recommendations, including acoustic glazing and ventilation, and the proposed plans indicate an acoustic fence is to be located on the shared boundary of the two portions of the site which is also a recommendation of the assessment.
- 6.5.6 Subject to the imposition of all conditions recommended by the Council's Public Protection team, all existing and future residents should not be adversely affected by these hybrid proposals.

Vibration

- 6.5.7 The vibration impacts of constructing the development will be controlled by a planning condition once the developers have undertaken work to assess the amount of vibrations and the noise from vibrations that will occur to ensure they will be to acceptable standards. Such a condition is recommended.
- 6.5.8 Network Rail also require a risk assessment and method statement to be submitted to and approved in writing by Network Rail and the local planning authority relating to vibrations and its impact on Network Rails infrastructure to prevent any piling works and vibration from de-stabilising or impacting the railway. Their condition will also be imposed.

Dust

- 6.5.9 During the period of construction dust may impact existing neighbouring residents who boarder the site. This can be controlled by a suitably worded

planning condition requiring a scheme for the suppression of dust to be submitted to and agreed in writing by the local planning authority and duly adhered too during the construction process. A condition to secure this is recommended to ensure that satisfactory measures are in place to alleviate any dust and dirt impact at adjacent residential properties.

Amenity of neighbouring residents

6.5.10 Local Plan Policies 8 and 11 concern themselves with the design of new development and also the effect of new development on both existing residents and future residents of the site itself. Section 12 of the NPPF also seeks to achieve well-designed places stating at paragraph 124 - “The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities....”

6.5.11 In October 2018 the Government have introduced a national design guide emphasising the need for well-designed development.

6.5.12 At a local level, the Council’s Residential Design Guide SPD focuses specifically on new residential development, and sets out, amongst other things, separation standards.

6.5.13 The proposed layout of the residential development provides a well-considered layout, which provides sufficient space between the proposed dwellings and existing dwellings with all dwellings meeting the minimum separation standards set out in the Residential Design Guide SPD. The adjoining residents on Hollins Grove Street, Surrey Avenue and Gillibrand Street will all therefore have an acceptable level of privacy and amenity.

6.5.14 Given some of the plots are only separated from existing adjoining property on one side and the railway line on the other, it is considered the permitted development rights to extend/ alter the dwellings should be removed to ensure that the LPA can assess the impact of all proposals on neighbouring residents given that some of the dwellings are positioned at the standard separation distances, and the development as a whole. Subject to the imposition of the condition, it is considered that the proposed residential development accords with the requirements of Policy 8 of the LPP2.

Land Contamination

6.5.15 At section (iii) of LPP2, Policy 8 states it is important that in the case of previously developed, other potentially contaminated or unstable land, a land remediation scheme is secured which will ensure that the land is remediated to a standard which provides a safe environment for occupants and users and does not displace contamination. Policy 13/11 also requires the site to be remediated to a safe standard for users of the site.

- 6.5.16 The site is a former railway sidings and is classed as being previously developed. It is also within 250m of other contaminated land areas. The site is also within a High Risk Coal Mining Area.
- 6.5.17 The application has been supported by a contaminated land report which is based on dated sources where the applicants appear to have used the findings of previous contaminated land surveys undertaken on site which are now over ten years old. This is not considered to be acceptable and therefore to protect future occupiers of the development from contamination the Council's Contaminated Land team are satisfied that provided updated surveys and any necessary mitigation/ remediation is undertaken prior to commencement of any development on the site, the development need not be refused on this basis. Planning conditions can adequately secure this to ensure the safety of future users of the site and are duly recommended.
- 6.5.18 The application site also falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.
- 6.5.19 The applicant has submitted a Desk Based Coal Mining Risk Assessment (LK Group, January 2020). This report is informed by appropriate mining information for the application site and this proposed development.
- 6.5.20 The report identifies a potential risk from probable unrecorded coal mine workings at shallow depth beneath the application site. Accordingly, the report recommends that intrusive site investigations should be undertaken to determine the presence or otherwise of shallow workings. The Coal Authority expects that these investigations should take into account the development as a whole. In addition, the investigations should target the two coal outcrops indicated as being present as well as areas of probable unrecorded coal mine workings. Where shallow coal mine workings are encountered with the potential to influence surface stability a suitable scheme of remediation to consolidate workings should be proposed and implemented.
- 6.5.21 The exact form and extent of intrusive site investigations need to be agreed with the Permitting Section of The Coal Authority as part of the applicant's permit application. These intrusive site investigations should be prepared and conducted by a suitably competent person and findings used to inform an appropriate scheme of remedial measures if necessary. In addition, it would be prudent if consideration was also afforded to the risk posed by mine gas to the application site and proposed development.
- 6.5.22 The Coal Authority recommends the imposition of conditions on both the full and outline parts of this hybrid application to secure a safe form of development. These will duly be imposed.

Air Quality

6.5.23 LPP2 Policy 8 iv) requires the development to not give rise to a deterioration of air quality in an Air Quality Management Area or result in the declaration of a new AQMA, unless the harm caused is significantly and demonstrably outweighed by other planning considerations and a comprehensive mitigation strategy can be secured.

6.5.24 A Total Emissions Assessment is required in order to assess pollutant emissions from the scheme and to determine the appropriate level of mitigation required to offset associated impacts. This assessment has been prepared in accordance with the Blackburn with Darwen Borough Council (BwDBC) planning advisory note (PAN)¹ and the Department of Environment, Food and Rural Affairs (DEFRA) guidance², to provide a quantification of the development emissions, and proposes a mitigation strategy .

6.5.25 The air quality assessment and its conclusions are supported by the head of BwD Public Protection, who offers no objection subject to standard conditions relating to dust control, provision of external plug sockets to facilitate electronic vehicle charging and maximum boiler emission standards. Subject to the local planning authority agreeing the details, the site will be landscaped and suitable tree and soft planting will also mitigate against the air quality impacts of the development. Similarly, the applicants have recognised that the Travel Plan for all users of the site which encourages walking and cycling rather than car borne journeys will also mitigate the air quality impacts of the development. The proposals therefore accord with criteria iv.) of Policy 8 of the LPP2.

Crime and Disorder

6.5.26 Section 17 of the Crime and Disorder Act 1998 (as amended by the Police and Justice Act 2006) requires Blackburn with Darwen Council, as a 'responsible authority', to consider crime and disorder (including antisocial behaviour and other behaviour adversely affecting the local environment); and the misuse of drugs, alcohol and other substances in the exercise of all its duties, activities and decision-making.

6.5.27 Both the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) set out guidance in creating safe and accessible communities.

6.5.28 LPP2 Policy 8 (v) requires the development to incorporate positive measures aimed at reducing crime and improving community safety, including appropriate detailed design, the provision of adequate facilities for young people, and the creation of a suitable mix of uses.

6.5.29 Lancashire Police Constabulary has produced the submitted Crime Impact Assessment and has no objections subject to the site being developed in accordance with the recommendations of this Crime Impact Assessment. A suitably worded planning condition will secure this.

6.5.30 The Construction Management Plan will also cover the site being suitably secured during the construction period to prevent crime from taking place during construction of the development.

6.5.31 Subject to the suggested condition it is considered these hybrid proposals will accord with both local and national crime and disorder prevention policies.

Summary

6.5.32 To summarise, the Council's Public Protection Team has reviewed the application and offers no objection to the development subject to conditions to safeguard the amenity of future occupants of the site and those existing residents in the area. These conditions relate to land contamination; air quality mitigation, control on working hours (08:00 to 18:00 Mondays to Fridays, 09:00 to 13:00 Saturdays, Not at all on Sundays and Bank Holidays); a scheme for provision of acoustic glazing and mechanical ventilation of dwellings; and a dust suppression scheme to be agreed.

6.6 **Biodiversity**

6.6.1 The Council has a legal duty to consider the conservation of biodiversity within the District; this is of significant importance when considering the impact of both major and minor developments.

6.6.2 Policy 9 of the LPP2 supports development where there is no unacceptable impact upon environmental assets, including habitats and protected species.

6.6.3 The site is a vacant previously developed site adjoining the railway line and has tree cover along its boundaries which connect to other trees and woodland in the area.

6.6.4 The National Planning Policy Framework (NPPF) now requires development to provide a net-gain for biodiversity and a 10% net gain requirement is very likely to be made mandatory sometime this year. Paragraph 170 of the NPPF states:

“Planning policies and decisions should contribute to and enhance the natural and local environment by: d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; ...”

6.6.5 The site has been identified by the Council's Ecologists as a Priority Habitat on the site (Open Mosaic Habitat) and the site has potential to support Priority Species. To establish the quality of the habitat, and also the presence or otherwise of protected/priority species further survey work is required.

6.6.6 Notwithstanding the above, it is noted from the Ecology surveys submitted to inform the application, and from the Council's advisors own assessments, that this site has limited potential to support any specially protected species, so they do not believe that a grant of permission without the additional surveys

being completed would place the Council in the position of facing any legal challenges when things return to normality. That is, there is unlikely to be a fundamental legal principle for refusing the application on nature conservation grounds. Rather, the additional surveys are required to influence the final design of the scheme and to determine the extent of provision for biodiversity (either on or off site) which may be required.

- 6.6.7 In reaching this view, the Council's advisors also take into account that these are exceptional times, that this is in part an Outline application, and that we know that many ecological consultancies have stopped work during the Covid 19 pandemic.
- 6.6.8 However, officers must stress that this advice applies only to this site and should not be taken to apply to other applications - this is an exception due to the global pandemic and is based on this site alone. Advice will be provided on each application on a case-by-case basis.
- 6.6.9 For these reasons, conditions requiring the further survey work recommended within the submitted Ecology Report and any mitigation and the need to provide a net gain for biodiversity will be secured by planning condition and also within the landscaping conditions for the site.

6.7 **Flood Risk and Drainage**

- 6.7.1 Local Plan Part 2 Policy 9 concerns itself with drainage and states that: *"Development with the potential to create significant amounts of new surface water run-off will be expected to consider and implement where required, sustainable drainage systems (SuDS) or other options for the management of the surface water at source."*
- 6.7.2 Paragraph 163 of the National Planning Policy Framework (NPPF) requires that; *"when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere."*
- 6.7.3 The National Planning Practice Guidance (NPPG) clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy. We would ask the developer to consider the drainage options in order or priority as per the NPPG.
- 6.7.4 The application has been supplemented by a Flood Risk Assessment (FRA). Following a review of the application, no objection has been offered by United Utilities or the Lead Local Flood Authority; subject to the application of conditions to ensure; foul and surface water to be drained on separate systems; protection of UU's assets, namely a Culvert, protection of the railway line, a surface water drainage scheme adhering to the principles set out in the NPPG to be agreed; and a scheme for the future maintenance and management of surface water drainage to be agreed, all of which should ensure that flooding will not increase elsewhere as a result of the development and which will not affect the adjacent railway line and the safety

of railway users. Both statutory undertakers have suggested conditions. These have been combined and are duly recommended.

6.7.5 The Environment Agency also raised issues with the site potentially polluting water courses. They stated:

6.7.6 *“The previous use of the proposed development site as a railway sidings presents a medium risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a Secondary aquifer B and has a culverted surface watercourse on the site which leads to the River Darwen.*

6.7.7 *We would agree with chapter 7.2.2 in the Phase 2 investigation of the above report, that further site investigation is necessary.*

6.7.8 *In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy, carried out by a competent person in line with paragraph 178 of the National Planning Policy Framework. Without this condition we would object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.”*

6.7.9 As a result of the above it is recommended that both of the suggested conditions from the Environment Agency also be imposed.

6.8 **Viability and Planning Contributions**

6.9 Local Plan Policy 12 concerns itself with securing planning contributions where they make proposals acceptable.

6.10 The Council’s Growth team initially advised that the following planning contributions were required for this development:

No of Units	Education	Highways	Public Open Space	Affordable Housing	Total
37	£0	£92,500	£52,022	£471,750	£616,275

6.11 In addition, the National Health Service (NHS) has also requested a planning contribution towards the direct impact on the provision of planned and acute healthcare caused by the proposed development of £51,211.00.

6.12 With regard the National Health Service request for a planning contribution of £51,211.00, the Local Planning Authority does not agree that the submitted

evidence or approach is currently sufficient to implement a consistent and justified developer tariff, which meets the necessary tests for securing planning obligations.

- 6.13 Members should note that the Council is working with our NHS partners, and other key infrastructure stakeholders, to update the Borough's Infrastructure Delivery Plan alongside our emerging new Local Plan. This proposed tariff will be considered as part of the Local Plan process and via our Duty to Co-operate.
- 6.14 Notwithstanding the above and the Council's request for the other contributions, the proposed development has been assessed in terms of viability, and evidence has been received to justify a significantly reduced developer contribution.
- 6.15 Despite identified s106 development plan requirements for highways, education, affordable housing and green infrastructure contributions, in addition to an NHS request for healthcare gap-funding contributions (a material consideration); in this particular case, the only viable contribution is £35,000.
- 6.16 The priority is to improve highway infrastructure in the area (both vehicular and non-vehicular) because these are essential works which are fundamental to the acceptability of the proposal. The Local Plan clearly states that the Council is committed to ensuring that an appropriate balance is struck between securing necessary infrastructure investment from new development, and maintaining the financial viability of high quality development that will lead to growth. Therefore, in this particular case the benefits of allowing the proposal to proceed in terms of regenerating a brownfield site in the urban area to provide growth of new housing and employment, generating jobs, is considered to outweigh the waived developer contributions.
- 6.17 For the above reasons, the proposals accord with Policy 12 of the LPP2.

6.18 **Planning Balance and Conclusions**

6.18.1 On the whole, the hybrid mixed use proposals accord with the designated land uses within the LPP2. The application site has been vacant for a considerable amount of time and the proposals seeks to bring forward a viable development.

6.18.2 It is acknowledged that the proposed residential portion of the development would encroach in a minor way in to a long-standing vacant employment allocation, however, the proposal needs to be viewed in its entirety and the proposed development would still see a notable employment development at the site which will be supportive of Policy 13: 'Employment Land Allocations' and Policy CS3: Land for Employment Development as the proposal will secure the northern half of the site for future B1, B2 and B8 uses.

6.18.3 The site is located within the Inner Urban Area with the southern part of the site being located adjacent to the residential core of Darwen. abutting dwellings on Surrey Avenue and Gillibrand Street and those terraces which extend off Gillibrand Street.

6.18.4 The housing mix proposed is similarly acceptable as the proposals indicate a housing offer, which responds to the Council's growth strategy and the layout of the residential development will provide a satisfactory development, which, subject to all of the suggested conditions will ensure that future occupants of the development and those residents bordering the site will not be significantly harmed by the proposals, particularly given householder permitted development rights will be removed so that the Local Planning Authority can formally consider any future proposals to extend or alter the proposed dwellings.

6.18.5 Importantly, the suggested planning conditions will also ensure that the businesses located with the designated Primary Employment area will not be significantly harmed by the proposals. Similarly, other suggested conditions will also protect the safety of all railway users and seek to secure a sustainable development which will be landscaped to provide mitigation and net-gains for biodiversity, and which will also mitigate against the air quality impacts of the development.

6.18.6 For all the above reasons, subject to all of the recommended conditions, a sustainable development will be achieved. On this basis it is thus recommended that conditional planning permission be granted subject to the applicants signing a S106 agreement for the monies towards highway works on the Darwen East Corridor.

7. RECOMMENDATION

7.1 Approve subject to;

- (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 matter(s):**
 - a. £35,000 as a contribution towards the Darwen East Corridor and upgrading a nearby Public Right of Way/s.**

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.

- (ii) Conditions relating to the following matters:**

Outline Application

- Outline application time limit
- Submission of Reserved Matters timeframe
- Approved Plans and Documents
- Reserved Matter 'Landscaping' requirements
- Emissions control scheme
- Car Parking Scheme
- Use Class Restriction

Full Application

- Application Time Limit
- Approved Plans and Documents
- Samples of walling, roofing, window and door materials
- Acoustic Glazing and Ventilation Scheme
- Removal of Permitted Development rights for extensions, alterations and for fences
- Erection of Acoustic Fence

Conditions relating to both parts of the site relating to:

- Ecology Survey
- Biodiversity mitigation and enhancement
- External lighting
- Coal Mining intrusive site investigations and mitigation
- Contaminated land and remediation
- Remediation Strategy
- Unexpected contamination
- Landscaping scheme
- Foul and surface water drainage scheme
- Locate and carry out survey on culvert within the site
- Restriction on site operations/ construction works hours
- Dust suppression scheme
- Noise and vibration reduction scheme
- Construction of Site Accesses
- Construction Method Statement
- Full Travel Plan within 3 months of occupancy of any part of the development
- Construction details of all roads within the site
- Managements and maintenance of the proposed access roads
- Trespass fence to the railway
- Vibro-Impact Risk Assessment and Method Statement
- Identifying exact relationship with Electricity North West assets and any necessary mitigation
- Proximity of scaffolding to the railway
- Vehicle safety protection measures along the boundary and within the easements with the railway line
- Air Quality mitigation in accordance with Table 6 of the Enviro Solution 'Total Emissions Assessment' dated February 2020
- Development be constructed in accordance with the details contained within the submitted Crime Impact Assessment
- Electric Vehicle charging points

8. PLANNING HISTORY

8.01 The following table details the sites planning history:

Application Number	Development Description	Decision	Date
10/17/1357	Erection of 84no. new dwellings with associated external works and car parking	Withdrawn	19/06/2018
10/11/1128	Extension of time on application 10/08/0568 - Outline application for residential development, 48 Units, together with associated open space and landscaping works and B1/B2 (Business/Industrial) development and associated car parking	Approved with Conditions	19/01/2012
10/08/0568	Outline application for residential development, 48 Units, together with associated open space and landscaping works and B1/B2 (Business/Industrial) development and associated car parking	Approved with Conditions	30/12/2008
10/07/1385	Outline application for residential development (82 units) together with associated open space and landscaping works and B1/B2 (Business/Industrial) development and associated car parking	Refused	25/03/2008
10/04/1158	Removal of condition 5 on consent 10/03/1233 relating to painting of boundary fence. Removal of condition 3 on permission 10/03/1233 relating to submission of landscaping scheme. Modification of condition 5 on consent 10/03/0189 and condition 6 on consent 10/03/1233 to extend hours of use from 8.00-17.00 Mon-Fri, 8.00-12.00 Saturday to permit use from 7.30 -18.00 Monday to Saturday	Withdrawn	22/08/2005
10/04/0860	Additional lighting columns; two lengths of 2.2m palisade fence to close gap between existing fences; alterations to existing palisade fence; additional CCTV column; and alterations to existing lighting	Withdrawn	22/08/2005
10/03/1233	Installation of temporary offices, hard surfaced area, lighting columns and CCTV cameras, perimeter fencing and storage containers and alterations to site access	Approved with Conditions	24/03/2004
10.90/1994	Outline application for Commercial and residential development	Approved with Conditions	23/05/1991
10.90/1993	Commercial development (Classes B1, B2 & B8) - Offices, Industry, Storage	Withdrawn	23/05/1991

9. CONSULTATIONS

- 9.1 The proposals constitute Major Development and have been advertised both in the Press and by Site Notice.
- 6.2 On receipt of the additional information from the applicant relating to Electricity North West infrastructure Electricity North West has been re-consulted to ensure that the operations of Crown Paints Ltd are not adversely affected by the proposed development.

Neighbour Representations

- 9.3 69 individual letters were sent to the local residents. In addition, site notices were posted, and a press notice advertised in the local newspaper. An objection has been received from local ward Councillor Roy Davies. This objection is referred to in Section 10 of this report.
- 9.4 As a result of the public consultation three representations have been received; two from local businesses; Castle Cement and Crown Paints, and one from Councillor Roy Davies. These three representations are included in Section 10 of this report but contained the following concerns:
- Crown Paints seek assurance that their operations will not be compromised by the development affecting Electricity North West Infrastructure present on the application site
 - Express Asphalt seek assurance that their site is safeguarded in accordance with the NPPF and that the agent of change principle is enforced to ensure that the developer is responsible for mitigating any impacts from existing operations
 - Increase in traffic on this already busy stretch of road
 - Health factors should be taken into consideration with a residual burning plant having been given permission approximately half a mile away

9.5 Statutory and Non-statutory Consultee Responses

- 6.5.1 Coal Authority – No objections, subject to the recommended conditions
- 6.5.2 Drainage/ Local Lead Flood Authority – No objections subject to the recommended conditions.
- 6.5.3 Electricity North West – No objections subject to the applicant according with their requirements
- 6.5.4 Environment Agency – No objection, subject to the recommended condition
- 6.5.5 Lancashire Fire and Rescue – No objections

- 6.5.6 BwD Growth/ Forward Planning team – No objections
- 6.5.7 Lancashire Police – Secure by Design
- 6.5.8 Highways – No objections subject to the recommended conditions
- 6.5.9 National Health Service – No objections, subject to planning contributions
- 6.5.10 Network Rail – No objections subject to the recommended conditions and the applicant meeting their requirements
- 6.5.11 BwD Public Protection – No objections subject to the recommended conditions
- 6.5.12 BwD Refuse/ Waste Management – No objections
- 6.5.13 United Utilities – No objections, subject to the recommended conditions

10.0 Summary of representations:

Objection from Darwen East ward, Roy Davies Rec 19.02.20

Hi, I object to this planning permission, this area is already being used as a short cut from the 666 which would increase by a further 37 new properties being built, there is at the back of this proposed site a large development that has been going on for 10 or so years and is still no were near completion, There are also health factors to be taken into consideration with just half a mile away a residual burning plant has been given permission, which will bring a further 300 diesel engines per day in and out of this area.

Roy Davies,

Liberal Democrat,

Darwen East Ward,

Objection from Geoff Storey, Aggregate Industries Ltd Rec 13.03.20

As discussed, please ensure that if this development is approved that the Darwen Express Asphalt site at Goose House Lane Darwen is safeguarded in accordance with the NPPF and that the agent of change principle is enforced to ensure that the developer is responsible for mitigating any impacts from existing operations .Please keep me informed of the progress of this application .Regards,Geoff

Objection from Crown Paints Ltd Rec 11.03.20

Hi Helen

As per our discussion last week I'd like to raise a concern of the application in question.

We have two 11,000 volt cables that run along the site that power our site. I understand they run across the old paper mill site and along the west side of the proposed development site. It is imperative that these are protected and there is no risk to the cables either during or after the works are complete.

Can you please request details as to how the developers intend to ensure supply to our site and precautions are being taken should the worst happen.

Cheers

Phil

Further Objection from Crown Paints Ltd, Rec 21.04.20

Dear Sirs

PLANNING APPLICATION REF: 10/20/0107
SITE AT HOLLINS GROVE STREET, DARWEN, BB3 1HG

1. We are instructed by Crown Paints Limited of Crown House, Hollins Road, Darwen, BB3 0BG and write in relation to the above application for planning permission (the "Application").
2. Our client does not object to the principle of the proposed development at Hollins Grove Street (the "Development Site"). However, they do have concerns regarding underground electricity cables within the vicinity of the Development Site which serve the Crown Paints site in Darwen ("Crown Paints"). We therefore highlight the following matters which Blackburn with Darwen Borough Council (the "Council") must adhere to and consider when determining the Application.
3. Our client reserves the right to formally challenge any decision of the Council in respect of the Application should the Council not: (a) evidence that it has properly consulted the relevant electricity company; and (b) make any grant of permission conditional on the applicant not damaging or disturbing the underground cable. Alternatively, if there is a requirement to divert the electricity cable because of the proposed works, a condition should be included requiring the diversion to be carried out safely and in such a way that electricity supply to Crown Paints is not disrupted.

Consultation

4. The Council is required to carry out a formal period of public consultation before determining the Application. The requirements for this consultation are set out in Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and the Council's Statement of Community Involvement ("SCI").
5. The SCI states that all relevant stakeholders will be consulted before determining any application, particularly those with an interest in an application site. Reference is also made to 'relevant gas and electricity companies' being consulted, where appropriate. We are informed that Electricity North West Limited ("ENWL") is the statutory undertaker responsible for the underground cable within the Development Site.

6. On the Council's online planning portal page for the Application, a list of consultees is contained. Encouragingly, within that list is ENWL. However, we cannot see any evidence that ENWL have been consulted to date. Nor can we see any response from ENWL.
7. Please can you ensure that ENWL and any other relevant electricity companies are properly consulted on this Application and that any representations made by them regarding the Application are taken into account. We have copied ENWL into this letter for their information.

Planning Condition

8. The Council should also make any grant of planning permission subject to an appropriate condition ensuring that the electricity cable is protected. Alternatively, if there is a requirement to divert the electricity cable because of the proposed works, a condition should be included requiring the diversion to be carried out safely and in such a way that electricity supply to Crown Paints is not disrupted.
9. Any condition should refer to all relevant guidance from ENWL, or any other relevant electricity companies, for working in the vicinity of underground electricity cables.
10. In addition to Crown Paints, there are several other important commercial premises within the vicinity of the Development Site. Therefore, it is necessary and proportionate for controls to be placed on the proposed development to ensure that neighbouring landowners/occupiers' utility supplies are not disrupted.

We have been instructed to maintain a watching brief in respect this Application and shall be following the Council's decision making closely. Our clients reserve the right to formally challenge any decision of the Council in respect of the Application should it fail to follow all due process.

Please direct any response to Will Thomas at Shoosmiths by email only.

11.0 CONTACT OFFICER: Claire Booth, Senior Planner MRTPI

12.0 DATE PREPARED: 2nd July 2020

SUPPLEMENTAL REPORT OF THE DIRECTOR

Plan No: 10/20/0265

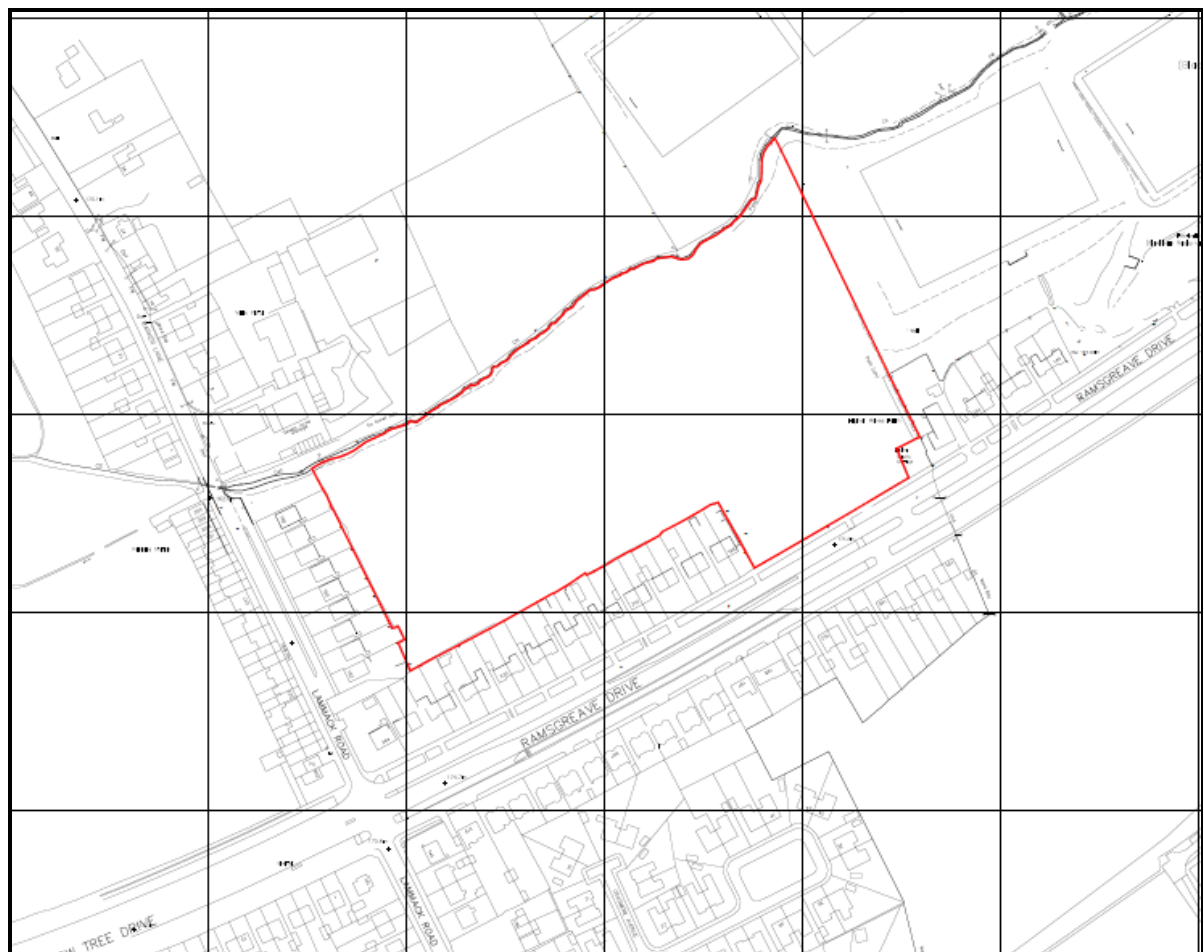
Proposed development: Full planning application - Construction of 63 dwellings and associated infrastructure

Site address: Land off Ramsgreave Drive, Blackburn

Applicant: Landway Properties Ltd

Ward: Billinge and Beardwood & Roe Lee

Councillors: Cllrs Tasleem Fazal, Julie Daley, Jackie Floyd; Phil Riley, Sylvia Liddle and Ron Whittle



1.0 SUMMARY OF RECOMMENDATION:

1.1 APPROVE – Subject to a Section 106 Agreement relating to the provision of off-site highway works to facilitate the development, affordable housing contribution for off-site provision and education.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

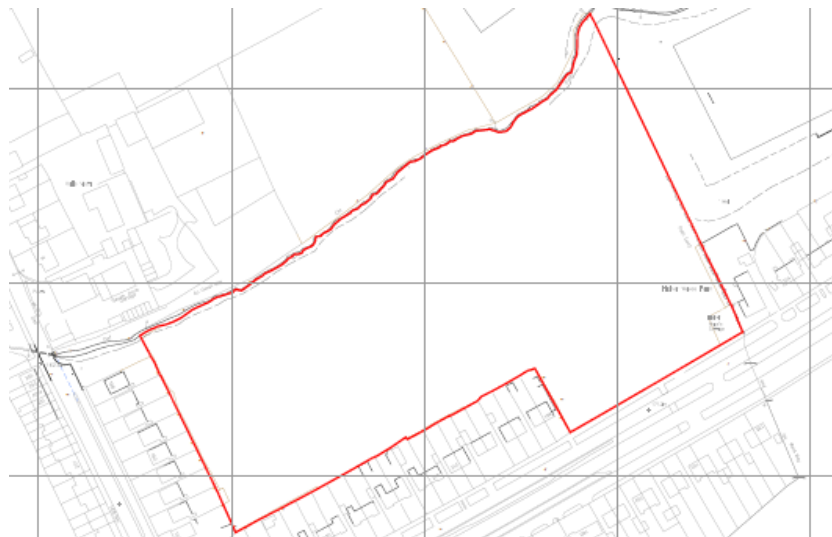
2.1 Members supported the resolution to approve this application at the 18th June 2020 meeting of the Planning & Highways Committee. Members agreed with the recommendation that the proposal would deliver a high quality bespoke housing development which widens the choice of family housing in the Borough. The proposed development supports the Borough's planning strategy for housing growth as set out in the Core Strategy, and delivering housing at a site which is allocated for housing development in the Local Plan Part 2 and consistent with the objectives identified within the North Blackburn Masterplan. The proposal was also deemed to be satisfactory from a technical point of view, with all issues having been addressed through the application, or capable of being controlled or mitigated through planning conditions.

2.2 The application has been returned to the Committee in order that (i) a minor amendment to the location plan be agreed and (ii) to address submissions from the NHS Trust in relation to a request for commuted sums to be secured through a s106 planning obligation towards local provision.

3.0 DISCUSSION

3.1 Amended Location Plan

3.1.1 The application supported by Members at the June 18th 2020 meeting of the Planning & Highways Committee was accompanied by the following location plan;



3.1.2 The applicant has written to the Council 24th June 2020, to advise that a small area within the south east corner of the site is held under separate title. Similarly a small area to the rear of no.154 Lammack Road is also under separate title. The amended location plan is as follows;



3.1.3 Members are advised that the amended location plan does not affect the planning layout that was supported previously, given the affected areas form part of an area of open space adjacent to the site entrance and landscape buffer, respectively. Furthermore, the amended location plan is that being used in relation to the s106 legal agreement and thus the change does not affect the delivery of the planning obligations that was considered previously by Members and are again set out in section 4 of this report.

3.2 NHS Request for Financial Contributions

3.2.1 The report presented to Members for the June 18th 2020 Committee omitted the NHS request for s106 contributions, as it was considered to be being addressed as part of the local plan review. The following section serves to address that oversight.

3.2.2 The NHS submit that the proposed 63 dwellings would generate a requirement for a financial contribution of £87,196 to be used directly to provide services to meet patient demand generated by the future occupants of the development.

3.2.3 The submission summaries the NHS position as;

“As our evidence demonstrates, the Trust is currently operating at full capacity in the provision of acute and planned healthcare. The contribution is being sought not to support a government body but rather to enable that body to provide services needed by the occupants of the new homes. The development directly affects the ability to provide the health service required to those who live in the development and the community at large. Without contributions to maintain the delivery of health care services at the required quality standard and to secure adequate health care for the locality the proposed development will put too much strain on the said service infrastructure, putting people at significant risk. This development imposes an additional demand on existing over-burdened healthcare services, and failure to make the requested level of healthcare provision will detrimentally affect safety and care quality for both new and existing local population. This will mean that patients will receive substandard care, resulting in poorer health outcomes and pro-longed health problems. Such an outcome is not sustainable.

One of the three overarching objectives to be pursued in order to achieve sustainable development is to include b) a social objective – to support strong, vibrant and healthy communities ... by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being:” NPPF paragraph 8. There will be a dramatic reduction in safety and quality as the Trust will be forced to operate over available capacity as the Trust is unable to refuse care to emergency patients. There will also be increased waiting times for planned operations and patients will be at risk of multiple cancellations. This will be an unacceptable scenario for both the existing and new population. The contribution is necessary to maintain sustainable development. Further the contribution is carefully calculated based on specific evidence and fairly and reasonably related in scale and kind to the development. It would also be in the accordance with Council's Adopted Local Plan”.

3.2.4 Members are advised that the submitted evidence to justify the proposed commuted sum is currently insufficient to implement a consistent and justified developer tariff, which meets the statutory tests for securing planning obligations which requires them to be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

3.2.5 The Council will work with local health partners, and other key infrastructure stakeholders, to update the Borough’s Infrastructure Delivery Plan alongside our emerging new Local Plan. Any proposed health services tariff will be considered as part of the Local Plan process and via our Duty to Co-operate. In order to meet the statutory tests for planning obligations, the health funding data requires thorough

review to ensure matters such as the number of new residents yielded by a development compared to those moving within the area is correctly accounted for, no other central funding alternative is available, the suggested population multiplier per dwelling is accurate, the activity rate is correct (the whole Trust area is used rather than the BwD area), if the principle of using planning obligations for the costs identified is appropriate, and development build rates are fully taken into account.

3.2.6 Notwithstanding this, the proposed development has been assessed in terms of viability, and evidence has been received to justify a significantly reduced developer contribution. Despite identified s106 development plan requirements for highways, education and affordable housing contributions totalling £1,129,968, in addition to the East Lancs Hospitals NHS Health Trust request for healthcare gap-funding contributions of £87,192 (a material consideration); in this case the confirmed total viable contribution is reduced to £450,000. This figure has been established following a thorough viability appraisal and review.

3.2.7 The recommended priorities are to improve highway infrastructure in the area (both vehicular and non-vehicular), and to provide additional primary school places and affordable housing contributions because these are essential works identified in the adopted Local Plan which are fundamental to the acceptability of the proposal in accordance with Local Plan Policy 12. Therefore, the viable developer contributions are to be directed to these priority areas, leaving no viable development funding to provide 1-year gap finance for the East Lancashire Hospitals NHS Trust.

3.2.8 The Local Plan clearly states that the Council is committed to ensuring that an appropriate balance is struck between securing necessary infrastructure investment from new development, and maintaining the financial viability of high quality development that will lead to growth. Therefore, in this case the benefits of allowing the proposal to proceed in terms of developing an allocated housing site to provide growth of new family housing is considered to outweigh the waived developer contributions.

3.2.9 Summary:

Members are advised the amended location plan does not offer any material change to the scheme previously considered at the June 18th 2020 meeting of this Committee.

3.2.10 Furthermore, the s106 request submitted by the NHS is not considered to meet the statutory tests for securing planning obligations. Notwithstanding that position, the proposal has been demonstrated as having limited financial viability and the monies available have been prioritised for highway infrastructure, additional primary school provision and off-site affordable housing contributions, with no funding

remaining to provide a one year gap finance for the East Lancashire Hospitals NHS Trust.

3.2.11 Subject to the conditions and planning obligations previously agreed at the June meeting – and again set out within section 4 of this report – the proposal remains in accordance with the Local Development Plan and National Planning Policy Framework’s requirements

4 RECOMMENDATION

4.1 Approve subject to:

- (i) **Delegated authority is given to the Head of Service for Growth and Development to approve planning permission subject to an agreement under Section 106 of the Town & Country Planning Act 1990, relating to the payment of a commuted sum of £450,000 towards: off-site highway improvements; contribution towards off-site affordable housing provision; and contribution towards education infrastructure in the North Blackburn locality.**

Should the Section 106 agreement not be completed within 6 months of the date of the planning application being received, the Head of Service for Planning and Infrastructure will have delegated powers to refuse the application.

- (ii) Conditions which relate to the following matters:
- Commence within 3 years
 - Materials to be submitted prior to construction of any dwelling, agreed and implemented
 - Siting and appearance of boundary treatment submitted prior to construction of any dwelling, agreed and implemented.
 - Landscaping scheme, including play provision, to be agreed and implemented
 - Landscaping management and maintenance plan to be agreed and implemented
 - External lighting scheme to be agreed prior to construction of first dwelling
 - Visibility splays to be protected
 - Site preparation works in accordance with the submitted Construction Management Plan
 - Prior to construction of roads or dwellings, construction management plan to be agreed for that phase of works
 - Drainage scheme to be submitted and implemented, including maintenance and management proposals
 - Development not to be occupied until the sustainable drainage scheme for the site has been completed in accordance with the submitted details.
 - Foul and surface water to be drained on separate systems

- Tree protection during construction
- Site clearance works outside bird nesting season, unless absence of nesting birds confirmed by suitable qualified ecologist
- Permitted development rights to be removed (Part 1, Classes A to E)
- Noise and vibration monitoring and control scheme to be agreed should pile driven foundations be required
- Unexpected contamination
- Provision of external car charging
- Maximum boiler emission levels
- 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

5.0 CONTACT OFFICER: Martin Kenny, Principal Planner - Development Management.

6.0 DATE PREPARED: July 2nd 2020

REPORT OF THE DIRECTOR

Plan No: 10/20/0536

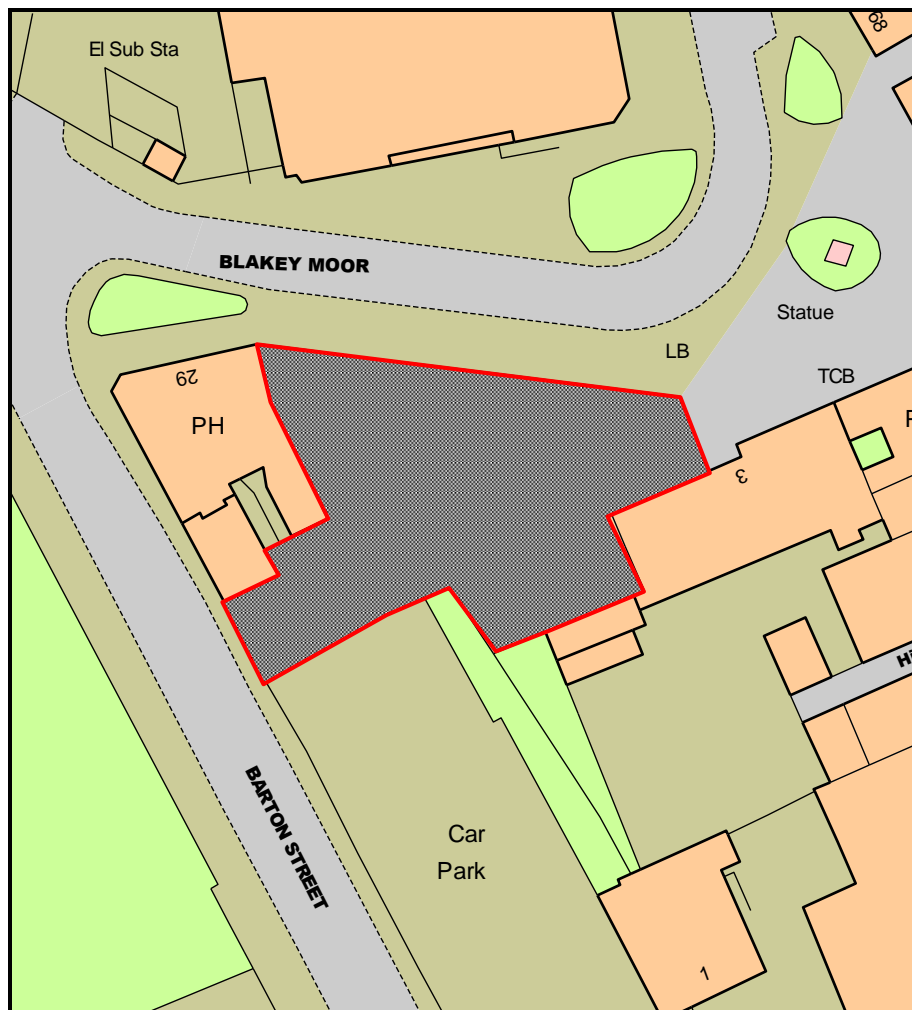
**Proposed development: Full Planning Application (Regulation 4) for:
Full planning permission for the demolition of single storey rear extensions and a garage, change of use of existing units to 2no. restaurant / cafe units (Use Class A3) at ground and first floor, change of use and re-profiling of land to the rear to form an associated outdoor seating / courtyard area, and external alterations to provide new frontages.**

**Site address:
11- 27 Blakey Moor
Blackburn**

Applicant: Blackburn With Darwen Borough Council

Ward: Blackburn Central

**Councillor: Zamir Khan
Councillor: Saima Afzal
Councillor: Mahfooz Hussain**



1.0 SUMMARY OF RECOMMENDATION

1.1 APPROVE – Subject to conditions; as set out in paragraph 4.1.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

2.1.1 The application is reported to Committee for reason of the Council being the applicant and owner of the site, in accordance with the requirements of Regulation 4 of the Town and Country Planning General Regulations 1992.

2.1.2 The development will be funded by the Townscape Heritage Initiative. It will deliver a quality scheme which will significantly enhance the external fabric of the building as well as the wider Northgate Conservation Area setting. As well as the visual benefits of the development, introduction of the new restaurants / cafes with associated outdoor terraced area will supplement the existing retail and leisure offers within the Northgate area, including the new cinema which is approaching completion; thereby contributing towards the sustainability of the historic host building and Blackburn Town Centre.

2.1.3 Accordingly, the proposal is consistent with the Borough's overarching growth strategy. It is also satisfactory from a technical point of view, with all issues having been addressed through the application, or capable of being controlled or mitigated through planning conditions.

3.0 RATIONALE

3.1 Site and Surroundings

3.1.1 The application site is 11-27 Blakey Moor, opposite the main entrance to King George's Hall. The building is a key heritage asset owned by Blackburn with Darwen Borough Council, positioned within the Northgate Quarter of the Northgate Conservation Area in Blackburn Town Centre; in accordance with the Development Plan.

3.1.2 The site comprises a vacant two and three storey terraced row most recently occupied at ground floor level by a typical range of town centre uses, including retail and food outlets. The upper floors were generally occupied by storage space ancillary to the ground floor uses. An outdoor area to the rear of the buildings is included in the application site.

3.1.3 In an historic context, the terrace was constructed between 1848 and 1894 and was part of a complex of ground floor shops and 1st floor offices (13-27 Blakey Moor). The upper floors were the former offices of the National Federation of the old Age Pensioners Association. storey and predominantly residential scale. The double storey arched windows were replaced at this point. The terrace features two distinct sections. The first part being the remnant of the former pension's office with two storey and a double height first floor benefitting from arched windows. The Second part of the terrace is a

series of terrace buildings arranged over three floors. There are partial basements below each part of the terrace. The main structure of the building comprises of traditional construction with brick external walls in English garden wall bond, brick chimney stacks, stone cornice gutters, stone sills and keystones and brick arch window openings. Over time, the historic ground floor fabric has been eroded through incremental and unsympathetic shop front alterations. The upper floors remain largely intact and retain several heritage features to be refurbished and preserved.



Google street view image of application site:

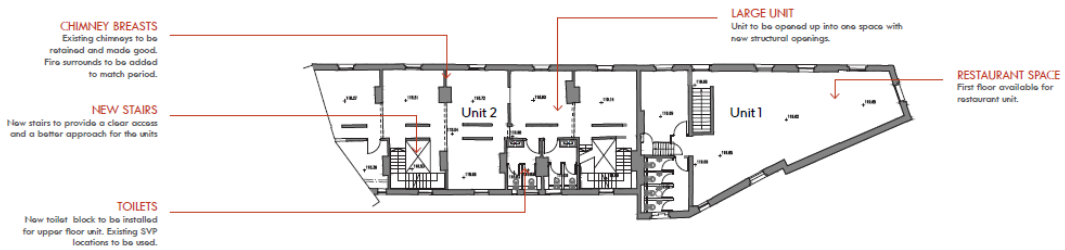
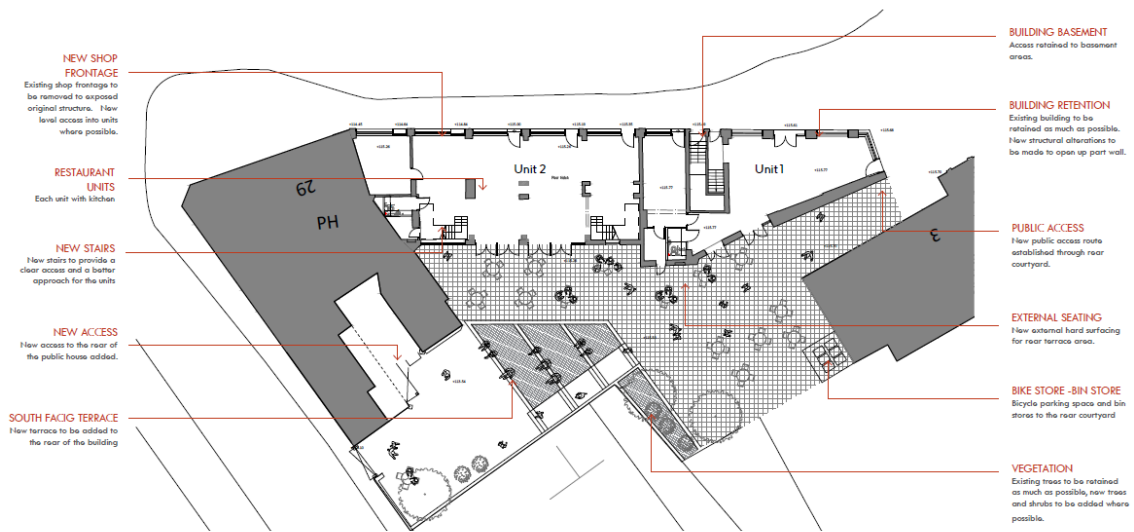
3.1.4 The wider Northgate Conservation Area is defined by a typical range of town centres uses of varied scale. Therein, buildings of historic importance include many of Blackburn's municipal buildings, such as the Grade II listed Town Hall, Central Police Station and Courthouse. A number of other buildings within the conservation area are also listed, whilst several are unlisted yet historically and / or architecturally significant, such as Blakey Moor terrace.

3.2 Proposed Development

3.2.1 Full planning permission is sought for the demolition of single storey rear extensions and a garage, change of use of existing units to 2no. restaurant / cafe units (Use Class A3) at ground and first floor, change of use and re-profiling of land to the rear to form an associated outdoor seating / courtyard area, and external alterations to provide new frontages. Basements and attic space will remain unoccupied.

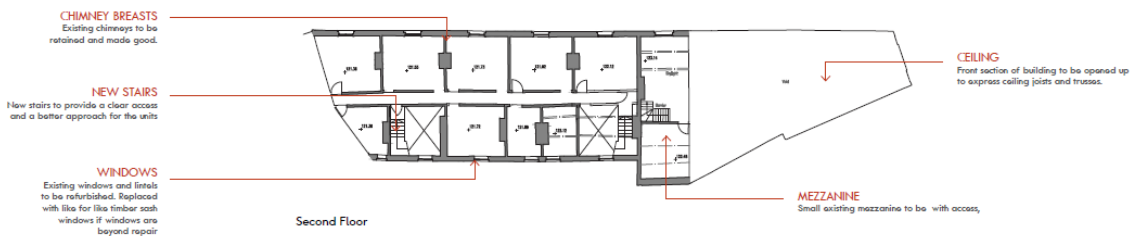


Proposed Elevation



First Floor

Existing structural walls retained with new opening established to allow lateral movement between spaces and across the terrace so that the floor can be used as a series of interlinked and connected rooms.



Second Floor

Secure access is retained utilizing an existing access stair. The space is retained but not as an active use as part of the restaurant unit below.

Extracts from submitted drawing – proposed floor plans.



3.3 Development Plan

3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.

3.3.2 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:

3.3.3 Core Strategy

- CS1 – A Targeted Growth Strategy
- CS16 – Form and Design of New Development
- CS17 – Built and Cultural Heritage

3.3.4 Local Plan Part 2

- Policy 7 – Sustainable and Viable Development
- Policy 8 – Development and People
- Policy 9 – Development and the Environment
- Policy 10 – Accessibility and Transport
- Policy 11 – Design
- Policy 26 – Town Centres a Framework for Development
- Policy 30 – Managing Specific Uses Within Town Centres
- Policy 39 – Heritage

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework (The Framework)

- Section 2: Achieving sustainable development
- Section 6: Building a strong, competitive economy
- Section 7: Ensuring the vitality of town centres
- Section 12: Achieving well-designed places
- Section 16: Conserving and enhancing the historic environment

3.4.2 Northgate Conservation Area Appraisal

3.5 Assessment

3.5.1 In assessing this full application there are a number of important material considerations that need to be taken into account, as follows:

- Principle of the development
- Amenity impacts
- Highway impacts
- Design impacts

- Heritage impacts

3.5.2 Principle

As a site located with the Inner Urban Area of Blackburn and Blackburn Town Centre, designated as a Primary Shopping Area, the proposal is consistent with the Policies CS1 and 1 of the Development Plan which state that the urban area is the preferred location for new development.

3.5.3 Policy 26 supports development involving main town centres uses within the town centres. Restaurants and cafes are defined as such in the Development Plan Glossary which is consistent with the definitions offered for such uses in The Framework. Furthermore, Policy 26 supports protection and expansion of the leisure offer within town centres and development of an evening economy, including restaurants and cafes, including within the defined Northgate Quarter of Blackburn Town Centre.

3.5.4 Policy 30, amongst other criteria, seeks to guard against the inappropriate over provision of hot food takeaways, Betting Offices and amusement arcades within the Northgate Quarter. As proposed restaurant / café uses, no policy conflict arises.

3.5.5 Accordingly, the principle of the development is supported, in accordance with policies CS1, 1, 26 and 30 of the Development Plan. It is also consistent with The Framework's economic and environmental objectives of sustaining viable town centres.

3.5.6 Amenity

Policy 8 requires a satisfactory level of amenity and safety is secured for surrounding uses and for occupants or users of the development itself; with reference to noise, vibration, odour, light, dust, other pollution or nuisance, privacy / overlooking, and the relationship between buildings.

3.5.7 The proposal poses no concern with reference to privacy / overlooking or relationship between buildings.

3.5.8 In the absence of proposed hours of use of the restaurants / cafes, the Council's Public Protection consultee recommends a condition limiting hours of use to those of other eateries in the locality, in order to guard against excessive noise disturbance to occupiers of residential accommodation above and ancillary to the adjacent Lemon Tree Public House, notwithstanding that the property is vacant. An approved hotel use within the same space but yet to be implemented is also considered in this context. Other such local eateries are not, however, subject to hours limitation. The condition is, therefore, considered unreasonable and unnecessary. Moreover, the proposal is not considered an increased threat to noise nuisance than the unrestricted Public House use directly beneath the identified residential use.

3.5.9 A condition to secure a scheme for control of cooking odour and fan noise is also recommended. As no external extraction is included within the application, such a condition is considered unnecessary. It is understood that end users will be responsible for odour control. Therefore, subsequent

installation of an external flue will require the submission of an additional planning application, at which time odour control and fan noise will be assessed.

3.5.10 A recommended condition to limit hours of demolition and construction is also considered unnecessary and unreasonable, on account of the town centre location and the absence of an identified and occupied residential use in proximity to the site.

3.5.11 Appropriate servicing and refuse storage is offered in support of the proposal.

3.5.12 Compliance with Policy 8 is achieved.

3.5.13 Environment

Policy 9 requires that development will not have an unacceptable impact on environmental assets or interests, including but limited to climate change (including flood risk), green infrastructure, habitats, species, water quality and resources, trees and the efficient use of land.

3.5.14 No unacceptable impact on environmental assets will arise from the development.

3.5.15 The single storey nature and position of the buildings within the inner urban area indicates that they are unlikely to support habitat for protected species.

3.5.16 The site does not host any protected species. Existing trees will be retained as far as practicable. A soft landscaping strategy involving planting of new trees will be secured by condition.

3.5.17 Compliance with Policy 9 is achieved.

3.5.18 Highways

Policy 10 requires that road safety and the safe and efficient and convenient movement of all highway users is not prejudiced and that appropriate provision is made for off street servicing and parking in accordance with the Council's adopted standards.

3.5.19 The sustainable town centre location and availability of on street and off street parking in the immediate vicinity supports the development, thereby ensuring that highway users will not be adversely affected.

3.5.20 Compliance with Policy 10 is achieved.

3.5.21 Design / Heritage

Policy 11 requires a good standard of design that should enhance and reinforce the established character of the locality and demonstrate an understanding of the wider context towards making a positive contribution to the local area. Policy 39 requires development with the potential to affect designated or non-designated heritage assets to sustain or enhance the significance of the asset. In this context, the proposal is supported by submission of a Heritage Statement.

3.5.22 The principle statutory duty under the Planning (Listed Building and Conservation Areas) Act 1990 is to preserve the special character of heritage assets, including their setting. With reference to Conservation Areas, LPA's should pay special attention to the desirability of preserving or enhancing the character or appearance of that area and consider the impacts on character and appearance (which includes its setting) separately. Development proposals need to satisfy both aspects (to preserve or enhance) to be acceptable.

3.5.23 The Framework includes direction that LPA's should take account of;

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

3.5.24 A Heritage Statement and Design & Access Statement are submitted in support of the application. The Heritage Statement draws reference from the Council's Northgate Conservation Area (CA) Appraisal (June 2009). The submitted details have been reviewed by the Council's Heritage and Conservation consultee, who offers the following comments:

The two main issues to consider from a heritage viewpoint are as follows:

- *Whether the proposal impacts upon the character and appearance of the Northgate Conservation Area, and/or*
- *Whether the proposed scheme causes any harm to the significance of any designated heritage assets.*

The application buildings consist of 2 distinct blocks which likely date from the mid to late C19. Both buildings are brick with different detailing at first and second floors. The eastern part is 2 storeys with the FF front elevation having 5 arched brick windows. The narrow eastern end elevation having a similar arched window with ornate stone (pilastered) surround and raised stone quoins. The western part is three storey with has five bays, the FF windows having a shallow brick arched head incorporating stone 'key-stones'. The second floor being flat headed tight under the eaves. All windows having square edged stone cills. Access is via a narrow gated access at the eastern end.

The ground floor space are laid out as commercial (retail) units with a mix of unattractive shop frontages incorporating deep continuous fascias.

The rear of the block is much altered with a number of single storey later additions/extensions.

The Character Appraisal identifies the block as being a notable 'positive' building which forms part of an important view in the CA looking west along Blakey Moor to the Technical School.

To my mind the building has a high historic significance and due to its current condition and decline a moderate aesthetic or architectural value.

In relation to the proposals, firstly, the scheme appears as a very positive and welcome change and will arrest the slow decline in the appearance of the block. The scheme will provide important investment and uplift to a key building in the CA.

The proposed changes on the front elevation are generally confined to the provision of the new replicated shop-fronts incorporating structural piers, faced with decorative 'faux' Victorian pilasters and corbels above to provide a frame for the new individual single bay fascia signage. Visually I think the scheme is attractive and is a considerable enhancement on the existing GF arrangement of shops.

The existing arrangement of windows above the GF is retained, with the existing windows being refurbished or new timber windows being provided to match. In this regard it would be useful to have more detail on this matter i.e. a window schedule detailing the condition of each window and what is proposed. If this level of detail can't be provided upfront then a suitable worded Condition will need to be applied to secure a quality finish is obtained.

I am satisfied with the works to the rear. I do not feel the additions / buildings are of any significance and have no objections to their removal / demolition. I feel the benefits of being able to open up the rear elevation onto an outdoor terrace will help the viability of the scheme and deliver its long term benefits to the area. The area is enclosed and views are contained within the space itself. In this respect I think the more modern approach seems appropriate.

Works to facilitate the uses internally seem to follow the existing layout and plan form and do not appear to have an impact on the character of the building.

I am mindful that sustaining these type of buildings is likely to depend greatly on keeping them in an active and viable use. This is supported by Chapter 16 of the NPPF which highlights the importance of having historic buildings in viable uses and recognising the wider economic benefits they can help deliver.

In this context I have no objection to the scheme as proposed and feel the proposed will enhance both the character and appearance of the Northgate CA.

On the second issue the building lies opposite Kings Georges Hall, a Grade 2 Listed Building. The Hall, symmetrical in design, was completed in 1921 and is constructed of ashlar sandstone with a slate roof that is concealed by a parapet. The building stands on an impressive corner location and forms part of a number of other 'grand' municipal buildings in the town centre. Works to upgrade 11-27 Blakey Moor can only be seen as being an improvement to the appearance of the general street setting and will not harm its contribution to the significance of King Georges Hall. I do not consider the works cause any harm.

Conclusion / recommendation

As I am required to do so, I have given the duty's imposed by s.66 (1) and s.72(1) of the P(LBCA) Act 1990 considerable weight in my comments.

I consider that the current proposal will meet the statutory test to 'preserve' the character and appearance of the Northgate CA and the setting to the Grade 2 King Georges Hall. As such the development accord with the planning advice contained in Chapter 16 NPPF, Policy 39 of the Local Plan and Core Strategy Policy CS17.

3.5.25 With reference to the public realm area to the rear, additional hard and soft landscaping detail will be secured condition, in order to promote a legible design and layout featuring appropriately robust paving and furnishings, to compliment the character of the area.

3.5.26 Summary

This report assesses the full range of material issues affecting this planning application to inform a balanced recommendation that demonstrates compliance with the Development Plan and The Framework.

4 RECOMMENDATION

4.1 Approve subject to:

Delegated authority is given to the Director for Growth and Development to approve planning permission, subject to conditions which relate to the following matters:

- Development to commence within 3 years of the date of approval
- Submission of external walling and roofing materials
- Submission of a hard and soft landscaping scheme to the public realm area.
- Unexpected contamination

- Works to be carried out in accordance with approved drawings.

5 PLANNING HISTORY

5.1 No relevant planning history exists for the site.

6 CONSULTATIONS

6.1 Heritage & Conservation

Support offered, as per the response set out at paragraph 3.5.22

6.2 Public Protection

No objection subject to the following conditions:

- Controlled hours of opening to reflect those of eateries in the locality
- Submission of a scheme for control of cooking odour and fan noise from commercial kitchens
- Works to cease if contamination is unexpectedly encountered.

6.3 Drainage

To date, no response offered.

6.4 Environmental Services

No objection

6.5 Public Consultation

No representations have been received following the public consultation process, which involved letters, site and press notices.

6 CONTACT OFFICER: Nick Blackledge, Senior Planning Officer – Development Management.

7 DATE PREPARED: 30th June 2020.

8 SUMMARY OF REPRESENTATIONS

8.1 Councillor Zamir Khan, Ward Councillor, 17th June 2020:

This will be good for the town centre.

ORIGINATING DIVISION:	HIGHWAYS AND TRANSPORTATION		
REPORT TO:	BLACKBURN WITH DARWEN BOROUGH COUNCIL PLANNING AND HIGHWAYS COMMITTEE		
DATE:	15th JULY 2020		
TITLE:	Diversion of Public Footpaths parts of 207, 211 & 212 Darwen and upgrade of Public Footpath 208 Darwen to a Bridleway		
WARD:	Darwen South	COUNCILLORS:	Kevin Connor Lillian Salton Neil Slater

1.0 PURPOSE OF THE REPORT

The purpose of the report is to seek committee approval for a public path order under

- the Highways Act 1980, Section 26, to create a bridleway along public footpath 208, and.
- the Highways Act 1980, Section 119, to divert public footpath 207 and parts of public footpaths 211 & 212.

2.0 BACKGROUND AND DETAILS

On the 6th April 2018 the Council granted planning permission for a residential development off Cranberry Lane in Darwen (Application 10/17/1313)

Public Footpaths 207, 211 & 212 Darwen cross the development site and in order that the development can be implemented as per the planning approval, it is necessary that sections of these public footpaths are diverted. Public Footpath 208 Darwen also crosses the development site but is unaffected by it.

The Council has received an application from the developer, McDermott Homes, to divert the footpaths affected and to upgrade the existing Public Footpath 208 Darwen to bridleway.

An application has also been received from an adjoining landowner for a short diversion of part of Public Footpath 211 around the immediate vicinity of their property.

Under the Council's Constitution this Committee has '*The power to create, divert, stop up, extinguish and reclassify footpaths and bridleways and the power to make orders and enter agreements in relation to the same*'

The Committee therefore has to consider whether, or not, to promote the Order requested by the applicants. In order to assist members in making this decision, officers have prepared a detailed report with the necessary information to enable an informed decision to be made.

3.0 LEGAL

The relevant legislation is the Highways Act 1980, Sections 26 and 119.

4.0 IMPLICATIONS

5.0

Customer Financial	Improved Public Rights of Way the Applicants will meet the cost of the diversions and upgrade to bridleway.
Anti-poverty Crime and Disorder	None None

5.0 RECOMMENDATION

It is the officer's recommendation that the legislative criteria have been met and that the committee should resolve to Promote the Order and authorise the Director of HR Legal & Governance to progress the necessary legal orders.

6.0 BACKGROUND PAPERS: Attached detailed report

7.0 CONTACT OFFICERS: George Bell

8.0 DATE PREPARED: 17th June 2020

Highways Act 1980, Sections 26 and 119

Wildlife and Countryside Act 1981 section 53A

Application for Public Path Diversion and Creation Orders

Upgrade of Public Footpath 208 Darwen to bridleway and the diversion of Public Footpaths 207, 211 (part), 212 (part) Darwen

1. Introduction

1.1 This report seeks to assist the members of Planning and Highways Committee in their determination of an application to upgrade public footpath 208 Darwen to bridleway under the Highways Act 1980, Section 26 and to divert public footpath 207 Darwen and parts of public footpaths 211 & 212 Darwen under the Highways Act 1980, Section 119.

2. Background

2.1 The Council is both the Planning Authority and the Highway & Surveying Authority for the area within which the public footpaths proposed for upgrade and diversion lie.

2.2 The Council received an application for planning permission for the erection of 138 new dwellings on the site off Cranberry Lane, Darwen. This is registered under application reference 10/17/1313 and planning permission was granted on the 27th April 2018.

2.3 The proposed development has an impact on the alignment of Public Footpaths 207, 211 & 212 Darwen that may be considered to necessitate their diversion.

2.4 The Council subsequently received an application in February 2018 requesting the diversion of Public Footpaths 207, 211 & 212 Darwen and the upgrade of Public Footpath 208 Darwen to Bridleway.

2.5 In June 2020, the Council received a request from an adjoining landowner at Kirkhams Farm for a short diversion of part of Public Footpath 211 around the immediate vicinity of their property.

2.6 This report seeks to address those matters being put before members of the Committee, namely the application for the public path order to divert the paths as shown on the plan attached to this report and to upgrade the path shown to bridleway. It seeks to advise members of the Committee of an assessment against the relevant legislative criteria, thus enabling them to consider whether, or not to promote the Order requested.

3. Legislative Criteria

3.1 Paragraph 7.2 of 'Rights of Way Circular 01/09 - Guidance for Local Authorities', published by Defra (Department for Environment, Food and Rural Affairs), re-confirms that:

'The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered.'

- 3.2 The Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) provides that development affecting a public right of way must be advertised in a local newspaper and by posting a notice on the site, as part of the planning application process. This is entirely separate from any notices and advertisements required when making and confirming a subsequent extinguishment or diversion order.
- 3.3 Section 257 of the Town and Country Planning Act 1990 Act gives local planning authorities the power to make orders to extinguish or divert footpaths, bridleways or restricted byways where it is necessary to enable development for which planning permission has been granted.
- 3.4 Rights of Way Circular 01/09, paragraph 7.21, however states that:
- 'Where the development, in so far as it affects a right of way, is completed before the necessary order to divert or extinguish the right of way has been made or confirmed, the powers under sections 257 and 259 of the 1990 Act to make and confirm orders that are no longer available since the development, which the order is intended to enable, has already been carried out.....'*
- 3.5 Due to resource issues, there has been a delay bringing this diversion to Committee for consideration and as a result substantial development of the site has already taken place, to the extent that officers consider that Section 257 of the 1990 Act is no longer available, hence the diversions are being considered under Section 119 of the Highways Act 1980.
- 3.6 Section 119 of the Highways Act 1980 gives the council the power to divert public footpaths where *'...in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted.....'*
- 3.7 Section 26 of the Highways Act 1980 gives the local authority the power to create public rights of way having regard to the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public and the effect it would have on the rights of persons interested in the land.
- 3.8 The Wildlife and Countryside Act 1981 Section 53A gives the local Surveying Authority the powers to add additional rights to the definitive map and statement.

4. Assessment against the Legislative Criteria

- 4.1 With regard to the residential development, the decision whether or not to promote a Public Path Diversion Order is discretionary and does not follow on automatically from the granting of planning permission. There may however be a reasonable expectation, on the part of applicants, that if the Planning Authority has granted planning permission, having considered the impact that the development will have on rights of way across the site as part of that process, they will subsequently be supportive of an application to divert the paths concerned.
- 4.2 The effect of the proposed development on the public right of way is a material consideration in the determination of the planning application, and therefore should have been considered as part of this process. It is however possible that such matters, so far as they relate to the proposed diversion, may be re-opened, should any Order be subject to duly lodged objections as part of the statutory process.

- 4.3 Had there not been a delay in bringing the report to Committee for a decision then, under Section 257 of the 1990 Act, for the purposes of determining the applications for the Public Path Diversion Orders the Authority must be satisfied that:
- a) there is a valid planning consent in place; and
 - b) in order to enable the approved development to take place, it is necessary to divert the public right of way.
- 4.4 With regard to the first of the criteria, as indicated above, planning consent has been granted by the Planning Authority.
- 4.5 An assessment of the plans for the proposed development reveals that the current Definitive Map alignment of the path will be, in part built over.
- 4.6 As a result, it may be reasonable to conclude that the diversion of the paths are necessary and that, under Section 119 of the Highways Act 1980, in the interests of the owner of the land, it is expedient that the line of the paths should be diverted.
- 4.7 The upgrade of public footpath 208 Darwen to bridleway has been agreed by the developer and provides an integral link on the West Pennine Moors Bridleway loop. Under Section 26 of the Highways Act 1980, the upgrade therefore would add to the convenience or enjoyment of a substantial section of the public and will have no effect on the rights of persons interested in the land.
- 4.8 With regard to the proposed diversion at Kirkhams Farm, the current line of the footpath goes through what was the yard or working area of the farm. Kirkhams Farm is however no longer a working farm but is a private residential property. The proposed short diversion reroutes the public footpath along the edge of a green field adjacent to what is now a garden area.
- 4.9 Again, it may be reasonable to conclude that in the interests of the owner of the land, it is expedient that the line of the path should be diverted.

5. Decision Required

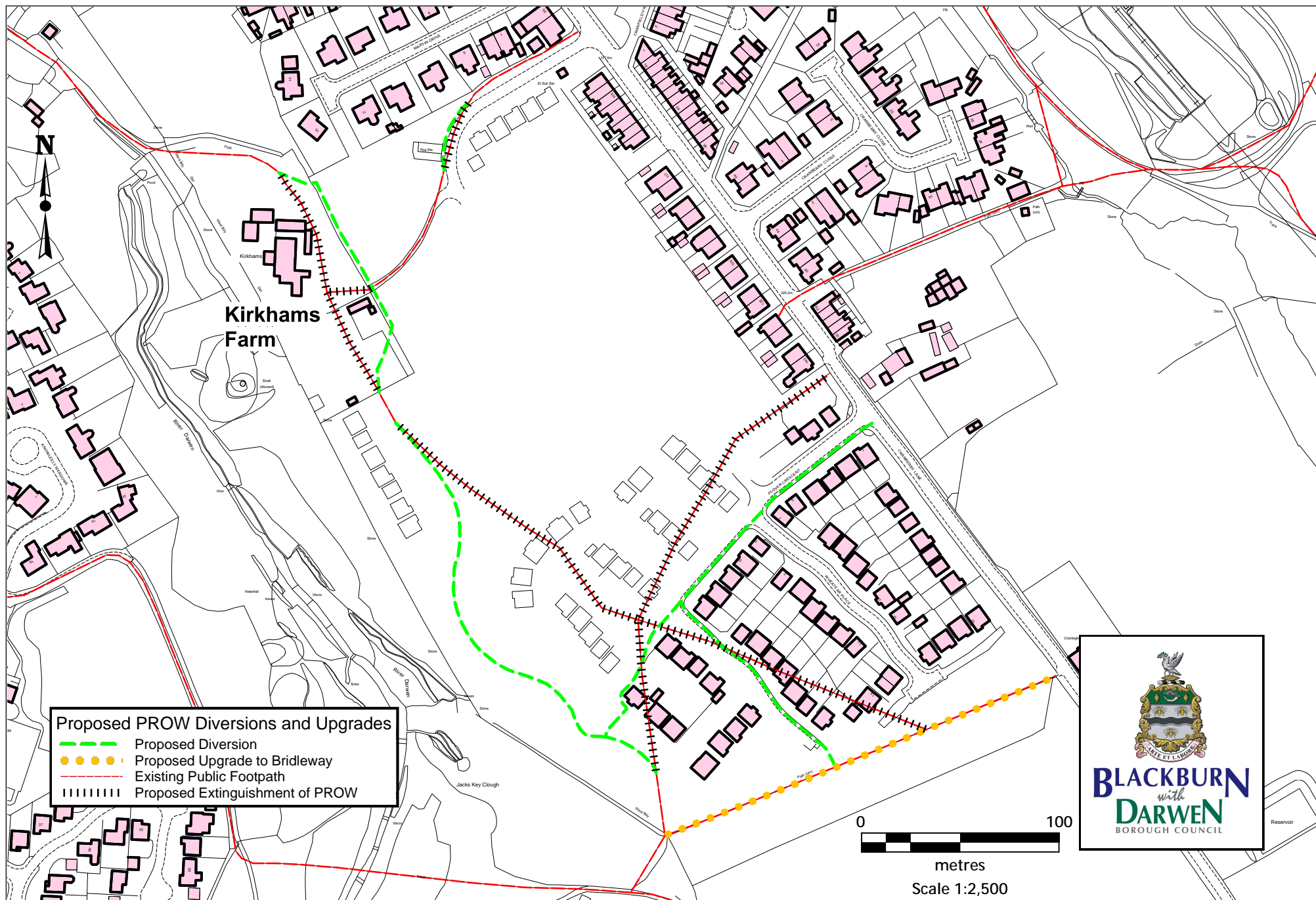
- 5.1 Whilst it is expedient to combine both applications into a single Public Path Diversion Order, Committee should consider the merits of each application independently and in any resolution make it clear which applications have been approved or refused.
- 5.2 If, having considered all of the relevant information, Committee is minded to approve the applications to divert and upgrade the public footpaths shown on the plan, they should resolve that:
- a) A Public Path Diversion Order be made pursuant to Section 119 of the Highways Act 1980 to divert Public Footpath Numbers 207, 211 and 212 Darwen as shown on the attached plan.
A Public Path Creation Order to be made pursuant to section 26 of the Highways Act 1980 to upgrade footpath 208 Darwen to bridleway
 - b) if no objections are duly lodged, the Authority confirm the Orders;
- or
- c) if objections are duly lodged, and not subsequently withdrawn, the Orders be passed to the Secretary of State for confirmation.

5.3 If, having considered all of the relevant information, the Committee is minded to refuse the applications, the applicants should be advised of this decision, and that there are no rights of appeal.

6. Recommendation

6.1 Whilst the Authority (Planning and Highways Committee) must make its own decision whether or not to promote the requested Order, it is the view of officers that the legislative tests appear to be satisfied, and therefore the Order may be promoted and 'made'.

Proposed Diversions of PF's 207, 211 & 212, Darwen and Proposed Upgrade of PF 208, Darwen to Bridleway



GROWTH & DEVELOPMENT DEPARTMENT

ORIGINATING SECTION: PLANNING (DEVELOPMENT
MANAGEMENT)

REPORT TO PLANNING & HIGHWAYS COMMITTEE - 15th July 2020

TITLE: APPEAL DECISION – LAND ADJOINING
MOORTHORPE COTTAGE, PARK ROAD, DARWEN

WARDS: WEST PENNINE

1.0 PURPOSE OF THE REPORT

1.1 To inform Members of the recent appeal decision relating to the outline planning application for the erection of 9 dwellings and detached garages on land adjoining Moorthorpe Cottage, Park Road, Darwen.

1.2 Members will recall that at the meeting on the 20th June 2019, outline planning permission was refused for the following reason:

“The proposal consisting of 9no. dwellings and associated highway infrastructure in addition to the previously approved dwelling under planning application 10/16/1349, is considered to represent a scale of development that is disproportionately large, taking into account the local context, and transition with the countryside area. This is considered contrary to the requirements of Policy 28 of the Local Plan Part 2, which sets out that residential development in the “Long Clough” allocation (28/10), shall be “very small scale, in the immediate vicinity of the existing dwelling (Moorthorpe Cottage), ensuring “no loss of trees”. (ref: 10/18/1153).

1.3. The applicants submitted an appeal to the Planning Inspectorate on the 17th January 2020 (ref: APP/M2372/W/19/324341). The appeal was determined via written representations. The appeal was determined on the 5th June 2020, and the Inspectorate ALLOWED the appeal. A copy of the decision letter is attached to this report. In summary, the Planning Inspector considered that the proposed development was acceptable for the following reasons:

- a) *The site is allocated in the development plan for residential development and the Government’s objective is to significantly boost the supply of homes. Here, whilst the proposal is in outline, the detail supplied indicates that the house typology presented is consistent with the aims and objectives of Policy CS7 and LP Policy 18 to widen the choice of house types in the Borough.*
- b) *Neither the development plan nor national planning policy and guidance defines “very small-scale”. The Council recently granted*

planning permission for 22 houses on the “Ellerslie” site, which is a similar sized site to the appeal site, and is “small scale” as defined in the local plan. As such, the the development of 9 dwellings on the appeal site would be consistent with the policy reference to very small-scale.

c) The proposed loss of trees would not materially affect the contribution of the wider woodland to the character and appearance of the area and would be outweighed by the benefits in terms of replacement planting and the management of what is otherwise a deteriorating environmental asset.

1.3 At the same time, the appellants submitted an application for an award of costs in relation to the appeal, as they considered the local planning authority acted unreasonably in making the decision.

1.4 The Planning Inspectorate considered the award of costs, and on the 30th June 2020, GRANTED FULL COSTS to the appellants (a copy of the decision letter is attached to this report). In summary, the Planning Inspector considered

- The Council acted unreasonably in not providing a formal pre-application response to the applicants;
- The local planning authority did not address the issues relating to a similar development being granted on another site where they are subject to the same local plan policy designation, and why the appeal was assessed differently;
- As such, with the lack of evidence, the Inspector considered that the Council has acted unreasonably resulting in the appellant incurring unnecessary expense or wasted expense and that a full award of costs is justified.

2.0 RECOMMENDATION

2.1 That the report be noted.

3.0 BACKGROUND PAPERS

3.1 Planning application 10/18/1153.

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

5.0 DATE PREPARED 2nd July 2020



Appeal Decision

Site visit made on 24 February 2020

by **S R G Baird BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5th June 2020

Appeal Ref: APP/M2372/W/19/3243411

Land adjoining Moorthorpe Cottage, Park Road, Darwen, Lancashire BB3 2LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Ms G Lomax against the decision of Blackburn with Darwen Borough Council.
- The application Ref 10/18/1153, dated 15 January 2019, was refused by notice dated 20 June 2019.
- The development proposed is the erection of 9 dwellings with detached garages.

Preliminary Matter

1. The application was submitted in outline with all matters other than access and layout reserved for a subsequent application.
2. An application for costs was made by Ms G Lomax against Blackburn with Darwen Borough Council. This application is the subject of a separate decision.
3. The issuing this decision on what is a straightforward planning dispute has been substantially delayed. The Planning Officer's report to the Planning Committee sought financial contributions to the provision of affordable housing and green infrastructure. However, the appeal as submitted was not accompanied by a completed S106 Obligation and the Council's subsequent statement made no reference to the need for an Obligation. Following a request for clarification, the Council acknowledged¹ that the absence of a reference to a S106 Obligation was an oversight and that financial contributions to the provision of affordable housing and green infrastructure were necessary to make the development acceptable in planning terms. Due to the impact of the Coronavirus on the appellant's and Council's ability to provide an executed S106 Agreement, I agreed to the appellant's request to a 2-month extension until the 5 June 2020 to allow for an Agreement to be submitted. On the 4 June, the Council confirmed that it no longer required a S106 Obligation to provide financial contributions toward the provision of affordable housing and green infrastructure. The proposal has been assessed on this basis.

Decision

4. The appeal is allowed and outline planning permission is granted for the erection of 9 dwellings with detached garages on land adjoining Moorthorpe Cottage, Park Road, Darwen, Lancashire BB3 2LQ in accordance with the

¹ 26 March 2020.

terms of the application, Ref 10/18/1153, dated 15 January 2019, subject to the conditions contained in the attached Schedule of Conditions.

Main Issue

5. The effect on the character and appearance of the area.

Reasons

6. The development plan for the area includes the Core Strategy (CS) adopted January 2011 and the Local Plan Part 2 (LP) Site Allocations and Development Management Policies adopted December 2015. The site forms part of a larger area identified by LP Policy 28 as a development opportunity where planning permission will be granted for, "...*very small-scale residential development in the immediate vicinity of the existing dwelling, ensuring no loss of trees or woodland*". The existing dwelling is Moorthorpe Cottage located immediately to the north of the application site and within the LP allocation. In October 2017 planning permission was granted on appeal² for a dwelling, currently under construction, immediately to the north-east of Moorthorpe Cottage.
7. The Council acknowledges that the principle of residential development is acceptable, and the proposal would comply with CS and LP policies that relate to amenity, the environment, design, accessibility and transport. However, the Council indicate that, notwithstanding a lack of objection from the Council's specialist arboricultural advisors, the loss of trees and the scale of development would be disproportionately large such that the proposal would conflict with LP Policy 28.
8. Neither the development plan nor national planning policy and guidance³ defines "very small-scale". One of the key principles that underpins the planning and development management process is the application of a consistent approach to development proposals and decisions. The appellant draws attention to a site at Eilerslie House, Darwen. This is a similar sized site identified by LP Policy 28 as a development opportunity for "*small-scale residential*" development. Here, the Council has granted outline planning permission for 22 dwellings at a density of some 9.56 dwellings per hectare (dph). On the appeal site, the development and the one allowed on appeal would produce a density of some 4.41dph. In this context, the development of 9 dwellings on the appeal site would be consistent with the policy reference to very small-scale.
9. The appeal site and surrounding land is covered by a blanket Tree Preservation Order (TPO). This appears to have been imposed because of the value and contribution the woodland makes to the sylvan character and appearance of the area. The scheme would involve the loss of several freestanding trees and 2 groups of trees/shrubs and this loss would conflict with LP Policy 28. That said, the area of woodland covered by the TPO is extensive and in comparison, the number of trees lost would be minor. The individual trees proposed for removal appear to have once formed part of a larger group. That said, they are multi-stemmed, exhibit various defects and are generally poor specimens. Moreover, these trees are not visible from any public vantage point and are detached from the more extensive and valuable areas of woodland. In my view, their loss would not diminish the contribution

² APP/M2372/W/17/3179112.

³ National Planning Policy Framework (Framework) & Planning Practice Guidance.

the wider woodland makes to the sylvan character and appearance of the area. Similarly, 2 groups of vegetation/trees would be removed. These are adjacent to 2 substantial areas of Category A and B woodland. Tree Group 5 is a linear group of common trees covered by dense ivy. The dense ivy and the proximity to the more mature woodland group (W3) appears to be suppressing their growth. Along with the margin to Group 6, the loss of these trees/shrubbery would not diminish the contribution of the wider woodland area to the character and appearance of the area.

10. Whilst the whole area is covered by a TPO, which prevents unauthorised felling, it does not require the woodland to be maintained. It is evident that the woodland has lacked active management over many years. The lack of management has allowed the spread of ivy and trees to self-seed; both of which have introduced undesirable competition, particularly for light, which has resulted in poor quality growth. The development would provide the opportunity to obtain a comprehensive woodland management programme. Such a programme would ensure the continued and enhanced contribution the woodland makes to the character and appearance of the area. This is a significant benefit, which I attach substantial weight to.

Other Considerations

11. Access to the site would be from Park Road, via a long private track. The Highway Authority do not object to the scheme and I have no reason to conclude that the proposal would result in unacceptable vehicle/pedestrian conflict. As such, the proposal would not conflict with LP Policy 10. Rights of access and covenants are private matters between landowners and are not for me to consider as part of a planning appeal. In terms of the impact on neighbours from the use of the access road, there is adequate separation to ensure there would be no material impacts on neighbours from comings and goings. Impact on ecology could be appropriately managed through the imposition of relevant conditions and as such there would be no conflict with LP Policy 9.

Conclusions

12. Whilst the Council may be able to demonstrate a housing supply in excess of 5 years, that does not weigh against the development. The site is allocated in the development plan for residential development and the Government's objective is to significantly boost the supply of homes. Here, whilst the proposal is in outline, the detail supplied indicates that the house typology presented is consistent with the aims and objectives of Policy CS7 and LP Policy 18 to widen the choice of house types in the Borough. Whilst the proposed development would be consistent with LP Policy 28 in terms of the scale of development, it would result in the loss of several trees. However, the proposed loss of trees would not materially affect the contribution of the wider woodland to the character and appearance of the area and would be outweighed by the benefits in terms of replacement planting and the management of what is otherwise a deteriorating environmental asset. Taken in the round, the proposal would not unacceptably affect the character and appearance of the area or conflict with the development plan when read as a whole. For these reasons and having taken all other matters into considerations, the appeal is allowed.

Conditions

13. A condition specifying the relevant drawings has been imposed as this provides certainty. In the interests of the appearance of the area, conditions requiring the submission of samples of finishing materials and details of boundary treatments have been imposed. In the interests of ecology conditions relating to the submission of measures to protect badgers, otters and great crested newts, bats and reptiles, to protect the site from invasive plant species, the avoidance of construction during the bird nesting season, the submission, if necessary, of an updated Ecological Impact Assessment, the protection of trees, and a woodland management plan have been imposed.
14. In the interests of residents' living conditions, conditions relating to hours of construction, construction management, dust suppression, ground conditions and remediation are imposed. To ensure adequate drainage, conditions relating to the provision of foul and surface water drainage and a sustainable surface water drainage scheme have been imposed. In the interests of sustainable development, a condition requiring the installation of electric vehicle charging points is imposed. In the interests of highway safety, a condition relating to visibility splays at the access and all driveways is imposed. Where necessary and in the interests of precision and enforceability I have reworded the suggested conditions.
15. Landscaping is a reserved matter and as such I have not imposed a separate condition requiring details of landscaping to be submitted. Planning Practice Guidance highlights that the blanket removal of freedoms to carry out small scale domestic alterations is unlikely to meet the test of reasonableness and necessity. Here, I consider the Council's suggested condition removing permitted development rights specified in Classes A-G of Part 1 of that Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, has not been justified and is unreasonable.

George Baird

Inspector

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Nos. C3697-1 Site Plan; LP-01 Rev B Location Plan; 17-116 SK01(t)-B Sketch Layout; 17-116 SK01(T)-C Curtilages; D6647.002 Tree Removal and Retention Plan; 18167 Measurements and SCP/18167/ATR01 Rev A General Arrangement and Swept Path Analysis but only in respect of those matters not reserved for later approval.
- 5) Prior to commencement of the development hereby approved, samples of all external walling and roofing materials, including their colour, to be used in 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.
- 6) Prior to the commencement of any works on site, a Badger Activity Survey shall be carried out to determine the presence of badgers in the area. The survey shall be carried out by a suitably competent ecologist, during the time of year when badgers are active. The results of this survey and any recommendations or mitigation measures shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out in accordance with the approved badger activity survey.
- 7) Prior to the commencement of any works on site, an Otter Activity Survey shall be carried out by a suitably qualified ecologist; in accordance with national survey guidance. The results of this survey and any recommendations or mitigation measures shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out in accordance with the approved Otter Activity Survey.
- 8) Prior to the commencement of any works on site, a Great Crested Newt presence/absence survey of the 2 ponds identified in Section 3.25 of the Bowland Ecology "Ecological Impact Assessment" shall be carried out by a suitably qualified ecologist in accordance with Great Crested Newt survey guidelines (Natural England 2001). The results of this survey and any recommendations or mitigation measures shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out in accordance with the approved Great Crested Newt presence/activity survey.
- 9) Prior to the commencement of any works on site, a Reasonable Avoidance Measures (RAMs) mitigation plan shall be produced, in order to

mitigate the threat of light spill on bats. The RAMs mitigation plan shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out in accordance with the approved plan.

- 10) Prior to the commencement of any works on site, a Reasonable Avoidance Measures (RAMs) mitigation plan shall be produced, in order to mitigate risk to reptiles. The RAMs mitigation plan shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out in accordance with the approved plan.
- 11) Prior to the commencement of any works on site, a detailed Invasive Plant Species Survey of the site shall be carried out by a remediation/invasive species specialist. The results of this survey and any recommendations or mitigation measures shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out strictly in accordance with the approved details.
- 12) No site clearance or construction works on site shall be carried out during the bird nesting season (1 March to 31 July), unless the absence of nesting birds has been confirmed by further survey work or on-site inspections.
- 13) Prior to the commencement of any works on site, a Woodland Management and Access Plan shall be produced to safeguard retained woodland (Long Clough) at the site. This plan should consider the following issues during the clearance, construction and operational phases of the development;
 - i) formalising access/egress into the woodland and pathways to prevent desire lines dissecting the habitat;
 - ii) zoning of natural habitat to ensure an appropriately restricted and undisturbed area for wildlife;
 - iii) non-native species management to prevent spread to gardens of new residential properties;
 - iv) implementation of traditional woodland management techniques such as felling, coppicing and pollarding, where appropriate;
 - v) retention of standing and fallen dead wood;
 - vi) creation of artificial habitats such as bird/bat boxes, hedgehog hotels and felled log piles for invertebrates;
 - vii) provision of education packs for homeowners about the value of the surrounding habitat and rationale for habitat protection measures;
 - viii) creation of a buffer zone (in accordance with BS5837:2012) during the construction phase and adoption of working practices when carrying out any works near trees or woodland; in accordance with BS5837:2012 guidelines, in order to reduce negative impact on biodiversity.

The Woodland Management and Access Plan shall be submitted to and approved in writing by the local planning authority. All recommended mitigation measures shall be carried out in accordance with the approved plan.

- 14) Should no clearance or construction works be carried out on site within 2 years of the date of the Bowland Ecology "Ecological Impact Assessment" (EIA) an updated EIA shall be produced. The updated EIA shall be submitted to and approved in writing by the local planning authority. Any recommended mitigation measures shall be carried out strictly in accordance with the approved assessment.
- 15) Prior to commencement of the development hereby approved, a Construction Method Statement (CMS) shall be submitted to and approved in writing by the local planning authority. The approved CMS shall be adhered to throughout the construction period. The CMS 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 including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities, including a method statement outlining how the developer intends to use and manage the facility. The approved wheel wash shall be put in place at all vehicle access points onto the public highway when work commences and shall remain in operation throughout the period of development;
 - 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.
- 16) Visibility splays at the site access/egress and all driveways shall not at any time be obstructed by any building, wall, fence, hedge, tree, shrub or other device exceeding a height greater than 1 metre above the crown level of the adjacent highway.
- 17) Foul and surface water shall be drained on separate systems.
- 18) Prior to the commencement of the development hereby approved, a sustainable surface water drainage scheme shall be submitted to and approved in writing by the local planning authority. The drainage scheme must include:
 - i) an investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
 - ii) a restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
 - iii) a timetable for its implementation.

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

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

- 19) Prior to commencement of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum;
 - i) arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a residents' management company; and
 - ii) arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime. The development shall subsequently be completed, maintained and managed in accordance with the approved plan.
- 20) Prior to the implementation of the development hereby approved, a scheme shall be submitted to and approved in writing by the local planning authority detailing provision of an electrical vehicle charging point for each dwelling. The approved scheme shall be implemented prior to first occupation of the development.
- 21) Prior to the commencement of development hereby approved, the developer must submit to the local planning authority for written approval:
 - i) a comprehensive desk study report, including a preliminary Conceptual Site Model (CSM) in text, plan and cross-section form. Where necessary, detailed proposals for subsequent site investigation should also be included, clearly based on the CSM;
 - ii) findings of the approved site investigation work (where necessary), including an appropriate assessment of risks to both human health and the wider environment, from contaminants in, on or under the land (including ground gas). If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented, along with an updated CSM. No deviation shall be made from this scheme without the written agreement from the local planning authority.
- 22) Prior to the occupation of the development hereby approved, a comprehensive Validation Report shall be submitted to and approved in writing by the local planning authority. The Validation Report shall demonstrate effective remediation in accordance with the agreed remediation scheme and updated Conceptual Site Model. All the installed remediation must be retained for the duration of the approved use, and where necessary, the local planning authority should be periodically informed in writing of any ongoing monitoring and decisions based thereon.
- 23) Should contamination be encountered unexpectedly during redevelopment, all works should cease, and the local planning authority should be immediately informed in writing. If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented and agreed in writing by the local planning authority.

No deviation shall be made from this scheme without the written express agreement of the local planning authority.

- 24) Prior to commencement of the development hereby approved, a scheme of boundary treatment(s) shall be submitted to and approved in writing by the local planning authority. The scheme shall provide for the precise location, height and construction materials of all boundaries. The approved scheme of boundary treatment(s) shall be implemented prior to first occupation of the development and retained thereafter.
- 25) Prior to commencement of any works at the site, an arboricultural method statement and tree protection plan shall be submitted to and agreed in writing by the local planning authority. The method statement shall clearly state how the trees to be retained on site will be protected during construction works. The agreed method statement shall be implemented in full prior to the undertaking of any on site works and retained for duration of the demolition and construction works.
- 26) Prior to commencement of the development hereby approved, a scheme for the suppression of dust during the period of construction shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be used throughout the construction process.
- 27) The construction of the development hereby permitted shall only take place between the following hours: Monday to Friday - 08:00 to 18:00; Saturday - 09:00 to 13:00; Sundays or Bank Holidays - No site operations.



Costs Decision

Site visit made on 24 February 2020

by **S R G Baird BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th June 2020

Costs application in relation to Appeal Ref: APP/M2372/W/19/3243411 Land adjoining Moorthorpe Cottage, Park Road, Darwen, Lancashire BB3 2LQ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ms G Lomax for a full award of costs against Blackburn with Darwen Borough Council.
 - The appeal was against the refusal of outline planning permission for the erection of 9 dwellings with detached garages.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Council acknowledges that, due to the prolonged absence of the case officer through illness, it failed to provide a pre-application response. Whilst one has sympathy with the individual officer, the Council provides no explanation as to why the case was not or could not be reassigned to another case officer. In these circumstances, I find that the Council acted unreasonably. I fully understand the appellant's frustration in not receiving the service for which she had paid a not insubstantial sum. However, given the Planning Committee did not accept the officer's recommendation that planning permission should be granted, the submission of a planning appeal could not be avoided.
4. Both applicants and objectors are permitted to present a case to the Planning Committee. For both this involved video presentations. The protocol is that the applicant presents first followed by those objecting. In the interests of fairness, it is highly unusual that the applicant was not given the opportunity to respond to the objectors' submissions. However, as that the Council appears to have followed its current protocols, I find that the Council did not act unreasonably. Moreover, without a verbatim transcript of the Members' discussion following the presentations, it is impossible for me to determine whether the objectors' presentation resulted in undue influence.
5. PPG advises that a Council is at risk of an award of costs if it behaves unreasonably through, amongst other things, failing to produce evidence to substantiate each reason for refusal on appeal. The nub of the issue in this

case relates to the scale of the development having regard to Local Plan (LP) Policy 28. A key part of the appellant's evidence on appeal was that residential development of a substantially larger scale was permitted on a site, Ellerslie House, that is allocated under LP Policy 28.

6. It is a basic tenet of the planning system that similar proposals are treated consistently. There is nothing in the Council's Statement of Case to address the appellant's fundamental point regarding a similar development and no explanation as to why 2 sites subject to the same policy designation were treated differently. Accordingly, I consider that in failing to produce evidence to substantiate the reason for refusal on appeal, the Council has acted unreasonably resulting in the appellant incurring unnecessary expense or wasted expense and that a full award of costs is justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Blackburn with Darwen Borough Council shall pay to Ms G Lomax, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to Blackburn with Darwen Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

George Baird

Inspector

DEPARTMENT OF GROWTH AND DEVELOPMENT

ORIGINATING SECTION: Planning

REPORT TO: Planning & Highways Committee 15th July 2020.

TITLE: Petition objecting to a planning application proposing a change of use of land to residential garden space associated with no. 29 Greenhead Avenue, Blackburn.

WARD: Blackburn Central

Councillor: Pat McFall

Councillor: Abdul Patel

Councillor: Mustafa Ali Desai

1.0 PURPOSE OF THE REPORT

1.1 To inform Members of the receipt of a petition objecting to a current planning application (ref. 10/20/0434) proposing a change of use of land to residential garden space associated with no. 29 Greenhead Avenue, Blackburn. The application is submitted by Mr Khan, who owns 29 Greenhead Avenue.

2.0 BACKGROUND AND DETAILS

2.1 On 4th March 2019, the Planning Enforcement team received a complaint alleging unauthorised activity on land to rear of properties on Greenhead Avenue, Furness Avenue and Wellbeck Avenue, Blackburn. Subsequent complaints were received alleging increased activity. These complaints are summarised as follows:

- That Mr Khan doesn't own the land and is claiming possession thereof;
- Removal of Japanese Knotweed from the site;
- Alleged anti-social behaviour and intimidation experienced by local residents in relation to the Mr Khan's conduct.

2.2 Planning Enforcement and Public Protection Officers continued to monitor the site, resulting in the following interventions:

- March 2019; Planning Enforcement issued a Planning Contravention Notice on Mr Khan, requesting further information regarding the land uses and its future intended use. This was returned completed in the appropriate period of time.
- July 2019; Public Protection issued a Community Protection Warning Notice (CPW) on Mr Khan CPW requiring submission of a written program for control of the Japanese Knotweed, for the Environmental Protection Team's approval. No such program was received by the Council. Mr Khan then appeared to leave the site and very little further activity occurred. With the land having no legal owner and little further activity then we were unable to escalate the CPW to service of a Community Protection Notice.

- May 2020; At the request of Planning Enforcement, Mr Khan submitted a planning application proposing change of use of the land to residential garden. The application prompted submission of the petition subject of this report. The petition contains 48 signatures and is appended to this report. The petition requests the following actions by the Council:

- Reject any plans to close the access
- Stop work on the unregistered land
- Stop anti-social behaviour
- Evict the current occupiers of the land
- Consult with residents on how to make use of the land
- Enforce the removal / management of Japanese Knotweed

2.3 The issues raised in the petition have been addressed thus far in a letter to Kate Hollern MP which is appended to this report.

2.4 Members are advised that assessment of the planning application is ongoing and that all material issues that must be considered in the decision making process will be addressed. Should the application be recommended for approval, it will be reported to the Planning and Highways Committee for determination. Alternatively, the application may be refused under delegated officer powers. A copy of the petition is placed in Democratic Services.

3.0 RECOMMENDATION

3.1 That the petition be noted by Members and that the lead petitioner be informed of any decision taken, including the outcome of the current planning application.

4.0 BACKGROUND PAPERS

4.1 Petition subject of this report

4.2 Planning application 10/20/0434

4.3 Aforementioned letter to MP.

5.0 CONTACT OFFICER: Nick Blackledge; Senior Planner, Development Management.

6.0 DATE PREPARED: 30th June 2020..



Kate Hollern MP
Constituency Office
Richmond Chambers
Richmond Terrace
Blackburn
BB1 7AS

Date: 22nd June 2020
Our Ref: G&D/10/20/0434
Your Ref: KH/KH44076DT
Please ask for:
Direct Dial: (01254) 585585
Email: planning@blackburn.gov.uk

Dear Kate,

Land to the rear of No.29 Greenhead Avenue, Blackburn – use of land as residential garden (ref: 10/20/0434)

I refer to your letter dated 9th June 2020, sent on behalf of your constituents who live on Greenhead Avenue, Welbeck Avenue and Furness Avenue in Little Harwood, regarding the above piece of land, of which a part is now subject to a formal planning application to change the use of the land into a private residential garden (ref: 10/20/0434).

I can confirm that the local planning authority has also received correspondence relating to the piece of land from local residents expressing a number of concerns/issues along with a letter/petition containing 48 signatures submitted to you on the 10th June 2020. With regard to the latter, can you please confirm that you wish for the Council to deal with this petition in accordance with the Council's adopted procedure relating to petitions? The issues/concerns raised by the residents can be summarised as follows:

- 1) The applicant, Mr Khan, claiming possession of the land
- 2) Japanese Knotweed present on the site
- 3) Assessment of the current planning application (ref: 10/20/0434)
- 4) Claims of anti-social behaviour and intimidation witnessed and experienced by local residents in relation to the applicant's conduct.

All of the above issues/concerns are being taken seriously by the Council, and officers from the relevant services, including Legal, Planning, Public Protection and Community Safety, met on the 11th June, to discuss the way forward in dealing with these issues. I will endeavour to deal with each issue in turn.

The applicant, Mr Khan claiming possession of the land:

For context, this issue was first brought to the attention of the Council's Planning Enforcement Team in March 2019. A Planning Enforcement Officer made a visit to the site in March 2019, accompanied by an officer from the Public Protection Team to ascertain the extent of the activity

carried out. During this visit, the officers explained to Mr Khan, that fencing off the land and progressing to use it as an extension to his residential curtilage, would amount to a breach of planning control which would be subject to the threat of enforcement action. Mr Khan was advised to submit a formal planning application to seek planning permission for change of use of the land to residential. A Planning Contravention Notice (PCN) was issued and served on Mr Khan by the Council in March 2019, requesting further information regarding the land uses and its future intended use. This was returned completed in the appropriate period of time.

The Planning Enforcement team continued to monitor the site, and on the 12th May 2020, a formal planning application was received. Should the application be refused, Planning Enforcement will review the situation and take appropriate action if a breach of planning control is identified.

With regards to Mr Khan claiming possession of the land, it is known that this land is unregistered and the Council understands that no one claiming to be the owner by virtue of holding title deeds to this land has ever come forward. This land is not owned by the Council nor has the Council ever had any legal interest in the land, therefore, it has even less of a legal right to possession of the land than the adjoining land owners. Therefore, the Council's statutory powers under environmental and planning laws (for instance) are the ones which are applicable in this situation. The local residents are strongly advised to seek their own independent legal advice in the matter. The Council is unable to advise individuals in relation to any private legal rights they may have in the matter.

Turning to the question raised *"Is the Council able to write to HM Land Registry objecting to a claim for adverse possession"*?

At the appropriate time, there is no reason why the Council could not write to the Land Registry to object. The strength of the Council's direct knowledge of the site in question will dictate how seriously the Land Registry will take the Council's views. The Land Registry will assess the information to ascertain whether the 12 year requirement for adverse possession is met. If the Land Registry believes both cases have merit they will generally try and mediate the matter formally but it could go to a form of land tribunal inquiry. At this point, the Council could assist in the inquiry process, subject to advice that confirmed the legitimacy of the Council to act.

Japanese Knotweed present on the site:

The Anti-social Behaviour, Crime and Policing Act 2014 allows local authorities to issue a Community Protection Warning (CPW) on a landowner where they are failing to manage Japanese Knotweed. In the event of non-compliance with the CPW a Community Protection Notice (CPN) can be issued. There can be penalties for failing to comply with a CPN, upon successful prosecution. An individual who is served with a CPN has the right to appeal.

Whilst the land has no legal owner, the Council's Environmental Protection Team (part of the Public Protection service), issued a CPW on Mr Khan on the 12th July 2019.

This CPW required Mr Khan, within 28 days, to submit a written program for control of the knotweed, for the Environmental Protection Team's approval. No such program was received by the Council. Mr Khan then appeared to leave the site and very little further activity occurred. With the land having no legal owner and little further activity then we were unable to escalate the CPW to the CPN stage.

In May 2020 it was brought to the Environmental Protection Team's attention that Mr Khan was working on clearing the site and his son had made a planning application regarding part of the land. As a result, the Environmental Protection Team have progressed to the next stage under the Anti-Social Behaviour Crime and Policing Act. A CPN was served on the 15th June 2020.

The Environmental Protection Team served the CPN on Mr Khan on the 15th June. This Notice gives Mr Khan a period of time to produce the Knotweed Management Plan. Mr Khan has been given 28 days but this is reliant upon a third party. We may allow some flexibility with this deadline if progress is made with an agreed Plan.

To also add to this Mr Khan has agreed to cease works on the site for the time being whilst this matter is progressed.

Noise Nuisance:

Recent correspondence has been received in relation to chickens now being present on the site. The chicken pen that has been erected is within the red edge boundary of the current planning application site, and will be assessed as part of this application. Environmental Protection have contacted Mr Khan on the 22nd June, and he confirmed there are four chickens and one young cockerel. Mr Khan claims he has kept them on the land for years. They have been temporarily absent whilst works have been carried out on the land. Noise issues around the chickens etc. can be investigated by the Environmental Protection Team. If anybody is affected by them please call 01254 267699 and we can advise further. We must stress it is not uncommon for people to keep chickens. We would need to assess any nuisance caused.

Assessment of the current planning application (ref: 10/20/0434)

The current planning application proposes a change of use of the land edged on the attached plan to the residential garden. To date, the local planning authority considers that no unauthorised development has occurred, as the land is currently not in domestic use. Although it is accepted that the land has been cleared of low level trees (which were not protected) and vegetation, including Japanese Knotweed, such works are beyond the remit of the local planning authority as the works do not require planning permission. It would appear the activity that has occurred is enabling works. In addition, the fence that has been erected does not require planning permission as it does not exceed 2 metres in height.

So far as the planning application is concerned, a formal decision will be reached in due course, following consultation with key stakeholders, and a detailed assessment of the proposal against relevant Development Plan policies. At the time of writing, 19 individual objections have been received from the local residents. The aforementioned Japanese Knotweed Management Plan will form part of the overall assessment of the application.

With reference to land ownership, the applicant Mr Khan has submitted a Certificate D with the application. This is a declaration that the land is beyond the applicant's ownership and is untitled. In accordance with the statutory provision, the relevant notice associated with the Certificate has been published in the local press, advertising the intention to develop the land and offering the opportunity for anybody with an undeclared ownership interest to come forward. The notice was duly publicised on the 18th May 2020. The application is, therefore, accepted as valid and can proceed to a formal decision.

A number of residents have referred to activity beyond the application site (as defined by the red edge boundary). I should advise that this is outside the scope of the assessment, and any activity relating to the removal of Japanese Knotweed is being addressed by the Council's Environmental Protection Team. The Planning Enforcement officer is also investigating what works have occurred on this adjacent piece of land, to ascertain whether development has occurred or there has been a material change of use of the land, which will require the benefit of planning permission.

Concerns have also been raised in terms of flood risk to the area, via a water stream located on this piece of land. I can confirm that the Council's Drainage Engineers are currently assessing the concerns raised, and will be discussing these both with the planning case officer and the applicant.

I can confirm that the planning case officer Nick Blackledge visited the site on the morning of 18th June with the Council's Drainage officer, Roger Lever. The application site was padlocked, though they were able to view the site and establish that the land was well drained. Although historic plans show a watercourse on the land, there is no evidence of it on the surface, nor was there any indication of significant surface flows after the heavy rainfall during the previous 48 hour period. There is a channel at the back of Nos. 3 and 5. This channel is cut off upstream by an outbuilding at No.7. The channel was full of rubbish and on the day visited there was a minute flow, which was probably ground water.

If the development is limited to garden (beds and lawn) and the access behind Nos 3- 21 remains gravel or soil then no new drainage problems are anticipated. However, if the area is paved / hard landscaped then a formal drainage system will be required. The application makes no mention of proposed surface materials. In the event of the planning application being granted planning permission, such works can be controlled through the removal of permitted development rights. In the event of any construction on the site, the original watercourse could be piped or culverted through on or close to the line of the former ditch.

Mr Blackledge visited the site again, on the morning of the 19th June with John Wood, Environmental Protection Officer. As previously explained, an invasive species consultant was present with reference to the Japanese Knotweed. Submission of a management / eradication plan is anticipated. In the event of the planning application being granted planning permission, implementation of the plan will be secured by condition.

The application is under assessment and a recommendation will be advanced in due course. Should the recommendation be for approval, the planning application will be presented to the next available meeting of the Planning & Highways Committee. In the meantime, Mr Khan has been advised to cease all work on site.

Claims of anti-social behaviour/intimidation witnessed / experienced by the local residents in relation to the applicant's conduct:

Reports have been received regarding incidents of anti-social behaviour involving a dispute over the parcel of land behind Greenhead Avenue. Such instances are taken seriously by the Council's Community Safety Team. Council officers met with Police colleagues on the 18th June 2020, to discuss ASB issues and next steps. Any individual identified as engaging in anti-social

or criminal behaviour will face action being taken against them, and the Community Safety Team may consider serving a CPW if the evidence supports such an action. Following the meeting with the Police, I understand the Police will contacting local residents this week to discuss their concerns.

I trust the above information is of assistance to you.

Yours sincerely,

A handwritten signature in black ink that reads "Martin Kelly". The signature is written in a cursive style with a large initial 'M' and 'K'.

Martin Kelly