

**SUPPLEMENTAL REPORT OF THE STRATEGIC DIRECTOR**

**Planning Application Ref: 10/20/0934**

**Proposed development: Full Planning Application (Regulation 4) for:  
Demolition of one substation building and the erection of 383 dwellings  
and associated works.**

**Site address:**

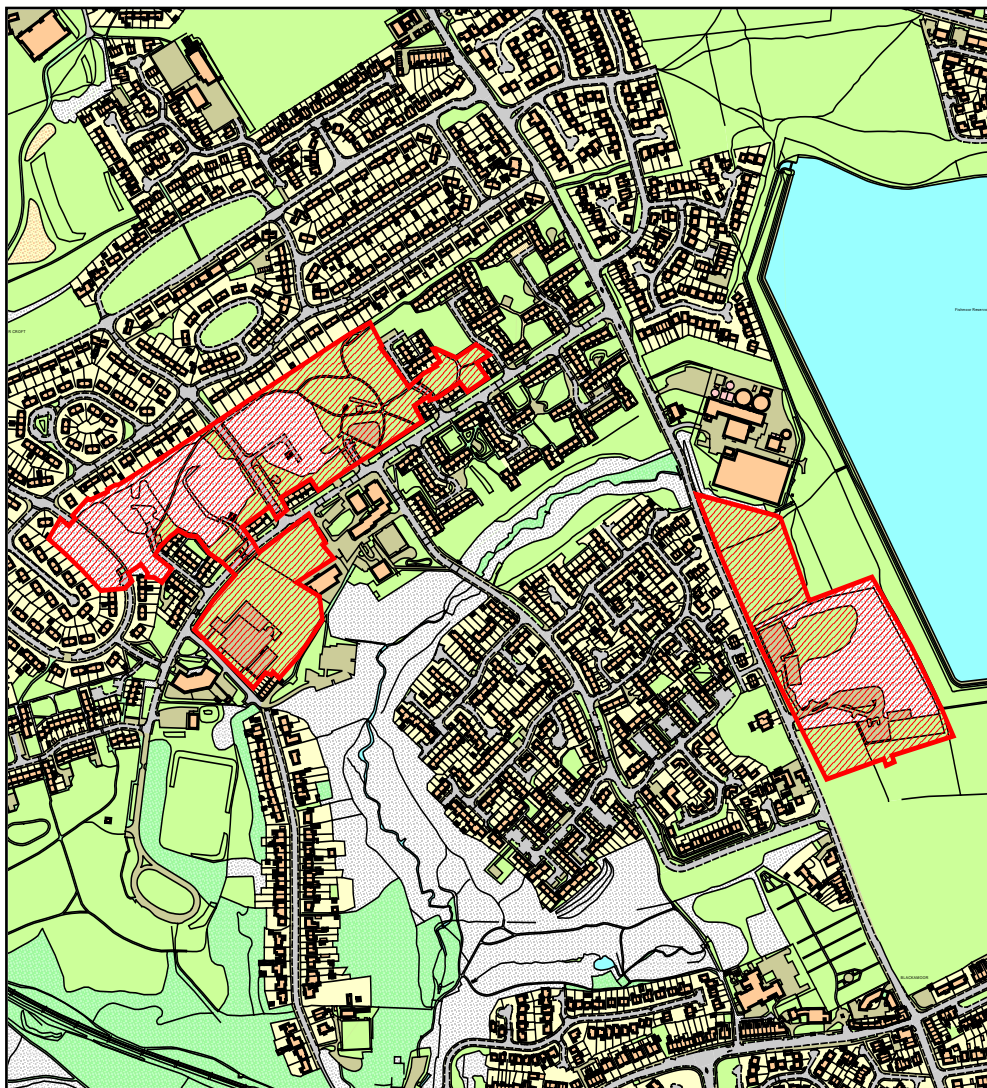
**Land to the North and South of Fishmoor Drive and Land to the East of  
Roman Road  
Blackburn**

**Applicant: Countryside Properties (UK) Ltd and Together Housing  
Group**

**Ward: Blackburn South East**

**Councillor: James Shorrock  
Councillor: Vicky Ellen McGurk  
Councillor: Tony Humphrys**

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## **1.0 SUMMARY OF RECOMMENDATION:**

### **1.1 APPROVE – Subject to a Section 106 Agreement relating to education provision and conditions, as set out in paragraph 4.1.**

## **2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE**

2.1 Members supported the resolution to approve this application at the 21<sup>st</sup> January 2021 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, on land that was previously developed to the north west and south east of Fishmoor Drive and to a previously developed site, primarily allocated for housing, to the east of Roman Road, Blackburn. 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 removal of the bespoke Affordable Housing condition can be agreed. The condition is no. 36 in the sequence of conditions set out at paragraph 4.1 of the original report. The revised suite of conditions is set out at paragraph 4.1 of this report.

## **3.0 DISCUSSION**

### **3.1 Removal of Affordable Housing Condition.**

3.1.1 The proposal will deliver 20% affordable housing (totalling 75 homes) of mixed tenure types, for people on low incomes who are on the affordable housing register. The homes will be sited on Parcel 1 (land to the North West of Fishmoor Drive) and Parcel 3 (land to the east of Roman Road). Together Housing (THA), as a Registered Provider (RP), in partnership with Countryside Properties Ltd (CPL) will deliver the homes which will be grant assisted via funding secured from Homes England. Provision of the affordable homes is in accordance with the requirements of Policies 12 and CS8 of the Local Plan and The Framework.

3.1.2 An Affordable Housing Statement was submitted with the application which sets out the affordable schedule and secures the availability of homes as affordable, in perpetuity, with a caveat allowing householders to 'staircase' to full ownership. Implementation of the affordable homes was to be secured via condition, through compliance with the Affordable Housing Statement.

- 3.1.3 Accordingly, the following affordable housing condition was attached to the suite of conditions previously approved by Committee:

*The affordable housing hereby approved shall be provided in accordance with the Countryside Properties and Together Commercial Ltd Affordable Housing Statement, received 6<sup>th</sup> January 2021; unless otherwise agreed in writing by the Local Planning Authority.*

*REASON: To ensure the approved dwellings remain affordable in perpetuity or appropriately disposed of, in accordance with Policy CS8 of the Blackburn with a Darwen Core Strategy and Policies 12, 18 of the Blackburn with Darwen Borough Local Plan Part 2.*

- 3.1.4 Since the resolution by Committee, in January, to grant planning permission, the applicant has written to the Council to advise that Together Housing cannot accept a condition to secure affordable housing, as this may impact their funding from Homes England. It is advised that Homes England will support Registered Providers in securing grant in this instance as long as the homes are an additional outcome and not through a conditioned agreement. If any local authority requires the provision of affordable homes through a planning condition this could be seen as a levy on the site and would potentially disallow RP's from securing affordable homes grant.
- 3.1.5 Consequently, an alternative arrangement has been proposed to the Council by the applicant, set out as follows:
- 3.1.6 1. On completion of the land transfer from the Council to Together Housing (THA), (THA) will enter into a restrictive covenant in favour of the Council to be contained in a new deed of covenant ("the **Parcel 1 Deed Of Covenant**") between THA and the Council, in relation to the affordable housing plots on Parcel 1 ("the **Parcel 1 Affordable Plots**") to use the Parcel 1 Affordable Plots for affordable housing only. This would be subject to standard mortgagee exemption wording.
- 3.1.7 2. Also on land completion, THA would enter into a similar restrictive covenant in favour of the Council in relation to the affordable units to be built on Parcel 3 ("the **Parcel 3 Affordable Plots**"), save that this would be contained in the Parcel 3 THA / Council Transfer rather than a separate deed of covenant. Again, this would restrict the use of the Parcel 3 Affordable Plots to affordable housing use only, subject to standard mortgagee exemption wording.
- 3.1.8 3. The CPL / Council Sale Agreement will contain a contractual commitment from CPL to the Council to procure that the Parcel 1 Deed Of Covenant was entered into by THA on land completion. It already contains a contractual obligation from CPL to the Council to procure

that THA enter into the proposed Parcel 3 THA/Council Transfer, which would then also contain an affordable housing restrictive covenant.

3.1.9 4 The CPL / THA JV Agreement already contains an obligation from CPL to THA to construct the new proposed affordable homes to be delivered on the Parcel 1 Affordable Plots and the Parcel 3 Affordable Plots.

3.1.10 In accordance with the above approach, Members are advised that Officers are satisfied that the Council has the contractual comfort that the new affordable homes would be built out and only used as affordable housing (save for mortgagee exemption wording). This would then allow the Council to remove the affordable housing condition currently proposed for inclusion in the planning permission for the proposed development.

3.2.11 Summary:

Members are advised that removal of the stated condition does not impact on delivery of the affordable homes, given the proposed contractual position between the Council and the applicant, as set out above. The grant of planning permission for the development is otherwise unaffected.

3.2.12 Subject to the planning obligation previously agreed at the January meeting and the amended suite of conditions, set out at paragraph 4.1 below, 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 Strategic Director of Place to approve planning permission, subject to an agreement under Section 106 of the Town & Country Planning Act 1990, relating to the payment of £395,000; plus a monitoring fee of £3950. Payments to be phased as follows:**

- **£199,475 is to be paid prior to commencement of the development (£197,500 for education and £1,975 monitoring fee); and**
- **£199,475 is to be paid within 12 months after commencement (£197,500 for education and £1,975 monitoring fee).**

Should the Section 106 agreement not be completed within 6 months of the date of the planning application being received, the Strategic Director of Place will have delegated powers to refuse the application.

(i) The following conditions:

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

REASON: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposal received 7<sup>th</sup> October 2020 and with the following drawings / plans / information: (to be added).

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

3. The exterior of the dwellings hereby approved shall be constructed in accordance with the following Material Schedules, received 6<sup>th</sup> January 2021:

- Parcel 1. Ref. SK587-PH1-MAT Rev E
- Parcel 2. Ref. SK587-PH2-MAT Rev C
- Parcel 3. Ref. SK587-PH3-MAT-Rev B

REASON: To ensure that the external appearance of the development is satisfactory; in accordance with Policy 11 of the Blackburn with Darwen Borough Local Plan Part 2 and the adopted Blackburn with Darwen Design Guide Supplementary Planning Document.

4. The development hereby approved shall be implemented in strict accordance with the approved boundary treatments, as detailed in the following submitted 'Boundary Plan' drawings:

- Parcel 1 – SK587-PH1-BP-01 Rev D
- Parcel 2 – SK587-PH2-BP-01 Rev D
- Parcel 3 – SK587-PH3-BP-01 Rev D

REASON: To safeguard residential amenity and to ensure the external appearance of development is acceptable, in accordance with Policies 8 and 11 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

5. The development hereby approved shall be implemented in strict accordance with the following agreed ground remediation strategies

- Parcel 1 - Remediation and Enabling Works Strategy. Fishmoor. Ref. 12-359-R7-1. November 2019 e3p and Ground Gas Addendum Report Ref. 13-359-r8 Rev 1. December 2020.
- Parcel 2 - Remediation and Enabling Works Strategy. Fishmoor. Ref. 12-359- P2-R2. November 2019 e3p and

Ground Gas Addendum Report Ref. 12-359-R7 Rev 1.  
December 2020.

- Parcel 3 - Remediation and Enabling Works Strategy.  
Fishmoor. Ref. 12-359-P3-R2. November 2019 e3p and  
Ground Gas Addendum Report Ref. 12-359-r8 Rev 1.  
December 2020.

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site, in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

6. Prior to commencement of any sub-structure works within Parcel 2, results of the proposed additional site investigations within the outline of the demolished building located in Parcel 2, shall be submitted to and approved in writing by the Local Planning Authority. If unacceptable risks are identified, a remedial options appraisal and detailed remediation scheme should be presented along with an updated CSM. Remediation shall undertaken in strict accordance with the approved scheme.

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site, in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

7. 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 CSM. 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.

REASON: To ensure that all reasonable steps have been taken to identify contamination at the site, that the risks it presents have been appropriately assessed, and that the site can be made 'suitable for use', as such, does not pose a risk to future users of the site or the wider environment; in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

8. Should contamination be encountered unexpectedly during redevelopment, all works should cease, and the LPA 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 LPA. No deviation shall be made from this scheme without the written express agreement of the LPA.

REASON: To protect the health of future occupiers of the site; in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

9. Habitable room glazing and ventilation shall be installed in strict accordance with the specifications set out in the 'Acoustic Design Statement' at paragraphs 6.11 and 6.17 of the submitted 'Noise Assessment for Full Planning Application - Ref. 6780251R2/02- July 2020'.

REASON: To ensure satisfactory levels of amenity for occupiers of the development, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

10. The construction of the development hereby permitted shall only take place between the hours of 07:30 and 18:00 Monday to Friday, 07:30 to 13:00 on Saturdays and not at all on Sundays or Bank Holidays.

REASON: To protect the amenity of residents, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

11. Demolition and construction work shall take place in strict accordance with the details set out in the submitted Construction & Environmental Management Plans relating to Parcels 1, 2 and 3, received 2<sup>nd</sup> December 2020. All measures which form part of the approved details shall be adhered to throughout the period of demolition and construction.

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

12. All dwellings hereby approved shall include hard wiring for electric vehicle charging points, in accordance with the specification detailed on drawing no. NSDTF – 3011 Rev A.

REASON: In the interests of improving air quality, to protect the health of residents, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

13. Gas fired domestic heating boilers shall not emit more than 40mgNO<sub>x</sub>/kWh.

REASON: In the interests of improving air quality and to protect the health of resident, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.

14. The development shall be implemented in strict accordance with the following drainage plan / strategy, including drainage calculations / storage rates as per the revised FRA:

- Parcel 1 – Ref. FDB1-AJP-XX-00-DR-C-1000 Rev P7
- Parcel 2 – Ref. FDB2-AJP-XX-00-DR-C-1000 Rev P6
- Parcel 3 – Ref. FDB3-AJP-XX-00-DR-C-1000 Rev P4 & FDB3-AJP-XX-00-DR-C-1001

REASON: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding; in accordance with the requirements of Policies 9 and 36 of the Blackburn with Darwen Local Plan Part 2.

15. Prior to commencement of any sub-structure works, a Surface Water Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall be implemented in strict accordance with the approved details for the duration of construction works.

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

16. Prior to occupation of any of the dwellings hereby approved, a Surface Water Management and Maintenance Scheme shall be submitted to and approved by the Local Planning Authority. The scheme shall provide for:

- a) The arrangements for adoption by an appropriate public body or statutory undertaker;
- b) Arrangements concerning appropriate funding mechanisms for its on-going maintenance of all elements of the sustainable drainage system (including mechanical components), including:
  - i) on-going inspections relating to performance and asset condition assessments
  - ii) operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime;
- c) Means of access for maintenance and easements where applicable.

The approved scheme shall be adhered to in perpetuity.



REASON: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution, in accordance with Policies 9 and 36 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

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

REASON: To secure proper drainage and to manage the risk of flooding and pollution, in accordance with the requirements of Policy 9 of the Blackburn with Darwen Borough Local Plan Part 2.

18. The development shall be implemented in strict accordance with the Reasonable Avoidance Measures Method Statement (RAMMs), produced by TEP, dated December 2020. All measures which form part of the approved Methodology shall be implemented for the duration of the demolition and construction works hereby approved.

REASON: In order to protect ecology and biodiversity in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

19. The development shall be implemented in strict accordance with the mitigations recommendations set out in Section 5 of each submitted Preliminary Ecological Appraisal for Parcels 1, 2 and 3, produced by TEP, dated November 2019 and March 2020. All measures which form part of the approved Methodology shall be implemented.

REASON: In order to protect ecology and biodiversity in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

20. If no site clearance or construction works commence by November 2022, an update to the Bat Survey Report for Parcels 1, 2 and 3, produced by TEP, dated November 2020, 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 detail.

REASON: In order to protect ecology and biodiversity in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

21. If no site clearance or construction works commence by March 2022, an update to the Preliminary Ecological Appraisals for Parcel 1, 2 and 3, produced by TEP, dated March 2020, shall be submitted to and approved in writing by the Local Planning Authority. Any recommended mitigation measures shall be carried out in strict accordance with the approved detail.

REASON: In order to protect ecology and biodiversity in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

22. If no site clearance or construction works commence by July 2022, an update to the Otter Survey for Parcel 3, produced by TEP, dated August 2020, shall be submitted to and approved in writing by the Local Planning Authority. Any recommended mitigation measures shall be carried out in strict accordance with the approved detail.

REASON: In order to protect Otters and ecology and biodiversity in general, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

23. The development shall be implemented in strict accordance with the details set out in the Invasive Non-Invasive Species Method Statement, produced by TEP, dated December 2020. All measures which form part of the approved Methodology shall be implemented.

REASON: In order to protect ecology and biodiversity in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

24. Bat and bird boxes shall be installed at dwellings in strict accordance with the submitted 'Nesting Box Details' received 18<sup>th</sup> December 2020.

REASON: To provide roosting / nesting opportunities for Bats and birds, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

25. If no site clearance or construction works commence by March 2020, a site walkover shall be undertaken to check for evidence of Badger presence. If such presence is identified, a Badger Survey shall be submitted to and approved in writing. Any recommended mitigation measures identified shall be carried out in strict accordance with the approved detail.

REASON: To ensure the protection of Badgers and ecology and biodiversity in general, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

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

REASON: To ensure the protection of nesting birds, in accordance with the requirements of Policies 9 and 40 of the Blackburn with Darwen Local Plan Part 2.

27. The development hereby approved shall be implemented in strict accordance with the following approved Landscape Layouts:

- Parcel 1 – 3284 101 Rev C
- Parcel 2 – 3284 102 Rev C
- Parcel 3 – 3284 103 Rev B

Trees and shrubs shall be planted on the site in accordance with the approved details during the first available planting season following completion of the works, and thereafter retained. Trees and shrubs dying or becoming diseased, removed, or being seriously damaged within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted during the first available planting season after the loss of the trees and / or shrubs.

REASON: To ensure that there is a well laid scheme of healthy trees and shrubs in the interests of amenity in accordance with Policies 9, 11 and 40 of the Blackburn with Darwen Borough Local Plan Part 2.

28. Prior to occupation of the development hereby approved, a Landscape Management and Maintenance Strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall cover all landscaped areas of public open space and it shall detail a programme of works including scheduled frequencies of weeding and watering for the duration of the development, as well as replacement planting of dead diseased or damaged trees and shrubs within a five year period from the implementation of the approved landscape scheme referenced in condition no. 23. The strategy shall be implemented in accordance with the approved detail.

REASON: To ensure that there is a well maintained scheme of healthy trees and shrubs in the interests of amenity in accordance with Policies 9, 11 and 40 of the Blackburn with Darwen Borough Local Plan Part 2.

29. Prior to occupation of the development hereby approved, details of the play equipment for the Local Equipped Area for Play within Parcel 2 shall be submitted to approved in writing. The equipment shall installed in accordance with the approved detail.

REASON: In order to ensure provision of quality play equipment, in accordance with Policies 11 and 40 of the Blackburn with Darwen Borough Local Plan Part 2.

30. The development shall be carried out in strict accordance with the submitted Arboricultural Method Statement relating to Parcel 3, prepared by TEP, dated December 2020. Specified tree protection measures shall be adhered to throughout the period of demolition and construction.

REASON: Trees represent a public benefit by way of visual amenity and should therefore be protected at all times, in accordance with Policies 9 and 40 of the Blackburn with Darwen Borough Local Plan Part 2.

31. Within 3 months of the date of this decision, a scheme detailing the following highway works, to be delivered under Section 278 of the Highways Act 1980 (s278 works), shall be submitted to and approved in writing by the Local Planning Authority:

- Removal of chicanes / narrowing;
- A refresh of flat top road humps and enhancement of street character;
- Introduction of planters or similar at key junctions, including an gateway feature at the Fishmoor Drive, Roman Road junction;
- General junction improvements; and
- Bus stop upgrades to comply with DDA requirements.

REASON: To ensure the development presents a high quality entrance feature at the Fishmoor Drive, Roman Road junction and offers enhanced highway safety / efficiency features along the length of Fishmoor Drive, in accordance with Policy 11 of the Blackburn with Darwen Local Plan Part 2.

32. Prior to the occupation of the development, details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.

Reason: To ensure that the estate streets serving the development are maintained to an acceptable standard in the interest of residential / highway safety in accordance with Policy 10 of the Blackburn With Darwen Borough Local Plan Part 2.

33. Prior to the construction of any of the streets referred to in the previous condition, full engineering, drainage, street lighting and constructional details of the streets shall be submitted to and approved in writing by the Local Planning Authority. The

development shall, thereafter, be constructed in accordance with the approved details.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway in accordance with Policy 10 of the Blackburn With Darwen Borough Local Plan Part 2.

34. The development shall be implemented in strict accordance with the details set out in the Residential Framework Travel Plan, dated December 2019.

REASON: In order to encourage sustainable transport and to comply with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.

35. Visibility splays within the site 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.

REASON: To ensure the safe, efficient and convenient movement of all highway users, for the free flow of traffic, in accordance with Policy 10 of the Blackburn with Darwen Borough Local Plan Part 2.

36. Notwithstanding the provisions of Article 3 and Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended), no development of the type specified in Classes A - G of Part 1 of that Schedule or Class A of Part 2 of that Schedule shall be carried out unless planning permission has been granted first.

REASON: To ensure enhanced control over future development of the properties, in the interests of preserving residential amenity and the area generally, in accordance with Policies 8 and 11 of the Blackburn with Darwen Borough Local Plan Part 2.

**5.0 CONTACT OFFICER: Nick Blackledge – [Senior Planner]**

**4.0 DATE PREPARED: 4<sup>th</sup> June 2021.**