

MEMBERS INTERESTS 2012

A Member with a disclosable pecuniary interest in any matter considered at a meeting must disclose the interest to the meeting at which they are present, except where it has been entered on the Register.

A Member with a non pecuniary or pecuniary interest in any business of the Council must disclose the existence and nature of that interest at commencement of consideration or when the interest becomes apparent.

Where sensitive information relating to an interest is not registered in the register, you must indicate that you have an interest, but need not disclose the sensitive information.

Please tick relevant boxes

Notes

	General		Notes
1.	I have a disclosable pecuniary interest.	<input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 below</i>
2.	I have a non-pecuniary interest.	<input type="checkbox"/>	<i>You may speak and vote</i>
3.	I have a pecuniary interest because it affects my financial position or the financial position of a person or body described in 10.1(1)(i) and (ii) and the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest or it relates to the determining of any approval consent, licence, permission or registration in relation to me or any person or body described in 10.1(1)(i) and (ii) and the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest	<input type="checkbox"/> <input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i> <i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i>
4.	I have a disclosable pecuniary interest (Dispensation 16/7/12) or a pecuniary interest but it relates to the functions of my Council in respect of: (i) Housing where I am a tenant of the Council, and those functions do not relate particularly to my tenancy or lease. (ii) school meals, or school transport and travelling expenses where I am a parent or guardian of a child in full time education, or are a parent governor of a school, and it does not relate particularly to the school which the child attends. (iii) Statutory sick pay where I am in receipt or entitled to receipt of such pay. (iv) An allowance, payment or indemnity given to Members (v) Any ceremonial honour given to Members (vi) Setting Council tax or a precept under the LGFA 1992	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<i>You may speak and vote</i> <i>You may speak and vote</i> <i>You may speak and vote</i> <i>You may speak and vote</i> <i>You may speak and vote</i> <i>You may speak and vote</i>
5.	A Standards Committee dispensation applies (relevant lines in the budget – Dispensation 20/2/13 – 19/2/17)	<input type="checkbox"/>	<i>See the terms of the dispensation</i>
6.	I have a pecuniary interest in the business but I can attend to make representations, answer questions or give evidence as the public are also allowed to attend the meeting for the same purpose	<input type="checkbox"/>	<i>You may speak but must leave the room once you have finished and cannot vote</i>

'disclosable pecuniary interest' (DPI) means an interest of a description specified below which is your interest, your spouse's or civil partner's or the interest of somebody who you are living with as a husband or wife, or as if you were civil partners and you are aware that that other person has the interest.

Interest

Employment, office, trade, profession or vocation

Sponsorship

Prescribed description

Any employment, office, trade, profession or vocation carried on for profit or gain.

Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.

	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest; "director" includes a member of the committee of management of an industrial and provident society;

"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income; "M" means a member of a relevant authority;

"member" includes a co-opted member; "relevant authority" means the authority of which M is a member;

"relevant period" means the period of 12 months ending with the day on which M gives notice to the Monitoring Officer of a DPI;

"relevant person" means M or M's spouse or civil partner, a person with whom M is living as husband or wife or a person with whom M is living as if they were civil partners;

"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

'non pecuniary interest' means interests falling within the following descriptions:

- 10.1(1)(i) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) Any body (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (iii) Any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- 10.2(2) A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a connected person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision.

'a connected person' means

- (a) a member of your family or any person with whom you have a close association, or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph 10.1(1)(i) or (ii).

'body exercising functions of a public nature' means

Regional and local development agencies, other government agencies, other Councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

A Member with a personal interest who has made an executive decision in relation to that matter must ensure any written statement of that decision records the existence and nature of that interest.

NB Section 21(13) of the LGA 2000 overrides any Code provisions to oblige an executive member to attend an overview and scrutiny meeting to answer questions.

PLANNING COMMITTEE

HELD: 20 JUNE 2013

Start: 7.30 p.m.

Finish: 9.10 p.m.

PRESENT: Councillor Pope (Chairman)
Councillor Blane (Vice-Chairman)

Councillors: Bailey J. Hodson
Mrs. Baybutt L. Hodson
Bell Mrs. Houlgrave
Mrs. Blake McKay
Cheetham Ms. Melling
Davis O'Toole
Dereli Owen
Fowler West
Greenall Westley
Griffiths Wright
Hennessy Wynn

Officers: Assistant Director Planning (Mr. J. Harrison)
Planning Control Team Leader (Mrs. C. Thomas)
Legal and Member Services Manager (Mr. M. Jones)
Principal Planning Officer (Miss. E. Woollacott)
Member Services Officer (Mrs. J.A. Ryan)

In attendance: Councillor Forshaw (Portfolio Holder Planning Development)

10. APOLOGIES

There were no apologies for absence received.

11. MEMBERSHIP OF THE COMMITTEE

In accordance with Council Procedure Rule No. 4, the Committee noted the termination of Councillors Mrs. Stephenson, G. Hodson and Pye and the appointment of Councillors Greenall, L. Hodson and Wright for this meeting only, thereby giving effect to the wishes of the Political Groups.

12. URGENT BUSINESS, IF ANY, INTRODUCED BY THE CHAIRMAN

There were no urgent items of business.

13. DECLARATIONS OF INTEREST

1. Councillor Fowler declared a pecuniary interest in respect of planning application 2012/0969/FUL relating to the Comrades Club, Southport Road, Ormskirk as he is a Trustee.

2. Councillor Westley declared a pecuniary interest in respect of planning application 2012/0969/FUL relating to the Comrades Club, Southport Road, Ormskirk as he is a Trustee.
3. Councillors Pope, Blane, Fowler, Bailey, J. Hodson, Cheetham, Bell, Mrs. Houlgrave and Mrs. Blake declared a non pecuniary interest in respect of Agenda Item 9 relating to Section 106 Agreements as they are all members of Parish Council.
4. In line with Section 17.1 of the Constitution, the Officer's Code of Conduct, the Planning Control Team Leader, Mrs. C. Thomas declared an interest in respect of planning application 2012/0969/FUL relating to the Comrades Club, Southport Road, Ormskirk, as her brother is the Chairman of the Ormskirk Bowling Club.

14. DECLARATIONS OF PARTY WHIP

There were no declarations of Party Whip.

15. MINUTES

RESOLVED: That the minutes of the meeting held on the 16 May 2013 be approved as a correct record and signed by the Chairman subject to the following amendment:-

Minute No. 7 – Note 10

During consideration of planning application 0272/FUL relating to Woodlands, Long Heys Lane, Dalton the meeting was adjourned for a 5 minute break to seek legal advice.

16. PLANNING APPLICATIONS

The Assistant Director Planning submitted a report containing the Schedule of Planning Applications (all prefixed 2013 unless otherwise stated) as contained on pages 203 to 308 of the Book of Reports and on pages 339 to 346 giving details of late information.

RESOLVED: A. That the undermentioned Planning Applications be approved subject to conditions in the schedule and the late information:-

0313/FUL; 0019/FUL; 0225/FUL;
0366/FUL; 0247/FUL

B. That planning application 1317/COU relating to Forest View Nurseries, Back Lane, Newburgh be refused for the following reason:-

1. The development conflicts with Policy DS2 of the West Lancashire Replacement Local Plan and Section 9 of the National Planning Policy Framework in that the proposal constitutes inappropriate development in the Green Belt and insufficient special circumstances have been demonstrated to outweigh the harm caused by the proposal to the loss of openness and visual amenity of the Green Belt.
- C. That planning application 2012/0989/FUL relating to Gerard Hall Farm, Prescott Road, Aughton be refused for the following reason:-
1. The proposed development is contrary to Policy EN5 in the West Lancashire Replacement Local Plan, Policy EN4 in the West Lancashire Local Plan Submission Version and the advice given in the National Planning Policy Framework in that it would cause unreasonable harm to the setting of a designed asset, that being Gerard Hall, a Grade II Listed Building.
- D. That in respect of planning application 2012/0969/FUL relating to the site of the former Comrades Club, County Road, Ormskirk
- (i) That the decision to grant planning permission be delegated to the Assistant Director Planning in consultation with the Chairman and Vice-Chairman of the Planning Committee subject to the applicant entering into an obligation under S.106 of the Town and Country Planning Act 1990 to secure the financial contribution of £136,000 for the provision of a crown bowling green/s; associated facilities and administration costs. If after a period of five years following receipt of the obligation fee a bowling green has not been provided the sum shall be available for the provision of enhancement of other public open space in the vicinity of the site.
 - (ii) That any planning permission granted by the Assistant Director Planning pursuant to recommendation (i) above be subject to the conditions as set out on pages 266 to 270 of the Book of Reports.
- E. That planning application 0272/FUL relating to Woodlands, Long Heys Lane, Dalton be granted subject to the conditions in the schedule and the additional condition below, referred to in late information, on page 342 but subject to the amendment of condition 8 as below:

Condition

Before site works commence the existing trees within the curtilage of the site shall be protected with stout fencing constructed to BS5837:2005 to contain the branch spread of the trees. Such fencing shall remain and be adequately maintained for the duration of the development operations. Within this fencing no development operations may take place including the storage or dumping of materials or plant, the lighting of fires, the siting of temporary huts or the raising or lowering of ground levels.

Reason

To safeguard the health of the trees and so ensure that the proposed development complies with the provisions of Policy EN9 in the West Lancashire Replacement Local Plan.

Condition 8

Within three months of the date of this decision a method statement detailing the removal of the access from the development site to Pit Lane (eastern access) and the reinstatement of the land (including former, existing and proposed levels) and a timescale for the proposed works shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt this shall be such as to reinstate the banking over the basement without any encroachment onto the carriageway of Pit Lane. The works shall be implemented fully in accordance with the approved details prior to work commencing on the construction of the new dwelling.

Reason

The character and location of the property are such that the Local Planning Authority wish to exercise maximum control over future development in order to comply with the provisions of Policy GD1 and DS2 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.

(Notes:-

1. In accordance with the procedure for public speaking on planning applications on this Committee:-
 - (a) Members of the public spoke in connection with application no. 2012/1317/COU.
2. Councillors Fowler and Westley had declared pecuniary interests in respect of planning application 2012/0969/FUL site of the former Comrades Club, County Road, Ormskirk and therefore took no part in the decision making process in this application.
3. Mrs. C. Thomas had declared an interest in respect of planning application 2012/0969/FUL site of the former Comrades Club, County Road, Ormskirk and therefore left the Chamber during consideration of this item.
4. Councillor Forshaw left the Chamber at the conclusion of planning application 2012/0969/FUL site of the former Comrades Club, County Road, Ormskirk and was not present for the remainder of the meeting.

17. NEW LEGISLATION RELATING TO PERMITTED DEVELOPMENT RIGHTS - PROPOSED DELEGATIONS TO ASSISTANT DIRECTOR PLANNING

Consideration was given to the report of the Assistant Director Planning as contained on pages 331 to 337 of the Book of Reports, which provided an update in terms of legislative changes to permitted development (changes of use and house extensions) and to delegate authority to the Assistant Director Planning to determine prior approval applications which result from this new legislation or subsequent related legislation.

RESOLVED: A. That the changes to planning legislation be noted.

B. That authority be delegated to the Assistant Director Planning to determine prior approval applications submitted pursuant to amendments made to the Town and Country Planning (General Permitted Development) Order 1995 by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013.

C. That authority be delegated to the Assistant Director Planning to determine prior approval applications submitted pursuant to any subsequent amendments made to the Town and Country Planning (General Permitted Development) Order 1995, or related legislation.

18. SECTION 106 PROTOCOL

Consideration was given to the report of the Assistant Director Planning as contained on pages 309 to 318 of the Book of Reports, the purpose of which was to inform Members of the updated Protocol for the expenditure of Section 106 monies.

RESOLVED: That the Section 106 Protocol at Appendix 2 of the report be noted.

- CHAIRMAN -



AGENDA ITEM: 7.

**PLANNING COMMITTEE:
25TH JULY 2013**

Report of: Assistant Director Planning

Relevant Managing Director: Managing Director (Transformation)

**Contact for further information: Mrs.C.Thomas (Extn. 5134)
(E-mail:catherine.thomas@westlancs.gov.uk)**

SUBJECT: PLANNING APPLICATIONS

Background Papers

In accordance with Section 100D of the Local Government Act 1972 the background papers used in the compilation of reports relating to planning applications are listed within the text of each report and are available for inspection in the Planning Division, except for such documents as contain exempt or confidential information defined in Schedule 12A of the Act.

Equality Impact Assessment

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

CONTENT SHEET

<u>Report No</u>	<u>Ward</u>	<u>Appn No</u>	<u>Site Location & Proposal</u>	<u>Recommendation</u>
1	Aughton and Downholland	2013/0329/FUL	NWWA Hillhouse Waste Water Treatment Works Wood Lane Great Altcar Liverpool Lancashire L37 9BQ Erection of a 60m high temporary anemometry mast for measuring wind speed and direction for the period of 24 months from construction.	Planning permission be refused.
2	Aughton and Downholland	2013/0466/FUL	Stanley Arms St Michael Road Aughton Ormskirk Lancashire L39 6SA Single storey rear extension to form function suite. Revised car park layout and landscaping.	Planning permission be granted.
3	Halsall	2013/0150/OUT	Land Opposite 3 Willow Brook Halsall Lancashire L39 8TL Outline - One detached dwelling.	Outline Planning permission be granted.

Report No	Ward	Appn No	Site Location & Proposal	Recommendation
4	Knowsley	2013/0394/FUL	<p>Ormskirk Indoor Market Moorgate Ormskirk Lancashire L39 4RT</p> <p>Demolition of existing building and erection of 14 student apartments comprising 83 student rooms with 4 flexible retail units (Use Classes A1 - A5) on the ground floor. Single storey bicycle store at rear.</p>	<p>The decision to grant planning permission be delegated to the Assistant Director Planning in consultation with the Chairman and Vice Chairman of the Planning Committee subject to a planning obligation under Section 106 of the Town and Country Planning Act 1990 being entered into.</p>
5	Newburgh	2012/0617/LBC	<p>West Wing Lathom House Lathom Park Lathom Ormskirk Lancashire L40 5UP</p> <p>Listed Building Consent - Conversion to West Wing to 8 no. one and two storey apartments, including a timber staircase within the central carriageway, timber screens to the rear of the carriageway and a glazed screen to the front of the carriageway.</p>	<p>Listed Building Consent be granted.</p>

Report No	Ward	Appn No	Site Location & Proposal	Recommendation
6	Newburgh	2012/0618/COU	<p>West Wing Lathom House Lathom Park Lathom Ormskirk Lancashire L40 5UP</p> <p>Conversion of West Wing to 8 no. one and two storey apartments, including timber staircase within the central carriageway, timber screens to the rear of the carriageway and a glazed screen to the front of the carriageway.</p>	<p>The decision to grant planning permission be delegated to the Assistant Director Planning in consultation with the Chairman and Vice Chairman of the Planning Committee, subject to the Secretary of State raising no objection to the Local Planning Authority making a decision itself on the application.</p>
7	North Meols	2013/0104/OUT	<p>Site Of Former Greaves Hall Hospital Greaves Hall Avenue Banks Lancashire</p> <p>Outline - Housing and employment development (including details of access).</p>	<p>Outline Planning permission be granted.</p>
8	Scarisbrick	2013/0538/FUL	<p>Smithy Nook Farm Drummersdale Lane Scarisbrick Ormskirk Lancashire L40 9RA</p> <p>Single storey rear extension.</p>	<p>Planning permission be refused.</p>

Report No	Ward	Appn No	Site Location & Proposal	Recommendation
9	Wrightington	2013/0158/FUL	<p>Land To The Rear Of 9 To 17 Broadhurst Lane Wrightington Lancashire</p> <p>Erection of detached dwelling.</p>	<p>Planning permission be granted.</p>
10	Wrightington	2013/0300/FUL	<p>Land East Of Wrights Covert Toogood Lane Wrightington Lancashire</p> <p>Erection of a single wind turbine with a maximum blade to tip height of 90m, micro-siting and associated infrastructure including access tracks, areas of hardstanding, control building and cabling.</p>	<p>Planning permission be refused.</p>

No.1 APPLICATION NO.	2013/0329/FUL
LOCATION	NWWA Hillhouse Waste Water Treatment Works Wood Lane Great Altcar Liverpool Lancashire L37 9BQ
PROPOSAL	Erection of a 60m high temporary anemometry mast for measuring wind speed and direction for the period of 24 months from construction.
APPLICANT	United Utilities
WARD	Aughton And Downholland
PARISH	Great Altcar
TARGET DATE	5th June 2013

1.0 REFERRAL

- 1.1 This application was to be dealt with under delegated powers but Councillor O'Toole has requested that it be brought before the Planning Committee to consider the scale of the development and its impact on the Green Belt, neighbouring amenity and wildlife.

2.0 PREVIOUS RELEVANT DECISIONS

- 2.1 2013/0280/SCR - Screening & Scoping Opinion - Wind turbine (approx. 100m to tip and hub height of approx. 60m). EIA DEVELOPMENT (4.4.2013)

3.0 CONSULTEE RESPONSES

- 3.1 SEFTON MBC (13/5/2013) – No objection
- 3.2 LCC ECOLOGY (10/7/2013) – Unable to support the application as the information submitted does not include survey results referred to in the report and fails to acknowledge the location of the site within a BHS and therefore fails to adequately address the potential impact on this designated site.

4.0 OTHER REPRESENTATIONS

- 4.1 None

5.0 SUPPORTING INFORMATION

- 5.1 A Planning and Design Statement and an Ornithological Report have been submitted in support of the application.

6.0 RELEVANT POLICIES

- 6.1 The National Planning Policy Framework (NPPF), the West Lancashire Replacement Local Plan (WLRLP) and the West Lancashire Local Plan (2012-2027) – Submission document (emerging plan) provide the policy framework against which the development will be assessed.
- 6.2 The site is designated as DS2 – Green Belt in the West Lancashire Replacement Local Plan and also lies with a Biological Heritage site.

National Planning Policy Framework 2012 (NPPF)

Section 9 Protecting Green Belt land

Section 11 Conserving and enhancing the natural environment

Relevant West Lancashire Replacement Local Plan Policies

Policy DS2 – Green Belt

Policy SC12 – Renewable Energy

Policy GD1 – Design of Development

Policy EN1 – Biodiversity

Policy EN9 – Protection of Trees and Woodlands

Relevant West Lancashire Local Plan (2012-2027) Submission Document Policies

Policy GN1 – Settlement Boundaries

Policy GN3 – Criteria for Sustainable Development

Policy EN1 – Low Carbon Development and Energy Infrastructure

Policy EN2 – Preserving and Enhancing West Lancashire’s Natural Environment

7.0 SUMMARY OF ISSUES

The Site

- 7.1 The application site is located to the south of Wood Lane and to the immediate west of the Cheshire Lines Path. The site is occupied by an existing Waste Water Treatment Works (WWTW) operated by United Utilities. The site comprises large above ground tanks and buildings and is bordered by mature landscape screening to the surrounding land. The site lies within the Green Belt and also the Altcar Withins Biological Heritage site.

The Proposal

- 7.2 The application seeks permission to erect a 60m high temporary anemometry mast for measuring wind speed and direction for a period of 24 months from construction. The proposal would comprise a monopole mast structure supported by high tensile wires. The pole would comprise a galvanised steel tubular structure 153-245mm in diameter (widest towards the base). Guy wires joined to a short section of galvanised chain would connect the mast to the anchor points located at a distance of 45m from the base of the mast. Mounted on the mast would be the wind speed and direction monitoring equipment.
- 7.3 The mast would be located adjacent to the southwest corner of the site within an arable field. This land is owned by UU and will be accessed via the main WWTW site access road and existing internal roadways within the facility.

Principle of Development

- 7.4 Policy DS2 Protecting the Green Belt (WLRLP) precludes development within the Green Belt which is considered inappropriate unless very special circumstances can be demonstrated. Wind turbines and monitoring masts are not listed amongst the types of development identified as appropriate in the Green Belt. The development is therefore, by definition, harmful to the Green Belt. It therefore falls to be considered whether there are any very special circumstances which outweigh the normal presumption against inappropriate development. Policy GN1 in the emerging local plan and the NPPF also advocates this policy approach.
- 7.5 Policy SC12 in the WLRLP indicates that proposals for renewable schemes will be approved provided that they do not have an adverse impact on the character and value of the landscape and on areas of natural and built heritage, including their settings and meet other policies set out in the plan.
- 7.6 Policy EN1 in the emerging local plan requires developers to provide evidence to support proposals for wind energy development which consider the following:-
- (i) singular or cumulative impacts on landscape character and value
 - (ii) impact on local residents (including flicker noise and shadow flicker)
 - (iii) ecological impact including migration routes of protected bird species
 - (iv) impacts on land resources including agricultural land and areas of deep peat
 - (v) impacts on the historic environment and assets
 - (vi) community benefits of the proposal
 - (vii) impacts on aviation navigation systems and communications

- 7.7 The NPPF (paragraph 91) discusses renewable technologies within the Green Belt and confirms that they may represent inappropriate development - which has been identified in this case. The Framework advises of the need to demonstrate very special circumstances and such circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

Very Special Circumstances and Impact on Green Belt

- 7.8 Only where very special circumstances exist and those circumstances outweigh any harm to the Green Belt will the proposal be in line with adopted planning policies. In assessing this case for very special circumstances the environmental benefit of the sustainable generation of energy as supported by guidance contained in the NPPF and Local Plan Policies SC12 and GD1 is considered sufficient to achieve this.
- 7.9 The need to increase renewable energy sources in the local area and nationally is paramount. The assumed end development (wind turbine/s) would help to reduce carbon emissions and to provide energy on the site and/or an opportunity to feed into the national grid system at times when generation outweighs site use. Whilst the proposed development does not achieve this it is clearly a necessity in assessing whether the site would be suitable to provide contributions to the region's renewable energy targets.
- 7.10 In respect of the resultant harm, this is limited to the extent of the development and its visual impact on the locality. The siting of the mast lies within a landscape character area of local importance but the location can generally be described as being within a relatively remote location ensuring that most views from public vantage points are over long distances where the impact of the development is seen within the panoramic scale of the landscape – and therefore very limited. The slimline structure, the grey colour finish and its static nature ensure that it does not unduly draw the eye and, whilst it is visible, it affords no visual weight. Given the temporary nature of the structure and its limited visual impact I consider the harm to the openness and visual amenity of the Green Belt is limited and conclude that that harm is outweighed by the need to consider whether this site is appropriate for the generation of wind energy.

Impact upon residential amenity

- 7.11 The nearest residential properties lie some 620m metres to the north of the site along Wood Lane. This is more than sufficient distance to ensure no noise nuisance will result in terms of wind whistle from the anemometer. As described above, the development will not be injurious to visual outlook.

- 7.12 The development is unlikely to have any significant impact on the surrounding agricultural land uses; whilst it may cause operational difficulty to tending the field using large machinery due to the guy lines this is a problem for the applicant and not a significant planning concern.

Impact on Biodiversity

- 7.13 Policy EN1 in the WLRLP and Policy EN2 in the emerging local plan seeks to protect biodiversity by resisting development, which would destroy or adversely effect important wildlife habitats. The main ecological issues arising from the proposal include potential impact on designated sites (European and Local) and their qualifying habitats, resulting from a possible loss of feeding habitat and collision from guy wires.
- 7.14 The application is supported by an ecological assessment which considers the likelihood of a significant effect on European designated sites and concludes “beyond reasonable scientific doubt that the development will not adversely affect the integrity” of the Ribble and Alt Estuaries or Martin Mere SPAs, either alone or in combination with other plans or projects”. However the justification for this conclusion is not considered to have been provided as baseline survey results referred to in the submitted report have not been provided.
- 7.15 In addition to the above, the Ornithological Report focuses on impacts on European Designated Sites but fails to address the potential impact on the Local Site (Altcar Withins Biological Heritage Site (BHS)) and indeed fails to recognise that the site lies within this designated area. The BHS is designated for pink-footed geese and is functionally linked to the European designated sites (Ribble and Alt Estuary and Martin Mere Special Protection Areas). It is considered that the proposed mast will result in an impact within the BHS, albeit for a temporary period of two years and could result in some loss of foraging habitat for geese for a period of one or two winters. Without the submission of further information, impacts on the BHS cannot be established and the proposal is therefore considered to be contrary to Policy EN1 in the WLRLP and Policy EN2 in the emerging local plan.
- 7.16 The proposed collision mitigation measures are not considered to be sufficient in this instance firstly because the results of the surveys referred to (and an assessment of the collision potential) have not been submitted and secondly because bird deflectors are not always effective in certain climatic conditions and in the absence of survey results, the risk to wildfowl and wading birds is unclear.
- 7.17 In light of the above it is considered that insufficient information has been provided to fully assess the impact of the proposed development on ecological matters and in particular the impact of the development on local bird populations and the BHS.

Summary

7.18 In summary, whilst the proposal is contrary to Green Belt policy, I consider that the very special circumstances of the case outweigh the limited harm to the Green Belt and justify overriding the presumption of refusal. In addition this is a temporary permission for 24 months only. I am also satisfied that all site planning details, including the design and external appearance of the monitoring mast and its impact on residential amenity have been adequately addressed. However the proposed development is considered to be contrary to Policy EN1 in the WLRLP and Policy EN2 in the emerging local plan as insufficient has been submitted in order to fully assess the ornithological impacts of the development and the impact of the proposal on the Biological Heritage site.

8.0 DEPARTURE APPLICATION

8.1 Whilst this proposal is technically a departure from the Development Plan in the Green Belt, I do not consider that it would significantly prejudice the implementation of the Development Plan's policies and proposals, and on this basis need not be referred to the Secretary of State.

9.0 RECOMMENDATION

9.1 That permission be **REFUSED** for the following reasons:

Reason for Refusal

1. The proposed development is contrary to Policy EN1 of the West Lancashire Replacement Local Plan and Policy EN2 of the West Lancashire Local Plan Submission Version in that insufficient information has been provided to enable a full ecological assessment to be made relating to the ornithology of the area and the impact of the development on designated sites (European and Local) and their qualifying habitat.

No.2 APPLICATION NO.	2013/0466/FUL
LOCATION	Stanley Arms St Michael Road Aughton Ormskirk Lancashire L39 6SA
PROPOSAL	Single storey rear extension to form function suite. Revised car park layout and landscaping.
APPLICANT	Attermyre Ltd T/A The Stanley Arms
WARD	Aughton And Downholland
PARISH	Aughton
TARGET DATE	5th July 2013

1.0 REFERRAL

- 1.1 This application was to be determined under the Council's delegation scheme; however, Councillor O'Toole has requested it be referred to the Committee to review the impact of the proposal on highway safety and car parking and the amenity of nearby residents.

2.0 PREVIOUS RELEVANT DECISIONS

- 2.1 1990/0178: APPROVED – Illuminated sign.
- 2.2 1992/1277: APPROVED - Retention of children's climbing frame and swings
- 2.3 1997/0968: APPROVED - Various illuminated and non-illuminated advertisement signs.
- 2.4 1998/0022: APPROVED - Retention of children's climbing frame and swings.
- 2.5 2008/0185/FUL: APPROVED - Single storey side extension and disabled ramp to rear entrance

3.0 CONSULTEE RESPONSES

- 3.1 HIGHWAY AUTHORITY (7/6/2013) – No objections in principle. The site line requirements are acceptable. Recommend conditions.
- 3.2 ENGLISH HERITAGE (19/6/2013) – No detailed comments, offer general observations. Commend design approach through consultations, and happy to recommend application for approval.

- 3.3 ARCHITECTURAL LIAISON OFFICER (15/5/2013) – No objections to proposal. Recommendations in relation to increased security at the site.
- 3.4 ENVIRONMENTAL HEALTH OFFICER (2/7/2013) – Has some concerns with respect to noise and effect on amenity of local residents. Proposal is a relatively small function suite. To maintain the sound insulation doors are required to be well sealed and interlocked to the sound control system. Patron noise is difficult to quantify. This noise cannot be controlled by planning conditions and have reservations in relation to the amenity of surrounding residents in an otherwise quiet residential area.

4.0 OTHER REPRESENTATIONS

- 4.1 AUGHTON PARISH COUNCIL (20/6/2013) – object to the application on the grounds that the development harms the character and appearance of the Conservation Area and has an impact on the views into and out of the Conservation Area. In addition the development will result in increased parking problems, noise, loss of visual amenity and residential amenity.
- 4.2 WEST LANCASHIRE CONSERVATION AREAS ADVISORY PANEL (23/5/2013) – No objection in principle. Better landscaping details are required to soften the views of the extension adjacent to the church. Archaeological importance of the site may require assessment.
- 4.3 17 letters of objection on the following grounds
- Insufficient car parking to be provided leading to parking problems on Church Lane and St Michaels Road
 - Increase in traffic
 - Increase in noise
 - Increase in carbon footprint
 - Appearance is out of keeping with the Conservation Area
 - Impact on highway safety
 - Existing parking problems on the surrounding roads caused by the Stanley Arms
 - Existing noise from bottle stores creates disturbance. Location of proposed bottle stores will increase this
 - Smell from the kitchen creates amenity issues in the area
 - Existing security lighting creates a problem
 - Lighting of the building and car park will create amenity issues for surrounding properties
 - Noise assessment was carried out on a Monday evening and not a Friday evening.
 - Fire door often left open in the pub creating noise issues
 - Loss of trees
 - Will affect parking for the Church.

- No established need for a function room
- Existing pub adds character to the area as a country pub
- Proposed materials are not in keeping with the Conservation Area
- Views of the church will be affected
- Scale of extension is too large for surrounding area

4.4 An additional letter of objection has been received from an agent representing 5 local residents, raising the following concerns:

- Already late night noise and disturbance
- Current odour problems will be exacerbated
- Already smokers congregate outside main entrance rather than the smoking shelter
- Loss of residential amenity in contravention of Policy GD1, DE10 and GN3
- Council's own Environmental Health Officers raise noise concerns which are difficult to address other than by a robust management regime, of which not much faith can be placed based upon present amenity problems experienced by neighbouring residents
- Proposal is an overly large, clumsy, bland and uninspiring addition to this conservation area and is contrary to Policy EN4
- Consistent current problem with on street car parking which harms safety and efficiency of highway and residential amenity as pub car park is regularly full, therefore insufficient car parking for existing pub and as no additional car parking proposed, this will make the situation worse. This aspect is compounded as no demonstration has been made by the applicant that there is and will be sufficient car parking

4.5 ST MICHAELS PARISH CHURCH (17/6/2013) – have concerns in relation to the following

- Increase in traffic and car parking – will be made worse with functions at each venue (Church and pub) coinciding
- Impact on the Conservation Area
- Increased functions at the Stanley Arms will create problems for existing community events and functions at the Church and Church Hall.

4.6 One letter of support has also been received on the grounds the Stanley Arms has a friendly atmosphere and the development will provide an additional source of revenue for the applicant. The proposal is tasteful and will ensure this establishment remains a family run public house and not a chain pub.

5.0 SUPPORTING INFORMATION

5.1 Planning Design and Access and Heritage Statement
Arboricultural Impact Assessment
Plant and music noise impact assessment

6.0 LOCAL PLAN ALLOCATION

- 6.1 National Planning Policy Framework (NPPF), the West Lancashire Replacement Local Plan and the West Lancashire Local Plan (2012-2027) Submission Document provide the policy framework against which the development proposals will be assessed.
- 6.2 The site is located within the rural settlement of Holt Green and within the St Michael's Church Conservation Area as designated in the West Lancashire Replacement Local Plan.

West Lancashire Replacement Local Plan Policies

DS1 Location of development
GD1 Design of Development
EN4 Conservation Areas
EN9 Protection of trees and woodlands

Supplementary Planning Document Design Guide (Jan 2008)

Submission Version West Lancashire Local Plan DPD (2012-2027)

GN1 Settlement boundaries
GN3 Criteria for sustainable development
EN2 Preserving and enhancing West Lancashire's Natural environment
EN4 Preserving and enhancing West Lancashire's Built environment

7.0 SUMMARY OF ISSUES

Site Description

- 7.1 The site lies to the west of Church Lane at the junction with St Michael's Road. The application property is a white rendered public house which lies at the centre of the village, adjacent to St Michael's Church. The site is relatively open with car parks to either side of the building and a bowling green behind. There are a cluster of residential properties both to the north and the west of the application site.

Proposal

- 7.2 This application seeks permission for a single storey extension to create a function suite and create improved cohesion with the bowling green located at the site. The application also includes the provision of a new landscaped beer garden within a semi-open entrance courtyard to the south of the proposed extension. The proposal also includes the demolition of an unlisted outbuilding within the Conservation Area.

Assessment

- 7.3 The main considerations for this application are
- (i) Visual appearance/Design/Impact on Conservation Area/Impact on Listed Building
 - (ii) Impact on amenity of neighbouring properties
 - (iii) Impact on Highway safety/Parking
 - (iv) Impact on trees

Visual appearance/Design/Impact on Conservation Area/Impact on Listed Buildings

- 7.4 The National Planning Policy Framework indicates that the impact of development on the significance of a heritage asset needs to be given weight, and new development within the setting of a heritage asset should make a positive contribution to enhance or better reveal its significance, and any proposals that do should be treated favourably. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of harm and the significance of the heritage asset. Paragraph 132 states that the significance of a heritage asset needs to be given weight to the asset's conservation. Significance can be harmed through alteration or destruction of the heritage asset or development within its setting. The more important the asset, the greater the weight be provided to its significance.
- 7.5 Policy EN4 of the West Lancashire Replacement Local Plan states that development should accord with the objective to preserve or enhance the character or appearance of the Conservation Area and in particular harmonise with its surroundings in terms of scale, mass, form, materials, and overall design quality. In addition development should respect the setting of, and important views into and out from, conservation areas.
- 7.6 Policy EN4 of the West Lancashire Local Plan Publication Document 2012-2027 states that the historic environment has an aesthetic value and promotes local distinctiveness to help define our sense of place. There is a presumption in favour of the conservation of a designated heritage asset, and development will not be acceptable if it adversely affects a Listed Building or conservation area. New development affecting the historic environment should seek to preserve or enhance the heritage asset and any features of special interest, and should enhance the historic environment. (i.e any alteration should respect its age and character and utilise appropriate traditional materials.

- 7.7 The Council's SPD Design Guide is also applicable. This states that new development should be of a scale, mass and built form, which responds to the characteristics of the site and its surroundings. Care should be taken to ensure that buildings do not disrupt the visual amenities of the streetscene because of their height, scale or roofline. Development proposals should always be sensitive to the character of the historic environment, be of a high quality in terms of design and the materials used and aim to enhance the character and appearance of the building and/or wider area.
- 7.8 The main statutory duty is to consider whether the proposal would harm the significance of a designated heritage asset.
- 7.9 In relation to the impact on the conservation area the local planning authority should consider character and appearance separately and developments need to satisfy both aspects. It has been acknowledged for some time that development need only cause 'no harm' to be acceptable.
- 7.10 The NPPF identifies that the setting to heritage assets should be assessed in the same way as development which directly affects the heritage asset.
- 7.11 The property is located in a prominent corner location and lies immediately to the north of St Michaels Church (Grade 1 listed building). St Michaels Church Conservation Area Appraisal carried out in June 2005, defines the Stanley Arms as an important unlisted building within the Conservation Area, being described as follows:
- 7.12 *The Stanley Arms, an 18th century coaching inn is still in use as a public house. It started life playing a subservient role providing accommodation and refreshment for the coach hands, while the elite stayed at The Swan Hotel, approximately half a mile to the south. A rendered building with grey slate roof, the Stanley Arms has several later additions and extensions. It is rumoured that a tunnel leads from the priest's hole at the Old Hall to the pub. Situated at the junction of St Michael's Road and Church Lane, in addition to the church located opposite, it is a focal point for the centre of this Conservation Area.*
- 7.13 I consider that the single storey 'linked' form of the additions sitting behind the main public house building is acceptable and its scale is clearly subservient to the main two ranges of the Stanley Arms. Visually the principle views of the building (and site) from both the north and south along St Michael's Road and Church Road are not significantly affected by the additions. The orientation of the extension and the introduction of outward facing gables link the design of the extension back to the appearance and form of the main existing public house.

- 7.14 With regards to proposed materials, the ancillary nature of the building form is reinforced by the use of brickwork for the majority of the elevations, which contrasts with the rendered finish to the main building. Materials will need to be conditioned to ensure quality materials are used which are appropriate to the area.
- 7.15 I do not consider that there are any heritage issues raised by the re-alignment of the entrance to the car park or the fact that the proposal will effectively prevent the two areas of car park being linked together. The current car park area is not considered to be a positive space in relation to the character or appearance of the conservation area.

Impact on the setting of Listed Building – St Michael’s Church

- 7.16 St Michael’s Church is a Grade I listed building and as such any impact on its setting should be afforded great weight. The NPPF states that substantial harm would need clear and convincing justification and should only be accepted in wholly exceptional instances.
- 7.17 In relation to the location of the development, I do not consider the site for the new function suite to play an important role in the setting to the Church. Whilst visible from within the Church grounds I do not consider either the scale or form of the extensions harm the relationship between the two sites which are separated by St Michael’s Road. I do not consider that significant views of the Church would be harmed by the proposal and the key viewpoints to the north, south and west will remain largely unaltered.
- 7.18 I consider that the existing Stanley Arms is an important and prominent building in the conservation area and the proposal will respect the significance of the main buildings on the site and is of a scale and form which does not harm either the character or appearance of the conservation area or the setting of the adjacent designated St Michael’s Church. I consider the proposal to be in accordance with Policy EN 4 of the West Lancashire Replacement Local Plan, EN4 of the Submission Version West Lancashire Local Plan DPD (2012-2027), and guidance contained in the NPPF.

Impact on amenity of neighbouring properties

- 7.19 Policy GD1 of the West Lancashire Replacement Local Plan states that new development should retain reasonable levels of amenity for occupiers of neighbouring properties. Policy GN3 of the submission version West Lancashire Local Plan DPD (2012-2027) reiterates this statement.

- 7.20 The application is for a relatively small scale function room, and a noise assessment has been submitted. The noise assessment concludes that the premises are capable of containing noise from plant and music providing measures are incorporated by a limiting device and that windows and doors are kept closed.
- 7.21 With regards to patron noise, whilst this is difficult to quantify, it is covered in the noise assessment to some degree. It is likely that with the additional numbers catered for there will be an increase in noise and disturbance from the site as members of the public leave the premises.
- 7.22 The issue of impact on residential amenity from noise disturbance from patrons using the premises is an existing issue at the site. One complaint was received by the Council's Environmental Health Department approximately 2 years ago and two further complaints have been received since this planning application was submitted regarding noise and odour. The premises have been visited and Environmental Health colleagues are satisfied with the management response and comment that the inclusion of appropriate conditions will mitigate noise intrusion and on balance consider that the harm to local residents in terms of noise would not be so significant as to warrant refusal of this application. In terms of odour, it is considered that the proposed new kitchen will in fact be an improvement to the current position in that the two old wall fans will be replaced by a modern odour emission system.
- 7.23 I consider the proposal is in accordance with Policy GD1 of the West Lancashire Replacement Local Plan and Policy GN3 of the submission version West Lancashire Local Plan DPD (2012-2027).

Impact on Highway Safety/Parking

- 7.24 Policy GD1 of the West Lancashire Replacement Local Plan and Policy GN3 of the Submission version West Lancashire Local Plan DPD 2012-2027 state that suitable and safe access, road layout, design and adequate parking provision is required for all developments.
- 7.25 The Developer Support Section does not have any objections in principle to the proposed single storey rear extension to form a function suite, providing the applicant can demonstrate there is sufficient off-road car parking.

- 7.26 The level of parking required by this proposal equates to 1 car parking space per 5sqm of public floor space based on Appendix F from the submission version West Lancashire Local Plan DPD (2012-2027) which results in 45 off-road parking spaces required for the total public floorspace. (This total includes the existing public floorspace and the proposed function room). This level of parking has been demonstrated within the submission and is considered to be acceptable.
- 7.27 In addition the proposed site line requirement from the re-aligned access to the car park from St Michael's Road is considered to be acceptable.
- 7.28 There are no restrictions in on-street parking in the immediate surrounding area, and whilst the surrounding residents do have concerns in relation to parking on streets surrounding the Stanley Arms, the proprietors have no control over customers parking on the highway. The level of car parking provided with this submission is in accordance with the parking standards proposed in the submission version West Lancashire Local Plan DPD (2012-2027).

Impact on trees

- 7.29 Policy EN 9 of the Replacement Local Plan and Policy EN2 in the Submission version of the West Lancashire Local Plan DPD (2012-2027) state that development involving the loss of trees with amenity or historical value will only be permitted where the development is required to meet an overriding need which could not be met elsewhere, and trees will be required to be replaced on site.
- 7.30 The proposal would require the removal of one significant tree, an early mature, multi-stemmed Sycamore tree, situated in the centre of the site adjacent to the bowling green and within the vicinity of the rear of the pub. (T4), although this is adjacent to another Sycamore (T3) situated along the bowling green boundary.
- 7.31 Entrance improvements would require the removal of a young, established, twin-stemmed Ash tree (T13) and a mature Hawthorn situated in the centre of the car park would be removed (T12). The proposals also include the removal of a mature Privet hedge adjacent to the bowling green and some indicative replacement landscape proposals which includes privet hedge, shrubs and a planting bed.
- 7.32 In relation to the proposed remodelling of the site, tree removal and proposed landscaping, I do not consider that there would be detrimental loss to the amenity of the site or the Conservation Area, and consider the proposal to be in accordance with Policy EN 9 of the Replacement Local Plan and Policy EN2 in the Submission version of the West Lancashire Local Plan DPD (2012-2027).

Summary

- 7.33 On balance, I consider the proposal is in accordance with Policy GD1, EN4 and EN9 of the West Lancashire Replacement Local Plan and Policy GN3, EN2 and EN4 of the submission version West Lancashire Local Plan DPD (2012-2027).

8.0 RECOMMENDATION

- 8.1 That planning permission be **GRANTED** subject to the following conditions.

Conditions

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby approved shall be carried out in accordance with details shown on the following plans:-
Plan reference 583/01 Revision C, 583/02, 583/03, 583/05 Revision E, 583/06 Revision E, 583/07 Revision B, 583/08, 583/09, 583/10, 583/011 and topographical survey received by the Local Planning Authority on 3rd May 2013.
Plan reference 583/04 Revision E received by the Local Planning Authority on 10th May 2013.
3. No development shall take place until full details of the external walling, roofing, window and glazing materials have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. Prior to commencement of development the visibility splays measuring 2.4 metres by 43 metres in both directions shall be provided, measured along the centre line of the proposed new road from the continuation of the nearer edge of the existing carriageway of St Michael Road, to the satisfaction of the Local Planning Authority. The land within these splays shall be maintained thereafter, free from obstructions such as walls, fences, trees, hedges, shrubs, ground growth or other structures within the splays in excess of 1.0 metre in height above the height at the centre line of the adjacent carriageway.
5. No development shall take place until a car parking and manoeuvring scheme has been submitted to and approved in writing by the Local Planning Authority. The car parking spaces and manoeuvring areas shall be marked out in accordance with the approved scheme, before the extension is brought into use and permanently maintained thereafter.
6. The existing trees shall be retained and before site works commence they shall be protected with stout fencing constructed to BS5837:2012, to contain the branch spread of the trees. Such fencing shall remain and be adequately maintained for the duration of the development operations. Within this fencing no development operations may take place including the storage or dumping of materials or plant, the lighting of fires, the siting of temporary huts or the raising or lowering of ground levels. All dead or damaged existing trees specified for retention shall be replaced with trees of such size and species approved in writing by the Local Planning Authority.

7. No development shall take place until a landscaping scheme has been submitted to and approved by the Local Planning Authority. The landscaping scheme shall show the location, branch spread, and species of all existing trees and hedges; the location, species and number of all proposed trees, shrubs and hedges; and the location of all existing and proposed grassed and hard surfaced areas. Trees and shrubs planted shall comply with BS. 3936(Specification of Nursery Stock) and shall be planted in accordance with BS. 4428 (General Landscape Operations). Within a period of 9 months from the date when any part of the development is brought into use the approved landscaping scheme shall be carried out. All planting shall be maintained and dead or dying material shall be replaced for a period of seven years from the agreed date of planting.
8. The premises shall not be open for customers outside the following hours: 08:00 - 00:00, Sundays to Thursdays; 08:00 to 01:00 Fridays and Saturdays.
9. No music from the premises shall be clearly audible at the boundary of any nearby residential premises at any time.
10. All external doors and windows shall be kept closed, other than for access and egress at all times during regulated entertainment. The 'Exit to Terrace' doors shall not be used for access or egress at any time during regulated entertainment and shall remain closed. A management system shall be in place to ensure this situation remains
11. All amplified music shall be controlled by a compressor limiter type sound level limiting device, the level of which shall be set in accordance with the recommendations in the 'Plant and Music Noise Assessment' submitted with this application.
12. All external doors and internal lobby doors shall be fitted with automatic self-closing devices.
13. The construction of the walls, doors, windows rooflights and ventilation shall be to the minimum acoustic specification recommended by the 'Plant and Music Noise Assessment' submitted with this application, Paragraphs 8.3 – 8.6.
14. The installed plant shall meet the minimum acoustic specification recommended by the 'Plant and Music Noise Assessment' submitted with this application, Paragraph 9, such that plant noise shall not exceed 5dB(A) below the existing background noise levels at the boundary of the nearest residential premises when assessed according to BS4142: 1997.
15. The placing of refuse, such as bottles, into receptacles outside the premises shall not take place except between the hours of 0800 and 2200 on any day.
16. Any kitchen odour/fume extraction system to be installed shall only be installed in accordance with a scheme submitted to, and approved in writing by, the local planning authority. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.
17. Before the development hereby permitted commences a scheme detailing the proposed lighting to be installed on the site shall be submitted to and approved in writing by the local planning authority. All external lighting shall be installed and maintained in accordance with the agreed scheme.

Reasons

1. Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure compliance with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
3. The character and location of the property are such that the Local Planning Authority wish to exercise maximum control over future development in order to comply with the provisions of Policy EN4 in the West Lancashire Replacement Local Plan and Policy EN4 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
4. To ensure adequate visibility for the drivers of vehicles entering and leaving the site and to ensure that the development complies with the provisions of Policies GD1 & SC6 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
5. To allow for the effective use of parking areas and to ensure that the development complies with the provisions of Policies GD1 & SC6 in the West Lancashire Replacement Local Plan and Policies GN3 & IF2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
6. To safeguard the health of the trees and so ensure that the proposed development complies with the provisions of Policy EN9 in the West Lancashire Replacement Local Plan and Policies GN3 & EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
7. To assimilate the proposed development into its surroundings and to ensure that the development complies with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
8. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
9. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
10. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.

11. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
12. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
13. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
14. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
15. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
16. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
17. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.

Reason for Approval

1. The Local Planning Authority has considered the proposed development in the context of the Development Plan including in particular the following Policies in the West Lancashire Replacement Local Plan & in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document:

West Lancashire Replacement Local Plan Policies

DS1 Location of development
GD1 Design of Development
EN4 Conservation Areas
EN9 Protection of trees and woodlands

Submission Version West Lancashire Local Plan DPD (2012-2027)

GN1 Settlement boundaries
GN3 Criteria for sustainable development
EN2 Preserving and enhancing West Lancashire's Natural environment
EN4 Preserving and enhancing West Lancashire's Built environment

together with Supplementary Planning Guidance and all relevant material considerations. The Local Planning Authority considers that the proposal complies with the relevant Policy criteria and is acceptable in the context of all relevant material considerations as set out in the Officer's Report. This report can be viewed or a copy provided on request to the Local Planning Authority. The Local Planning Authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application and have implemented the requirements of the National Planning Policy Framework paragraph 187.

No.3 APPLICATION NO.	2013/0150/OUT
LOCATION	Land Opposite 3 Willow Brook Halsall Lancashire L39 8TL
PROPOSAL	Outline - One detached dwelling.
APPLICANT	Mr J Wright
WARD	Halsall
PARISH	Halsall
TARGET DATE	5th July 2013

1.0 REFERRAL

- 1.1 This application was to be determined under the Councils delegation scheme, however, Councillor Stephenson requested that it be referred to the Committee to consider the impact of the development upon neighbouring properties and highway safety issues.

2.0 PREVIOUS RELEVANT DECISIONS

- 2.1 2012/1221/OUT - Outline - One detached dwelling. WITHDRAWN 08.01.2013 (due to lack of supporting information).
- 2.2 2008/1113/FUL - Retention of incorporation of land into residential curtilage. GRANTED 19.12.2008
- 2.3 1999/0786 - Detached bungalow and attached double garage. REFUSED (06.01.2000) APPEAL DISMISSED 05.07.2000
- 2.4 1997/0317 - Outline - Erection of one detached dwelling. REFUSED (24.07.1997) APPEAL DISMISSED 15.05.1998
- 2.5 1993/1269 - Outline- erection of three detached dwellings with garages (including details of means of access). WITHDRAWN (16.05.1994)

3.0 CONSULTEE RESPONSES

- 3.1 LANCASHIRE COUNTY COUNCIL HIGHWAYS (14/03/2013) – No objections in principle to the proposed detached dwelling and is of the opinion that the proposed development should have a negligible impact on highway safety and highway capacity in the immediate vicinity of the site. Recommends a condition.
- 3.2 LANCASHIRE COUNTY COUNCIL ECOLOGIST (10/04/2013) – Further clarification and surveys are required. (31/05/2013) – Further to amended surveys requires further clarification whether tree with bat roosting potential is to be removed to facilitate the development. If this can be addressed, recommend planning conditions.
- 3.3 ENVIRONMENT AGENCY (28/02/2013) – No comments to make on this as this site lies outside Flood Zone 2 and 3 which lies to the West of the site and is less than 1 hectare.

(11/04/2013) - The ecology survey confirms that water voles are present along this section of Carr Brook. Comments that provided that any subsequent development proceeds in accordance with the recommendations in paragraphs 10.4, 10.5 and 10.6 of the report, the EA are satisfied that the development would not pose an unacceptable risk of harm to water voles or their habitat.

In the event the application is approved, should any subsequent application for Reserved Matters approval include a layout with any works (including new buildings, fences, planting or landscaping) within 6 metres of the bank top of Carr Brook, further Water Vole surveys and mitigation measures will be required (as stated in the ecological survey).

(06/06/2013) – EA no longer provide detailed comments on GCN surveys and mitigation proposals as Natural England is the lead authority for this species. The EA still look at Water Vole surveys, the amended ecology survey submitted includes the same recommendations for Water Voles as proposed previously so no further comments than previous response.

- 3.4 NATURAL ENGLAND (19/06/2013) – No objections.

4.0 OTHER REPRESENTATIONS

- 4.1 One neighbouring response has been received. Object to the application on the grounds of:
- Impact upon character of street scene. Impression of a central green space will be lost.
 - Scale of building will affect outlook.

- Overbearing impact
- Overlook front garden
- Impact upon protected trees and landscaping
- Ecological Assessment advises that surveys for Great Crested Newts will be required prior to any determination of the application. These surveys do not appear to have been carried out. The existence of Great Crested Newts and other protected species are a material planning consideration.
- Access from Shirdley Hill will mean that the private drive will be used by 3 and potentially 4 residential properties as the proposed plan indicates a potential access to the rear of no. 20 Heathey Lane.
- Visibility at junction is sub standard and to increase the burden on this driveway by the creation of an additional dwelling, which will generate at least an additional 4 vehicle movements per day, will increase the likelihood of accidents.
- Footway is a concern, being less than 2m at the point of exit from Willow Brook onto Renacres Lane.
- Planning Inspector decision to dismiss previous appeals against the refusal of planning permission on 2 occasions in 1997 and 1999 was the access and highway considerations.

5.0 SUPPORTING INFORMATION

- 5.1 Design and Access Statement
- 5.2 Ecological Scoping Survey
- 5.3 Arboricultural Impact Assessment
- 5.4 Updated Ecological Scoping Survey
- 5.5 Great Crested Newt Survey

6.0 LOCAL PLAN ALLOCATION

- 6.1 The application site is located within a rural settlement area of Shirdley Hill as designated in the West Lancashire Replacement Local Plan Proposal Map and 'small rural village' as per the West Lancashire Local Plan.
- 6.2 West Lancashire Replacement Local Plan
GD1 – Design of Development.
EN9 – Protection of Trees and Woodlands
DE1 – Residential Development
EN1 - Biodiversity

West Lancashire Local Plan Submission Version 2012-2027
GN1 – Settlement Boundaries
GN3 – Criteria for Sustainable Development
EN4 – Preserving and Enhancing West Lancashire’s Built Environment
EN2 – Preserving and Enhancing West Lancashire’s Natural Environment
RS1 – Residential Development

Supplementary Planning Document – Design Guide (January 2008)

National Planning Policy Framework (NPPF)

7.0 OBSERVATIONS OF ASSISTANT DIRECTOR PLANNING

Site

- 7.1 The application site relates to an area of vacant undeveloped land to the rear of no. 20 Heathy Lane (also owned by the applicant). The application site is accessed via Willow Brook, which currently serves two other dwellings, no.1 and no.3 Willow Brook. The site is located within a rural settlement area of Shirdley Hill.

Proposal

- 7.2 This application seeks outline planning permission for one detached dwelling. As this application is in outline only, the application identifies the site and provides *indicative* plans of the means of access, layout and dwelling massing, scale and type.
- 7.3 From the indicative drawings it is proposed that the dwelling will be a 2 storey detached dwelling measuring approx. 15.5m (width) x 7.3m – 12.9m (width) x 8.4m (height) and will incorporate a double storey front bay, single storey rear extension and rear dormers.

Principle of the Development

- 7.4 Policy DE1 of the West Lancashire Replacement Local Plan (WLRLP) relating to ‘Residential Development’ together with the Councils Interim Housing Policy (July 2010) allows housing within the most sustainable areas of the Borough. As the site is located within a rural settlement area of Shirdley Hill, it does not fall within one of the allocated areas for housing development within the Borough under this policy.
- 7.5 However, Policy RS1 ‘Residential Development’ of the West Lancashire Local Plan (WLLP) Submitted Version is also relevant and states that within small rural

villages (as per the application site), limited infill development (i.e. up to four units) will be permitted for market housing.

- 7.6 National planning guidance within the NPPF is also a key material consideration. Paragraph 215 of this document states that the weight given to policies in existing plans, like the WLRLP will be according to the policy's degree of consistency with the NPPF. Therefore as Policy DE1 of the WLRLP and Policy RS1 of the WLLP Submitted Version are in conflict, as the WLLP Submitted Version is now at a stage where it has been examined by the Inspector and taking into consideration the approach of the NPPF, Policy RS1 is a significant material consideration in establishing the principle of the development.
- 7.7 In terms of the housing policy the NPPF paragraph 49 states that if the LPA cannot demonstrate a 5 year supply of deliverable housing sites (which is the case in West Lancashire) then relevant policies for the supply of housing should not be considered up-to-date meaning that the NPPF's presumption in favour of sustainable development will apply (paragraph 14). Therefore, in accordance with the NPPF, I consider that the principle of one dwelling in this location to be acceptable.

Siting, Design and Appearance

- 7.8 I note objections raised by occupants of a neighbouring property on the basis that the development will result in poor outlook, overlooking, will be overbearing and will impact upon the character of the street scene.
- 7.9 The application is submitted in outline seeking to establish the principle of development only. The application is submitted with indicative plans demonstrating that the site is capable of accommodating the proposed development whilst meeting site layout criteria – sufficient amenity space, minimum interface distances, appropriate density, suitable access, parking, turning etc.
- 7.10 On submission of a reserved matters application, full details and plans in relation to land levels, appearance, location of windows, scale and height are required, which will also be assessed to ensure that the development will not be detrimental to neighbouring properties.

Highways

- 7.11 I also note objections in relation to highway safety issues particularly to visibility and increase in vehicular movements. The proposed property will make use of an existing access from Renacres Lane. As this access is already being used by two existing properties, no. 1 and 3 Willow Brook I do not consider that the addition of one additional dwelling within Willow Brook would result in a significant addition of vehicular movements to the detriment of highway safety.

As this application is in outline only and from the information submitted within the application I consider there is sufficient off road parking space within the site to accommodate at least 3 vehicular parking spaces – which would meet with the minimum requirements of the Joint Lancashire Structure Plan for a four to five bedroom property. The County Surveyor has been consulted on this application and raises no objections to the application.

- 7.12 I have also viewed previous appeal decisions on the site in respect of applications 1997/0317 and 1999/0786. Although representations claim these schemes were refused on access and highway grounds, I cannot find any objections within both appeal decisions based on highway grounds and both appeals were dismissed due to relevant planning policy at the time of the decision which sought to resist the principle of residential development at this site.

Biodiversity

- 7.13 The main ecological issues arising from the proposals includes potential impacts on protected species, bats, Great Crested Newts, Water Voles and Breeding Birds. Impacts upon protected species as a result of the development have also been a concern to local residents.
- 7.14 As a result of the Ecological Scoping Survey requesting further information in relation to Great Crested Newts, an Updated Ecological Scoping Survey and Great Crested Newt Survey has been submitted with the application. No objections have been raised by the Environment Agency, County Ecologist and Natural England. Conditions will be added to any permission to safeguard protected species.

Impact upon existing trees

- 7.15 An Arboricultural Impact Assessment (AIA) has been submitted which determines that the implementation of the proposed development will require the removal of two moderate quality trees. The Councils Arboricultural Officer has assessed the proposals and is satisfied that the removal of the two trees could be compensated with new planting as indicated within the Assessment. To ensure that adequate tree protection is given to the existing trees on site, a condition will be added to the permission to ensure this is carried out throughout the works.
- 7.16 It has also been confirmed that the Crack Willow tree, which is located outside of the proposed residential curtilage, although has been identified as unsuitable for retention in the submitted Bowland AIA, will be retained as the tree has bat roosting potential.

Summary

- 7.17 It is considered that the proposed development is acceptable in principle. The application is in outline, however indicative plans have been submitted demonstrating that the site is capable of accommodating one dwelling house without causing significant harm to the amenities of neighbouring properties, highway safety, protected species and existing trees. It is therefore considered to be compliant with relevant adopted and emerging policies and is recommended for approval.

8.0 RECOMMENDATION

- 8.1 That outline planning permission is **GRANTED** subject to the following conditions:

Conditions

1. Application for approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
2. The development hereby approved shall be carried out in accordance with details shown on the following plans:-
Plan reference 554_02 Rev F; 554_03 Rev A; Arboricultural Impact Assessment; Ecological Scoping Survey; Updated Ecological Scoping Survey and Great Crested New Survey 2013 received by the Local Planning Authority on 13/02/2013; 13/02/2013; 13/02/2013; 13/02/2013; 10/05/2013 and 10/05/2013 respectively.
3. No development shall take place until approval has been obtained from the Local Planning Authority for the reserved matters namely the layout, scale and appearance of the buildings, and landscaping of the site
4. The development hereby approved shall be carried out strictly in accordance with detailed plans which previously shall have been submitted to and approved in writing by the Local Planning Authority. Such detailed plans shall show:-
 - a. Proposed layout, siting, design and external appearance of the proposed dwelling; the colour and type of materials to be used in the construction of external walls and roofs
 - b. Proposed means of access to the building
 - c. Proposed walls, fences and other means of enclosure
 - d. Location and species of all trees and hedges existing on the site and the proposed layout and landscaping of the amenity areas.
5. No development shall take place until a scheme for the foul and surface water drainage of the development, including any necessary attenuation measures, has been fully agreed with the relevant statutory body/bodies, and until written evidence of that agreement has been provided to and acknowledged in writing as acceptable by the Local Planning Authority.

6. The existing trees shall be retained and before site works commence they shall be protected with stout fencing constructed to BS5837:2012, to contain the branch spread of the trees. Such fencing shall remain and be adequately maintained for the duration of the development operations. Within this fencing no development operations may take place including the storage or dumping of materials or plant, the lighting of fires, the siting of temporary huts or the raising or lowering of ground levels. All dead or damaged existing trees specified for retention shall be replaced with trees of such size and species approved in writing by the Local Planning Authority.
7. No development shall take place until a landscaping scheme has been submitted to and approved by the Local Planning Authority. The landscaping scheme shall show the location, branch spread, and species of all existing trees and hedges; the location, species and number of all proposed trees, shrubs and hedges; and the location of all existing and proposed grassed and hard surfaced areas. Trees and shrubs planted shall comply with BS. 3936(Specification of Nursery Stock) and shall be planted in accordance with BS. 4428 (General Landscape Operations). Within a period of 9 months from the date when any part of the development is brought into use the approved landscaping scheme shall be carried out. All planting shall be maintained and dead or dying material shall be replaced for a period of seven years from the agreed date of planting.
8. No development shall take place until full details of the finished levels of all parts of the site, including the floor levels of all buildings, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with those details.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development (Amendment) (No.2) (England) Order 2008 or any subsequent Orders or statutory provision re-enacting the provisions of these Orders no extensions, out buildings, swimming pools or hardstandings shall be erected or undertaken without the express written permission of the Local Planning Authority.
10. Tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds will be avoided between March and August inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections.
11. No works associated with the proposed development (including outlet pipes/drainage works) shall take place within 5m of the tops of the banks of the brook, to avoid potential impacts on water voles, unless further surveys are submitted to demonstrate that water voles are absent from the section of brook to be affected by the proposal. Alternatively, a mitigation method statement supported by a water vole survey should be submitted, if the impacts can be shown to be unavoidable.
12. No development shall take place until details of replacement bird nesting opportunities (including replacement nesting opportunities for house sparrow) to be installed within the application area are submitted to Local Planning Authority for approval in writing. The approved scheme shall be implemented in full.

13. No development shall take place until it has been demonstrated that no trees with the potential to support red squirrels will be affected by the proposal or alternatively, if it is demonstrated that the potential impacts are unavoidable, adequate mitigation/ compensation for any potential impacts/ tree losses supported by updated survey and should demonstrate that habitat connectivity will be maintained.
14. In order to avoid impacts on Species of Principal Importance (e.g. hedgehog and slow worm):
 - Works affecting suitable terrestrial habitat, including likely places of shelter (e.g. dense vegetation, scrub, piles of leaf litter, log piles) shall be carefully searched immediately prior to removal/development works.
 - If reptiles are suspected or detected on the site at any point prior to or during works then works shall cease until advice has been sought from an appropriately qualified ecological consultant.
 - If clearance works are unavoidably carried out at the time of year when hedgehogs may be hibernating or breeding, any hedgehogs found should not be disturbed and advice should be sought from an appropriately qualified person.
 - During the proposed works, backfill trenches and other excavations before nightfall, or provide a ramp to allow hedgehogs to easily exit.
15. No development shall take place until details of any external lighting associated with the development have been submitted to and approved in writing by the Local Planning Authority. External lighting shall be minimal, designed to avoid excessive light spill and shall not illuminate potential bat habitat (e.g. brook and associated trees/hedgerow) and or/ bird breeding places.
16. The proposed measures given in 'Recommendations' of the Ecological Scoping Survey and Updated Ecological Scoping Survey by The Tyrer Partnership (issued 30th January 2013 and 10th May 2013) shall be implemented in full.
17. For the duration of the development facilities shall be provided within the site by which means the wheels of vehicles may be cleaned before leaving site.

Reasons

1. Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure compliance with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
3. The application is in outline and the matters referred to in the Condition are reserved for subsequent approval by the Local Planning Authority
4. To ensure adequate information is available for the proper consideration of the detailed proposals
5. To ensure that the site is properly drained in the interest of local amenity and that the development, therefore, complies with the provisions of Policies GD1, EN10, EN11 and SC10 in the West Lancashire Replacement Local Plan and Policies

GN3 & IF3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.

6. To safeguard the health of the trees and so ensure that the proposed development complies with the provisions of Policy EN9 in the West Lancashire Replacement Local Plan and Policies GN3 & EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
7. To assimilate the proposed development into its surroundings and to ensure that the development complies with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
8. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
9. The character and location of the property are such that the Local Planning Authority wish to exercise maximum control over future development in order to comply with the provisions of Policies GD1, EN9 and EN1 in the West Lancashire Replacement Local Plan and Policies GN3, EN4 and EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
10. To ensure that the proposed development has no detrimental impact on protected species of their habitats in accordance with Policy EN1 in the West Lancashire Replacement Local Plan and Policy EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
11. To ensure that the proposed development has no detrimental impact on protected species of their habitats in accordance with Policy EN1 in the West Lancashire Replacement Local Plan and Policy EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
12. To ensure that the proposed development has no detrimental impact on protected species of their habitats in accordance with Policy EN1 in the West Lancashire Replacement Local Plan and Policy EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
13. To ensure that the proposed development has no detrimental impact on protected species of their habitats in accordance with Policy EN1 in the West Lancashire Replacement Local Plan and Policy EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
14. To ensure that the proposed development has no detrimental impact on protected species of their habitats in accordance with Policy EN1 in the West Lancashire Replacement Local Plan and Policy EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
15. To ensure that the proposed development has no detrimental impact on protected species or their habitats in accordance with Policy EN1 in the West Lancashire Replacement Local Plan and Policy EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.

16. To ensure that the proposed development has no detrimental impact on protected species of their habitats in accordance with Policy EN1 in the West Lancashire Replacement Local Plan and Policy EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
17. To avoid the possibility of the public highway being affected by the deposit of mud and/or loose material thus creating a potential hazard to road users and to ensure compliance with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.

Notes

1. Carr Brook adjoining the site is designated a "Main River" and is therefore subject to Land Drainage Byelaws. In particular, no trees or shrubs may be planted, nor fences, buildings, pipelines or any other structure erected within 8 metres of the top of any bank/retaining wall of the watercourse without prior written Consent of the Environment Agency.

In the event that any protected species is unexpectedly encountered before or during site clearance or development work, then work shall stop until specialist advice has been sought regarding the need for a licence from Natural England and/or the implementation of necessary mitigation measures.

Reason for Approval

1. The Local Planning Authority has considered the proposed development in the context of the Development Plan including in particular the following Policies in the West Lancashire Replacement Local Plan & in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document:

West Lancashire Replacement Local Plan
GD1 – Design of Development.
EN9 – Protection of Trees and Woodlands
DE1 – Residential Development
EN1 - Biodiversity

West Lancashire Local Plan Submission Version 2012-2027
GN1 – Settlement Boundaries
GN3 – Criteria for Sustainable Development
EN4 – Preserving and Enhancing West Lancashire’s Built Environment
RS1 – Residential Development

together with Supplementary Planning Guidance and all relevant material considerations. The Local Planning Authority considers that the proposal complies with the relevant Policy criteria and is acceptable in the context of all relevant material considerations as set out in the Officer's Report. This report can be viewed or a copy provided on request to the Local Planning Authority. The Local Planning Authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application and have implemented the requirements of the National Planning Policy Framework paragraph 187.

No.4 APPLICATION NO.	2013/0394/FUL
LOCATION	Ormskirk Indoor Market Moorgate Ormskirk Lancashire L39 4RT
PROPOSAL	Demolition of existing building and erection of 14 student apartments comprising 83 student rooms with 4 flexible retail units (Use Classes A1 - A5) on the ground floor. Single storey bicycle store at rear.
APPLICANT	Mr M McComb
WARD	Knowsley
PARISH	Unparished - Ormskirk
TARGET DATE	12th September 2013

1.0 PREVIOUS RELEVANT DECISIONS

- 1.1 2005/0116 – APPROVED (26.04.2005) Demolition of existing building and erection of three storey building to provide offices and shops (A1 & A2 use).

2.0 OBSERVATIONS OF CONSULTEES

- 2.1 NETWORK RAIL (11.06.13) - objects to the proposed development as there is some minor encroachment of the site into Network Rail land. Also request a number of conditions regarding details of foundations/ground investigation and potential loadings of the cutting slope. Any scaffolding erected should be restricted and secure; all surface water should be directed away from the railway and foul drainage should be provided separate from Networks rail's existing drainage. There should be a minimum 2m gap between the buildings and structures on site and Network rail's boundary fencing. Care needs to be taken when assessing the proposed development against noise and vibration in close proximity to the railway line.

- 2.2 UNITED UTILITIES (24.06.13) – no objections provided the site is drained on a total separate system.
- 2.3 LANCASHIRE COUNTY COUNCIL (HIGHWAYS) (02.07.13) - no objections in principle; however, LCC is aware of the increasing number of planning applications for homes for multiple occupancy within the Ormskirk area. The planning applications for homes of multiple occupancy are being targeted for students but the properties have the possibility of being used by non students leading to a greater demand for car ownership.

Edge Hill University is also running and promoting courses for mature students where students have a greater probability of owning a car before they enrol on the course.

The current planning applicants are generally proposing a clause within the lease to restrict vehicle ownership but LCC has reservations how this clause can be controlled and enforced by the landlord and this will then lead to issues for the local authority to control and enforce the car ownership clauses, to restrict the impact of on-road amenity parking issues on roads which are not controlled by the current waiting restrictions around the site.

The current landlord's business direction may change from student accommodation to young professional etc and any future owner of the property may not be proactive in restricting car ownership, leading to a greater demand for car ownership, while the property can still operate under the same planning approval for the site.

The location for this site is well controlled with existing waiting restrictions and pay and display car parking are available for visitors. The town centre has good facilities for public transport and a regular bus service to the University but there are available on-road parking spaces within 350m of the site.

LCC is concerned about the cumulative affect of the increasing numbers of homes of multiple occupancy in the Ormskirk Area where car ownership and restrictions on the type of end user of the homes of multiple occupancy is not controlled under condition. From observations and discussions with our traffic section, on-road parking around the Ormskirk town centre and surrounding roads are at a premium and any increased demand for on-road parking is difficult to absorb without causing additional loss of amenity and conflict for existing residents.

To aid a full review and implementation of additional waiting restrictions and resident only car parking facilities a section 106 contribution of £35,000 is being requested. The potential additional waiting restrictions and resident only parking schemes is to try and alleviate the potential increase in amenity issues around the town centre and surrounding roads. The implementation of the additional waiting restrictions and resident only parking schemes would mean anyone owning a car would have further to walk to the car than to the University and therefore help to reduce vehicle use by making it impractical.

3.0 OTHER REPRESENTATIONS

- 3.1 WEST LANCASHIRE CONSERVATION AREAS ADVISORY PANEL (04.07.13) - Objects on the grounds that the mass and scale of the proposed new building would be out of character with Ormskirk town centre and would harm the setting to the conservation area.
- 3.2 WEST LANCASHIRE CIVIC TRUST (05.07.13) – Objects on the following grounds:
- Overdevelopment
 - Height is excessive in relation to the rest of the street scene
 - Massing is out of character
 - Adversely affects adjacent Town Centre Conservation Area
 - Inclusion of additional 4 retail units to the town in the light of the current number of empty shops may result in these new units being unused.
 - Elevations are architecturally uninspiring and fragmented
 - Total number of students to be housed in the proposed development is excessive at this point in the town
- 3.3 ORMSKIRK AND DISTRICT COMMUNITY COUNCIL (05.07.13) – Objects on the following grounds:
- Height and mass is totally out of character with Ormskirk town and would dominate the surrounding area and the adjacent Town Centre Conservation Area
 - Constitutes over-development of the site
 - Question the need for such an overwhelming block of student accommodation in the town centre although it could be claimed to reduce the pressure on the domestic housing stock in Ormskirk
 - Question need for more shops when shops are falling vacant on a regular basis in the town
 - The architecture is just not Ormskirk, an old market town
 - Surely better use of the site could be put forward which would enhance the town

3.4 I have received two letters of objection from neighbouring residents, one who considers that the dormer windows on the third floor elevation on one of the new accommodation blocks would result in overlooking and request they be changed to roof lights and the other objecting to the use of retail units on the ground floor as they may become fast food outlets /bars/restaurants with odours, noise and healthy eating issues and what Ormskirk needs is more shops.

4.0 LOCAL PLAN ALLOCATION

4.1 The National Planning Policy Framework (NPPF), the West Lancashire Replacement Local Plan (WLRLP) and the West Lancashire Local Plan (2012-2027) – Submission Document (emerging plan) provide the policy framework against which the development will be assessed.

4.2 The site is allocated as DS1.2 - Main Settlement Area in the West Lancashire Replacement Local Plan and in Ormskirk Town Centre.

4.3 West Lancashire Replacement Local Plan policies:

DS1 – Location of Development
DE1 – Residential Development
DE10 – Retail and Other Town Centre Development
DE12 – Ormskirk Town Centre
SC6 – Roads
EN1 – Biodiversity
EN4 – Conservation Areas
EN9 – Protecting Trees and Woodlands
EN10 – Flood Risk
GD1 – Design of Development
GD2 – Developer Contributions to Infrastructure

SPD – Design Guide (Jan 2008)
West Lancashire Interim Housing Policy (July 2010)
SPD - Open Space/Recreational Provision in New Residential Developments (April 2009).
SPG – Design Guide for Shop Fronts

4.4 Additionally, emerging policies are set out in the West Lancashire Local Plan (2012-2027) Submitted Document:

SP1 – A Sustainable Development Framework for West Lancashire
GN1 – Settlement Boundaries
GN3 – Design of Development

RS1 – Residential Development
RS3 – Provision of Student Accommodation
IF1 – Maintaining Vibrant Town and Local Centres
IF2 – Enhancing Sustainable Transport Choice
IF3 – Service accessibility and Infrastructure for Growth
IF4 – Developer Contributions
EN1 – Low Carbon Development and Energy Infrastructure
EN2 – Preserving and Enhancing West Lancashire’s Natural Environment
EN4 – Preserving and Enhancing West Lancashire’s Built Environment

5.0 OBSERVATIONS OF ASSISTANT DIRECTOR PLANNING

The Site

- 5.1 The application site of approx. 2,000 m² lies within the southern edge of the Ormskirk Town Centre and adjacent to the Ormskirk Town Centre Conservation Area and the Primary Shopping Centre, to the northern side of the A 570 Park Road within the Ormskirk main settlement area. The site is currently occupied by an existing market hall (measuring approximately 40m x 25m), a nightclub (Alpine) (measuring approximately 14m x 25m) and a vacant parcel of land on the corner of Moorgate and Park Road (measuring approximately 15m x 25m). There is no on-site parking and the site fronts Moorgate. The site is bordered by a brick wall fronting Park Road to the south, the Liverpool to Preston railway line at the rear to the east, Moorgate with the rear of the M&S building and car park to the west and an entrance alley leading to a small private parking area for adjacent commercial premises to the north. Land levels fall slightly from south to north.

Development Proposal

- 5.2 The application proposes the demolition of the existing buildings on the site, including the market hall and Alpine nightclub and the replacement with a mixed-use development of 4 ground floor retail units (972sqm and Use Class A1 to A5) with student accommodation above arranged around 14 blocks of 6 en suite bedrooms and a common/kitchen room, providing 83 beds in total. A 24 hours concierge facility and laundrette is also provided on the ground floor. In front of the proposed building will be a service lane to provide a drop-off area and servicing to the retail units. No parking is provided to the accommodation; instead a large cycle park is proposed to the north-east with access from Moorgate and Park Road. Refuse stores are provided at the rear of the site and there is an alleyway to the rear between the back of the building and the railway line.

- 5.3 The height of the development varies from three to four storeys and is broken up by stairwells, different fenestration and facade treatment, dormer windows and a mix of materials. The four storey element is introduced at the southern end of the site to provide a landmark architecturally strong corner, fronting Moorgate and Park Road. A public consultation exercise was carried out by the applicant in November 2012 and many of the comments made have informed the design and layout of the current proposal.

Principle of Development

- 5.4 The site lies within the main settlement area where the principle of residential and retail development is acceptable under the terms of Policies DS1, DE1, DE10 and the Interim Housing Policy in the WLRLP and the emerging plan. The site is considered to be in a highly sustainable location within the town centre and easily accessible by public transport. The existing market hall is in a poor condition and part of the site is vacant land contributing little to the appearance or economic opportunity of the area. As such, the principle of the redevelopment of the site complies fully with the aims and aspirations of the NPPF.

Retail Units

- 5.5 Policies DE10 and DE12 in the WLRLP advise that retail uses will be permitted within the main town centres and that proposals for the redevelopment or expansion of existing facilities in Ormskirk Town Centre which contribute towards the economy and historic environment of the town and are in accordance with the vision for the town will be permitted, subject to a number of criteria. The criteria essentially relates to the design and integration of proposals, appropriate servicing, landscaping and accessibility which will be referred to later. In principle therefore, the proposed retail units comply with these Policies. Policy IF1 in the emerging plan positively enforces the promotion of sustainable and economically vibrant town centres and advises that retail development will be encouraged within town centres. The NPPF places great importance on the delivery of a strong, competitive economy and sustainable development and at para. 23 states that "*planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres*". It goes on to advise that development should support the vitality and viability of town centres. In my view, the proposed development of new modern retail floorspace will enhance the retail offer in the town and increase footfall within this part of Moorgate in accordance with the above thrust of national and local policy.

- 5.6 The proposed retail units will remain flexible in use in that a permission for the full range of “A” Classes is sought – including shops, professional and financial services, restaurants and cafes, drinking establishments and hot food takeaways. The four retail units comprise 250sqm each but could be subdivided to make smaller units if necessary. Although the supporting information accompanying the application stated the proposed scheme was to incorporate a range of A1 to A5 uses, the original description did not make this clear. As such the description was amended and neighbours were re-notified of this amendment which clarifies that the ground floor retail units are for a mix of A1 – A5 purposes. The amended notification period expires today and therefore the recommendation will ensure that the decision is delegated subject to no additional significant adverse comments being received.
- 5.7 In view of the fact that the site is located within the town centre but outside the primary shopping area (PSA) and the existing uses on the site include a mix of retail, café and a drinking establishment, I am satisfied that this mix of uses is acceptable, provided that at least 50% of the floorspace remains in Class A1 retail (shop) use.
- 5.8 Although the loss of the existing market hall is regrettable, the applicant advises that it has, in recent years, followed the wider trend of decline of markets and today the number of units has dwindled from a potential of 40 to just 7 meaning that the income generated does not even cover rates and general overheads. The applicant goes on to say that the economic downturn, the unsuitability of the building and its general decline has left the site in a poor state of repair. The simple redevelopment of the site as a single replacement market hall/retail site is not economically viable without the provision of income generating uses above. I am minded to agree that the current poor condition of the market hall does not enhance the overall setting of the town nor the adjacent Conservation Area. Furthermore, the vacant overgrown plot of land at the corner of Moorgate and Park Road does not provide an attractive setting to the town centre along this main route through the town. The redevelopment of the site enables the retail floorspace lost by the demolition of the market hall to be replaced with a high quality retail space whilst also providing an opportunity to increase footfall to this part of the town centre and enhance the views along Park Road. The proposal in no way effects the thriving outdoor market held in the town centre twice a week.

Student Accommodation

- 5.9 Policy RS3 in the emerging local plan states that the development of purpose built student accommodation outside of the University Campus will be restricted, except where i) an over-riding need for such accommodation is demonstrated; ii) demand for the conversion of existing dwelling houses to HMOs will be demonstrably reduced; and iii) it will not negatively impact the amenity of

surrounding uses. When assessing the potential impact of purpose-built student accommodation on the amenity of the surrounding areas, the Council will also have regard to the presence of any HMOs in the vicinity. In addition, Policy RS3 refers to taking into account the effects of clustering of HMOs. Furthermore, when assessing any future changes of use of dwelling houses or other buildings to HMOs, Policy RS3 requires that regard be had to any purpose-built student accommodation in the same street, or section of the street.

- 5.10 The application site is located within the town centre but outside of the Primary Shopping Area as identified in Policy RS3. At present there are no other HMOs along Moorgate and whilst this is a substantial scheme proposing 83 students beds, it is located within the town centre where this type of development is generally considered acceptable, subject to there being no unacceptable impact on the residential amenity of the town centre or on the supply of accommodation for other town centre uses (for example, offices, or storage for ground floor retail units) and subject to the three criteria referred to in paragraph 5.8.
- 5.11 In terms of the need for such student accommodation, the applicant has stated that the University continues to grow in popularity and despite recent growth in campus accommodation, not all students can gain places in halls of residences nor would wish to live on campus and therefore the demand for such accommodation in Ormskirk remains high. The past 5 years has seen an increase in off campus accommodation, particularly in the conversion of dwelling houses to HMOs within the residential areas of Ormskirk. In this respect, the provision of purpose-built student accommodation in the town centre will demonstrably reduce the need for conversions of existing dwelling houses. In terms of the impact on the residential amenity of the town centre and surrounding area and the impact on the supply of accommodation for other town centre uses, the ground floor units will remain in retail use as part of the proposal. The existing upper floor of the market hall currently lies vacant and the upper floors of the Alpine nightclub will be replaced with ground floor retail units and will, at the same time, remove a source of noise and disturbance. Therefore I am satisfied that the proposed development will not unduly compromise the vitality or viability of the town centre or have a detrimental impact on town centre residential amenity.
- 5.12 In relation to the weight which can be attached to the emerging Local Plan policy RS3, paragraph 216 of the NPPF is relevant. This outlines the factors which dictate how much weight can be given to policies within emerging plans. Given that the emerging plan has been submitted to the Secretary of State with the Examination having been completed, there were no objections to the general approach of this policy or to the 'HMO' limits and there is not considered to be any inconsistency with the NPPF, it is considered that Policy RS3 can be given substantial weight.

Siting, Scale and Design and Impact on the Conservation Area

- 5.13 Although the site is not within the Ormskirk Town Centre Conservation Area, it is immediately adjacent on its northern boundary. As such, it is considered to affect the setting of the conservation area (heritage asset). Paragraphs 131 and 132 of the NPPF require Local Planning Authorities to sustain and enhance the significance of a heritage asset and put them to viable uses, recognise the positive contribution heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness. It goes on to advise that significance can be harmed through alteration or destruction of the heritage asset or development within its setting. Paragraph 134 requires that where a proposal leads to less than substantial harm, this harm should be weighed against the benefits of the proposal including securing its optimum viable use. Policy EN4(ii) of the WLRLP states that all development should accord with the objectives to preserve or enhance the conservation area's character or appearance and in particular harmonise with its surroundings in terms of mass, scale, form, use of materials and overall design quality. This is reiterated in Policy EN4 of the emerging local plan.
- 5.14 The statutory duty placed in Local Planning Authorities under the Planning (Listed Buildings and Conservation Areas Act) is to consider whether proposals would harm the character or appearance of the designated heritage asset. The Act requires that decision makers need to consider character and appearance separately and that proposals need to satisfy both aspects. The setting to heritage assets, in this case, Ormskirk Town Centre Conservation Area, is recognised under the NPPF in the same manner as harm or loss to the asset itself. The impact of this development on the wider character and/or appearance of the conservation area should therefore be material to the decision. The NPPF is clear that where a development would lead to "less than substantial" harm this should be weighed against the public benefits of the proposal.
- 5.15 Whilst Moorgate is not one of the four main arterial routes in the town centre it is nevertheless an important route for both pedestrians and vehicles into and out from the conservation area. Current frontage development is generally 2 storey in height and frames the view of the higher quality buildings on Moor Street beyond. It is important that this "framing" remains. This existing streetscape is however a poor one and the current market building does not contribute positively to the area. Architecturally the buildings are of little or no merit and historically have no significance in relation to the setting to the conservation area.

- 5.16 In my view, the proposed development provides the opportunity for a comprehensive re-development of the site and to provide a more attractive street frontage. The Council's approved Conservation Area Appraisal for Ormskirk in 2008 identified that the Market Hall site provided an opportunity to enhance the town centre conservation area. Discussions have taken place over a number of years about the scale and design of the proposal and it should be noted that planning permission has previously been granted on part of this site (the vacant site) for a three-storey office/retail block (2005/0116./FUL). Whilst not important to the conservation area, it is important to note that Park Road is a wide bypass with little or no context for scale. The three and half storey proposed at this corner of the site is not substantially higher than the previous 2005 permission and akin to recent residential development further along Park Road. In many ways, it is important that the scale of this end of Moorgate signals the entrance to Moorgate and I would be concerned that any reduction in the scale of the southern part of the development may result in it being somewhat "lost" on the Park Road frontage.
- 5.17 Turning into Moorgate, the pavement frontage is maintained and the important view of the conservation area on Moor Street preserved. I consider that proposed broken form/block appearance, with variations in the finish and fenestration, apes the "grain" of the older development found elsewhere in the town centre. This is reinforced by the reduction in scale across the site down to an overall height (2 storey eave) similar to its neighbours on Moorgate. The forward articulation of the blocks in front of the staircases reduces their visual importance and results in the feeling of breaks between the blocks when approaching the development along Moorgate.
- 5.18 Whilst the amount of development on site is at a high density this is not uncommon on apartment developments and sites of this nature within and close to town centres and clearly, whilst the development "tips its hat" in respect to the historic core of the town, the new development remains modern in concept and provides a functional system for blocks of student accommodation on the upper floors. In relation to the setting of the Conservation Area, I do not regard the proposal to harm either the area's character or appearance and I consider the design and scale of the development to accord with Policies GD1 and EN4 of the WLRLP and Policies GN3 and EN4 of the emerging local plan.

Potential Impacts on Surrounding Land Uses

- 5.19 The development is sited and designed to meet the residential interface guideline distances specified in the Design Guide SPD. These distances ensure that reasonable levels of privacy to existing garden areas and habitable rooms in neighbouring properties will be retained. The development is also at sufficient distance from neighbouring properties to ensure the building does not appear

overbearing or result in any undue loss of outlook. The property most affected in this respect is that neighbouring the site to the east, Swiss Cottage. Windows on the western elevation of this dwelling face the application site and the garden area to the rear will be visible from rear bedrooms of the development. However despite the height of the proposed development with dormer windows in the roofspace, 33m will be retained between the proposed building and Swiss Cottage. Furthermore, there is substantial tree screening along the railway embankment, particularly along the eastern side of the railway, which will significantly reduce views from the proposed development.

- 5.20 There are no other residential properties immediately adjoining the site on any other boundaries. It is not anticipated that the development will give rise to any significant detrimental impact on surrounding land uses and therefore complies with Policy GD1 in the WLRLP and GN3 in the emerging plan in that respect.

Highways

- 5.21 The development will be served by a drop off area along Moorgate and a covered cycle parking store for 88 cycles. Due to the area's accessible location no parking spaces are proposed for the student accommodation, save for four mobility impaired spaces. The applicant has stated that upon signing a tenancy agreement, students will be agreeing to the stipulation that they will not have access to a car during their tenancy. The County Surveyor has assessed the details of the application and is satisfied that the development would have a negligible impact on highway safety and highway capacity in the immediate vicinity of the site.
- 5.22 Edge Hill University has a green transport plan which encourages the use of public transport and restricts car parking permits for on campus use for students living within a 1.5 mile radius. Although this policy is in place there is no reason why this would prevent students from having a vehicle for other travel purposes. However it is considered that given the sustainable nature of the site and the proximity of the site to various forms of public transport, car ownership will be largely discouraged and somewhat unlikely and will attract occupants who do not own a car. Any visitors to the site would be able to park on the pay and display car park opposite the site. The above approach is considered acceptable based on the sustainable location of the development.
- 5.23 Notwithstanding the above however, LCC is aware of the increasing number of planning applications for homes for multiple occupancy within the Ormskirk area. Whilst the planning applications for homes of multiple occupancy are being targeted for students, the properties have the possibility of being used by non students leading to a greater demand for car ownership.

- 5.24 The County Surveyor comments that Edge Hill University is also running and promoting courses for mature students where students have a greater probability of owning a car before they enrol on the course. Whilst the applicant for this scheme on Moorgate is proposing a clause within the lease to restrict vehicle ownership, the County Surveyor has reservations how this clause can be controlled and enforced by the landlord. Furthermore, the current landlord's business direction may change from student accommodation to young professional etc and any future owner of the property may not be proactive in restricting car ownership, leading to a greater demand for car ownership, while the property can still operate under the same planning approval for the site. This may lead to increased demand for parking in the surrounding area.
- 5.25 The County Surveyor considers that the location for this site is well controlled with existing waiting restrictions and pay and display car parking is available for visitors. The town centre has good facilities for public transport and a regular bus service to the University but there are available on-road parking spaces within 350m of the site. As such, there is concern about the cumulative affect of the increasing numbers of homes of multiple occupancy and student accommodation in the Ormskirk Area where car ownership and restrictions on the type of end user of the homes of multiple occupancy is not controlled under condition. From observations and discussions with LCC's traffic section, on-road parking around the Ormskirk town centre and surrounding roads is at a premium and any increased demand for on-road parking would be difficult to absorb without causing additional loss of amenity and conflict for existing residents.
- 5.26 In view of this and to aid a full review and implementation of additional waiting restrictions and resident only car parking facilities LCC have requested a planning obligation contribution of £35,000. However, at the time of writing this report no evidence to justify such a sum has been provided. Students living so close to the University would not be permitted to park a car at the campus and the bus and rail station is within easy walking distance of the site such that car dependency would be low. Potentially, additional waiting restrictions and resident only parking schemes could alleviate any increase in amenity issues around the town centre and surrounding roads but there is no evidence to suggest that this would be the case or that even if there was, that the present applicant should fund the cost of a full review of waiting restrictions, which is considered disproportionate to the development proposed.

- 5.27 Discussion regarding the justification and amount of commuted sum are ongoing and at this stage delegated authority is sought to try and resolve this issue. Should evidence be provided and an appropriate level of contribution be agreed between LCC, the applicant and the Council, I am satisfied that, subject to the signing of a Section 106 Agreement for such a commuted sum, the proposal is acceptable. Alternatively, should there be found to be no substantial evidence or justification for the commuted sum request from LCC, I still consider the proposal complies with Policy GD1 of the WLRLP and Policy GN3 of the emerging local plan given its sustainable town centre location close to the bus and rail interchange.

Trees and Protected Species

- 5.28 A Phase 1 habitat Survey and emerging bat survey has been submitted with the application which concluded that no roosts were found within the buildings or surrounding trees although common pipistrelle bats were seen in the surrounding area. I am satisfied that there are not considered to be any protected species at risk under the terms of this application.
- 5.29 At the rear of the existing development is a strip of land that is owned by Network Rail. This land runs the whole length of the proposed development and has a large number of self seeded trees and shrubs. A tree survey report and constraints plan has been supplied with the application that correctly plots the location of the trees as well as grading them in accordance with BS 5837. Although the tree survey information has rated just under half of the trees as 'moderate quality', there is no long term sustainable future due to them being located on Network land (railway corridor) and falling under the 10m distance for lineside vegetation maintenance work. As Network Rail is classed as a 'Statutory Undertaker' the Council does not get involved in terms of using the TPO system that would give control over the protection of the trees during the development process. The submitted arboricultural information recommends the inclusion of an arboricultural impact assessment (AIA) as well as a method statement that covers tree protection during the construction phase. The various practicalities of the development such as erecting scaffolding should be considered by the applicant who should seek to resolve the matter with the relevant land owner. It would be unreasonable to refuse the application based on the implications for the trees as they are generally low grade and suppressed. As such I consider the proposal complies with Policy EN1 and EN9 of the WLRLP and Policy EN2 of the emerging local plan.

Flood Risk/Drainage

- 5.30 The area lies within flood risk area 1 and as such no flood risk assessment is required for the development. United Utilities have raised no objections to the proposals subject to the site being drained on separate systems and no surface water being directed to the nearby combined sewer. The detail of the proposed drainage scheme can be secured by planning condition.

Other Matters

- 5.31 Network Rail has objected to the proposal based on land ownership concerns. This is a civil matter and not a material planning consideration. Other concerns also relate to operations and development close to railway lines which can be controlled by Network Rail as the land owner. Drainage issues can be dealt with by way of condition and the issue of noise and vibration and its potential impact on future residents has been considered and found to be acceptable.

Summary

- 5.32 Subject to an acceptable conclusion of the negotiation between LCC, the Council and the applicant regarding the potential for a commuted sum towards a full review and implementation of additional waiting restrictions and resident only car parking facilities, I consider that the development accords with the relevant Policies in the NPPF and West Lancashire Replacement Local Plan and West Lancashire Local Plan (2012-2027) Submitted Document and therefore should be recommended for approval.

6.0 RECOMMENDATION

- 6.1 That the decision to grant planning permission be delegated to the Assistant Director Planning in consultation with the Chairman and Vice Chairman of the Planning Committee subject to:
- a) the applicant entering into a planning obligation under s.106 of the Town and Country Planning Act 1990 to secure a financial contribution for the provision of a full review and implementation of additional waiting restrictions and resident only car parking facilities in the vicinity of the site unless, following negotiation, one is found not to be justified by evidence; and
 - b) no significant additional adverse comments being received from neighbours and consultees.
- 6.2 That any planning permission granted by the Assistant Director Planning pursuant to recommendation 6.1 above be subject to the following conditions:

Conditions

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby approved shall be carried out in accordance with details shown on the following plans:-
 - Plan reference 010163_100 - Site location plan received by the Local Planning Authority on 16th April 2013;
 - Plan reference 010163_101 Rev C - Proposed site plan received by the Local Planning Authority on 13th June 2013;

Plan reference 010163_200 Rev B - Proposed ground floor plan received by the Local Planning Authority on 13th May 2013;

Plan reference 010163_201 Rev A - Proposed first floor plan received by the Local Planning Authority on 16th April 2013;

Plan reference 010163_202 Rev A - Proposed second floor plan received by the Local Planning Authority on 13th May 2013;

Plan reference 010163_203 Rev A - Proposed third floor plan received by the Local Planning Authority on 13th May 2013;

Plan reference 010163_204 - Proposed roof plan received by the Local Planning Authority on 16th April 2013;

Plan reference 010163_206 Rev B - Proposed elevations received by the Local Planning Authority on 13th May 2013;

3. No development shall take place until full details and samples of the external brickwork, facing material, window frames and roofing materials have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. Notwithstanding the approved plans, no development shall take place until full details of the materials used to pave the retail servicing zone and disabled parking space and details of the proposed location and design of the proposed anti ram raid bollards have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.
5. No development shall take place until a scheme for the foul and surface water drainage of the development, including any necessary attenuation measures, has been fully agreed with the relevant statutory body/bodies, and until written evidence of that agreement has been provided to and acknowledged in writing as acceptable by the Local Planning Authority.
6. No development shall take place until full details of the finished levels of all parts of the site, including the floor levels of all buildings, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with those details.
7. No development shall take place until a landscaping scheme has been submitted to and approved by the Local Planning Authority. The landscaping scheme shall show the location, species and number of all proposed trees, shrubs and hedges. Trees and shrubs planted shall comply with BS. 3936(Specification of Nursery Stock) and shall be planted in accordance with BS. 4428 (General Landscape Operations). Within a period of 9 months from the date when any part of the development is brought into use the approved landscaping scheme shall be carried out. All planting shall be maintained and dead or dying material shall be replaced for a period of seven years from the agreed date of planting.
8. No development shall take place until a Method Statement detailing measures to be taken during construction to protect the health of the existing trees shall be submitted to and approved in writing by the Local Planning Authority. The measures contained in the approved Method Statement shall be fully implemented during construction.

9. The Tenancy Agreement relating to the student accommodation shall incorporate a stipulation that no student resident in the accommodation should have access to a car during their tenancy.
10. None of the Class A1 to A5 units on the ground floor shall be open for business between the hours of 12am and 7am on Sunday, Monday, Tuesday and Thursday and between the hours of 1am and 7am on Wednesday, Friday and Saturday.
11. Notwithstanding the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no more than 50% of the retail floorspace shall be for non A1 retail use.

Reasons

1. Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure compliance with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
3. To ensure that the external appearance of the building(s) is satisfactory and that the development therefore complies with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
4. To ensure that the external appearance of the building(s) is satisfactory and that the development therefore complies with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
5. To ensure that the site is properly drained in the interest of local amenity and that the development, therefore, complies with the provisions of Policies GD1, EN10, EN11 and SC10 in the West Lancashire Replacement Local Plan and Policies GN3 & IF3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
6. For the avoidance of doubt and to ensure compliance with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
7. To assimilate the proposed development into its surroundings and to ensure that the development complies with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
8. To protect the trees and shrubs and thereby retain the character of the site and the area and to ensure that the development complies with the provisions of Policy EN9 in the West Lancashire Replacement Local Plan and Policies GN3 &

- EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
9. To safeguard the safety and interests of the users of the highway and to ensure that the development complies with the provisions of Policies GD1 & SC6 in the West Lancashire Replacement Local Plan and Policy GN1 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
 10. To safeguard the occupiers of the surrounding area from excessive noise intrusion and so ensure compliance with the provisions of Policies DS1 & GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
 11. To safeguard the vitality and viability of Ormskirk Town Centre in accordance with the NPPF, Policies DE10 and DE12 of the West Lancashire Local Plan and Policy IF1 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.

Reason for Approval

1. The Local Planning Authority has considered the proposed development in the context of the Development Plan including in particular the following Policy/Policies in the West Lancashire Replacement Local Plan & in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document:

West Lancashire Replacement Local Plan policies:

DS1 – Location of Development
DE1 – Residential Development
DE10 – Retail and Other Town Centre Development
DE12 – Ormskirk Town Centre
SC6 – Roads
EN1 – Biodiversity
EN4 – Conservation Areas
EN9 – Protecting Trees and Woodlands
EN10 – Flood Risk
GD1 – Design of Development
GD2 – Developer Contributions to Infrastructure

West Lancashire Local Plan (2012-2027) Submitted Document:

SP1 – A Sustainable Development Framework for West Lancashire
GN1 – Settlement Boundaries
GN3 – Design of Development
RS1 – Residential Development
RS3 – Provision of Student Accommodation

IF1 – Maintaining Vibrant Town and Local Centres
 IF2 – Enhancing Sustainable Transport Choice
 IF3 – Service accessibility and Infrastructure for Growth
 IF4 – Developer Contributions
 EN1 – Low Carbon Development and Energy Infrastructure
 EN2 – Preserving and Enhancing West Lancashire’s Natural Environment
 EN4 – Preserving and Enhancing West Lancashire’s Built Environment

together with Supplementary Planning Guidance and all relevant material considerations. The Local Planning Authority considers that the proposal complies with the relevant Policy criteria and is acceptable in the context of all relevant material considerations as set out in the Officer's Report. This report can be viewed or a copy provided on request to the Local Planning Authority. The Local Planning Authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application and have implemented the requirements of the National Planning Policy Framework paragraph 187.

No.5 APPLICATION NO. 2012/0617/LBC
LOCATION West Wing Lathom House Lathom Park Lathom Ormskirk Lancashire L40 5UP
PROPOSAL Listed Building Consent - Conversion to West Wing to 8 no. one and two storey apartments, including a timber staircase within the central carriageway, timber screens to the rear of the carriageway and a glazed screen to the front of the carriageway.
APPLICANT Mr W Kenyon
WARD Newburgh
PARISH Lathom
TARGET DATE 19th August 2013

1.0 DEFERRAL

1.1 This application was deferred by the Planning Committee on 11th April 2013 to enable Officers to negotiate with the applicant in relation to the glazed screens, and the staircase materials.

2.0 PREVIOUS RELEVANT DECISIONS

2.1 1990/0906: APPROVED - Conversion of West wing to 8 Flats, conversion of outbuildings to 9 residential units, erection of garage court, improvements to The Bungalow and improvements to access road

- 2.2 1990/0907: APPROVED - Listed Building Consent - Refurbishment of existing buildings, conversion of West Wing to 8 Flats, conversion of outbuildings to 9 residential units and partial demolition of ancillary structures
- 2.3 1990/1448: APPROVED - Conversion and change of use of West Wing to single dwelling
- 2.4 1990/1449: APPROVED - Listed Building Consent - Conversion of West Wing to single dwelling and partial demolition of outbuildings
- 2.5 1993/0170: APPROVED - Conversion of West Wing to form a Transitional Rehabilitation Unit/Nursing Home.
- 2.6 1993/0171: APPROVED - Listed Building Consent - Conversion of West Wing to form a Transitional Rehabilitation Unit/Nursing Home.
- 2.7 1995/0198: APPROVED - Listed Building Consent - Repairs and restoration work to West Wing
- 2.8 2000/0708: APPROVED - Listed Building Consent; Restoration and conversion of the existing courtyard building - Unit 9; construction of garages.
- 2.9 2000/0709: APPROVED - Restoration and conversion of the existing courtyard building -unit 9; Construction of garages; Alterations to existing access.
- 2.10 2001/0706: APPROVED - Conversion of West Wing to 4 no 3 storey residential units.
- 2.11 2001/0814: APPROVED - Listed Building Consent - Conversion of west wing to 4 three storey residential units.
- 2.12 2001/1211: WITHDRAWN - Removal of Condition No. 13 imposed on planning permission 8/91/0723 to allow occupation of the bungalow prior to the completion of restoration and conversion of the west wing of Lathom House.
- 2.13 2002/0786: APPROVED - Erection of 2 garage blocks including garden store.
- 2.14 2007/0968/LBC: APPROVED - Listed Building Consent - Conversion of 4 dwellings to 6 dwellings.
- 2.15 2007/0983/COU: APPROVED - Conversion of 4 dwellings to 6 dwellings.
- 2.16 2008/0620/FUL: WITHDRAWN - Enclosure of central carriageway of West Wing to create 4 additional residential units.

- 2.17 2008/0621/LBC: WITHDRAWN - Listed Building Consent - Enclosure of central carriageway of West Wing to create 4 additional residential units.
- 2.18 2012/0617/LBC: PENDING - Listed Building Consent - Conversion to West Wing to 8 no. one and two storey apartments, including glazed screens to enclose the central carriageway.

3.0 CONSULTEE RESPONSES

- 3.1 The following comments were received in relation to the previous proposal
- 3.2 ENGLISH HERITAGE (11.7.2012 and 14.8.2012) – No objection to the conversion of the building to 8 units, but do not believe that the harm to the significance of the Grade II* listed building that would be caused by enclosing the central carriageway and inserting the staircase would be justified. English Heritage considers there are less harmful means of achieving access.
- 3.3 HIGHWAY AUTHORITY (7.8.2012) – No objections subject to conditions.
- 3.4 To date no further comments have been received in relation to the amendments

4.0 OTHER REPRESENTATIONS

- 4.1 The following comments were received in relation to the previous proposal
- 4.2 LATHOM PARISH COUNCIL (4.7.12) – No objections to the conversion of the building to 8 apartments, but object to the proposed glazed screens to the central carriageway and the impact on the character of the listed building.
- 4.3 WEST LANCASHIRE CONSERVATION AREAS ADVISORY PANEL (21.6.2012) – Recommend refusal on the grounds that the proposed development will harm the character of the listed building and the Conservation Area including the outlook from the courtyard. The staircase is considered to be industrial in character.
- 4.4 WEST LANCASHIRE CIVIC TRUST (10.7.2012) – objects on the grounds that the glass screens are out of character with the appearance of the building; the increase to 8 apartments is overdevelopment; fire regulations may require external fire escape; will destroy original design and view through the carriageway; additional traffic will affect setting of listed building; additional parking will detract from appearance and setting of building.

- 4.5 NEIGHBOUR REPRESENTATIONS - 4 letters of objection on the following grounds
- enclosing the carriageway would spoil the aesthetic appearance of the vista opening into the courtyard;
 - there is insufficient parking proposed; the garages are too small;
 - no refuse/recycling facilities proposed;
 - no details in relation to existing septic tank capacity
- 4.6 To date no further comments have been received in relation to the amendments

5.0 SUPPORTING INFORMATION

- 5.1 Design and Access Statement
Amended Heritage Statement
Planning Statement
Marketing Statement
Conservation and Viability Statement

6.0 LOCAL PLAN ALLOCATION

- 6.1 National Planning Policy Framework (NPPF), the West Lancashire Replacement Local Plan and the West Lancashire Local Plan Submission Document 2012-2027 provide the policy framework against which the development proposals will be assessed.
- 6.2 The site is located within the Green Belt as designated in the West Lancashire Replacement Local Plan. The application site is a Grade II* Listed Building within the Lathom Park Conservation Area.

West Lancashire Replacement Local Plan Policies

GD1 Design of Development
EN4 Conservation Areas
EN5 Buildings of Historic Importance

Supplementary Planning Document Design Guide (Jan 2008)

Submission Version West Lancashire Local Plan DPD (2012-2027)

GN3 Criteria for sustainable development
EN4 Preserving and enhancing West Lancashire's built environment

7.0 OBSERVATIONS OF THE ASSISTANT DIRECTOR PLANNING

Site Description

- 7.1 The application property is a Grade II* listed building located in Lathom Park Conservation Area. The West Wing and the adjacent stables sit on a slightly elevated site within Lathom Park. The complex of buildings received permission for conversion in the early 1990's. Whilst work was completed on the original conversion, the Stables have been sold, but the converted properties within the West Wing have remained vacant for over 10 years. The site is accessed via an existing track which leads from Hall Lane and via the entrance to the existing West Wing.

Proposal

- 7.2 The application seeks permission for the conversion of West Wing into 8 one and two-storey two bedroom apartments. The original proposal included two glazed screens enclosing the central carriageway and a staircase within the central carriageway to access the first floor, the creation of landings at first floor level and additional openings into the central area at first and second floor level.
- 7.3 The scheme has been amended to include a glazed screen to the front entrance of the carriageway, a timber screen to the rear, and an oak staircase in place of the original steel and glazed staircase

Assessment

- 7.4 The main considerations for this application are the impact on Listed Buildings/Conservation Area/Visual Appearance/Design
- 7.5 The National Planning Policy Framework indicates that the impact of development on the significance of a heritage asset needs to be given weight, and where proposals would lead to substantial harm or the total loss of a designated asset, consent should be refused unless it can be demonstrated that substantial public benefits outweigh the loss or all of the following criteria apply
- The nature of the heritage asset prevents all reasonable uses.
 - No viable use can be found in the medium term.
 - The asset cannot be saved through charitable or public ownership.
 - The harm or loss is outweighed by the benefit of bringing the site back into use.

- 7.6 Where proposals lead to less than substantial harm to a designated asset, this harm should be weighed against the benefits of the proposal including securing its optimum viable use. New development within the setting of a heritage asset should make a positive contribution to enhance or better reveal its significance, and any proposals that do should be treated favourably.
- 7.7 Policy EN 5 of the West Lancashire Replacement Local Plan states that applications to repair, improve, alter or extend listed buildings should not detract from the special architectural and historic interest including their interiors and should respect the existing character and function of the building. In addition, Policy EN5 also states that proposals will only be acceptable where they will not have a detrimental effect on the setting of a Listed Building.
- 7.8 Policy EN4 of the West Lancashire Replacement Local Plan states that development should accord with the objective to preserve or enhance the character or appearance of the Conservation Area and in particular harmonise with its surroundings in terms of scale, mass, form, materials, and overall design quality. In addition development should respect the setting of, and important views into and out from, conservation areas.
- 7.9 Policy EN4 of the Submission Version West Lancashire Local Plan DPD (2012-2027) states that the historic environment has an aesthetic value and promotes local distinctiveness to help define our sense of place. There is a presumption in favour of the conservation of a designated heritage asset, and development will not be acceptable if it adversely affects a Listed Building or conservation area. New development affecting the historic environment should seek to preserve or enhance the heritage asset and any features of special interest, and should enhance the historic environment.
- 7.10 Part (b) of Policy EN4 of the West Lancashire Local Plan Publication Document 2012-2027 reiterates the criteria contained within the NPPF Paragraph 133 in relation to substantial harm or loss of a Listed Building and in terms of viability requires specific information in line with Policy GN4.
- 7.11 The Council's SPD Design Guide is also applicable. This states that new development should be of a scale, mass and built form, which responds to the characteristics of the site and its surroundings. Care should be taken to ensure that buildings do not disrupt the visual amenities of the streetscene because of their height, scale or roofline. Development that affects a listed building should always reflect its special architectural, archaeological and or historic interest including its setting and proposals need to be sensitive to the character of the historic environment.

- 7.12 This proposal relates to the converted shell of the former derelict West Wing of Lathom House. Originally two storeys, but as a result of a half completed conversion in the 1990's, a third storey has been created in the roofspace. The West Wing is currently split into four residential units spread over the three floors and accessed off the central arched carriageway.
- 7.13 This proposal seeks to erect a frameless glazed screen the full height of the arched carriageway entrance at the front entrance to the carriageway and a timber screen (with the appearance of gates) to the rear entrance to the carriageway resulting in the enclosure of the central carriageway; an oak staircase within the central carriageway to access the first floor, the creation of landings at first floor level and additional openings into the central area at first and second floor level.
- 7.14 Since the previous Planning Committee, negotiations have taken place in respect of the enclosure of the central carriageway with the present proposal seeking to achieve a solution for the building to allow the conversion of the existing four units into eight units with a scheme that is viable, and acceptable in terms of visual appearance and impact on the Listed Building.
- 7.15 In relation to the original scheme, English Heritage indicated in their response that there was no objection to the principle of the conversion of the four units to eight units; but it was considered there were less harmful ways of achieving access and circulation without enclosing the central carriageway. To date no further comments have been received on the amendments.
- 7.16 The large round headed archway is a highly significant architectural feature of the original design of the building. The archway on the principle elevation is articulated with an architrave including banded semicolumns, run-out voisoirs, a panelled keystone and a cornice with locking course. This detailing heightens the significance of the archway as the visual and functional focus of the façade and contrasts in hierarchy with the more muted Gibbs surround to the rear elevation (courtyard elevation) which echoes the window surrounds on the ground floor. Therefore the archway makes an important contribution to the aesthetic value and visual interest of the building as a whole. The applicant has submitted supporting information which details the historic function of the central carriageway as being an enclosed space.
- 7.17 The proposal is to provide a glass frameless screen at the front entrance to the carriageway and a timber screen (with the appearance of gates) to the rear entrance to the carriageway. The surfacing materials to the central carriageway areas will remain unchanged from previously approved with the exception of the existing doorways at ground floor level which will be sealed with opaque glazing panels.

- 7.18 In respect of the impact on significance, the proposed glazed screen is designed to be a lightweight solution. The section of glazing is proposed to be set behind the frontage and within the rebate made by the entrance feature stone work with the rear fixed timber gates fixed to the building in a similar way. The original conversion scheme in 1990 included timber screens/access doors to the carriageway. The proposed changes to the central carriageway are fully reversible without any harm to the fabric of the listed building.
- 7.19 The changes would result in enclosure of the carriageway, whilst allowing light into the area in order for future residents to access the staircase without the permanent need for artificial lighting. The scheme would also retain the integrity of the original building. There will be a single flight of stairs visible at eye level which would be offset to the side and adjoin the existing wall within the passageway. This would lead to a landing with a further return flight to the first floor access. The staircase will be fixed to the fabric of the building using M16 chemical fixings at both landing levels. The staircase will be constructed in oak with closed risers and an oak balustrade. The final landing will lead to an opening either side which will access the flats at first floor level.
- 7.20 The original scheme which was approved in 1990 (1990/0906 and 1990/0907) also involved the enclosure of the central carriage way to provide access to the 8 flats proposed within the West Wing and was part implemented by the conversion of the outbuildings.
- 7.21 The open carriageway was created as part of the most recent conversion works (2001/0706/FUL and 2001/0814/LBC) and prior to the conversion the carriageway was obscured by large timber gates topped with iron spikes and mounted on iron hangings affixed to the stonework.
- 7.22 The current proposal also involves the creation of additional openings in the wall of the central carriageway at first and second floor level to enable access to the newly created residential units at first floor level and en-suite bathrooms at second floor level. The doorways within the additional openings will be recessed, with timber doors to the openings.
- 7.23 Whilst the enclosure of the central carriageway is an alteration to the functional use of the area, the proposed changes represent a modern and improved solution to the original approved scheme in 1990. This solution is the result of considerable negotiations with the applicant to achieve a financially viable proposal and will enable the building to be brought back into use.
- 7.24 On balance, I consider that the amended scheme represents less than significant harm to the Grade II* Listed Building and should be assessed against Paragraph 134 of the NPPF which states that this harm should be weighed against the public benefits of the proposal, securing the optimum viable use for the building.

- 7.25 Supporting information in the form of marketing information and a Conservation and Viability statement has been submitted. This indicates that whilst the original planning approval in 1990 was for 8 units within the West Wing, a further permission was sought and implemented for 4 larger residential units within the Wing. The units were marketed alongside the converted outbuildings and whilst all units within the outbuildings were sold, the units within the West Wing remained unsold.
- 7.26 The units were bought to the market in 2006 and 2007, and have been actively marketed since that point, with significant price reductions over the period. There has been no identified demand for the units. The market remains difficult above the first time buyer bracket and below executive level. Following advice received by the applicant from a local estate agent in terms of end value of the future units, this imposes significant restrictions on the viability of further works to the units.
- 7.27 This application represents a viable solution to the present problems. The present proposals seek to ensure a viable scheme to secure the optimum use of the building for future generations. This scheme allows the conversion of the existing units internally in the most economic way given the amount of works that have already been carried out within the units.
- 7.28 I consider that the scheme is in accordance with the NPPF, Policy GD1, EN4 and EN5 of the West Lancashire Replacement Local Plan and Policy GN3 and EN4 of the Submission Version West Lancashire Local Plan DPD (2012-2027)

Summary

- 7.29 It is considered that this amended scheme represents a solution to secure re-use of the building as eight smaller residential units that creates less than substantial harm to the integrity of the Grade II* Listed building.
- 7.30 I consider that the scheme is in accordance with the NPPF, Policy GD1, EN4 and EN5 of the West Lancashire Replacement Local Plan and Policy GN3, and EN4 of the Submission Version West Lancashire Local Plan DPD (2012-2027)
- 7.31 As the scheme involves works to a Grade II* Listed building Section 13 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that if the Local Planning Authority is minded to approve the application, the application must be referred to the Secretary of State, although Circular 08/2009 amended this to state that Secretary of State need not be notified on applications to which English Heritage or any of the National Amenity Societies have no written objections. In this case neither English Heritage or the National Amenity Societies have any objections to the proposal.

8.0 **RECOMMENDATION**

8.1 That Listed Building Consent is **GRANTED** subject to the following conditions:

Conditions

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby approved shall be carried out in accordance with details shown on the following plans:-
Plan reference 01 Revision A and 12-024-1 Revision A received by the Local Planning Authority on 1st June 2012.
Plan reference Location plan and site plan received by the Local Planning Authority on 10th August 2012.
Plan reference 12-024-2 Revision C, 11111/7A and 11111/4A received by the Local Planning Authority on 24th June 2013.
3. No development shall take place until full details, colours and samples of the materials to be used in the construction of the front entrance glazing; the rear timber screen/gates; the proposed staircase; the proposed doors; and the opaque glazing panels have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. Before any development commences full details of the design and location of the fenestration to serve the second floor shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full before the upper floor flats hereby approved are occupied.
5. Notwithstanding details shown on the approved plans, no development shall begin until a method statement has been submitted to and approved in writing by the Local Planning Authority for the following works
 - (a) the creation of the new openings at first and second floor level within the original arched passageway;
 - (b) the blocking/sealing of the existing openings at ground floor level within the arched passageway;
 - (c) the fixing/erection of the staircase;
 - (d) the installation of the glazed and timber screens at the arched passageway entrances.

The development shall be implemented in full in accordance with the details approved in the method statement

Reasons

1. Required to be imposed pursuant to Section 18 of the Planning (Listed Buildings & Conservation Areas) Act 1990.
2. For the avoidance of doubt and to ensure compliance with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
3. In order to preserve the special architectural or historic interest of the building and so comply with the provisions of Policy EN5 in the West Lancashire Replacement Local Plan and Policy EN4 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
4. To ensure that the external appearance of the building(s) is satisfactory and that the development therefore complies with the provisions of Policy GD1 and EN5 in the West Lancashire Replacement Local Plan and Policy GN3 and EN4 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
5. In order to preserve the special architectural or historic interest of the building and so comply with the provisions of Policy EN5 in the West Lancashire Replacement Local Plan and Policy EN4 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.

Reason for Approval

1. The Local Planning Authority has considered the proposed development in the context of the Development Plan including in particular the following Policy/Policies in the West Lancashire Replacement Local Plan & in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document:

West Lancashire Replacement Local Plan Policies
GD1 Design of Development
EN4 Conservation Areas
EN5 Buildings of Historic Importance

Submission Version West Lancashire Local Plan DPD (2012-2027)
GN3 Criteria for sustainable development
EN4 Preserving and enhancing West Lancashire built environment

together with Supplementary Planning Guidance and all relevant material considerations. The Local Planning Authority considers that the proposal complies with the relevant Policy criteria and is acceptable in the context of all relevant material considerations as set out in the Officer's Report. This report can be viewed or a copy provided on request to the Local Planning Authority. The Local Planning Authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application and have implemented the requirements of the National Planning Policy Framework paragraph 187.

No.6 APPLICATION NO.	2012/0618/COU
LOCATION	West Wing Lathom House Lathom Park Lathom Ormskirk Lancashire L40 5UP
PROPOSAL	Conversion of West Wing to 8 no. one and two storey apartments, including timber staircase within the central carriageway, timber screens to the rear of the carriageway and a glazed screen to the front of the carriageway.
APPLICANT	Mr W Kenyon
WARD	Newburgh
PARISH	Lathom
TARGET DATE	19th August 2013

1.0 REFERRAL

- 1.1 This application was deferred by the Planning Committee on 11th April 2013 to enable Officers to negotiate with the applicant in relation to the glazed screens, and the staircase materials.

2.0 PREVIOUS RELEVANT DECISIONS

- 2.1 1990/0906: APPROVED - Conversion of West wing to 8 Flats, conversion of outbuildings to 9 residential units, erection of garage court, improvements to The Bungalow & improvements to access road
- 2.2 1990/0907: APPROVED - Listed Building Consent - Refurbishment of existing buildings, conversion of West Wing to 8 Flats, conversion of outbuildings to 9 residential units & partial demolition of ancillary structures
- 2.3 1990/1448: APPROVED - Conversion & change of use of West Wing to single dwelling
- 2.4 1990/1449: APPROVED - Listed Building Consent - Conversion of West Wing to single dwelling & partial demolition of outbuildings
- 2.5 1993/0170: APPROVED - Conversion of West Wing to form a Transitional Rehabilitation Unit/Nursing Home.
- 2.6 1993/0171: APPROVED - Listed Building Consent - Conversion of West Wing to form a Transitional Rehabilitation Unit/Nursing Home.
- 2.7 1995/0198: APPROVED - Listed Building Consent - Repairs and restoration work to West Wing

- 2.8 2000/0708: APPROVED - Listed Building Consent; Restoration and conversion of the existing courtyard building - Unit 9; construction of garages.
- 2.9 2000/0709: APPROVED - Restoration & conversion of the existing courtyard building -unit 9; Construction of garages; Alterations to existing access.
- 2.10 2001/0706: APPROVED - Conversion of West Wing to 4 no 3 storey residential units.
- 2.11 2001/0814: APPROVED - Listed Building Consent - Conversion of west wing to 4 three storey residential units.
- 2.12 2001/1211: WITHDRAWN - Removal of Condition No. 13 imposed on planning permission 8/91/0723 to allow occupation of the bungalow prior to the completion of restoration and conversion of the west wing of Lathom House.
- 2.13 2002/0786: APPROVED - Erection of 2 garage blocks including garden store.
- 2.14 2007/0968/LBC: APPROVED - Listed Building Consent - Conversion of 4 dwellings to 6 dwellings.
- 2.15 2007/0983/COU: APPROVED - Conversion of 4 dwellings to 6 dwellings.
- 2.16 2008/0620/FUL: WITHDRAWN - Enclosure of central carriageway of West Wing to create 4 additional residential units.
- 2.17 2008/0621/LBC: WITHDRAWN - Listed Building Consent - Enclosure of central carriageway of West Wing to create 4 additional residential units.
- 2.18 2012/0617/LBC: PENDING - Listed Building Consent - Conversion to West Wing to 8 no. one and two storey apartments, including glazed screens to enclose the central carriageway.

3.0 CONSULTEE RESPONSES

- 3.1 The following comments were received in relation to the original proposal
- 3.2 HEALTH & SAFETY EXECUTIVE - (Computer generated response - 28.6.2012)
– advise that there is a risk of harm to people at the proposed development and there are sufficient reasons for advising against the grant of planning permission.
– Where an LPA are minded to grant planning permission against HSE advice, it should give the HSE advance notice of that intention and allow 21 days for Secretary of State to call application in.

3.3 ENGLISH HERITAGE (11.7.2012 & 14.8.2012) – No objection to the conversion of the building to 8 units, but do not believe that the harm to the significance of the Grade II* listed building that would be caused by enclosing the central carriageway and inserting the staircase would be justified. English Heritage considers that there are less harmful means of achieving access.

3.4 HIGHWAY AUTHORITY (7.8.2012) – No objections subject to conditions.

3.5 To date no further comments have been received in relation to the amendments.

4.0 OTHER REPRESENTATIONS

4.1 The following comments were received in relation to the original proposal

4.2 LATHOM PARISH COUNCIL (4.7.12) – No objections to the conversion of the building to 8 apartments, but object to the proposed glazed screens to the central carriageway and the impact on the character of the listed building.

4.3 WEST LANCASHIRE CONSERVATION AREAS ADVISORY PANEL (21.6.2012) – Recommend refusal on the grounds that the proposed development will harm the character of the listed building and the Conservation Area including the outlook from the courtyard. The staircase is considered to be industrial in character.

4.4 WEST LANCASHIRE CIVIC TRUST (10.7.2012) – objects on the grounds that the glass screens are out of character with the appearance of the building; the increase to 8 apartments is overdevelopment; fire regulations may require external fire escape; will destroy original design and view through the carriageway; additional traffic will affect setting of listed building; additional parking will detract from appearance and setting of building.

4.5 NEIGHBOUR REPRESENTATIONS - 4 letters of objection on the following grounds

- enclosing the carriageway would spoil the aesthetic appearance of the vista opening into the courtyard;
- there is insufficient parking proposed; the garages are too small;
- no refuse/recycling facilities proposed;
- no details in relation to existing septic tank capacity

4.6 To date no further comments have been received in relation to the amendments

5.0 SUPPORTING INFORMATION

- 5.1 Design and Access Statement
- Amended Heritage Statement
- Planning Statement
- Marketing Statement
- Conservation and Viability Statement

6.0 LOCAL PLAN ALLOCATION

- 6.1 National Planning Policy Framework (NPPF), the West Lancashire Replacement Local Plan and the West Lancashire Local Plan Submission Document 2012-2027 provide the policy framework against which the development proposals will be assessed.
- 6.2 The site is located within the Green Belt as designated in the West Lancashire Replacement Local Plan. The application site is a Grade II* Listed Building within the Lathom Park Conservation Area.

West Lancashire Replacement Local Plan Policies

DS1 Location of development
DS2 Protecting the Green Belt
GD1 Design of Development
EN4 Conservation Areas
EN5 Buildings of Historic Importance
DE1 Residential development

Supplementary Planning Document Design Guide (Jan 2008)

Submission Version West Lancashire Local Plan DPD (2012-2027)

GN1 Settlement boundaries
GN3 Criteria for sustainable development
RS1 Residential development
IF2 Enhancing Sustainable Transport Choice
EN4 Preserving and enhancing West Lancashire's built environment

7.0 OBSERVATIONS OF THE ASSISTANT DIRECTOR PLANNING

Site Description

- 7.1 The application property is a Grade II* listed building located in Lathom Park Conservation Area. The West Wing and the adjacent stables sit on a slightly elevated site within Lathom Park. The complex of buildings received permission

for conversion in the early 1990's. Whilst work was completed on the original conversion, the Stables have been sold, but the converted properties within the West Wing have remained vacant for over 10 years. The site is accessed via an existing track which leads from Hall Lane and via the entrance to the existing West Wing.

Proposal

- 7.2 The application seeks permission for the conversion of West Wing into 8 one and two-storey two bedroom apartments. The original proposal included two glazed screens enclosing the central carriageway and a staircase within the central carriageway to access the first floor, the creation of landings at first floor level and additional openings into the central area at first and second floor level.
- 7.3 The scheme has been amended to include a glazed screen to the front entrance of the carriageway, a timber screen to the rear, and an oak staircase in place of the original steel and glazed staircase

Principle of development

- 7.4 Policy DS2 in the West Lancashire Replacement Local Plan states that the conversion of a rural building in the Green Belt for residential use will be considered where it meets a specific local need, or an identified local housing need in less remote locations, or where it can be demonstrated that the building is inherently unsuitable for any other use and satisfies the criteria set out in (5) of the Policy in terms of the conversion having no materially greater impact on openness of Green Belt; retaining or improving the character of the building; the building being of substantial construction and not an ancillary building to an existing dwelling.
- 7.5 Policy RS1 of the Submission Version West Lancashire Local Plan DPD (2012-2027) states that small-scale affordable residential development outside settlement boundaries in the Green Belt may be permitted where it is proven there are no suitable sites in non-Green Belt areas.
- 7.6 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and is a material consideration in planning decisions. It advocates that the purpose of the planning system is to contribute to the achievement of sustainable development, by performing an economic, social and environmental role. The Framework re-iterates the fact that planning law requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. At the heart of the NPPF is a presumption in favour of sustainable development and that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so

would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, or, unless specific policies in the NPPF indicate development should be restricted.

- 7.7 Paragraph 90 of the NPPF, states that certain forms of development are also not inappropriate providing they preserve the openness of the Green Belt. These include the re-use of buildings provided that the buildings are of permanent and substantial construction as is the case here.

Assessment

- 7.8 The main considerations for this application are

- i) Impact on Green Belt
- ii) Impact on Listed Buildings/Conservation Area/Visual Appearance/Design
- iii) Impact on Highways/parking
- iv) Impact on residential amenity
- v) Hazardous Installations

Impact on Green Belt

- 7.9 Given the wording of the NPPF paragraph 90, the key question is whether the proposed development would have a greater impact on the openness of the Green Belt than the existing development. If there is a greater impact, the proposals are inappropriate development; if there is no greater impact the proposals are not inappropriate.
- 7.10 A material consideration in the determination of any application for the conversion of the west wing would have to be the decision in 1990 (1990/0906) which granted permission for the conversion into 8 residential units; the decision in 2001 (2001/0706) which granted permission for the conversion into 4 residential units (implemented); and the decision in 2007 (2007/0983/COU) which granted permission for the conversion into 6 units. I do not consider the intensification of the residential use from 4 units to 8 units would constitute “inappropriate development” in its own right.
- 7.11 As openness is the Green Belt’s most important attribute, considerable weight should be attached to this consideration. Paragraph 81 of the NPPF states that local planning authorities should plan positively to retain and enhance landscapes, visual amenity and biodiversity. Policy DS2 criterion vii states that all developments, if permitted, will be subject to strict design control to maintain the openness and visual amenity of the Green Belt. This section of the policy conforms with Paragraph 81 of the NPPF. Design of development is controlled under Policy GD1 of the West Lancashire Replacement Local Plan which will be addressed later in this report.

- 7.12 The site is considerably open when viewed from the surrounding area, with the West Wing occupying an elevated position. The proposed additional parking required is within existing buildings and courts identified previously as parking areas. There are no further additional changes to the external appearance or areas and therefore I consider the proposal will not have a detrimental effect on the openness and visual amenity of the Green Belt.
- 7.13 I therefore consider the proposal to be in accordance with guidance within the NPPF and Policy DS2 of the West Lancashire Replacement Local Plan.

Impact on Listed Buildings/Conservation Area/Visual appearance/design

- 7.14 The National Planning Policy Framework indicates that the impact of development on the significance of a heritage asset needs to be given weight, and where proposals would lead to substantial harm or the total loss of a designated asset, consent should be refused unless it can be demonstrated that substantial public benefits outweigh the loss or all of the following criteria apply
- The nature of the heritage asset prevents all reasonable uses.
 - No viable use can be found in the medium term.
 - The asset cannot be saved through charitable or public ownership.
 - The harm or loss is outweighed by the benefit of bringing the site back into use.
- 7.15 Where proposals lead to less than substantial harm to a designated asset, this harm should be weighed against the benefits of the proposal including securing its optimum viable use. New development within the setting of a heritage asset should make a positive contribution to enhance or better reveal its significance, and any proposals that do should be treated favourably.
- 7.16 Policy EN 5 of the West Lancashire Replacement Local Plan states that applications to repair, improve, alter or extend listed buildings should not detract from the special architectural and historic interest including their interiors and should respect the existing character and function of the building. In addition, Policy EN5 also states that proposals will only be acceptable where they will not have a detrimental effect on the setting of a Listed Building.
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- 7.22 This proposal seeks to erect a frameless glazed screen the full height of the arched carriageway entrance at the front entrance to the carriageway and a timber screen (with the appearance of gates) to the rear entrance to the carriageway resulting in the enclosure of the central carriageway; an oak staircase within the central carriageway to access the first floor, the creation of landings at first floor level and additional openings into the central area at first and second floor level.
- 7.23 Since the previous Planning Committee, negotiations have taken place in respect of the enclosure of the central carriageway with the present proposal seeking to achieve a solution for the building to allow the conversion of the existing four units into eight units with a scheme that is viable, and acceptable in terms of visual appearance and impact on the Listed Building.
- 7.24 In relation to the original scheme, English Heritage indicated in their response that there was no objection to the principle of the conversion of the four units to eight units; but it was considered there were less harmful ways of achieving access and circulation without enclosing the central carriageway. To date no further comments have been received on the amendments.

- 7.25 The large round headed archway is a highly significant architectural feature of the original design of the building. The archway on the principle elevation is articulated with an architrave including banded semicolumns, run-out voisoirs, a panelled keystone and a cornice with locking course. This detailing heightens the significance of the archway as the visual and functional focus of the façade and contrasts in hierarchy with the more muted Gibbs surround to the rear elevation (courtyard elevation) which echoes the window surrounds on the ground floor. Therefore the archway makes an important contribution to the aesthetic value and visual interest of the building as a whole. The applicant has submitted supporting information which details the historic function of the central carriageway as being an enclosed space.
- 7.26 The proposal is to provide a glass frameless screen at the front entrance to the carriageway and a timber screen (with the appearance of gates) to the rear entrance to the carriageway. The surfacing materials to the central carriageway areas will remain unchanged from previously approved with the exception of the existing doorways at ground floor level which will be sealed with opaque glazing panels.
- 7.27 In respect of the impact on significance, the proposed glazed screen is designed to be a lightweight solution. The section of glazing is proposed to be set behind the frontage and within the rebate made by the entrance feature stone work with the rear fixed timber gates fixed to the building in a similar way. The original conversion scheme in 1990 included timber screens/access doors to the carriageway. The proposed changes to the central carriageway are fully reversible without any harm to the fabric of the listed building.
- 7.28 The changes would result in enclosure of the carriageway, whilst allow light into the area in order for future residents to access the staircase without the permanent need for artificial lighting. The scheme would also retain the integrity of the original building. There will be a single flight of stairs visible at eye level which would be offset to the side and adjoin the existing wall within the passageway. This would lead to a landing with a further return flight to the first floor access. The staircase will be fixed to the fabric of the building using M16 chemical fixings at both landing levels. The staircase will be constructed in oak with closed risers and an oak balustrade. The final landing will lead to an opening either side which will access the flats at first floor level.
- 7.29 The original scheme which was approved in 1990 (1990/0906 and 1990/0907) also involved the enclosure of the central carriage way to provide access to the 8 flats proposed within the West Wing and was part implemented by the conversion of the outbuildings.

- 7.30 The open carriageway was created as part of the most recent conversion works (2001/0706/FUL and 2001/0814/LBC) and prior to the conversion the carriageway was obscured by large timber gates topped with iron spikes and mounted on iron hangings affixed to the stonework.
- 7.31 The current proposal also involves the creation of additional openings in the wall of the central carriageway at first and second floor level to enable access to the newly created residential units at first floor level and en-suite bathrooms at second floor level. The doorways within the additional openings will be recessed, with timber doors to the openings.
- 7.32 Whilst the enclosure of the central carriageway is an alteration to the functional use of the area, the proposed changes represent a modern and improved solution to the original approved scheme in 1990. This solution is the result of considerable negotiations with the applicant to achieve a financially viable proposal and will enable the building to be brought back into use.
- 7.33 On balance, I consider that the amended scheme represents less than significant harm to the Grade II* Listed Building and should be assessed against Paragraph 134 of the NPPF which states that this harm should be weighed against the public benefits of the proposal, securing its optimum viable use.
- 7.34 Supporting information in the form of marketing information and a Conservation and Viability statement has been submitted. This indicates that whilst the original planning approval in 1990 was for 8 units within the West Wing, a further permission was sought and implemented for 4 larger residential units within the Wing. The units were marketed alongside the converted outbuildings and whilst all units within the outbuildings were sold, the units within the West Wing remained unsold.
- 7.35 The units were bought to the market in 2006 and 2007, and have been actively marketed since that point, with significant price reductions over the period. There has been no identified demand for the units. The market remains difficult above the first time buyer bracket and below executive level. Following advice received by the applicant from a local estate agent in terms of end value of the future units, this imposes significant restrictions on the viability of further works to the units.
- 7.36 This application represents a viable solution to the present problems. The proposals seek to ensure a viable scheme to secure the optimum use of the building for future generations. This scheme allows the conversion of the existing units internally in the most economic way given the amount of works that have already been carried out within the units.

- 7.37 I consider that the scheme is in accordance with the NPPF, Policy GD1, EN4 and EN5 of the West Lancashire Replacement Local Plan and Policy GN3 and EN4 of the Submission Version West Lancashire Local Plan DPD (2012-2027).

Highways/Parking

- 7.38 With regards to parking and bin storage, this is contained within the existing parking areas/bin storage areas and will not have a detrimental impact on the surrounding amenity. The parking spaces for the apartments are to be provided within the existing car parking area to the south of West Wing with two additional spaces allocated adjacent to the bin store to the south west of West Wing, which is also an existing parking area for the current residents on site.
- 7.39 I consider that the parking provided is sufficient to accommodate this level of development and the proposed bin store is in an acceptable location.
- 7.40 I consider that the proposal is acceptable and in accordance with Policy GD1 of the West Lancashire Replacement Local Plan and Policy GN3 of the Submission Version West Lancashire Local Plan DPD (2012-2027).

Residential Amenity

- 7.41 Policy GD1 of the West Lancashire Replacement Local Plan and Policy GN3 of the Submission Version West Lancashire Local Plan DPD (2012-2027) allows development provided it retains reasonable levels of privacy, amenity and sufficient garden/outdoor space for occupiers of the neighbouring and proposed properties.
- 7.42 I consider the amenity for proposed and existing residents is acceptable and in accordance with Policy GD1 of the West Lancashire Replacement Local Plan and Policy GN3 of the Submission Version West Lancashire Local Plan DPD (2012-2027).

Drainage

- 7.43 This application proposes no changes to the foul and surface water drainage systems at the site. The existing foul system is an on-site treatment plant was designed to accommodate the capacity for the number of dwellings in the 1990 scheme (8 flats in the wing, 9 units in the outbuildings plus adjacent bungalow) plus 50%. The treatment plant is discharged into a culvert and then into the River Tawd. The surface water is drained directly into the culvert then into the River Tawd. I consider that the existing systems are acceptable to accommodate the capacity of this proposal.

Hazardous Installations

- 7.44 This application lies within the Health and Safety Executive (HSE) consultation zone for the following pipelines
- ICI Trans Pennine Ethylene pipeline
 - Stanlow to Grangemouth pipeline
 - Stanlow to Heysham NW Ethylene pipeline
- 7.45 With regards to development in the vicinity of hazardous installations the computer generated response to a consultation with the Health and Safety Executive advises that there is a risk of harm to people at the proposed development and there are sufficient reasons for advising against the grant of planning permission.
- 7.46 The original application in 1990 (1990/0906) which granted approval for the conversion of the outbuildings at Lathom House to 9 residential units and the West Wing to 8 residential units included works to the adjacent pipelines involving a concrete slabbing to enable the conversion works to be implemented to the satisfaction of the HSE.
- 7.47 Within Paragraph A5 of Circular 04/2000, where an LPA are minded to grant planning permission against HSE advice, it should give the HSE advance notice of that intention and allow 21 days for Secretary of State to call application in.

Summary

- 7.48 It is considered that this scheme represents a solution to secure the future of the building as eight smaller residential units which creates less than substantial harm to the integrity of the Grade II* Listed building.
- 7.49 I consider that the scheme is in accordance with the NPPF, Policy DS2, DE1, GD1, EN4 and EN5 of the West Lancashire Replacement Local Plan and Policy GN3, RS1, IF2 and EN4 of the Submission Version West Lancashire Local Plan DPD (2012-2027)

8.0 RECOMMENDATION

- 8.1 That the decision to grant planning permission be DELEGATED to the Assistant Director Planning in consultation with the Chair and Vice Chair of Planning Committee subject to the Health and Safety Executive raising no objections.
- 8.2 That any planning permission granted by the Assistant Director Planning be subject to the following conditions:

Conditions

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby approved shall be carried out in accordance with details shown on the following plans:-
Plan reference 01 Revision A and 12-024-1 Revision A received by the Local Planning Authority on 1st June 2012.
Plan reference Location plan and site plan received by the Local Planning Authority on 10th August 2012.
Plan reference 12-024-2 Revision C, 11111/7A and 1111/4A received by the Local Planning Authority on 24th June 2013.
3. No development shall take place until full details, colours and samples of the materials to be used in the construction of the front entrance glazing; the rear timber screen/gates; the proposed staircase; the proposed doors; and the opaque glazing panels have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. The car parking spaces and manoeuvring areas shall be marked out in accordance with the approved plan, before the use of the premises hereby permitted becomes operative.
5. A refuse storage, collection and manoeuvring scheme shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is commenced. The approved details shall be implemented in full in accordance with the approved plan before the dwellings hereby approved are occupied and shall be maintained and available for use at all times thereafter.
6. No development shall take place until full details of the design and location of the fenestration to serve the second floor have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full before the development hereby approved dwellings become occupied.
7. Notwithstanding details shown on the approved plans, no development shall begin until a method statement has been submitted to and approved in writing by the Local Planning Authority for the following works
 - (a) the creation of the new openings at first and second floor level within the original arched passageway;
 - (b) the blocking/sealing of the existing openings at ground floor level within the arched passageway;
 - (c) the fixing/erection of the staircase;
 - (d) the installation of the glazed and timber screens at the arched passageway entrances.

The development shall be implemented in full in accordance with the details approved in the method statement

Reasons

1. Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure compliance with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
3. In order to preserve the special architectural or historic interest of the building and so comply with the provisions of Policy EN5 in the West Lancashire Replacement Local Plan and Policy EN4 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
4. To allow for the effective use of parking areas and to ensure that the development complies with the provisions of Policies GD1 & SC6 in the West Lancashire Replacement Local Plan and Policies GN3 & IF2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
5. To allow for the effective use of parking areas and to ensure that the development complies with the provisions of Policies GD1 & SC6 in the West Lancashire Replacement Local Plan and Policies GN3 & IF2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
6. To ensure that the external appearance of the building(s) is satisfactory and that the development therefore complies with the provisions of Policy GD1 and EN5 in the West Lancashire Replacement Local Plan and Policy GN3 and EN4 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
7. In order to preserve the special architectural or historic interest of the building and so comply with the provisions of Policy EN5 in the West Lancashire Replacement Local Plan and Policy EN4 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.

Reason for Approval

1. The Local Planning Authority has considered the proposed development in the context of the Development Plan including in particular the following Policy/Policies in the West Lancashire Replacement Local Plan & in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document:

West Lancashire Replacement Local Plan Policies
DS1 Location of development
DS2 Protecting the Green Belt
GD1 Design of Development
EN4 Conservation Areas

EN5 Buildings of Historic Importance
DE1 Residential development

Submission Version West Lancashire Local Plan DPD (2012-2027)
GN1 Settlement boundaries
GN3 Criteria for sustainable development
RS1 Residential development
IF2 Enhancing Sustainable Transport Choice
EN4 Preserving and enhancing West Lancashire built environment

together with Supplementary Planning Guidance and all relevant material considerations. The Local Planning Authority considers that the proposal complies with the relevant Policy criteria and is acceptable in the context of all relevant material considerations as set out in the Officer's Report. This report can be viewed or a copy provided on request to the Local Planning Authority. The Local Planning Authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application and have implemented the requirements of the National Planning Policy Framework paragraph 187.

No.7 APPLICATION NO.	2013/0104/OUT
LOCATION	Site Of Former Greaves Hall Hospital Greaves Hall Avenue Banks Lancashire
PROPOSAL	Outline - Housing and employment development (including details of access).
APPLICANT	W S Lamm & Co Investments Ltd
WARD	North Meols
PARISH	North Meols
TARGET DATE	14th May 2013

1.0 PREVIOUS RELEVANT DECISIONS

- 1.1 2013/0429/OUT REFUSED (03.07.13) Outline (all matters reserved) - Single storey extension to existing industrial unit.
- 1.2 2012/0591/HYB GRANTED (26.04.2013) Full application for the erection of a two storey 70 bedroom care home with associated landscaping, car parking, amenity and service areas. Erection of electricity sub-station.

Outline application for Mixed use development comprising Doctors' surgery and pharmacy, nursery and specialist care facility (including details of access).

- 1.3 2009/0921/FUL GRANTED (28.01.2010) Retention of single storey extension to existing showroom; disabled access ramp and air conditioning unit on roof.
- 1.4 2007/1309/OUT WITHDRAWN (28.01.2009) Outline - Proposed mixed use development comprising Class C3 Residential use; Class B1 Office use; Class D1 Educational use; Class C2 Residential care home; a bat barn; associated highway improvements and creation of public open space.
- 1.5 2006/0097 GRANTED (18.07.2006) Listed Building Consent - Demolition of mansion house.
- 1.6 2003/0319 REFUSED (04.09.2003) Outline - Mixed use development comprising residential development and extension to playing fields on land to North & East of Mansion House & development of land to South of Greaves Hall Avenue to accommodate any or all of use Class B1(a) offices, Class C2 residential institutions, Class D1 non-residential institutions (including details of means of access).
- 1.7 2000/0750 GRANTED (29.03.2001) Erection of 24 low cost apartment units and associated external works.
- 1.8 1998/0527 GRANTED (28.10.1998) Reserved Matters - Erection of 95 no. dwellings and garages; including public open space with play area, estate roads and landscaping.
- 1.9 1994/0305 GRANTED (19.05.1994) Change of use from hospital administrative, service and ward buildings to commercial/industrial uses (incl. offices, light industry, general industry, storage or distribution or estate canteen); creation of new car parking and servicing areas and alterations to existing access.
- 1.10 1992/0708 Outline - (including details of means of access) - Demolition of ward blocks, nurses' flats and 1 & 2 The Close. Development of 21.7 acres for residential use to provide 200 houses. Development of 2.5 acres for up to 40 units of sheltered housing or low cost housing. Development of 4.8 acres for institutional use in grounds including up to a 40,000 sq. ft. two storey building. Use of 16.4 acres for open space/amenity including the retention of existing trees and tree belts. Alterations to vehicular/pedestrian access including new estate road and footpaths. Use of land for pitch and putt golf.

2.0 OBSERVATIONS OF CONSULTEES

- 2.1 Assistant Director Community Services (27.06.13) – no objection in principle, however, concerns exist in respect of noise, odours, fumes and/or dust from the established business units affecting the proposed houses (and the presence of the proposed houses constraining the legitimate use of the business premises) and noise from the proposed use class B1 business units affecting the existing and proposed residents.
- 2.2 LCC (Highways) (17.06.13) – no objections; considers that the proposed development should have a negligible impact on highway safety and highway capacity in the immediate vicinity of the site. Requests delivery of and contribution to sustainable transport measures associated with the development.
- 2.3 North Meols Parish Council (09.04.13) - The Parish Council requests the safeguarding of land for industrial units and consultation regarding the use of s106 monies.
- 2.4 Assistant Director Community Services (11.03.13) – site may be contaminated, require 2 phase assessment by condition.
- 2.5 Environment Agency (05.07./13) – The following measures specified in the FRA will need to be secured by condition to meet the requirements of the National Planning Policy Framework:
1. *Limiting the surface water run-off generated by the 1 in 100 year plus climate change critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.*
 2. *Provision of compensatory flood storage*
 3. *Confirmation of the opening up or refurbishment of any culverts across the site.*
 4. *Finished floor levels are set no lower than 300mm above existing levels.*

Additionally conditions are required to address the following:

That a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority and detail of how the scheme shall be maintained and managed after completion.

And, that no development approved by this permission shall commence until a scheme for the replacement of the Back Lane Watercourse culvert (underneath Aveling Drive) within the red-edge boundary of the application site has been agreed with the local planning authority and implemented in full. This culvert is also subject of a right of access easement by the EA which will require a licence for any development within 8 metres of the culvert.

(19.03.13) – The development site lies with in flood zones 2 & 3 therefore the Council should be satisfied that the site meets the site selection sequential test.

The submitted FRA does not properly demonstrate that surface water runoff will be effectively managed. Surface water runoff must be restricted to existing greenfield runoff rates when discharging to watercourse, rather than the existing brownfield runoff rate as detailed in the FRA. The document does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

- 2.6 United Utilities (21.03.13) – no objections subject to the site being drained on separate systems with only foul drainage being connected to the public sewerage system with surface water being dealt with outside the public system.
- 2.7 Lancashire Constabulary (Secured by Design) (20.02.13) – Design advice provided
- 2.8 LCC (Ecology) (16.05.13) – The proposals have the potential to result in impacts on biodiversity including biodiversity action plan habitats, Habitats and Species of Principal importance, protected species, and species listed as “Endangered” in the provisional Lancashire Red Data List of vascular plants. There is also a risk that invasive species could be spread as a result of development. Habitat connectivity may also be compromised.

There is a clear need for mitigation and compensation to ensure that biodiversity value is maintained (and hence that the proposals constitute 'sustainable development' for the purposes of the NPPF). It is not clear from this outline application however that adequate mitigation and compensation would be delivered as part of these proposals.

The submitted proposed site layout is somewhat misleading. The inclusion of blocks of vegetation which are not actually within the redline boundary gives the impression of a site which would remain relatively well vegetated when in reality most of the vegetation cover would be lost from within the site. Moreover, the proposed layout does not actually appear to include any replacement planting or habitat creation to offset losses.

There are no firm proposals for mitigation and compensation (although the ecology report does include some recommendations). The application appears to suggest that this can all be dealt with at the reserved matters stage. However, in my opinion, West Lancashire Borough Council would need to be satisfied (even at this outline stage) that the development as proposed can deliver the necessary mitigation and compensation to ensure that it is truly sustainable.

3.0 SUPPORTING INFORMATION

- 3.1 The application is supported by the following documents:
- Planning Statement
 - Design and Access Statement
 - Extended Phase 1 Habitat Survey and Baseline Ecological Impact Assessment
 - Phase 1 Land Quality Assessment
 - Bat Survey
 - Tree Survey
 - Statement of Community Involvement
 - Sustainability Statement
 - Utilities Statement
 - Noise Assessment
 - Transport Assessment and Travel Plan
 - Flood Risk Assessment

4.0 OTHER REPRESENTATIONS

- 4.1 Representations have been received from, or on behalf of, six parties objecting on the following grounds:
- Contrary to the West Lancashire Replacement Local Plan and NPPF.
 - Significant housing on the site contrary to Policy DE5
 - Contrary to Policy EN8 as no environmental gain
 - Site lies within Flood Zone 2 & 3, no sequential test has been submitted in support of the application.
 - No sequential test (in relation to flood risk) has been carried out by the applicant and there are sequentially preferable and available sites in the area.
 - The strategic flood risk assessment confirms the site fails the sequential test.
 - Granting permission on this site before available sequentially better sites outside flood risk areas cannot be rational, would be premature before the Inspectors report has been produced and make the Local Plan unsound.
 - Sequentially preferable sites are available in the locality

 - Previous development rejected by Secretary of State

 - Increased traffic and congestion

- Proposals do not permit suitable access to the existing industrial units
- Traffic assessment should account for movements along Greaves Hall Avenue and the mini roundabout associated with a recently approved care home development Highway impacts of committed developments not yet known – decision should be deferred until true impact apparent
- Proposals include restrictive alternative access to existing businesses which would require HGV vehicles to use Greaves Hall Avenue (passing the leisure centre and school) increasing potential congestion and safety risks.
- Traffic Assessment doesn't recognise existing difficulties caused by large vehicle access
- The development would breach a legal agreement in relation to an existing right of access for existing business operators
- Existing businesses generate variety of HGV movements (including large HGVs) with peak periods in mornings – potentially in conflict with school opening

- Objects to the provision of any affordable accommodation on the site

- Concern over nature of employment proposals
- Noise generated at the site
- Noise and pollution from additional traffic

- Statement that existing industrial uses are B1 is incorrect
- The existing B2 uses are unconstrained in respect of operations and associated traffic movement generation
- New development would be subject to noise emanating from the existing businesses
- Existing business has large cutting and shaping operations incompatible with residential units in close proximity
- Residential development would impact on the lawful activity of existing businesses in the site. Existing businesses may operate 24/7 and have given rise to noise complaints from properties on the nearby Redrow estate on previous occasions.
- Site is currently allocated for employment uses, the proposals make employment use on the site unattractive.
- Restrictions to the existing businesses could jeopardise local jobs
- Roads constructed should be demonstrated as fit for purpose and appropriately constructed
- Proposed access to existing units inadequate for HGV use
- Aveling Drive should be constructed to LCC 'transitional road' standards (min width 6 metres)
- Transport Assessment contrary to national guidance as no modal split provided

- Existing bus stops too distant from proposed residential development, no detail of potential bus service or demonstration of long term viability, potentially resulting in a non-sustainable development
- Improved pedestrian and cycling information required

- Vegetation screen should be provided to properties along Westerdale Drive
- Trees should be retained

- Drainage must be thoroughly addressed

5.0 Relevant Planning Policies

- 5.1 The National Planning Policy Framework (NPPF), the West Lancashire Replacement Local Plan (WLRLP) and the West Lancashire Local Plan (2012-2027) – Submitted document (emerging plan) provide the policy framework against which the development will be assessed.
- 5.2 The site is allocated as DS5 1.26 – Employment Development, EN8 – Green Spaces, DS2 – Green Belt and SC1 – Sports, Recreational, Leisure and Cultural Facilities the West Lancashire Replacement Local Plan (WLRLP)
- 5.3 Relevant WLRLP Policies:
- DS1 – Location of Development
 - DS2 – Protecting the Green Belt
 - DE1 – Residential Development
 - DE3 – Affordable Housing
 - EN1 – Biodiversity
 - EN9 – Protecting Trees and Woodlands
 - EN8 – Green Spaces
 - EN10 – Flood Risk
 - GD 1 – Design of Development
 - GD2 – Developer Contributions to Infrastructure
 - GD3 – Development on Contaminated Land
 - SC5 – Health Facilities
- 5.4 The site is allocated as EC3 (i) – Rural development Opportunity, EN3 – Green Infrastructure / Open recreation Space in the emerging local plan.

Relevant West Lancashire Local Plan (2012-2027) Submission Document (emerging plan) policies:

- SP1 – A Sustainable Development Framework for West Lancashire
- GN1 – Settlement Boundaries
- GN3 – Criteria for Sustainable Development
- GN4 – Demonstrating Viability
- EC1 – The Economy and Employment Land

EC3 – Rural Development Opportunities
RS1 – Residential Development
RS2 – Affordable and Specialist Housing
IF2 – Enhancing Sustainable Transport Choice
IF3 – Service Accessibility and Infrastructure for Growth
IF4 – Developer Contributions
EN1 – Low Carbon Development and Energy Infrastructure
EN2 – Preserving and Enhancing West Lancashire’s Natural Environment
EN3 – Provision of Green Infrastructure and Open Recreation Space
EN4 - Preserving and Enhancing West Lancashire’s Built Environment

5.5 Additionally the following supplementary planning documents are relevant:

SPD – Design Guide (Jan 2008)
West Lancashire Interim Housing Policy (July 2010)
SPD - Open Space/Recreational Provision in New Residential Developments (April 2009).

6.0 OBSERVATIONS OF ASSISTANT DIRECTOR PLANNING

The Site

- 6.1 The application relates to a combined site located on the eastern side of the village of Banks. The former brownfield hospital site (main site) of approx. 6.5 Ha. is located to the south Aveling Drive and north-east of Greaves Hall Avenue being accessible from both roads. Additionally, flat open greenfield areas of about 3.3 Ha. within the Green Belt to the east of the former hospital site are included within the application. Within the main site lies an area of approx. 0.4 Ha. that does not form part of the application site. This area features a single flat roofed utilitarian building (the former hospital laundry building) and yard areas used by four businesses including B2 industrial uses. The application site is bordered by residential development to the south (Westerdale Drive), north and north-west (Abington Drive). A school and community leisure centre area lie to the south-west and open agricultural land to the east. The main part of the site is predominantly in a derelict condition with most of the former buildings associated with the previous institutional hospital use having been demolished. Some buildings remain in whole or part including a water tower and the site has seen a fair degree of pioneer vegetation species establishing amongst areas of more established trees. Approximately half the site lies within Flood Zone 3 (eastern side) and the remaining half split between Flood Zones 1 & 2.
- 6.2 The brownfield area of the site was previously allocated for development as an institutional/health use as part of the Council’s desire to see the comprehensive redevelopment of the former Greaves Hall site including a mix of housing, employment and community uses. Since the allocation under the previous Local

Plan, that wider area has been developed under the terms of the outline permission 1992/0708 primarily for open market residential uses with associated landscaping, open space and infrastructure, with 16 of the envisaged 40 low cost units being provided close to the junction of Aveling Drive with Guinea Hall Lane.

The Proposals

- 6.3 The application seeks outline planning permission for the demolition of a water tower and dilapidated buildings and re-development of the main site for up to 140 new dwellings and 2648sqm of light industrial units with associated road infrastructure and parking. Details of access are submitted which would include alterations to the eastern end of Greaves Hall Avenue to provide road widening and school drop off zone. Additionally, the greenfield site to the east would be given over to public open space. An *indicative* layout is provided.

Principle of Development – Policy Allocation

- 6.4 Under the terms of the WLRLP the main part of the site is substantially allocated for employment uses under Policy DE5 “*industrial, business, storage and distribution uses*” with the remainder of the proposed developable area – along the southern and western boundaries, as protected open space under Policy EN8. The greenfield area to the east is Green Belt with an overlying Recreational Land allocation. Under the terms of the WLRLP the main site has a policy linkage to a DS3.4 Safeguarded Land site to the south of Greaves Hall Avenue in that the DE5 allocation is required to be built out before development takes place on the Safeguarded Site. Despite that requirement, that site was recently subject of a planning application (2012/0591/HYB) that resulted in planning permission being granted for alternative employment generating uses.
- 6.5 Under the Submission version of the West Lancashire Local Plan 2012-2027 DPD (WLLP), the site is re-allocated under Policy EC3 – Rural Development Opportunities, which permits the development of this site for mixed uses. The developable area along the southern extent of the site has been extended to take in land previously allocated as protected open space. A green infrastructure protection does, however, remain along the western fringe of the site. The site allocation is no longer tied to the Rural Employment Site that was the Safeguarded site to the south of Greaves Hall Avenue.
- 6.6 Whilst the application is not in accordance with Policy DE5 in the WLRLP, it is in accordance with the principle of the allocation of the site under Policy EC3 of the Submitted emerging plan. Policy EC3 does not define precisely what mix of uses, and what proportion of each use, should be provided on the Greaves Hall Hospital site, and so it is left to a site-by-site deliberation of the mix of uses. In the interest of the rural economy, it is preferable that the proportion of employment uses should be maximised within what is viable. This is discussed

further below. As a significant material consideration, the NPPF states that the weight that can be attributed to policies in emerging plans will depend on the stage of preparation of the emerging plan, the number of outstanding objections to the policy, and the consistency of the policy with the NPPF. The allocation of this site under Policy EC3 received no representations during Publication of the emerging, and the site was barely discussed in the hearings of Examination, except in relation to what level of housing it would contribute to the housing land supply in the emerging plan and when that housing might come forward. No objections to the allocation were received at any stage of the Local Plan preparation. Therefore, under paragraph 216 of the NPPF, the allocation for the Greaves Hall Hospital site in Policy EC3 can be given significant weight.

6.7 Policy EC3 states that a mix of the following uses will be permitted on Rural Development Opportunity sites:

- Uses falling within classes B1, B2 and B8;
- Wider employment generating uses where a case can be made to demonstrate that new jobs will be created;
- Residential uses, particularly those meeting an identified need;
- Leisure, recreational and community uses; and,
- Essential services and infrastructure

The main site is about 6.75 ha in size and approximately 4.5 ha are proposed for residential uses, while less than 1.2 ha are proposed for employment uses (including the existing commercial uses not in the ownership of the applicant, which involve approximately 0.4 ha of land). Employment uses will therefore occupy less than 20% of the land within the allocated site under Policy EC3. This proportion of land for employment uses is much less than would normally be hoped for on a mixed-use site such as this, particularly given its adopted allocation wholly for employment land. However, under the terms of Policy GN4 in the emerging plan, if the viability evidence provided by the applicant is shown to demonstrate that it is not viable to provide more employment land on this site then the application could, in principle, be considered acceptable.

6.8 The applicant has failed to provide evidence of active marketing of the site in recent years or significant arguments in respect of alternative employment generating uses outside the B1, B2 and B8 uses; rather, relies on the argument that the site has lain dormant for some considerable time and requires a quantum of 'enabling' development to bring the site back into use from its dilapidated state. He does, however, refer to the current status of employment land availability suggesting there is a significant amount of space speculatively developed and unoccupied in addition to significant availability in the second hand market.

- 6.9 It is accepted that through the submitted viability appraisal of the development a common view (of the applicant and independent assessor) is that there is little current or expected demand for employment land in this location. Additionally, the NPPF advises against the long term protection of employment sites where there is no reasonable prospect of the site being used for that purpose and a requirement for flexibility in such allocations. Furthermore, it is also material to consider that paragraph 49 states that if the local planning authority cannot demonstrate a five year supply of deliverable housing sites (which is the case in West Lancashire), then relevant policies for the supply of housing should not be considered up-to-date whereupon the presumption in favour of sustainable development prevails. Given the proposed allocation of the site it could not be argued that the site is not sustainable in principle. This, in conjunction with the poor market for employment development, is, in my view, sufficient justification for accepting the mix of development proposed on this site (i.e. likely to be sufficient to undermine any resistance to the principle of the proposals for this site).

Principle of Development - Flood risk

- 6.10 In terms of the principle of development relating to flood risk, the application site is virtually entirely within Flood Zone 2 and a large part of the site is within Flood Zone 3a, this requires that the proposed '*more vulnerable*' uses – residential dwellings (as defined by the Environment Agency) are subject to a sequential and exceptions test under the terms of the NPPF and NPPF Technical Guidance. This has been raised as a point of objection in representations received. This exercise has effectively been carried out at the strategic planning level providing justification for the emerging site allocation in terms of both tests. However, in order to fully meet the exceptions test, a full hydraulic site specific flood risk assessment (FRA) is required to demonstrate the site development minimises the occupancy and development risk. The FRA accompanying the application does not contain a Sequential Test, this is in line with the NPPF (paragraph 104), which states "*For individual developments on sites allocated in development plans through the Sequential Test, applicants need not apply the Sequential Test.*" Furthermore, the application site is allocated in the Submitted emerging plan and has not been the subject of any objection and its validity as an allocation has not been the subject of any discussion at the Examination hearings. The Level 2 Strategic Flood Risk Assessment (SFRA) provides a Sequential Test of all allocations in the Submitted WLLP and an Exception Test related to this specific allocation. Therefore, this requirement has already been met and the applicant is not required to duplicate that Sequential Test.
- 6.11 The applicant has submitted a revised Flood Risk Assessment (FRA) in order to demonstrate a site specific exceptions test. The Environment Agency has assessed the submissions and has withdrawn an initial objection subject to the

applicant delivering appropriate drainage and flood protection measures. These include limiting the surface water run-off from the site to that equivalent of a greenfield run-off rate to the appropriate critical storm standard. Providing suitable displacement storage volume for the end development on the site; improving drainage infrastructure on the main site and along the Aveling Drive culvert (Back Lane culvert) and requiring finished floor levels (for the residential development) to be set 300mm above the existing site levels. Additionally, details of how the final maintenance of the surface water system for the site will be subject to approval. As the scheme is in outline and the final make up of the scheme is as yet unknown the above requirements will be subject of planning condition requirements to be provided before any development takes place on the site. However, the applicant has demonstrated the exceptions test and the development is therefore acceptable in principle in respect of flood risk tests.

Principle of Development - Demolition

- 6.12 The existing buildings/part buildings within the site are of no significant architectural or historic merit, therefore, subject to compliance with biodiversity policies referenced below there is no objection to the principle of demolition of all existing structures on the application site.

Contaminated Land

- 6.13 It is possible that the site may be contaminated by virtue of past commercial/industrial use; a preliminary assessment of the site suggests sources of localised contamination may be likely in addition to the emergence of ground gas from infilled ground and peat deposits on the site. It is recommended that intrusive site investigations are carried out to inform the nature and extent of any contamination and subsequent requirement for site remediation. Any such investigation and remediation will be subject to approval with the Council before development on the site is permitted.

Layout, Siting and Design

- 6.14 The application is submitted in outline therefore only indicative details are provided. The submitted plan demonstrates that the site is capable of delivering housing and commercial development. The indicative plan gives rise to some concerns with respect to the juxtaposition of development and trees/biodiversity interests on the site, and the proximity of development to existing industrial uses, however, as the matter of principle is accepted as above, these concerns can be addressed through final design at reserved matters stage. The plan demonstrates that an appropriate hierarchy of streets with good linkages to surrounding areas for non-vehicular traffic is achievable with a generally reasonable level of permeability. The layout shows a separate development area for the commercial units benefitting from an access arm from Greaves Hall Avenue where it enters the main area of the site thereby providing early commercial traffic separation.

Housing Development

- 6.15 The indicative plan shows 140 units over about 5.0 hectares – a density of just over 28 dw./Ha. This is below the minimum requirement of 30 stated in the existing and emerging plans, however, would not be out of place in the general locality where the retention of green areas and trees within recent developments have proven to enhance their overall quality. Unfortunately, the indicative plan has substantially failed to fully acknowledge existing tree coverage and biodiversity linkages therefore this density may be subject to revision at reserved matters stage should planning permission be granted, this is discussed further below.

Access, Traffic and Highways

- 6.16 Details of access to the site are provided for consideration under the application; for the avoidance of doubt this section relates to means of access from the adopted highway to the site and does not include individual accessibility to plots or final layout of the internal road structure.
- 6.17 Vehicular traffic access will be available from both Aveling Drive and Greaves Hall Avenue with a through route between these unclassified *local access* roads being created.
- 6.18 As part of the development the applicant is proposing to carry out highway improvements through the widening of the existing carriageway along Greaves Hall Avenue, where it fronts the leisure centre, to a width of 5.5m. The improvements are welcomed although the Highway Authority consider the introduction of pedestrian facilities to access the leisure centre should be investigated as part of these improvements. A proposal to widen the existing carriageway along on Aveling Drive to 5.5m is not considered necessary due to the expected low generation of traffic growth along Aveling Drive from this development, however, proposed works to the modified access onto Aveling Drive with a reduced radius and deflection are to be provided to slow vehicle speeds at this junction and aid pedestrians cross the junction.
- 6.19 Aveling Drive, Greaves Hall Avenue and the through route at the site are to be suitable for a diverted bus service through the site. A re-routed service has the potential to support social inclusion and promote sustainable forms of transport for this development, the adjacent committed housing developments along Greaves Hall Avenue, the school, leisure centre and the approved doctors and nursery development as well as the existing residents in the vicinity of Aveling Drive and Greaves Hall Avenue and is therefore encouraged. As part of any reserved matters application for the site layout the applicant will be expected to provide locations for bus stops to ensure a maximum walking distance of 400m to the bus stops.

- 6.20 Aveling Drive and Greaves Hall Avenue have direct access on to Guinea Hall Lane - the C140 which is categorised as a *secondary distributor* road with a speed limit of 30mph. The applicant has provided an acceptable Transport Assessment that includes the impact of the applicant's site, the existing traffic movements adjacent to the site, the future impact of the approved development off Greaves Hall Avenue for the care home and new housing, and the impact of future vehicle ownership for five years. The Highway Authority is of the opinion that the applicant's trip estimates for a full day are low, however, this position is accepted due to the location of the site and distances to employment centres and secondary schools etc. (i.e. residents are likely to work, main shop and study outside Banks) although the peak periods from the report appear to be appropriate and acceptable. These figures have been used to calculate reports for the roundabout capacities. The report demonstrates that the development will generate an 114 additional vehicles movements during morning peak hour and an estimated 119 additional vehicles movements during the evening peak hour. Based on the overall traffic generation the applicant has demonstrated that the mini roundabout on Guinea Hall Lane with Greaves Hall Lane; the mini roundabout with Aveling Drive and Guinea Hall Lane and the main roundabout on Guinea Hall Lane with the A565 will all work within acceptable prescribed limits and that the proposed housing and employment development should not have a significant impact on highway capacity in the immediate vicinity of the site.
- 6.21 As of 17th June 2013 the LCC five year injury related database indicates there have not been any reported incidents along Aveling Drive and Greaves Hall Avenue which are related to highway safety or congestion. However, there have been four injury related incidents at the main roundabout onto the A564, three of the incidents involved cyclist and the fourth involved a police chase. There is also one slight injury related incident at the mini roundabout with Aveling Drive and Guinea Hall Lane, with a vehicle on the wrong side of the road. The Highway Authority is of the opinion that the development should have a negligible impact on highway safety in the immediate vicinity of the site. This is considered subject to providing section 106 monies being made available to provide safer cycling facilities around the A564 roundabout, in addition to requests for improving cycle linkages, providing suitable bus stops and negotiation of revised bus routing in the interest of social inclusion and supporting sustainable forms of transport. These are discussed further below.
- 6.22 A Framework Travel Plan submitted within the Transport Assessment document does not meet Lancashire County Council's submission criteria; it will therefore be necessary for the applicant to provide a revised comprehensive Travel Plan before any development takes place, including commitments to appoint a Travel Plan Coordinator, complete residents and employee surveys, monitor and

manage action plans with respect to travel modes for at least five years, provide covered secure cycle storage for the industrial units and provide enhanced site linkages for pedestrians, cyclists and public transport. The highway authority recommends that all of the indicative footpaths leading from the applicant's site are to be 3m wide cycleways to support social inclusion and promote sustainable forms of transport.

- 6.23 As part of any reserved matters development proposals it will be expected that the scheme will provide road infrastructure to an adoptable standard with a design speed of 20 mph. Parking provision on the site will be expected to meet Joint Lancashire Structure Plan policy requirements.
- 6.24 Concerns have been expressed that the proposed layout does not suitably accommodate the existing business users and that the development will conflict with an established legal right of way. Whilst the latter is not a material consideration under this planning proposal the provision of an appropriate access and manoeuvring area to the existing businesses is of substantial significance. The indicative scheme fails to comprehensively demonstrate that HGV vehicles will be able to continue servicing the existing businesses and would therefore be prejudicial to their future viability. It will be necessary for the applicant to demonstrate and guarantee suitable access should planning permission be granted for the proposed development to prevent the existing development becoming effectively land-locked and unduly constrained by the development proposals.
- 6.25 Additionally, it is noted that parking in association with the existing businesses takes place on the existing access road and a recent application at one of these sites has highlighted the limitations on parking at the site. In providing access arrangements to these units this matter will need to be accounted for.
- 6.26 Finally, concerns have been submitted in respect of the potential conflict of commercial vehicle movements in close proximity to the school and leisure centre and that the carriageway will not be sufficiently wide for commercial traffic. The carriageway width is not to full industrial estate standards as it is not required to meet the demand of a full industrial estate set up. The combined vehicle trips of the existing and proposed business development is not anticipated to be so significant as to justify such a high specification on the carriageway. Large vehicles will be able to pass with little difficulty on the access road. The proposals will draw more traffic across the school frontage, however, this is not considered to be at levels where highway safety is significantly compromised and concerns should be offset to a degree by the enhanced provision of a formal drop-off and turning area proposed by the applicant, but also emerging opportunities for pedestrian routes to the school being provided through other proposed housing development with links to other local estates.

Biodiversity and Trees

- 6.27 To achieve sustainable development, the planning system should seek environmental gains, should contribute to protecting and enhancing the natural environment and help to improve biodiversity. The NPPF states that pursuing sustainable development involves seeking positive improvements in the quality of the natural environment, including moving from a net loss of biodiversity to achieving net gains for nature (NPPF Para 6-10).
- 6.28 The redevelopment of the site constitutes a recycling of the previously developed area of the main site with the result that a long standing derelict site will be brought back into use with improvements to the general amenity of the area, however, this must be done in such a way that biodiversity value and conservation and enhancement of the natural environment are achieved.
- 6.29 The main part of the site constitutes a brownfield site that has lain inactive for some considerable time resulting in areas of pioneer growth amongst areas of more established trees and hedges. Under the terms of Policy EN1 in the WLRLP and Policy EN2 in the emerging plan development proposals must seek to avoid impacts on significant ecological assets and protect and improve the biodiversity value of sites. Surveys of the site have been carried out in respect of protected species, an extended phase 1 habitat survey and trees.
- 6.30 A bat survey identified the use of the site by several types of bats. Historically, the site was also known to support a maternity colony of brown long-eared bats which was removed on demolition of the former Greaves Hall building. In order to meet the policy test that adequate mitigation and compensation is achievable it is recommend that a planning condition is imposed requiring the submission of details of bat roosting opportunities for pipistrelle, whiskered, noctule and brown long-eared bats to be incorporated into the development.
- 6.31 Bat activity (feeding and commuting) was recorded across the site, but especially in the rougher vegetation at the site edges and along the woodland edges (i.e. where the vegetation is more mature). In order that the proposals do not lead to impacts on bat populations locally it will be appropriate to ensure that habitat suitable to support foraging and commuting bats is retained and/ or adequately replaced as part of these proposals. The proposed layout appears to show that boundary vegetation offsite would be retained, but that much of the site itself would be cleared. This would not be consistent with biodiversity policy aims or the current and emerging green infrastructure allocations (Policies EN8 and EN3 respectively) which seek to protect the integrity of the main Green Spaces including the existing network of green links between Green Spaces, Corridors and the open countryside – in this instance particularly with reference to the western boundary and the Aveling Drive frontage.

- 6.32 The indicative plan shows little retention of existing vegetation on the site and it is not, therefore, clear that bat foraging and commuting habitat would be maintained and enhanced as part of these proposals; however, the application is seeking approval of the principle of development only and therefore this will need to be demonstrated at the reserved matters stage. This is likely to require the vegetated site boundaries to be strengthened through significant additional tree and shrub planting, and for vegetated green corridors to be included through the site. This may well affect the amount and/or density of achievable housing delivery.
- 6.33 The ecology survey suggests several trees are marginally suitable to support roosting bats – this will require verification and potential mitigation details through submissions at the reserved matters stage. Similarly, re-surveys of the existing water tower will be required prior to its demolition. If suitable trees are proposed for removal and/or the water tower accommodates a roost then the development may be subject to a European protected species licence requirement including approval of associated mitigation measures.
- 6.34 The development of the main site would potentially affect UK Biodiversity Action Plan Priority Species and Habitats including ponds, breeding birds and common toad. It will be necessary for the applicant to verify the status of the pond on the site to inform whether its retention is appropriate or can be suitably mitigated through pond creation on the open space part of the site. Similarly, whilst preference will be to retain areas of suitable habitat for nesting birds and amphibians any losses of such habitat will have to be mitigated on the site through suitable habitat creation schemes informed by further surveys across the application site.
- 6.35 More generally, the County Ecologist has expressed some concern that the survey identifies a range of different habitat types which, in themselves, may not be of great significance, however, the presence of the mosaic of habitats within a single location is of some value and the loss of this diversity would represent a decline in biodiversity value in this area if it is not retained or offset. The report suggests that offsetting could take place within the proposed area of public open space but the concern is expressed that the area may largely constitute greenspace for the provision of children's play, landscaped gardens, pond construction, allotments etc. (as suggested by the applicant) that would prevent the possibility of any successful or sufficient mitigation. As discussed above, the areas are envisaged to be utilised in their natural/semi-natural state with subsequent capacity to offset any minimised losses from the main development site. Given this potential it is anticipated that a balance in terms of retention and offset biodiversity asset will be achievable across both sites.

- 6.36 There are numerous trees across this site of varying age and condition. With the exception of the open areas of Green Belt land to the east, the whole site is covered by a Tree Preservation Orders ref: 11/1992; additionally Orders 81/2004; 109/2004 exist on the site and there are protected trees adjacent to the site under preservation order refs: 100/2004 and 109/2004. The applicant has submitted an arboricultural report providing appropriate assessment and classification of trees on the site. The report also gives an indication of the trees that would be potentially removed to enable the indicative layout to be realised. This suggests a high number of trees classified as Category B (moderate quality and value) would be removed leaving only two main groups and limited other stands and individual trees. The retention of additional Category B trees would provide a significant benefit to the amenity value of the scheme but more significantly enable important habitat connectivity and foraging opportunities for bats and birds that would otherwise be lost. This will require further consideration at the reserved matters stage; any losses will require mitigation planting.
- 6.37 Concerns that two tree groups comprise *Populus nigra* 'betulifolia' or native black poplar which are listed as "Endangered" in the provisional Lancashire Red Data List of vascular plants, and is one of the UK's rarest native tree species have been verified as unfounded. The groups consist of Gray Poplar and Hybrid Black Poplar.
- 6.38 The ecology report notes the presence of a number of invasive species on the site including: Japanese knotweed (*Fallopia japonica*), Rhododendron (*Rhododendron ponticum*) and Himalayan balsam (*Impatiens glandulifera*). The applicant will therefore need to adopt appropriate working methods to prevent the spread in the wild of these (and any other invasive species as may be present).
- 6.39 Finally, planning decisions should limit the impact of pollution from artificial light on nature conservation (NPPF Para 125). In this case, lighting proposals must avoid illumination of bat and bird habitat that would be retained and should avoid illumination of replacement wildlife habitat.
- 6.40 In summary, whilst the indicative plan and supporting information identify there are significant constraints on the site I do not consider there are any substantial reasons in principle as to why the site cannot realise the mixed residential and light industrial land uses. Clearly there are potentially significant limitations resulting from the existing biodiversity value of the site which, again, is likely to restrict the developable areas, however, I am satisfied the inclusion of the 3.3 Ha. of greenspace to the eastern part of the application site will provide suitable mitigation opportunities.

Impact of Development on Adjacent Land Uses

- 6.41 The main concerns in respect of land use conflicts result from the proposed siting of dwellings in close proximity to the existing unconstrained B2 uses located within the site and the proposal for the proposed employment development to conflict with the existing and proposed residential development.
- 6.42 A limited noise assessment has been carried out by the applicant resulting in a recommendation that four houses on the indicative masterplan, within 15m of the boundary of the existing service yard, would require relocation and acoustic fences to protect amenity of these and other proposed dwellings. The information provided is very limited.
- 6.43 It is significant to note that there are no planning restrictions on the working hours or uses (within the scope of the B2 – General Industry classification) at the existing industrial units. Whilst the applicant's consultant states that there are no night-time operations within the industrial estate and concludes night-time noise is not predicted to be an issue, it is suggested that some of the existing businesses operate into the evening and receive early morning deliveries on occasion. Therefore the conclusion that no additional mitigation is required is perhaps unsound. Environmental Health Officers (EH) have considered the outline proposals and express concerns that noise levels that are satisfactory during a normal working day may not be in early mornings, late evenings or during the night. The NPPF states that “existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established”. This suggests that increased buffer distances will be required as part of any final layout but before concluding on the appropriate proximity of dwellings to the existing businesses further information will be required in respect of activity and noise levels outside the ‘normal’ working hours - a matter that can be addressed at the reserved matters application stage.
- 6.44 There are no current operations at night and the premises lie fairly close to residential premises on the neighbouring estates such that noisy night work could cause complaint at present. The new development would effectively restrict the use of these premises at night as such night work may cause noise nuisance. However I do not think that this would be an unreasonable restriction, given that the premises do not currently operate at night and that the existing surrounding area is predominantly residential.
- 6.45 In addition to noise there may be a potential impact on proposed residential premises from the impact of odours, fumes and/or dust from the existing businesses. This has the potential to impact the amenity of future residents. Whilst EH officers are not aware of any particular sources of fume or dust from any of the premises the potential for these from use class B2 uses would support the conclusion that a buffer zone around the B2 industrial units will be required.

- 6.46 However, as the proposal is currently in outline I consider that, subject to a satisfactory layout and other mitigation measures, the surrounding land is suitable for development for the housing aspect of the proposals in principle.
- 6.47 With respect to the proposed employment area the proposed B1 uses should, by definition, be suitable for locating close to residential areas without causing detriment to the amenity due to noise or pollution. Perhaps the greatest potential source of noise is from the vehicles serving the units. The layout provided suggests vehicular access can be arranged as to avoid passing close to significant numbers of houses, this in combination with the ability to control operational times through planning condition will ensure this aspect of the development is unlikely to result in any significant detrimental impact on surrounding land uses.
- 6.48 The noise consultant has proposed a restriction on the hours of operation of the industrial units to 0700 hours to 2000 hours weekdays and 0800 hours to 1300 hours Saturdays, with no working on Sundays or Bank Holidays. As the likely used are as yet unknown it is suggested a precautionary approach with greater restrictions on these weekday hours.
- 6.49 Details of lighting of the site should be submitted with the reserved matters Application.

Drainage

- 6.50 Whilst there are no objections raised by United utilities in respect of disposal of foul drainage from the site this is subject to no surface water entering the public sewer system. As discussed a 6.11 above, the applicant has demonstrated that options for surface water drainage are available and, subject to details of an appropriate scheme to reduce runoff to a greenfield equivalent rate, there are no objections on this basis.

Planning Obligations

- 6.51 As a mixed use scheme the development will be expected to deliver associated infrastructure and service improvements such as affordable housing provision and public open space, in order to meet planning policy obligations, these are discussed below.

Public Open Space

- 6.52 Residential developments of the scale proposed attract a requirement under Policy GD2 in the WLRLP and Policy IF4 in the emerging plan to either provide on-site equipped playspace alongside a commuted sum for the enhancement and/or improvement of other types of open space in the vicinity or the singular

payment of a commuted sum to provide new or enhanced facilities off-site. On sites of this scale it has historically been the case that on-site playspace provision was encouraged, however, this has ultimately led to a significant maintenance burden for the Council to ensure the standard of the playspace is maintained. Currently it is preferential to limit the number of playspaces with an onus on providing high quality spaces. It is material to note that a recently approved development on land to the east of Guinea Hall Lane will provide a new play area and 'green gym' adjacent to the school and leisure centre that would equally serve the development here. Additionally, there is a small play space adjacent to but outside the southern boundary of the site.

- 6.53 In lieu of non-provision on the site the applicant is proposing to provide approx. 3.26 hectares of public open space on the eastern greenfield part of the application site. This area is allocated under Policy SC1 in the WLRLP – Protection of Amenity Open Space, Sporting and Recreation facilities and Policy EN3 Green Infrastructure/Open Recreation Space in the emerging plan on account of former uses on the site but also to retain its potential for public use. The site is currently informally used by dog walkers but there are no public rights of access. The area is currently unmaintained and is likely to have some ecological function, it would therefore not readily lend itself to the provision of a formal playspace, allotments or similar organised use. It would however benefit from access enhancement for informal recreational use as a *Natural and Semi-Natural Area* that the 2009 West Lancashire Borough Council Open Space, Sport and Recreation Study identifies to be absent from the northern area of the Borough. Enhancements could be provided through a management programme to be considered at reserved matters stage following local consultation and secured through planning condition or s.106. I consider the above option would result in sufficient provision to address the policy requirements and negate the need for contribution elsewhere.

Affordable Housing

- 6.54 Policy DE3 relating to affordable housing in the WLRLP requires the provision of a minimum of 30% affordable units on-site on developments of over 10 units. This is updated in Policy RS2 in the emerging Local Plan; here developments over 15 units attract a requirement for 35% affordable units.
- 6.55 The applicant has submitted the application on the basis that the viability of the mixed use scheme prevents any delivery of affordable housing on the site. The assessment has been independently scrutinised and concludes that the indicative scheme is fully capable of meeting a 35% affordable provision (providing an 80% social rented / 20% intermediate split). Given this position, under normal circumstances it would be usual to carry out negotiations to agree the extent and nature of any affordable provision to be incorporated within the development. However, in this instance, as only the principle of the development

is sought and significant constraints have been identified that are highly likely to result in a considerable change to the indicative scheme used for the basis of the viability appraisal, it is considered that the best practicable approach will be to review the viability with the benefit of a detailed scheme i.e. to require a re-appraisal of the viability issue at the reserved matters stage and be subject to review in the event of delays in development coming forward. This will be a condition of any approval.

Phasing

- 6.56 In order to realise the benefits of all parts of the development proposed, the phasing of development will be subject to agreement on acceptance of the updated viability appraisal. This will include delivery of key infrastructure, any affordable housing provision, the employment units and public open space (including any ecological mitigation and future management requirements) alongside the market housing development.

Planning Obligations

- 6.57 Under the terms of the provisions of Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 requirements under s.106 of the Planning Act 1990 are subject to three tests:

that the subject of the agreement is/are:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and,
- Fairly related in scale and kind to the development.

The restriction of these requirements will see the following requirements be secured by s.106 agreement:

- Affordable housing occupation/tenancy/nomination rights etc., if provided on site
- The provision of the public open space
- The provision and maintenance of biodiversity mitigation measures
- Appropriate sustainable travel measures.

- 6.58 It is noteworthy that the Highway Authority have made the following requests under the terms of the Lancashire Planning Obligations Paper:

1. To support sustainable transport and improve social inclusion, the provision of two quality bus stops, estimated costs £15,000 per bus stop and £1,000 per bus shelter for commuted sums to cover future maintenance (£32,000).

2. To support sustainable transport and improve social inclusion, £12,000 to cover Lancashire County Councils Travel Planning team to provide a range of services as described in 2.1.5.16 of the Planning Obligations in Lancashire paper dated September 2008.
3. To support sustainable transport and improve social inclusion, a £150,000 contribution to go towards the implementation of a new off road cycle lanes on the A565 towards Southport with associated cycle improvement on the roundabout. The proposed scheme would provide a continuation of the existing cycle route along the A565 and also address the roundabout safety issues for cyclists where there has been three reported injury related accidents.
4. To support sustainable transport and improve social inclusion, a £40,000 contribution to go towards the provision of a proposed cycle route along the disused railway line.
5. Contributions to be negotiated with the bus company for the proposed diversion of the bus route to serve the proposed development.

Of these requests it is considered that only those made at point 1 (excluding any maintenance contribution) and point 4 will meet the necessary tests and can therefore be sought as a planning obligation. In the event that either the bus route diversion or the cycle track do not materialise within a period of five years it would be appropriate to redirect such obligations to other sustainable transport measure enhancements on consultation with the highway authority and local elected representatives.

Summary

- 6.59 The principle of a mixed use of residential and commercial development is accepted on the main part of this site given the emerging Local Plan allocation and terms of the NPPF. The site is subject to a number of significant constraints such that it is not possible to fully determine the amount and type of development to be delivered nor, therefore, the degree to which any affordable housing can be provided. Such matters will be determined at the reserved matters stage and be tied through conditional requirements to enter into a Section 106 agreement in respect to the terms of any subsequent obligations.
- 6.60 The details of the proposed means of access to the site – via Aveling Drive and improved Greaves Hall Avenue (with linkage through the site) have been considered and it is concluded that the levels of traffic generated by the development, in conjunction with existing and potential traffic from recently approved developments, can be safely accommodated within capacities of the local highway network.

7.0 RECOMMENDATION

- 7.1 That the decision to grant planning permission be delegated to the Assistant Director Planning in consultation with the Chairman and Vice Chairman of the Planning Committee subject to the applicant entering into an obligation agreement under s.106 of the Town and Country Planning Act 1990 to secure the provision of a viable level of affordable housing; to provide and maintain protected species and biodiversity mitigation on the site; to secure a financial contribution of £70,000 for sustainable transport measures/improvements in the locality; and, to define the phased delivery of the commercial development and public open space.
- 7.2 That any planning permission granted by the Assistant Director Planning pursuant to recommendation 7.1 above be subject to the following conditions:

Conditions

1. Application for approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
2. The development hereby approved shall be carried out in accordance with details shown on the following plans:-
Plan references 12-071-101 and 102 received by the Local Planning Authority on 3 February 2013 and detail of Greaves Hall Avenue widening and junction geometry (only) of the proposed estate road with Aveling Drive as shown on plan reference D1575/01 received by the Local Planning Authority on 15 April 2013.
3. No development shall take place on the site until approval of reserved matters namely the layout, scale and appearance of the buildings and landscaping of the site.
4. No development shall take place until full details of the finished levels of all parts of the site, including the floor levels of all buildings, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with those details.
5. No development shall take place until details of how foul and surface water shall be drained on separate systems has been submitted to the local planning authority and approved in writing.
This shall include details of the foul drainage scheme including any necessary infrastructure. No building shall be occupied until the approved foul drainage scheme has been completed in accordance with the approved details.
This shall also include details of the surface water drainage and means of disposal, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development and alternatives to the public sewerage system. The detail will include how the scheme shall be

maintained and managed after completion and any necessary infrastructure. For the avoidance of doubt the surface water drainage strategy will demonstrate the surface water run-off generated up to and including the 100 years critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event and include an allowance for climate change.

The development shall be completed, maintained and managed in accordance with the approved details for the duration of the development.

6. Where the approved drainage details show surface water to be diverted to the Back Lane Watercourse culvert or any watercourse or pipe feeding into it then no development shall take place on the site until a scheme for the replacement of the Back Lane Watercourse culvert (underneath Aveling Drive) within the red-edge boundary of the application site has been agreed in writing with the local planning authority and implemented in full.
7. No development shall take place on the site until details of the provision of any compensatory flood storage requirements and confirmation of the opening up or refurbishment of any culverts across the site have been submitted to and agreed in writing with the Local Planning Authority; thereafter any such works will be completed in accordance with the approved details as an integral part of the development.
8. No part of the development hereby approved shall take place until a scheme for the alteration of the site accesses and the off-site works of highway improvement has been submitted to, and approved by, the Local Planning Authority in consultation with the Highway Authority as part of a section 278 agreement, under the Highways Act 1980.
9. A contaminated land investigation shall be carried out in respect of the proposed development site in order to identify whether there are substances in, on or under the land with potential to cause harm to human, ecological, environmental, structural or controlled water receptors, and to assess the degree of risk posed by those substances to each receptor.

The investigation should be carried out by appropriately qualified and experienced consultants.

The investigation shall begin with a desk study that adequately characterises the site, including its geography, geology, hydrology and historical use. From this a conceptual site model shall be produced, based on the past and intended use of the site and identifying all potential pollutant linkages.

If the desk study and conceptual site model identify potential pollutant linkages, an intrusive site investigation shall be carried out in accordance with BS10175:2001 'Investigation of Potential Contaminated Sites – Code of Practice' and any other relevant Government guidance current at the time.

The investigation shall take the form of a sufficient number of sampling points arranged spatially so as to ensure adequate cover of the site, especially those areas intended for use as gardens and landscaped areas, or where concentrations of contaminants are anticipated.

Sufficient samples must be obtained to characterise the soils, and in addition to soil samples, shall include ground and surface water samples where the conceptual model demands. Additionally, monitoring for landfill gas shall be carried out where appropriate and the results assessed against the latest version of the CIRIA report. The samples shall be analysed for a full suite of organic and inorganic contaminants. The analysis must be carried out at a laboratory that is UKAS accredited, and which complies with the Environment Agency's MCERTS standard in respect of each contaminant.

Sample results shall be screened against Government Soil Guideline Values (SGV) where these are available. Where these are not available, the results must be screened using clearance values that have been derived using best available toxicological data using a statistical model acceptable to the Local Planning Authority (LPA). In those cases where values are exceeded, more detailed site-specific risk assessments must be carried out to decide whether remediation is required. These assessments must be carried out using best toxicological data for the contaminant concerned, and by means of a statistical model acceptable to the LPA...

Where the investigation confirms the presence of contamination likely to cause harm to receptors, whether human or otherwise, a remediation scheme shall be devised that will result in the contamination being dealt with so as to remove the risk to receptors and make the site suitable for its intended use.

The results of the desk study and site investigation, together with details of any proposed remediation, shall be approved by the LPA before development of the site commences. Any remediation scheme approved shall be carried out as part of the development of the site, and shall be followed by a validation report sufficient to prove that the remediation has been effective. This report must also be approved by the LPA.

Where it is evident that a risk to controlled waters may exist, the Environment Agency must be consulted and any requirements made by them must be carried out

10. The new estate road for the residential development shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level up to the entrance of the site compound before any development takes place within the site and shall be further extended before any development commences fronting the new estate road.

11. For the full period of demolition, site preparation and construction facilities shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud and stones being carried onto the highway. The roads adjacent to the site shall be mechanically swept as required during the full construction period.
12. No dwelling shall be occupied until a detailed Travel Plan has been submitted to and agreed in writing by the Local Planning Authority. The measures identified in the Travel Plan shall be implemented in accordance with the agreed details.
13. Car parking and vehicle turning areas shall be surfaced or paved in accordance with a scheme to be approved by the Local Planning Authority and the car parking spaces and manoeuvring areas marked out in accordance with the approved plan, before the use of the dwellings hereby permitted become operative.
14. No part of the development hereby approved shall take place until a scheme for the construction of the site access and the off-site works of highway improvement has been submitted to, and approved by, the Local Planning Authority in consultation with the Highway Authority as part of a section 278 agreement, under the Highways Act 1980.
15. No development shall take place on the site until details of how constant vehicular access to the existing businesses surrounded by the development site is to be provided and maintained during the construction phase/s of the development have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall proceed in accordance with the approved details.
16. No development shall take place until full details of the provision and maintenance of bat roosting opportunities that will be incorporated into the development have been submitted to and approved in writing by West Lancashire Borough Council. Thereafter, the approved details shall be implemented in full as an integral part of the development and maintained in accordance with the approved details.
17. Prior to any tree works on mature trees (required to facilitate development), precautionary inspections for bats shall be carried out by a suitably qualified bat worker. Prior to demolition of the water tower, precautionary nocturnal surveys shall be carried out by a suitably qualified bat worker. Surveys shall be carried out in accordance with recognised guidelines. The results shall be submitted to West Lancashire Borough Council for approval in writing. If the presence of bats is suspected, proposals for mitigation shall also be submitted for approval, and approved mitigation shall be implemented in full.

18. No site clearance, site preparation or development work shall take place until a landscaping scheme (to include habitat creation, enhancement and management) has been submitted and approved in writing by West Lancashire Borough Council. The approved scheme shall be implemented in full and maintained thereafter. The scheme shall demonstrate (but not be limited to) maintenance and enhancement of bat foraging and commuting habitat; maintenance of bird nesting habitat; adequate compensation for the loss of a priority pond; mitigate and compensate for impacts on priority species including common toads; adequate replacement planting to offset losses of woodland and trees; the creation of a diversity of habitats with locally appropriate native species; and the maintenance and enhancement of habitat connectivity. The scheme shall also need to demonstrate how recreational impacts on wildlife habitats will be managed for the operational lifetime of the development.

To inform the habitat creation and/or mitigation scheme the following surveys/assessments shall be carried out:

1. a survey for breeding birds shall be carried out by a suitably experienced and qualified individual; and,
2. a pond biodiversity survey shall be carried out to establish the biodiversity value of the existing pond.

Tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds shall not take place between March and August inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections.

19. No development shall take place until a scheme and timetable for the eradication of plant species listed under Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) has been submitted to and approved in writing with the Local Planning Authority. The scheme and timetable shall be implemented in full before any development takes place on the site and a validation report confirming the remediation treatment has been carried out by a suitably qualified operator and that the site is free from Schedule 9 species, has been submitted to and approved in writing with the Local Planning Authority.
20. All trees being retained in or adjacent to the application area will be adequately protected during construction, in accordance with existing guidelines (e.g. BS5837:2012 'Trees in relation to design, demolition and construction - Recommendations')
21. A scheme of site lighting shall be submitted to West Lancashire Borough Council for approval in writing and subsequent implementation in full. The scheme shall demonstrate the avoidance of light nuisance and light pollution of wildlife habitats, including bat foraging and commuting habitat, bird nesting habitat and replacement ponds. The scheme shall be in accordance with guidance issued by the Bat Conservation Trust and Institute of Lighting Engineers.

22. Prior to the Reserved Matters application, a thorough noise assessment shall be carried out that encompasses noise measurements throughout the working day, early morning, evening and at weekend from the current industrial uses. The assessment shall use information supplied by the current occupiers of the existing industrial users, as to their current and likely future activity levels and times, to predict the overall potential impact of noise on the surrounding area. A noise assessment shall also be carried out to establish current background noise levels in the vicinity of the nearest residential premises to include noise levels during the day and night. The scope of the assessment shall be agreed in writing with the Local Planning Authority before commencement. The results of the noise assessments shall be used to define suitable location and orientation of the houses in the vicinity, and incorporate any necessary noise mitigation measures.
23. No machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside the hours of 0800 and 1800 Mondays to Fridays, 0800 and 1300 Saturdays nor at any time on Sundays, Bank or Public Holidays
24. Prior to the occupation of the B1 business premises, a scheme to control the transmission of noise from any individual air conditioning, mechanical ventilation, extract equipment to be installed shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the equipment shall be installed, maintained and operated in accordance with the approved details.
25. No materials or equipment shall be stored on the site outside the buildings except waste materials which may be kept in bins for removal periodically.
26. The detailed layout of the site shall include the provision of a minimum of two bus stop stands.
27. The commercial element of the site shall be used for uses included within Use Class B1 only of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.

Reasons

1. Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure compliance with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
3. The application is in outline and the matters referred to in the Condition are reserved for subsequent approval by the Local Planning Authority.
4. To safeguard the amenity of adjacent properties and the area generally and ensure a safe form of development so comply with the provisions of Policies GD1, DS2 and EN10 in the West Lancashire Replacement Local Plan and Policies GN1 and GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.

5. To ensure that the site is properly drained in the interest of local amenity and that the development, therefore, complies with the provisions of Policies GD1, EN10, EN11 and SC10 in the West Lancashire Replacement Local Plan and Policies GN3 & IF3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
6. To ensure the proposed development will not exacerbate flood risk elsewhere and complies with the provisions of Policies GD1, EN10, EN11 and SC10 in the West Lancashire Replacement Local Plan and Policies GN3 & IF3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
7. To avoid the risk of flooding on the site or the locality generally and that the development, therefore, complies with the provisions of Policies GD1, EN10, EN11 and SC10 in the West Lancashire Replacement Local Plan and Policies GN3 & IF3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
8. In order to secure an appropriate highway scheme and to enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users in order to comply with Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the West Lancashire Local Plan (2012-2027) Submission Document.
9. For the avoidance of doubt and to ensure compliance with the provisions of Policy GD3 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
10. To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative in accordance with Policy GD1 of the West Lancashire Replacement Local Plan and GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document Submission Document.
11. To avoid the possibility of the public highway being affected by the deposit of mud and/or loose materials thus creating a potential hazard for road users and to ensure that the development complies with the provisions of Policies GD1 & SC6 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
12. To promote the use of means of accessing the site by means other than by private car in accordance with Policy GD1 of the West Lancashire Replacement Local Plan and Policy IF2 in the West Lancashire Local Plan 2012-2027 Development Plan Document - Submission document.
13. To allow for the effective use of the parking areas in accordance with Policy GD1 of the West Lancashire Replacement Local Plan and GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document Submission Document.

14. In order to secure an appropriate highway scheme and to enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users in order to comply with Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the West Lancashire Local Plan (2012-2027) Submission Document.
15. In order to protect full functionality and avoid prejudice of existing business interests within the development area.
16. To safeguard the status of protected species (bats) and so ensure that the development complies with the provisions of Policy EN1 in the West Lancashire Replacement Local Plan and Policy EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
17. To safeguard protected species and so ensure that the development complies with the provisions of Policy EN1 in the West Lancashire Replacement Local Plan and Policy EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
18. To safeguard a protected and priority species and their habitats and ensure the development maintains or enhances the biodiversity value of the site to ensure that the development complies with the provisions of Policy EN1 in the West Lancashire Replacement Local Plan; Policy EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document and the NPPF.
19. To eradicate Schedule 9 plant species from the site to prevent the spread of the plants through the development works and to accord with the aims of Policy EN1 in the West Lancashire Replacement Local Plan and Policy EN2 in the West Lancashire Local Plan (2012-2027) Submitted Document.
20. To safeguard the health of the trees and so ensure that the proposed development complies with the provisions of Policy EN9 in the West Lancashire Replacement Local Plan and Policies GN3 & EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
21. To safeguard the amenity of adjacent properties and the area generally and to avoid conflict with biodiversity interests on the site and so comply with the provisions of Policies GD1 and EN1 in the West Lancashire Replacement Local Plan and Policies GN3 and EN2 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
22. To safeguard the occupiers of the proposed development from excessive noise intrusion and so ensure compliance with the provisions of Policies DS1 & GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
23. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
24. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.

25. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
26. To ensure a sustainable form of development and therefore comply with Policy GD1 in the West Lancashire Replacement Local Plan, Policies GN3 and IF2 in the West Lancashire Local Plan (2012-2027) Submitted Document and the National Planning Policy Framework
27. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.

Reason for Approval

1. The Local Planning Authority has considered the proposed development in the context of the Development Plan including in particular the following Policies in the West Lancashire Replacement Local Plan & in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document:

Relevant WLRLP Policies:

DS1 – Location of Development
 DS2 – Protecting the Green Belt
 DE1 – Residential Development
 DE3 – Affordable Housing
 EN1 – Biodiversity
 EN9 – Protecting Trees and Woodlands
 EN8 – Green Spaces
 EN10 – Flood Risk
 GD 1 – Design of Development
 GD2 – Developer Contributions to Infrastructure
 GD3 – Development on Contaminated Land
 SC5 – Health Facilities

Relevant West Lancashire Local Plan (2012-2027) Submission Document (emerging plan) policies:

SP1 – A Sustainable Development Framework for West Lancashire
 GN1 – Settlement Boundaries
 GN3 – Criteria for Sustainable Development
 GN4 – Demonstrating Viability
 EC1 – The Economy and Employment Land
 EC3 – Rural Development Opportunities
 RS1 – Residential Development
 RS2 – Affordable and Specialist Housing
 IF2 – Enhancing Sustainable Transport Choice
 IF3 – Service Accessibility and Infrastructure for Growth

IF4 – Developer Contributions
EN1 – Low Carbon Development and Energy Infrastructure
EN2 – Preserving and Enhancing West Lancashire’s Natural Environment
EN3 – Provision of Green Infrastructure and Open Recreation Space
EN4 - Preserving and Enhancing West Lancashire’s Built Environment

together with Supplementary Planning Guidance and all relevant material considerations. The Local Planning Authority considers that the proposal complies with the relevant Policy criteria and is acceptable in the context of all relevant material considerations as set out in the Officer's Report. This report can be viewed or a copy provided on request to the Local Planning Authority. The Local Planning Authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application and have implemented the requirements of the National Planning Policy Framework paragraph 187.

No.8	APPLICATION NO.	2013/0538/FUL
	LOCATION	Smithy Nook Farm Drummersdale Lane Scarisbrick Ormskirk Lancashire L40 9RA
	PROPOSAL APPLICANT	Single storey rear extension. Mr A Wright
	WARD	Scarisbrick
	PARISH	Scarisbrick
	TARGET DATE	30th July 2013

1.0 REFERRAL

1.1 This application was to be determined under the Council’s delegation scheme, however, Councillor Fowler has requested that the application be referred to the Committee to consider the impact upon neighbouring amenity and greenbelt.

2.0. PREVIOUS RELEVANT DECISIONS

2.1 2012/1104/LDC - Certificate of Lawfulness - Use of land for residential/domestic purposes ancillary to the residential use of the adjacent property and the siting of a portable building. WITHDRAWN (22.11.2012)

2.2 2008/1301/LDP - Certificate of Lawfulness - Proposed log cabin for use as granny annexe ancillary to the main dwelling. NOT PERMITTED (08.01.2009)

- 2.3 2008/1003/LDP - Certificate of Lawfulness - Proposed log cabin for use as a granny annexe ancillary to the main dwelling. NOT PERMITTED (19.11.2008)
- 2.4 2008/0317/FUL - Two storey rear extension. REFUSED (01.08.2008)
- 2.5 2006/0783 - Use part of an existing agricultural building as stables. GRANTED (30.08.2006)

Relevant Enforcement Files

- 2.6 E/2009/0094/UAU - Without planning permission the change of use of agricultural land to residential/domestic purposes ancillary to the residential use of the adjacent property and for the siting of a residential caravan and portable building, Smithy Nook Farm, Drummersdale Lane, Scarisbrick

3.0 CONSULTEE RESPONSES

- 3.1 NONE

4.0 OTHER REPRESENTATIONS

- 4.1 NONE

5.0 SUPPORTING INFORMATION

- 5.1 Green Belt Impact Assessment

6.0 LOCAL PLAN ALLOCATION

- 6.1 The application site is located within the Green Belt as designated in the West Lancashire Replacement Local Plan Proposal Map.
- 6.2 West Lancashire Replacement Local Plan
Policy GD1 – Design of Development.
Policy DS2 – Protecting the Green Belt
Policy EN9 – Protection of Trees and Woodlands

West Lancashire Local Plan Submission Version 2012-2027

GN1 – Settlement Boundaries

GN3 – Criteria for Sustainable Development

EN4 – Preserving and Enhancing West Lancashire's Built Environment

Supplementary Planning Document – Design Guide (January 2008)

7.0 OBSERVATIONS OF ASSISTANT DIRECTOR PLANNING

Site

- 7.1 The application site relates to a two storey detached property located to the east side of Drummersdale Lane. The site is located within the Green Belt.

Proposal

- 7.2 This application seeks planning permission for a single storey rear extension measuring approximately 13m (length) x 5.5m (width) x 3.55m (height to ridge). It is proposed that the single storey rear extension will provide additional accommodation to enable the removal of a mobile home which is located to the north of Smithy Nook Farm, just outside of the site boundaries.

Impact upon the Green Belt

- 7.3 One of the main considerations in assessing any domestic extension at this site is its impact upon the visual amenity and openness of the Green Belt.

Criterion 4 of Policy DS2 of the WLRLP which relates to residential extensions within the Green Belt, states: -

“Extensions or alterations to existing buildings will only be allowed where: -

(i) The extensions do not result in disproportionate additions over and above the size of the original dwelling to the extent that the building would detract from the openness of the Green Belt; and

(ii) It does not result in an increase in residential curtilage”.

- 7.4 Policy GN1 ‘Settlement Boundaries’ of the West Lancashire Local Plan Submitted Version states that development proposals within the Green Belt will be assessed against national policy. The National Planning Policy Framework (NPPF) supports the view of Policy DS2 of the WLRLP and states that the Local Planning Authority should regard the construction of new buildings as inappropriate development in the Green Belt, however one exception being extension or alterations to a building provided that it does not result in disproportionate additions over and above the size of the original building.

- 7.5 In interpreting what the 'original building' is, the Council's SPG states that the original building is that what existed on the 1st July 1948 or where the dwelling has been built since that date, as existing when first occupied and excludes any detached outbuildings.
- 7.6 In considering whether (as a result of the proposed extension) the original building will have been added to disproportionately to the extent that it would detract from the openness of the Green Belt, the Council will take into account the position and shape of the extensions, the setting of the building and the cumulative size of all extensions.
- 7.7 In terms of the cumulative size of all extensions (including those built already) in relation to the size of the original building, the Council's SPG states that generally, once the volume of all extensions exceeds approximately half the volume of the original building, or the area of their footprint (i.e. the ground covered by the building) exceeds that of the original building by two thirds, then it is more likely that the development will have an adverse impact on the openness of Green Belt.
- 7.8 The proposed extension would equate to a cubic volume increase of approx. 59% to the original dwelling. This figure appears to be at odds with the approach advocated by the Council's own Policy and SPG which suggest that a 50% volume increase is likely to impact upon the visual amenity and openness of the Green Belt.
- 7.9 This increase in volume, together with the position and shape of the extension, particularly its outward projection, which is some 13m from the rear elevation of the dwelling, in my opinion represents a visually prominent expansion of the property to the detriment of the openness and visual amenity of the Green Belt.
- 7.10 I understand that the reason for the extension is to provide additional accommodation to the dwelling to enable the removal of a mobile home which is located to the north of Smithy Nook Farm, just outside of the site boundaries, which is subject to an enforcement notice. However, I consider the development to be contrary to green belt policy and unacceptable in principle and the removal of the unauthorised mobile home does not lend weight in the assessment of the application.

Impact upon existing trees

- 7.11 At the rear of the property there is a mature Silver Birch that is in fair condition but there are visible signs of stress growth as well as a sparse crown. The tree is highly visible from the road. The Council's Tree Officer has assessed the impact of the development upon this tree and considers that as the tree appears to be within the footprint of the proposed development it is highly likely that it will need to be removed. However, as the grade of the tree is low due to its condition, the Tree Officer raises no overall concerns regarding its removal however, as mitigation for the loss of the tree has requested a landscaping condition be attached to any planning approval notice.

Impact upon neighbouring properties

- 7.12 As the property is relatively isolated, the proposal relates to the rear of the site and as the nearest neighbouring property is some 50m from the application site I do not consider the development would result in any impact upon neighbouring properties.

Summary

- 7.13 The development in my opinion is in conflict the requirements of Policy DS2 of the West Lancashire Replacement Local Plan and Policy GN1 of the West Lancashire Local Plan Submitted Version in that the design, siting and scale of the single storey extension would represent a visually prominent expansion of the property to the detriment of the openness and visual amenity of the Green Belt.

8.0. RECOMMENDATION

- 8.1 That planning permission is **REFUSED** for the following reason:

Reasons for Refusal

1. The development conflicts with Policy DS2 of the West Lancashire Replacement Local Plan, Policy GN1 of the West Lancashire Local Plan (Submission Version), Supplementary Planning Guidance 'Domestic Extensions and Outbuildings and Replacement Dwellings in the Green Belt' (March 2007) and advice given the National Planning Policy Framework, in that due to its siting, scale and design, it would result in a disproportionate extension to the original dwelling to the extent that it would detract from the openness and visual amenity of the Green Belt.

No.9 APPLICATION NO.	2013/0158/FUL
LOCATION	Land To The Rear Of 9 To 17 Broadhurst Lane Wrightington Lancashire
PROPOSAL	Erection of detached dwelling.
APPLICANT	Mr & Mrs F Hodgkinson
WARD	Wrightington
PARISH	Wrightington
TARGET DATE	24th April 2013

1.0 REFERRAL

1.1 This application was to be determined under the Councils delegation scheme; however, Councillor Baybutt has requested it be referred to the Committee to review concerns in relation to inaccuracies in the planning application.

2.0 PREVIOUS RELEVANT DECISIONS

- 2.1 1992/0502: REFUSED - Outline - detached bungalow (including siting)
- 2.2 1994/0103: REFUSED - Erection of detached brick garage
- 2.3 1995/0081: REFUSED - Certificate of Lawfulness - Incorporation of land into residential curtilage.
- 2.4 1996/0478: REFUSED - Incorporation of land into residential curtilage. APPEAL DISMISSED
- 2.5 1996/0504: GRANTED - Retention of 2 No. stables, hay store and tack room
- 2.6 1999/0568: GRANTED - Incorporation of land into residential curtilage of 19 Broadhurst Lane.
- 2.7 2000/0120: REFUSED - Outline - Detached dwelling and garage including details of means of access. APPEAL DISMISSED
- 2.8 2011/0734/LDP: NOT PERMITTED - Certificate of Lawfulness - Proposed erection of detached outbuilding for use as triple garage, fitness room, workshop and store.

- 2.9 2011/0985/LDP: PERMITTED - Certificate of Lawfulness - Proposed erection of detached outbuilding for use as triple garage, fitness room, workshop and store.

3.0 CONSULTEE RESPONSES

- 3.1 COAL AUTHORITY (25/4/2013) – No objections.
- 3.2 UNITED UTILITIES (16.4.2013) – No Objection. Recommend a condition in relation to details of foul and surface water drainage details.
- 3.3 HIGHWAY AUTHORITY (25/4/2013) – No objections in principle. Recommend conditions
- 3.4 LANCASHIRE FIRE & RESCUE SERVICE (26/4/2013) – Vehicle access for fire engines is required at a minimum width of 3.7 metres. The access road has a width of 2.8 metres at its narrowest point. Proposal will not reasonably comply with Building Regulations Approved Document B, Part B5 Table 8

4.0 OTHER REPRESENTATIONS

- 4.1 WRIGHTINGTON PARISH COUNCIL (26.3.2013) – Applicant is a Parish Councillor, therefore no views will be submitted by Parish Council. The Parish Council are aware of a number of concerns by neighbours.
- 4.2 30 letters of objection on the following grounds
- Impact on landscape and surrounding area;
 - Will create privacy and overlooking problems for surrounding properties;
 - Access is narrow and will create danger to pedestrians and significant vehicle/pedestrian interactions;
 - Access joins Broadhurst Lane at a point where there are no footpaths;
 - Construction traffic will be dangerous;
 - Construction will create dirt/dust pollution;
 - Out of character with surrounding area;
 - Will block views;
 - Will create highway and parking problems;
 - Will set a precedent for further backland development on agricultural land;
 - Development is piecemeal and backland development;
 - Existing drains are not fit for purpose;
 - Visibility splay is not in accordance with standards;
 - Will affect access and egress from east side garage door of neighbouring property;
 - Site cannot be considered as sustainable;

- Development does not relate well to the settlement;
- Increased vehicle movements will create noise pollution to neighbouring property;
- Development will create light pollution to neighbouring properties and gardens due to location of windows;
- Car parking provision is not adequate;
- Bin location is within boundary of adjacent property;
- Suitable access cannot be achieved for Fire Appliances
- Applicant/agent has misled the Coal Authority in stating in their correspondence that a building has been built on the site beforehand
- Response from Fire officer states that road is not wide enough to accommodate a Fire Engine safely
- Dimensions of the access road are incorrect
- The bin collection is outside the distance of 30 metres as quoted in Manual for Streets and the location would affect visibility creating a highway safety risk
- Site is not considered to be “infill”

4.3 A neighbour has provided a copy of a letter from the owner of the farm to the rear advising that no permission has been given to use the adjoining land as any form of access to the site.

5.0 SUPPORTING INFORMATION

5.1 Design, Access and planning statement
Coal Report

6.0 LOCAL PLAN ALLOCATION

6.1 National Planning Policy Framework (NPPF), the West Lancashire Replacement Local Plan and the West Lancashire Local Plan (2012-2027) Submission Document provide the policy framework against which the development proposals will be assessed.

6.2 Whilst the proposal is designated as within the rural settlement of Wrightington Bar in the West Lancashire Replacement Local Plan Proposals map (paper copy) the boundary has been incorrectly drawn on the West Lancashire Local Plan Submission Document 2012-2027 proposals map to include the site within the Green Belt. A minor modification to the boundary has now been put forward to the Inspector to amend the boundary and include the site within the small rural village of Wrightington Bar in the West Lancashire Local Plan Submission Document 2012-2027.

West Lancashire Replacement Local Plan Policies

DS1 Location of Development
DE1 Residential Development
GD1 Design of Development
EN1 Biodiversity

SPD Design Guide (January 2008)

Submission version West Lancashire Local Plan DPD 2012-2027

SP1 A sustainable development framework for West Lancashire
GN1 Settlement boundaries
GN3 Criteria for sustainable development
RS1 Residential development
EN2 Preserving and Enhancing West Lancashire's Natural Environment
EN4 Preserving and Enhancing West Lancashire's Built Environment

7.0 OBSERVATIONS OF THE ASSISTANT DIRECTOR PLANNING

Site Description

- 7.1 The application site is located to the rear of Nos. 9 – 17 Broadhurst Lane, Wrightington. The access is via a narrow track between 17 and 19 Broadhurst Lane. The site has an existing building which has the appearance of a stable and a large concrete base slab in situ for the triple garage previously advised as permitted development. The site has in the past been used as ancillary external space for No 19 Broadhurst Lane.

Proposal

- 7.2 This application seeks permission for the erection of a dwelling on the site, and seeks to utilise the existing concrete slab base in situ at the site.

Assessment

- 7.3 The main considerations for this application are
- i) Previous planning History
 - ii) Impact on housing supply
 - ii) Impact on neighbouring properties
 - iii) Visual Appearance/Design
 - iv) Impact on highways

Previous planning history/Principle of development

- 7.4 There is a complex planning history in relation to this application site. In 1992 an application for a dwelling was refused on the grounds that the proposal was conflict with strict control of development in the Green Belt; and the proposal represented “backland” development.
- 7.5 The site was then incorporated into the settlement boundary as part of the adoption of the West Lancashire Local Plan 1999. A Certificate of Lawfulness for an existing use or development (CLEUD) was granted in July 1999 for this site as an extension to the curtilage of No 19 Broadhurst Lane.
- 7.6 In February 2000, a further application for outline permission was refused for the erection of a single storey dwelling and garage including means of access. The Council’s decision to refuse the application was appealed and subsequently dismissed by the Planning Inspectorate. The Local Plan in place at the time was the West Lancashire Local Plan (1999) and Policy H2 relating to residential development in the rural settlement was the relevant Policy. The reasoned justification indicated that the Policy sought to limit housing in specified rural settlements to the use of “infill” sites and the re-use of existing buildings. Within the appeal the dispute largely centred on the interpretation of “infill”. The term was defined in the Local Plan (1999) as building on ‘small gaps within groups of buildings’. The Inspector considered that an erection of a dwelling on a backland part of the site would not constitute “infill” within the context of the Local Plan in place. Since that time both the local and national policy position has altered.
- 7.7 In December 2011, a Certificate of Lawfulness for proposed use or development (CLOPUD) was issued making use of the permitted development rights attached to No 19 Broadhurst Lane allowing the erection of a garage within the site to be used ancillary to No 19 Broadhurst Lane. The CLOPUD was implemented by installing foundations at the site capable of building the garage. However the garage has never been completed.
- 7.8 Since December 2011 when the CLOPUD was issued the site has been subdivided from No 19 Broadhurst Lane.
- 7.9 In this case, the site has a history of residential use, albeit ancillary to No.19 Broadhurst Lane and despite its severance from No 19 Broadhurst Lane the site retains a lawful use as residential curtilage.
- 7.10 Following the subdivision of the site from No 19 Broadhurst Lane, this application seeks planning permission for the erection of one detached dwelling on the plot.

- 7.11 When considering new residential development, Policy DE1 of the West Lancashire Replacement Local Plan applies. In July 2010, the Council's Interim Housing Policy was adopted which lifted restrictions on Policy DE1 relating to housing land. This states that residential development will be permitted within rural settlements although Wrightington Bar is not specifically listed within the settlements identified. There is no reference to "infill" within either of these documents and therefore no definition put forward.
- 7.12 The emerging submission version of the West Lancashire Local Plan DPD 2012-2027 which is a material consideration incorrectly identifies the site on the proposals map as being within the Green Belt. The amendments to the Green Belt boundary to bring the emerging local plan in line with the West Lancashire Replacement Local Plan have been put forward to the Inspector as a post hearing minor modification although no decision has been received to date on the modifications. The amendments confirm the site as within the small rural village of Wrightington Bar.
- 7.13 Policy SP1 of the submission versions West Lancashire Local Plan DPD 2012-2027 states that development in small rural villages will only be permitted where it involves like for like redevelopment of an existing property, the appropriate re-use of an existing building or infill development. Policy RS1 of the submission version West Lancashire Local Plan DPD 2012-2027 states that within small rural villages, very limited infill of up to four units will be permitted for market housing. Main Modification MM78 amends the fourth paragraph of Policy RS1 in the Submitted Local Plan as follows:

Within Small Rural Villages, the appropriate re-use of an existing building, and very limited infill development (i.e. up to 4 units) will be permitted for market housing. For the purposes of this policy, infill development refers to development within the settlement boundary of the village.

- 7.14 Despite the Inspector's report yet being received, I consider that the modified policy wording should be given significant weight.
- 7.15 In this regard, paragraph 216 of the NPPF guides what weight should be given to policies within the Local Plan after Publication and during the Examination. It provides three criteria against which weight should be assessed:
- i) The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given) - the Local Plan Examination is now in its final stages and, subject to any significant concerns raised in the current consultation, it is anticipated that the Inspector will be able to issue his final report in September 2013, upon which the Local Plan will go before Council seeking adoption in October 2013.

- ii) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given). I anticipate a limited number of unresolved matters arising from the Main Modification (MM78).
- iii) The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given) - at the heart of the NPPF is the golden thread of the presumption in favour of sustainable development (para 14 of the NPPF). This states that "local planning authorities should positively seek opportunities to meet the development needs of their area". A policy which allows limited development within an existing small rural village accords with this statement as it is seeking to meet the development needs of these small rural villages but at the same time limit the amount of development given their rural nature. The policy wording is also consistent with paragraph 54 of the NPPF. Therefore, the modified policy wording is consistent with the NPPF.

7.16 Secondly, the objections anticipated to this modification essentially revolve around the definition of "infill". This modification seeks to clarify what was originally meant in the policy wording regarding infill because of the confusion expressed by residents of the Borough. In planning, there is no formal or legislative definition of infill. Therefore the modification is proposed to change the policy wording from a position of potential confusion about what is meant by the term infill to a position where it is clear what is meant by the term infill within the policy wording.

7.17 Taking this forward in terms of the current application, I am satisfied that the proposed development can be considered to be compliant with the Council's emerging policies.

Impact on Housing supply

7.18 Whilst the thread running through the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development, Policy SP1 of the Submission version West Lancashire Local Plan DPD 2012-2027 defines rural villages as having few, if any essential services, facilities or employment opportunities and having poorer transport connections than other larger centres. However Policy RS1 of the Submission version West Lancashire Local Plan DPD 2012-2027 states that within small rural villages very limited infill development will be permitted for market housing.

- 7.19 Paragraph 215 of the NPPF states: "due weight should be given to relevant policies in existing plans according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." Paragraph 216 goes on to say how much weight can be given to policies in emerging plans. It is my opinion that emerging Policy RS1, insofar as it allows housing across much of the Borough, can be given significant weight.
- 7.20 Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development ("PFSD"). Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. West Lancashire Borough Council cannot presently demonstrate a five-year supply of deliverable housing sites.
- 7.21 The presumption in favour of sustainable development. is set out in paragraph 14 of the NPPF and says:
For decision-taking this means ... *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 7.22 Therefore, in this context adopted Policy DE1 of the Replacement Local Plan which does not allow market housing in the Wrightington Bar, is now judged out-of-date and this application in this area must be considered under the presumption in favour of sustainable development.
- 7.23 The NPPF is much more pro-housebuilding than previous national policy and I consider in principle that this proposal is in accordance with the NPPF, and Policy RS1 of the submission document West Lancashire Local Plan DPD (2012-2027)

Impact on residential amenity

- 7.24 Policy GD1 of the West Lancashire Replacement Local Plan states that new development should retain reasonable levels of amenity for occupiers of neighbouring properties. Policy GN3 of the Submission version West Lancashire Local Plan DPD 2012-2027 reiterates this statement.
- 7.25 Within the Council's SPD Design Guide it states that the minimum distance between main elevations and those that do not contain habitable room windows is 12 metres. In this case there is a separation distance of approximately 22 metres between the rear facing windows in 17 and 15 Broadhurst Lane. The proposed dwelling satisfies the privacy and outlook standards.

- 7.26 A neighbouring occupier has concerns in relation to a side access door located on their property adjacent to the access and habitable rooms adjacent to the access. I do not consider the level of traffic associated with a single dwelling would have a detrimental effect on the amenity of the neighbouring residents by way of noise and disturbance sufficient to warrant refusal of planning permission.
- 7.27 Neighbours have raised concerns in relation to privacy and overlooking. There are no windows on the elevation facing the rear of properties at 9-15 Broadhurst Lane, although there are a number of velux roof lights. As stated in Paragraph 7.14 above, the proposed dwelling is approximately 22 metres from the rear of the dwellings at 9-15 Broadhurst Lane. I do not consider the rooflights raise an issue of overlooking between properties as the separation distance is in accordance with the guidance in the SPD Design Guide. I consider there is an issue in relation to privacy and the private amenity space of these dwellings and it is appropriate to condition that the roof lights in the south elevation be obscure glazing as they are below 1.7 metres above the floor level in the rooms in which they would be installed. There are a number of high level windows on the west elevation at first floor, which are not at issue; however the central glazing at first floor would look directly across the garden area of 19 Broadhurst Lane. A condition will be included requiring the first floor central glazed area on the west elevation on Drawing Ref 3080-13-10D to be obscure glazing.
- 7.28 Concerns have been raised in relation to light pollution in relation to the large windows above the entrance on the west elevation. I consider that the obscure glazing condition referred to above and the location of the windows set in from the west elevation will alleviate the light pollution to an acceptable level.
- 7.29 The windows on the east elevation are approximately 23 metres from the boundary of the garden area of 7 Broadhurst Lane, which I consider to be acceptable in terms of privacy and outlook.
- 7.30 I do not consider the proposed dwelling will have significant detrimental effects on the privacy, outlook or residential amenity of neighbouring dwellings and consider the proposal to be in accordance with Policy GD1 of the West Lancashire Replacement Local Plan and Policy GN3 of the submission version West Lancashire Local Plan DPD 2012-2027.

Visual appearance/design

- 7.31 Policy GD1 of the West Lancashire Replacement Local Plan states that new development should add to the distinctive character and visual amenity of the area. Proposals should consider the scale of new development and ensure that the height and massing is appropriate in relation to the neighbouring properties and the surrounding environment, and that the importance of spaces between buildings is recognised.

- 7.32 Guidance DP5 within the Council's Design Guide states that new development should be of an overall scale, mass and built form which responds to the characteristics of the site and its surroundings. Care should be taken to ensure that the building's height, scale and form including roofline do not disrupt the visual amenities of the streetscene and impact on any significant wider landscape views.
- 7.33 Policy GN3 of the Submission version West Lancashire Local Plan DPD 2012-2027 re-iterates the same as above. Policy EN4 states that new developments will be expected to be high quality and in keeping with the West Lancashire Design Guide.
- 7.34 The nature of the immediate surrounding area is that of differing house types, styles and materials. The proposed dwelling is a four bedroom property with an eaves height of 3 metres and a ridge height of 7.5 metres. The rear elevation facing properties on Broadhurst Lane has very few window openings, although this elevation has a number of rooflights. The main habitable room windows are located on the west, north and east elevations.
- 7.35 The surrounding area is characterised by ribbon development along the main roads, although there are some exceptions to this. In the immediate area, the main development fronts Mossy Lea Road and Broadhurst Lane. However to the rear of this site lies the dwellings of Ferndown, Barrington and Brookfield which go against this grain of development. I consider that given the location of the site, the design and layout of the proposal and the nature and layout of the surrounding built form, I do not consider the proposal would have a significant detrimental impact on the character of the surrounding area.
- 7.36 In terms of design I consider the proposed development to be appropriate given the character of the area, and I am satisfied that given its siting the proposal will not have a detrimental effect on the streetscene and consider the proposal to be in accordance with Policy GD1 of the West Lancashire Replacement Local Plan and Policy GN3 of the submission version West Lancashire Local Plan DPD 2012-2027.

Impact on Highways/Parking

- 7.37 Policy GD1 of the West Lancashire Replacement Local Plan and Policy GN3 of the Submission version West Lancashire Local Plan DPD 2012-2027 state that suitable and safe access, road layout, design and adequate parking provision is required.

- 7.38 The access to the proposed dwelling is an existing access to the site. The use of the existing access is acceptable and will not have a detrimental effect on highway safety and the proposal includes adequate parking provision. The Highway Authority are of the opinion that whilst visibility from the access is not ideal due to properties to the west having planted trees/shrubs in the highway land, the access is an existing access with no plans for alterations and therefore the Highway Authority have no objections to the use of this access.
- 7.39 With regards to the bin storage, this is proposed to be located adjacent to the proposed dwelling to the rear of 17 Broadhurst Lane, with the collection area adjacent to the access from Broadhurst Lane. Whilst the collection area is outside the distance contained within the Manual for Streets guidance, this information is only guidance and would not be sufficient reason to refuse planning permission.
- 7.40 The main bin storage area will not have any detrimental effect on the visibility splays at the site.
- 7.41 I consider the proposed development to provide an acceptable vehicular access, and provides the recommended parking provision. I am therefore satisfied that the scheme is in accordance with Policy GD1 of the West Lancashire Replacement Local Plan and Policy GN3 of the Submission version West Lancashire Local Plan DPD 2012-2027.

Access for Fire Authority

- 7.42 The Highway Authority has indicated that the views of the Fire Safety Officer at Lancashire Fire and Rescue Services should be sought with regards to access. The minimum required width for fire vehicles is 3.7 metres. The access at specific points is narrower than 3.7 metres, and the applicant is aware that should planning permission be granted satisfactory Fire Safety measures would need to be provided as part of a future Building Regulations submission.
- 7.43 Access for Fire Services and fire safety is dealt with under Building Regulations (Fire safety approved document B Section B5), and therefore controlled under other legislation, and is not a matter upon which planning permission could be refused.

Biodiversity/Ecology

- 7.44 Policy EN1 of the West Lancashire Replacement Local Plan and Policy EN2 of the Submission version West Lancashire Local Plan DPD 2012-2027 seek to protect the ecology and biodiversity of areas.

- 7.45 This proposal does not have any detrimental effect on existing trees at the site, and landscaping details submitted with the application are considered to be appropriate to the area.
- 7.46 With regards to the proposal, I do not consider there will be any significant detrimental impacts on the biodiversity and ecology of the area and consider the development to be in accordance with Policy EN1 of the West Lancashire Replacement Local Plan and Policy EN2 of the Submission version West Lancashire Local Plan DPD 2012-2027

Coal Mining

- 7.47 With regards to the issues with the Coal Authority, an existing concrete slab has been constructed on site and proposed to be used to accommodate a dwelling above. On this basis the Coal Authority withdrew their initial objection to the application.

Drainage

- 7.48 The applicant has indicated within the submission that the foul water connections are as existing and it is proposed that the surface water will be drained to either a sustainable drainage system or a soakaway. This is considered to be acceptable and United Utilities have advised that they have no objections to the proposal.

Summary

- 7.49 I consider the proposed development is in accordance with the National Planning Policy Framework, Policy EN1 and GD1 of the West Lancashire Replacement Local Plan and Policy GN1, GN3 RS3 and EN2 of the Submission Document West Lancashire Local Plan DPD (2012-2027).

8.0 RECOMMENDATION

- 8.1 That planning permission be **GRANTED** subject to the following conditions

Conditions

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby approved shall be carried out in accordance with details shown on the following plans:-
Plan reference 3080-13-12, 3080-13-13 and 3080-13-14 received by the Local Planning Authority on 4th April 2013.
Plan reference 668 PL01C and fencing details received by the Local Planning Authority on 8th April 2013.

Plan reference 3080-13-15B received by the Local Planning Authority on 30th April 2013.

Plan reference 3080-13-18 received by the Local Planning Authority on 7th May 2013.

Plan reference 30380-13-10E, 3080-31-21 and 3080-13-17B received by the Local Planning Authority on 11th July 2013.

3. No development shall commence until full details and samples of the external brickwork and roofing materials have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. Prior to commencement of development, details for foul and surface water drainage shall be submitted to the local planning authority for approval in writing. The foul and surface water drainage schemes shall be implemented in accordance with the approved details. No surface water shall discharge to the public sewerage system in accordance with the submitted Design and Access Statement Rev A 21-03-13 prepared by Peter Dickinson Chartered Architects
5. The gateposts erected at the vehicular access shall be positioned 5 metres behind the nearside edge of the carriageway, and visibility splay fences or walls shall be erected from the gateposts to the existing highway boundary, such splays to be not less than 45 degrees to the centre line of the access. The gates shall open away from the highway. Should the access remain ungated, 45 degree splays shall be provided between the highway boundary and points on either side of the drive measured 5 metres back from the nearside edge of the carriageway.
6. Prior to commencement of any part of the development hereby approved, including site clearance, ground preparation, or drainage works, a facility shall be provided by which the wheels of all vehicles leaving the site can be cleaned. The wheels of all vehicles leaving the site during all stages of implementation shall be cleaned so that they do not carry any mud, soil, grit or other such materials onto the public highway.
7. The six low level rooflights on the south elevation and the first floor central windows on the west elevation as detailed on Drawing No 3080-13-10D shall be fitted with obscure glass prior to commencement of use of the development hereby approved and shall remain thus fitted at all times thereafter.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development (Amendment) (No.2) (England) Order 2008 or any subsequent Orders or statutory provision re-enacting the provisions of these Orders no window shall be added to the property until details of the positioning, size and design have been submitted to and approved in writing by the Local Planning Authority.

Reasons

1. Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure compliance with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
3. To ensure that the external appearance of the building(s) is satisfactory and that the development therefore complies with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
4. The character and location of the property are such that the Local Planning Authority wish to exercise maximum control over future development in order to comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended or any subsequent Orders or statutory provision re-enacting the provisions of this Order no garages, extensions, alterations, porches, garden sheds, out buildings, greenhouses, swimming pools, hardstandings or means of enclosure shall be erected or undertaken without the express written permission of the Local Planning Authority.
6. To ensure that the site is properly drained in the interest of local amenity and that the development, therefore, complies with the provisions of Policies GD1, EN10, EN11 and SC10 in the West Lancashire Replacement Local Plan and Policies GN3 & IF3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
7. To permit vehicles to pull clear of the carriageway when entering the site and to assist visibility and to ensure that the development complies with the provisions of Policies GD1 & SC6 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
8. To avoid the possibility of the public highway being affected by the deposit of mud and/or loose materials thus creating a potential hazard for road users and to ensure that the development complies with the provisions of Policies GD1 & SC6 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
9. To protect the privacy of adjacent residential properties and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.

10. To protect the privacy of adjacent residential properties and so comply with the provisions of Policy GD1 in the West Lancashire Replacement Local Plan and Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.

Reason for Approval

1. The Local Planning Authority has considered the proposed development in the context of the Development Plan including in particular the following Policy/Policies in the West Lancashire Replacement Local Plan & in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document:

West Lancashire Replacement Local Plan Policies

DS1 Location of Development
DE1 Residential Development
EN1 Biodiversity
GD1 Design of Development

West Lancashire Local Plan Submission Document 2012-2027

SP1 A sustainable development framework for West Lancashire
GN1 Settlement boundaries
GN3 Criteria for sustainable development
RS1 Residential development
EN2 Preserving and Enhancing West Lancashire's Natural Environment
EN4 Preserving and Enhancing West Lancashire's Built Environment

together with Supplementary Planning Guidance and all relevant material considerations. The Local Planning Authority considers that the proposal complies with the relevant Policy criteria and is acceptable in the context of all relevant material considerations as set out in the Officer's Report. This report can be viewed or a copy provided on request to the Local Planning Authority. The Local Planning Authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application and have implemented the requirements of the National Planning Policy Framework paragraph 187.

No.10 APPLICATION NO.	2013/0300/FUL
LOCATION	Land East Of Wrights Covert Toogood Lane Wrightington Lancashire
PROPOSAL	Erection of a single wind turbine with a maximum blade to tip height of 90m, micro siting and associated infrastructure including access tracks, areas of hardstanding, control building and cabling.
APPLICANT	Freshview
WARD	Wrightington
PARISH	Wrightington
TARGET DATE	16th May 2013

1.0 PREVIOUS RELEVANT DECISIONS

- 1.1 2013/0016/SCR: NOT EIA DEVELOPMENT - Screening Opinion - Single wind turbine

2.0 CONSULTEE RESPONSES

- 2.1 NETWORK RAIL (03/04/2013) – No objections as it is located some distance from railway. If classed as an abnormal load will require adherence to Highway Agency regulations
- 2.2 COAL AUTHORITY (09/04/2013) – concur with the recommendations of the Environmental report and recommend that a condition is included requiring site investigation works to be carried out prior to development commencing
- 2.3 NATS/NERL (11/4/2013) – No safeguarding objection to the proposal
- 2.4 CAA (15/4/2013) – No comments
- 2.5 MOD (08/05/2013 – No objections
- 2.6 HIGHWAY AUTHORITY (14/05/2013) – No objections in principle. Abnormal Loads Officer considers it essential that trial runs are carried out. A decommissioning plan should be considered
- 2.7 ENGLISH HERITAGE (24/5/2013) – No comments. Do not believe that the turbine causes substantial harm to the setting of heritage assets within the zone of visual influence, however it does cause less than substantial harm to the setting of Grade II Listed buildings within the immediate vicinity of the site. This harm should be weighed against the public benefits of the scheme.

- 2.8 BLACKPOOL INTERNATIONAL AIRPORT (06/05/2013) – No safeguarding objection to proposal
- 2.9 ENVIRONMENTAL HEALTH OFFICER (17/06/2013) – Having considered the site specific assessment and other guidance, research and relevant reports produced since ETSU-R-97 was published I conclude that there is insufficient information to determine if a 500kW wind turbine in this location (based on the assessment of a candidate turbine), will be able to comply with current standards for wind energy projects. Advise that the application be recommended for refusal unless a further noise assessment is carried out addressing the concerns highlighted by Environmental Health and MAS Environmental.
- 2.10 LANCASHIRE COUNTY COUNCIL ECOLOGY UNIT (03/06/2013) – Insufficient information to determine the potential impact on bats; Insufficient information to determine the potential ornithological impacts; loss of hedgerow should be compensated.
- 2.11 LANCASHIRE COUNTY COUNCIL ECOLOGY UNIT (3/7/2013) – Ornithology - Potential impacts on the loss of curlew and no mitigation measures submitted. Bats – Survey effort is not consistent with best practice guidance; Not clear that there is any ecological justification for not meeting minimum survey effort as recommended by the BCT guidance. There is a risk to bats but significance of likely impacts cannot be reasonably established in the absence of further survey work.

3.0 OTHER REPRESENTATIONS

- 3.1 CONSERVATION AREAS ADVISORY PANEL (18/04/2013) – recommend refusal on the grounds that the turbine would have a significant and harmful impact on the historic landscape which is recognised as having a high number of historic assets within close proximity to site of the turbine.
- 3.2 WRIGHTINGTON PARISH COUNCIL (19/04/2013) – object very strongly to the proposed development on the following grounds;
- Contrary to national and local planning policies
 - Inappropriate development in the Green Belt
 - No very special circumstances
 - Loss of visual amenity and impact on openness of Green Belt
 - Would significantly alter the landscape
 - Commercial venture with no community benefit
 - Significant and adverse effect on skyline
 - Visible in short medium and long views
 - Reduce number of visitors to the area affecting the local economy
 - Too close to homes (Distance to Residents Bill)

- Impact on public footpath users
- Impact on users of nearby riding track
- Noise would affect homes in the area
- Vibration and flicker/strobe effect will affect health
- Increased risk of accidents to horses and riders
- Detract from visual amenity of the area
- Impact on biodiversity and wildlife of area
- No bat survey submitted
- Environmental benefits do not outweigh detrimental impact to wider environment of Wrightington
- High Court ruling (May 2012) that the right of the local villagers to the preservation of their landscape is more important than the generation of renewable energy
- Will set a precedent

3.3 DALTON PARISH COUNCIL (02/5/2013) – object on the following grounds

- Detrimental affect on landscape
- Noise will impact on the surrounding area
- Horses will be affected by noise, shadow flicker and vibration
- Intrusive feature significantly affecting visual amenity and appearance of skyline
- Affect regionally and locally important viewpoints
- Council should protect short and medium range views

3.4 I have received 603 representations objecting to the development. A summary of the grounds of objection are as follows:

- Will not preserve the Green Belt
- Ruin an area of beautiful picturesque landscape
- Impact on the openness and visual amenity of the Green Belt
- Be inappropriate development and harmful to Green Belt
- Impact on wildlife
- Impact on the residential amenity of the surrounding dwellings by way of noise and visual amenity
- Not create any financial benefits to the surrounding area
- Spoil walks in the area by its impact on views
- Impact on day-trippers, holiday makers and tourists in the area and therefore impact on local rural businesses
- Set a precedent
- Potential hazard to bats
- Impact on birds in the area
- Impact on the archaeology of the area
- Introduce a tall alien structure into the landscape
- Impact on nearby public right of way

- Impact on horses and riders (shadow flicker)
- Increase hazards to aircraft and interfere with radar signals
- Affect health by way of low frequency noise
- Affect health by way of strobe effect and shadow flicker
- Affect long views into the area
- Affect communications infrastructure in the area (telephone masts, TV signals etc)
- Impact on views from all public footpaths in the area and will be highly prominent from Harrock Hill
- Contrary to policies relating to landscape
- No special circumstances for Impact on Green Belt
- Contrary to National Planning Policy
- Commercial development inappropriate to rural area
- Distance to residents properties bill states that turbines should be more than 1500m from properties
- Question need for further wind energy as Government targets have already been met
- Government minister states that turbines should only be approved where the impact is or can be made acceptable.
- Development out of character with rural landscape
- Impact on local rural economy
- Will affect drivers by creating a distraction increasing risk of accidents
- High Court ruling (May 2012) that the right of the local villagers to the preservation of their landscape is more important than the generation of renewable energy
- More sympathetic forms of renewable energy
- Will affect visual amenity
- The noise will have an impact on area
- Will impact on the health of people in the surrounding area
- Turbine will have a devastating impact on surrounding area
- Government's new intention to support local resident's having a greater say in planning decisions relating to turbines
- Noise will impact on local residents
- Low frequency vibration would be an issue for residents in the surrounding area
- Eye-catching movement of the turbine blades would be harmful to Green Belt
- Will impact on long panoramic views of the area
- No alternative sites have been identified
- No community benefits of the proposal
- Other renewable technologies are more acceptable
- Will affect health and safety of air traffic in the area
- Will impact on residents of the area suffering from epilepsy due to shadow flicker
- Residents of the area have a democratic right to object to a planning application

- 3.5 Wrightington Residents Against Turbines (WRAT) have submitted a report highlighting what are considered to be inconsistencies, inaccuracies and errors in the application and raising the following concerns:
- Impacts on public rights of way in the area that are not included in the assessment
 - Area is a designated cycle route
 - Regular route for local riding school
 - Contrary to NPPF
 - Will affect residential amenity of nearby properties
 - No alternative sites have been assessed
 - Will affect immediate landscape contrary to policy
 - Photographic evidence provided is misleading
 - Proposal has a large scale effect on sensitive receptors
 - Zones of theoretical visibility does not include smaller turbines and the three in Mawdesley
 - No consultation by developer with community
 - Insufficient noise monitoring carried out and data submitted
 - Flicker risk and strobe affect has not been fully assessed
 - Do not consider that an appropriate assessment has been carried out on impact on infrastructure, telecommunications, utilities or aviation
 - Geological fault has not been adequately assessed
 - Public right of way is an old cobbled road, this will impact on the historical importance of it
 - Lack of accuracy in the application
 - Inaccurate and misleading ecology information submitted
 - No bat survey submitted
 - Will render a recently constructed equestrian track unusable due to proximity to turbine
 - No local benefits provided
 - Will impact on the heritage assets of the area
 - Risk to ground stability is high
- 3.6 BRITISH HORSE SOCIETY BRIDLEWAYS OFFICER (16/4/2013) – strongly objects to the application on the grounds of the number of stables, yards and horses in the area and the potential effect of shadow flicker and reflected light and the impact on ride routes around the area.
- 3.7 An 88 page report from Wrightington Residents Against Turbines (WRAT) objecting to the proposal on the following grounds
- Scale will detract from openness of Green Belt
 - Will impact on the visual amenity and character of the landscape
 - Inappropriate development in Greenbelt
 - Environmental benefits are insignificant

- Benefits do not outweigh harm caused to the Green Belt
- No mitigation proposed to negate the magnitude of change
- Does not enhance or respect the landscape
- Will not respect historic character of the landscape
- No alternative sites proposed by developer
- No evidence submitted of wind monitoring at the site
- Would be a blot on the landscape
- Would be overbearing to users of public right of way
- Will diminish enjoyment of the landscape in the area
- Turbine will be starkly visible and dominant
- Will have an adverse effect on recreational users of local PRow, bridleways and byways
- Would be a dominant part of the outlook from local properties and due to its scale would be overbearing and affect amenity
- Dispute data in relation to the cumulative assessment of turbines
- Dispute photomontages and scale of turbine
- Appeal decisions across the country support refusal on the grounds of impact on landscape
- Not of a scale form or design that is in keeping with its surroundings and is therefore contrary to policy
- Information submitted fails to assess views from two important public rights of Way
- Agent failed to show true impact of the proposal by choosing specific viewpoints.
- Contrary to NPPF in that the development does not enhance the beneficial use of the Green Belt nor does it retain or enhance the landscape and visual amenity
- Planning Inspectors place great weight on the loss of visual amenity caused by turbines
- Impact on outlook of properties assessed will be significantly greater
- Impact on residential amenity of local occupiers is supported by many appeal decisions
- Distance to Homes Bill states turbine should be 1500 metres from nearest dwelling
- Insufficient noise monitoring carried out
- Several properties are closer than identified in the noise assessment
- A Health Impact Assessment should be submitted
- Noise survey carried out is considered to be fundamentally flawed and includes inaccurate data
- Low Frequency Noise causes health problems
- Shadow flicker will be a problem for residents in the area
- No consultation has been made with the police helicopter centre at Warton BAE Systems
- Commercial/private helicopter pilot considers this area to be a heavily trafficked flight zone and the height of the turbine will sit at average cruising height of a light aircraft.

- The co-ordinates for the turbine are incorrect and aviation authorities should be reconsulted
- Insufficient information has been submitted in relation to coal mining
- Construction traffic will have difficulty accessing the area due to the abnormal loads. Insufficient information has been provided to assess the impact of the construction traffic on the surrounding roads.
- Natural England have not been consulted
- Woodland is closer to the application site than identified in the application
- Hedgerows immediately around the site will be affected by construction traffic and upgrading
- Insufficient information given to assess impact on ecology
- Will affect local businesses due to public amenity of area being eroded
- Will affect campsites due to noise
- No economic benefits or jobs provided by the proposal for the local community
- Will impact on several heritage assets in the area in terms of views from the properties and the setting of the assets
- Access road is part of an old track that pre-dates the 1845 map
- Blade and ice throw and the proximity of the turbine to roads, dwellings and PRow is considered to be an issue
- High risk from coal gas and coal seams
- Ground conditions in the area are questionable

3.8 Also submitted by WRAT was an Independent Assessment of noise impact assessment (7/6/2013) by MAS ENVIRONMENTAL - Whilst the turbine appears to comply with the relevant limits, there are significant concerns regarding the background noise level data upon which the assessment of acceptability is based. Unusual weather conditions and limited range of wind directions sampled indicate unrepresentative noise levels. A revised background noise survey is required.

3.9 WRAT also provided a response to Freshview's comments on objection letters

3.10 MERSEYSIDE AND WEST LANCASHIRE BAT GROUP (26/6/2013) – object to application on the grounds that the survey provided in relation to bats is inadequate and there are discrepancies both in the report and in the data. Survey has not concluded that the impact on a European Protected Species can be avoided. Application should not be determined. Insufficient raw data to establish if geese or wintering birds use the application site.

3.11 Also submitted by WRAT was an Independent Assessment of the Heritage Statement (2/7/2013) by GARRY MILLER – Due to local topography, the proposed development has greater potential harm to the heritage assets which lie in close proximity to the site. These comprise five Grade II listed buildings and three undesignated sites within 800 metres on the north, east and south of the application site. It is considered the proposal will harm the unspoiled historic setting which makes an important contribution to the significance of these assets.

- 3.12 CPRE (9/7/2013) – Has concerns and object to the application due to the scale and prominence of the turbine. Consider the cumulative impact diagram to be incorrect as the tree turbines at Mawdesley are not shown. Request that turbine be painted a non-reflective colour.

4.0 SUPPORTING INFORMATION

4.1 Design and Access Statement

Planning Statement

Environmental Report

Statement of Community Involvement

Comments in relation to objection letters -

Response to WRAT report as follows

- Not feasible to provide views from every location, details provided are representative
- Photomontages are produced to strict guidelines
- Additional PRoW are further from the development than those assessed
- No set methodology in relation to residential amenity – appeal decisions have indicated potential effects occur within 800 metres of the site and therefore properties within 1 km of the site were assessed
- Property within amenity assessment refers to house and garden area
- Zones of Theoretical vision have been produced using terrain data therefore results show a 'bald earth' scenario
- Existing turbines are not required to be assessed in the cumulative data as these are part of the baseline assessment.
- Noise surveys were carried out after consultation with the Environmental Health Officer and in accordance with best practice guidelines
- No proven link between shadow flicker and health issues
- Site investigation will be required prior to development in relation to coal mining and coal gas
- Agent offered Parish Council a presentation on the proposal which was declined
- Environmental Report was carried out according to prescribed methodology
- Socio-economic effects are not exhaustive
- Horses and turbines can co-exist. Tested at appeal and no evidence that wind turbines cause problems
- Heritage assets have been assessed in full

Additional Noise Information

Addendum to Bat Survey

Ornithological Assessment

5.0 LOCAL PLAN ALLOCATION

- 5.1 National Planning Policy Framework (NPPF), the West Lancashire Replacement Local Plan and the West Lancashire Local Plan (2012-2027) Submission Document provide the policy framework against which the development proposals will be assessed.
- 5.2 The site is located within the Green Belt as designated in the West Lancashire Replacement Local Plan and within the natural wood/pasture area and an area of county importance in relation to Landscape History as defined in the SPG: Natural areas and areas of landscape history importance .

West Lancashire Replacement Local Plan Policies

DS1 Location of development
GD1 Design of Development
DS2 Protecting the Green belt
EN1 Biodiversity
EN5 Buildings of Historic Importance
SC12 Renewable energy

Supplementary Planning Document Design Guide (Jan 2008)

Supplementary Planning Guidance Natural areas and areas of landscape history importance (Updated August 2007)

Submission Document West Lancashire Local Plan DPD (2012-2027)

GN1 Settlement boundaries
GN3 Criteria for sustainable development
EN1 Low carbon development and energy infrastructure
EN2 Preserving and enhancing West Lancashire's natural environment
EN4 Preserving and enhancing West Lancashire's built environment

National Planning Policy Framework

6.0 OBSERVATIONS OF THE ASSISTANT DIRECTOR PLANNING

Site Description

- 6.1 The application site is located 400 metres to the east of Toogood Lane in Wrightington and 190 metres from Wrights Coverts woodland area. The area is characterised by hills, farmland and mature woodland pockets with an undulating visual appearance.

Proposal

- 6.2 This application seeks permission to erect a single wind turbine up to 90 metres to blade tip. The proposed hub height is 60 metres with three blades of up to 30 metres in length mounted on the hub, resulting in an overall height of 90 metres.
- 6.3 The proposed turbine will require its own transformer and this will be located either internally or externally in a small kiosk typically measuring 3 metres x 2.5 metres x 3 metres. The proposed foundations will measure 13 metres in diameter with an adjacent area of hardstanding measuring 20 metres x 30 metres to provide a level and stable base for construction and maintenance of the turbine.
- 6.4 The proposal will also include two control buildings located adjacent measuring 3 metres x 4 metres.
- 6.5 The application also seeks permission for the upgrading of the access track to provide safe access to the proposed turbine location which will be constructed of granular material encouraging infiltration and reducing peak flows.
- 6.6 The proposed turbine is to be operational for 25 years after which it will be decommissioned, dismantled and removed from the site.

Principle of Development

- 6.7 Policy DS2 of the West Lancashire Replacement Local Plan (WLRLP) 'Protecting the Green Belt' precludes development within the Green Belt which is considered inappropriate unless very special circumstances can be demonstrated. Wind turbines are not amongst the types of development identified as appropriate in the Green Belt. The proposed turbine is therefore considered to be inappropriate development and therefore by definition harmful to the Green Belt. It falls to be considered whether there are any special circumstances put forward which outweigh the normal presumption against inappropriate development. Policy GN1 of the submission version West Lancashire Local Plan DPD (2012-2027) (WLLP) and the National Planning Policy Framework (NPPF) also advocate this policy approach.
- 6.8 Policy SC12 of the WLRLP 'Renewable Energy' and Policy EN1 of the WLLP 'Low Carbon development and energy infrastructure' indicate that proposal for renewable schemes should take into consideration the character and value of the landscape, areas of natural and built heritage, impact on local residents, land resources and ecological impacts.

Assessment

6.9 Therefore main considerations for the determination of this application are

- (i) Impact on Green Belt and very special circumstances
- (ii) Visual amenity and Landscape Character
- (iii) Impact on Heritage Assets
- (iv) Noise
- (v) Shadow Flicker
- (vi) Highway Safety
- (vii) Public Rights of Way/ Bridleways
- (viii) Coal Mining
- (ix) Ecology and Ornithology
- (x) Aviation
- (xi) Communications Infrastructure

Impact on Green Belt and very special circumstances

- 6.10 As the proposal is found to be inappropriate development, it must be assessed in terms of the very special circumstances put forward by the applicant to justify the scheme. There is no accepted definition of very special circumstances and whether they exist in a particular case will be a matter of judgement for the Local Planning Authority based upon the facts that have been presented by the applicant.
- 6.11 In assessing the case for very special circumstances, the environmental benefit of the sustainable generation of energy is supported by guidance contained in the NPPF Policies SC12 and GD1 of the WLRLP and Policies GN1 and EN1 of the WLLP.
- 6.12 The need to increase renewable energy sources in the local area and nationally is paramount, and is the key to a low carbon future. West Lancashire has a role to play in meeting the UK's target of 15% of energy from renewables by 2020, as set out in the EU Renewable Energy Directive. The wind speeds detailed in the Design & Access Statement indicate that the location is viable for wind energy.
- 6.13 The manufacturer's predicted output from the proposed turbine is 1183 MWh per year. To put this into context the average annual electricity consumption for a three bedroom house in the North West is 4500 KWh, so the proposed turbine would have the potential to supply 285 homes
- 6.14 Reducing the amount of electricity consumed from the national grid reduces the demand to produce power from fossil fuels. This is the primary contributor of greenhouse gases causing climate change. Using the latest calculation figures from the Department of Energy and Climate Change, it is anticipated that the proposed turbine would provide savings of approximately 520 tonnes a year.

- 6.15 A key principle of the NPPF outlines that the wider environmental benefits of energy production from renewable sources should be given significant weight. This is extended to very special circumstances allowing development in the Green Belt where the long term benefits of the scheme are considered to outweigh harm to visual amenity. Visual amenity and landscape character will be discussed in the following section. The Ministerial statement issued 7th June 2013 by the Secretary of State advises that when assessing applications for wind farms, local planning authorities should ensure that the right balance between the need for renewable energy and the cumulative landscape and visual impacts is achieved. Whilst this application is for one turbine, the Council considers that the balance between climate change and the need for renewable energy and the amenity of the area has been fully addressed within this report.
- 6.16 Reducing the amount of fossil fuel derived electricity consumed from the national grid and replacing this with energy generated from a clean, renewable source such as wind will reduce greenhouse gas emissions contributing to climate change. Significant weight should be attributed to the carbon savings resulting from the proposed development, and the long term benefits of working towards a low carbon future and meeting the challenge of climate change, as set out in the NPPF.
- 6.17 The depletion of national fossil fuel reserves, combined with projected growth in global energy demand is putting our security of energy supply at risk. Developing decentralised energy infrastructure and reducing our reliance on expensive, imported and unsustainable fossil fuels will make a strong contribution to our energy needs and allow us to be less reliant on others.
- 6.18 The development represents an encroachment of development into the countryside which is one of the purposes of including land within the Green Belt, although this has to be tempered with the need for wind turbines to be located in areas well away from tall buildings and structures which may impede or divert the flow of wind. Of necessity this means that many turbines are sited in the countryside.

Visual amenity and Landscape Character

- 6.19 The Companion Guide to PPS22 which remains relevant guidance sets out criteria for assessing landscape and visual impact and includes national designations, landscape sensitivity, landscape and visual analysis and cumulative effects. In terms of the latter, there are no other turbines visible in conjunction with the proposal in the immediate local area and any further applications would require planning permission and any further cumulative impact would be assessed.

- 6.20 The Landscape and visual impact assessment has been conducted across a study area of 15km for the landscape assessment and 5km for the visual assessment.
- 6.21 The site is identified as lying within the National Character area 32 Lancashire Amounderness Plain although the study area identifies 5 National Character areas. In terms of Local Character areas the site lies within the farmed ridges character area, although 28 local character areas have been identified within the study area.
- 6.22 The area is also defined within the 'Landscape Sensitivity to wind energy in Lancashire' (2004) as within the Up Holland Ridge character area which has moderate sensitivity to wind energy development where small and medium scale clusters of wind energy development may be acceptable.
- 6.23 The site lies within an area of landscape history of county importance as defined in the WLRLP and guidance suggests that archaeological investigations should be carried out where necessary because of the characteristics of the "Ancient Countryside". This can be mitigated by the inclusion of a condition requiring archaeological recording prior to development commencing.
- 6.24 The Wood/Pasture Natural Area in which the development sits is characterised by low hills in regional terms which are prominent and significant in local terms. The area consists of steep slopes, poorer soils, with a complex mosaic of topography, pastures, lanes, hedges and woodlands and has long distance views from high points. Guidelines on development in this area suggest the avoidance of tall columnar constructions, and careful siting of development away from higher ground. In addition interference with long-distance views from high points accessible to the public should be avoided, with no siting of visually intrusive development on skylines, and no visually intrusive development which would damage foreground views.
- 6.25 This proposal is set in existing fields with a contour level of 110 metres with Harrock Hill being a contour level of 150 metres peaking at 155 metres. When viewed from Toogood Lane, which lies at a similar level to the application site 40 metres of the column will be viewed against the backdrop of Harrock Hill with its associated tree cover and telecommunications mast on top with twenty metres of the column and the 30 metre rotating blades being viewed above the peak. The turbine is much higher than anything else in the area however the proposed column when viewed is relatively slender.

- 6.26 The Zone of Theoretical Visibility identifies that the visibility of the turbine is predominantly concentrated to the northern half of the study area, extending across the full extent of the radius from Brown Edge in the West, Bamber Bridge in the north and Horwich in the east. There are isolated smaller areas of partial or no-visibility notably around the very eastern periphery of the study radius and in close proximity to the west of the application site (south of Mawdesley and west of Appley Bridge. In the southern half of the study radius, theoretical visibility is increasingly fragmented with no visibility in large areas extending from the southern edge of Horwich to Westhoughton, centrally from Dalton to Moss Bank in the south and south of Ormskirk/Skelmersdale to Aughton.
- 6.27 Whilst the cumulative zones of theoretical visibility identify areas in which several turbines are visible, in reality due to the distance between sites and the level of intervening screening elements it is predicted that this turbine should not be cumulatively visible with any of the other wind turbine developments.
- 6.28 The degree to which the turbine is visible is dependent on a number of factors such as topography, distance and vegetation. For instance, the turbine would be visible at close range from Toogood Lane, but its effect on visual receptors using the road, drivers, passengers, cyclists etc would not be significant as it would only be seen for a short space of time. Conversely to the residents of Toogood Lane, the turbine would be visible constantly.
- 6.29 The village of Wrightington is 1.4km to the east of the application site. Despite the closer proximity and the majority of properties being orientated east-west along the road, it is unlikely that the proposed development would be fully visible. This is due to a combination of the noticeably undulating nature of the intervening landform and dense vegetation coverage both along field boundaries and roadsides in the foreground, as well as areas of woodland and individual mature trees within fields towards the middle distance. For individual properties located on the west side of Mossy Lea Road, it is also predicted that visibility will be predominantly constrained and short distance, because of the maturity, height and density of boundary vegetation around individual plots. Whilst there may be seasonal increase in visibility through winter months, it is considered that the established nature and density of the intervening vegetation will mean that the proposed development remains largely hidden.
- 6.30 Wrightington Bar is located approximately 1.2km north east of the proposed turbine position, with properties predominantly orientated east-west or north-south around the junction of Mossy Lea Road and Church Lane. Longer distance views westward will generally be screened by close proximity garden vegetation and established field boundaries in the fore-middle grounds. The rising nature of the localised landform immediately to the west of the settlement (characteristic of the wider undulating/rolling landscape) provides mid-lower level screening and

the predominant housing type (i.e. bungalow properties) restricts more elevated views from many properties. If any distant views are apparent, it is likely the turbine will be a partially/intermittently seen feature above/through the intervening tree canopy line.

- 6.31 Moss Lane/Courage Low Lane/Toogood Lane/Smithy Brow/Barmskin Lane (Robin Hood to Andertons Mills) running north-south is the nearest vehicle road to the application site, passing approximately 0.36km to the east at its closest point. Due to the varying degree of enclosure along the full length of the route, close proximity visibility ranges from clear and direct in some locations (i.e. predominantly along Toogood Lane), where the turbine would be a prominent new feature in the foreground of views, to heavily screened by dense roadside hedgerows and mature shelter belts/trees, which largely obscure the turbine and mean visibility is either partial and heavily intermittent (i.e. upper parts of turbine visible only/viewed through foliage) or not possible. Sequential views of the proposed development and existing turbines at Mawdesley Moss may also be possible towards the northern end of the route (Toogood Lane, Smithy Brow, Barmskin Lane); however it is likely these views will be infrequent due to predominant enclosure by roadside vegetation.
- 6.32 With regards to views from public footpaths, there is an extensive network of public rights of way throughout the study area. As with minor roads in the area, views will vary dependent on position, with longer distant views available from footpaths crossing open fields and more constrained views apparent when walking along vehicle routes and close to woodland plantations due to the screening effect of established vegetation, roadside trees and hedgerow field boundaries
- 6.33 Public Footpath No 16 (Hesketh House to Hill House Fold) follows the line of existing field boundaries, westward from Hesketh House on Toogood Lane, before turning south and heading down to Hill House Fold. It is approx. 0.28km south of the proposed turbine location at its closest point. It is predicted that visibility of the proposed development when walking east-west is likely to be clear and direct, because the open route runs along the northward side of field boundary vegetation, meaning there is little intervening screening except for that surrounding the application site itself. Due to the close proximity the turbine will be a prominent new feature within the local landscape.
- 6.34 Public Footpath No 10 (Hill House Fold to Harrock Hill) follows an existing farm track routed through open fields and along field boundaries. The path is located to the eastward side of more established field boundary vegetation in northern parts of the route, which means there is little close proximity screening. At its closest point the path is 0.32km west of the turbine location and due to the proximity and the openness of the immediate surroundings, it is predicted views of the proposed development will be direct and clear, with only lower level screening from mature vegetation around the site boundary. Further north along

the route, visibility decreases due to the intervening block of an established wooded area on Harrock Hill, which will obscure mid-lower parts of the turbine and mean that only upper parts (i.e. rotating blades) will be visible. Eventually, when moving towards Harrock Hall, Harrock Hill will screen the turbine.

- 6.35 From other footpaths in the area it is considered that where any views are possible, it is likely that only upper parts of the proposed turbine (i.e. rotating blades) will be visible above the adjacent tree canopy line. Despite some acknowledged seasonal increases in visibility during winter months, it is predicted that the turbine will remain only intermittently glimpsed through dense vegetation in wooded areas and will not be a widely discernible element.
- 6.36 Notwithstanding the design of the turbine, and the findings of the Visual assessment which concludes that all settlements within the study area will not experience significant effects, in general the undulating nature of the landscape and significant mature vegetation will restrict views to intermittent times, I consider that the turbine would represent a large man-made feature in a natural landscape which would be clearly visible in parts of the immediate surrounding area and also within medium and long distance views.
- 6.37 It is considered that the introduction of this tall columnar man-made angular feature into an undulating picturesque natural environment devoid of any structure of this scale will have a detrimental effect on the visual amenity of the area and character of the wider landscape. I consider that the introduction of a single turbine of the proposed scale in this location would detrimentally detract from the visual amenity of the picturesque, natural landscape and although the very special circumstances put forward by the applicant are valid material considerations I do not consider that they override the adverse impact upon the visual amenity of the Green Belt and the character of the landscape in this location which is contrary to Policy GD1 and DS2 of the West Lancashire Replacement Local Plan and Policy GN3 of the Submission Document West Lancashire Local Plan DPD (2012-2027).

Impact on Heritage Assets

- 6.38 The NPPF states that in determining planning applications Local Planning Authority'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 heritage assets can make to sustainable communities; and the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.39 The significance of a heritage asset needs to be given weight to the asset's conservation. The more important the asset, the greater the weight be provided to its significance. Significance can be harmed or lost through alteration or

destruction of the heritage asset or development within its setting. Where a proposal leads to less than substantial harm to a designated asset, this harm should be weighed against the benefits of the proposal.

- 6.40 Policy EN 5 of the WLRLP states that applications for planning permission will only be approved if they will not have a detrimental effect on the setting of the listed building and Policy EN4 of the WLLP has a presumption in favour of the conservation of designated heritage assets and states that development will not be permitted that adversely affects listed buildings, Scheduled Ancient Monument (SAM), a conservation area, historic park or garden or archaeological remains.
- 6.41 With regards to guidance provided by English Heritage '*The Setting of Heritage Assets (October 2011)*' this identifies a whole list of attributes to consider when assessing the likely impact of development on the setting of heritage assets which include;
- Location and proximity to asset(s) and impact on views
 - Form and appearance of the development
 - Effects on surrounding space/landscape/skyline
 - Degree of permanence
- 6.42 A recent High Court challenge regarding a wind farm development and how a government planning inspector failed in his duty to properly consider the likely impact on the setting to heritage assets brings into focus the need to look carefully at turbine applications. The Local Planning Authority must satisfy their duty to give special regard to the desirability of preserving the setting of affected listed buildings.
- 6.43 The site lies in an area designated to be of County Importance in the Areas of Landscape History and lies in an area designed as wood/pasture in the Areas of Landscape Character. As stated previously the wood/pasture landscape character is defined by low hills and woodland areas. The field patterns are irregular and commonly bound by hedgerows.
- 6.44 The landscape history relates to the early medieval enclosure and field pattern and features 16th and 17th buildings and medieval settlements. Within 5km the submitted heritage assessment identifies 4 Scheduled monuments (SAMs) and 12 Grade I and II* Listed buildings. In West Lancashire within 2.5km of the site are a number of designated heritage assets including 2 SAMs, 2 Conservation Areas and 23 listed buildings of which 3 are Grade II* (Harrock Hall, Parbold Hall and Wrightington Hall).
- 6.45 The NPPF states that the more important the asset the greater the weight should be given to its conservation. In this respect greater weight should be given to the impact of the proposal on the setting to the SAM's and Grade II* buildings. These include: Wrightington Bridge, Harrock Hall, Parbold Hall and Wrightington Hall.

- 6.46 I do not consider that the likely impact on the setting of any of these Heritage Assets would be significant and assessment should therefore be made against P134 of the NPPF which states that where a proposal leads to less than substantial harm, this should be weighed against the benefits of the proposal.
- 6.47 With regards to the Heritage assessment undertaken and submitted with the application I consider that the impacts on the heritage assets, named above, would be very limited. The undulating nature of the landscape means that whilst the proposed turbine will be very much seen within a wider landscape setting, particularly when to the north of the site, the impacts on individual buildings are somewhat limited by topography and the natural enclosure created by trees and woodland. In this context I consider that the turbine will be unlikely to dominate views in or out from any of the higher graded heritage assets.
- 6.48 The planned landscapes immediately adjacent the historic halls (Parbold, Harrock and Wrightington) are not so extensive to extend into direct conflict with the proposed turbine site. Indeed Parbold Hall has its main aspect facing south across the Douglas valley, similarly Harrock Hall sits in a hollow below the ridge of Harrock Hill within a small formal setting and Wrightington has an east/west axis viewing away from the turbine site.
- 6.49 In the same way whilst there are a number of Grade II designated assets embedded in the landscape around the proposed site I do not consider any setting to be unduly harmed by the scale or proximity of the turbine.
- 6.50 Three listed assets (Toogood Farmhouse, Charity Farmhouse and Higher Barn Farm) lie between 500 - 800m of the turbine site.
- 6.51 Toogood Farm is the closest designated asset to the turbine and perhaps the asset most significantly affected by the proposal. The principle road side elevation of the early C18 farmhouse faces west towards the turbine. Whilst I accept that views into and out from the site will be somewhat filtered by trees to the south west the turbine will be noticeable in the skyline and some visual impact will occur. However the impact on typical views of the farmhouse and its setting will be mitigated to an acceptable degree given the undulating nature of the surrounding landscape and the enclosure created by the areas of woodland in the area.
- 6.52 Higher Barn Farm lies on the south side of a ridge which will reduce the visual impact of the turbine and whilst it will be clearly seen within the wider landscape view of the farmhouse (from the south) I do not regard this whole vista to be so significant to the historic setting of the farm. The presence of the ridge behind the property will mean the visual impact of the turbine will be reduced by approximately half.

- 6.53 Charity Farm lies to the north of the site at a lower level to the turbine site. I consider that the turbine will appear prominent but will have the higher ridge behind. Closer to the farmhouse views of the turbine in the context of the farmhouse will be restricted by woodland on the north facing slopes and diminish significant impact on the setting. Moving further north beyond the farmhouse the visual effect of the turbine on the historic setting is negligible.
- 6.54 Overall I do not consider that the turbine will conflict with the duty of the Local Planning Authority to have special regard to the desirability to preserve the historic settings of designated listed buildings as defined by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.55 I consider that the turbine will have some impact on the wider views of the immediate site and beyond, however because of the topography of the landscape, I do not consider that that this results in harm to the significance at an unacceptable level to historic setting to any designated asset. I consider the proposed development to be acceptable and in accordance with Policy EN5 of the West Lancashire Local Plan and Policy EN4 of the Submission Document West Lancashire Local Plan DPD (2012-2027).

Noise

- 6.56 There are two sources of noise from wind turbines - the turbine blades passing through the air and noise from the gearbox, generator and other parts of the drive train. All sources are strongly affected by rotor speed. There is an increase in turbine noise level as wind speed increases. However background noise also increases with wind speed and at a faster rate. The difference between the noise of a wind turbine and the background noise is therefore liable to be greatest at low wind speeds provided that there is sufficient wind to operate the turbine. Wind turbines do not operate below the wind speed referred to as the cut-in speed (usually around 4- 5 metres per second) and above a set cut-out speed. Many modern turbines have a direct drive design, eliminating the use of a gearbox, so mechanical noise is normally no greater than the aerodynamic noise.
- 6.57 An Environmental Noise Impact Assessment has been carried out for this proposal by ACIA Engineering Acoustics, including predictions based on a Gamesa G58 500kW turbine as a 'candidate turbine'.
- 6.58 The assessment was carried out following consultation with the Environmental Health Officer, concerning the methodology, guidance and monitoring locations. The most widely accepted document for wind farm noise assessment in the UK is the ETSU-R-97 – The Assessment and Rating of Noise from Wind Farms.

This document is recommended for the assessment of wind turbine noise in [PPS 22 "Renewable Energy"](#) which advises that "The 1997 report by ETSU for the Department of Trade and Industry should be used to assess and rate noise from wind energy developments". This method of assessment is broadly based on [BS.4142](#). The recommendations for night-time noise are based on the [World Health Organisation Criteria 12 - Noise](#). ETSU-R-97 contains no recommendations on a prediction methodology for wind turbine noise, but an article in the [Institute of Acoustics](#) Bulletin in March/April 2009 set out effectively what has become the established practice. The Environmental Noise Impact Assessment has been carried out in accordance with the guidance/established practice mentioned above.

- 6.59 Measurements have been taken of background noise in the area at 2 positions representative of homes in the area and plotted against wind speed (three were set up but one had to be removed at the occupier's request). The report then sets a daytime and nighttime limit based on ETSU-R-97 recommendations.
- 6.60 The predictions of noise from the candidate turbine have been plotted at the noise sensitive properties and the results have been combined to produce plots of the predicted turbine noise and average background noise at all noise sensitive properties, over the range of windspeeds from 4 – 12 m/s. Graphs and tables have been produced that show the predicted noise levels at all nearby houses compared to the daytime and night-time recommended limits.
- 6.61 It is noted that the distances stated for some of the residential receptors appear to be incorrect in the report for assessing the effect on the residential amenity areas (gardens). The garden areas of Hill House Fold Farm and Hill House Fold Cottage are approximately 370 m from the turbine location rather than the quoted 446m and 559m respectively.. The house location for Hill House Fold Cottage is significantly closer than 559m at approximately 412m. Therefore the necessary adjustments have been made when assessing the information to the predicted noise levels at these positions for daytime in the gardens and night-time at the houses, and the considerations reflect the amendments made.
- 6.62 In the daytime the assessment has found that the noise at all locations would be within the ETSU-R-97 derived limits of 35dB(A) or 5dB(A) above background noise, whichever is the greater. Indeed the turbine would be 5dB(A) less than the ETSU-R-97 derived limits at the nearest residential garden.
- 6.63 In the night-time the assessment found that the noise at all locations would be within the ETSU-R-97 derived limits of 43dB(A) or 5dB(A) above background noise whichever, is the greater. Indeed the turbine noise would be 4dB(A) under the 43dB(A) criteria at the nearest house.

- 6.64 The background noise assessments have established that this is a quiet rural area such that the minimum noise limits will apply at night. In the daytime, the ETSU derived limit of 5dB(A) above background will be met.
- 6.65 The report concludes that the turbine proposed is comfortably able to meet noise limits derived from background noise surveys in accordance with ETSU-R-97 at all residential properties, although with the adjustments made to the distances to the nearest residential amenity areas the headroom below the limit is not as high as the report concludes.
- 6.66 The assessment carried out on the candidate turbine demonstrated that this particular turbine would meet the proposed noise conditions at the nearest residential premises with a reasonable margin. The sound output of modern turbines can be regulated, albeit with some loss of power. The chosen turbine needs to have an overall sound power level no greater than the candidate turbine and shall have the facility to be regulated as such should noise levels in normal operation not comply with the conditions.
- 6.67 There are a number of concerns in relation to the noise assessment carried out in particular the atypical weather conditions during the background assessment, including little data at higher windspeeds, a predominantly south easterly wind and snowfall. The wind direction is a concern as it is likely to bring with it background noise from the M6 motorway.
- 6.68 In light of these concerns and the incorrect distances in the original report, I conclude that there is insufficient information to determine if a 500kW wind turbine in this location (based on the assessment of a candidate turbine), will be able to comply with current standards for wind energy projects and therefore I consider that the proposal would be contrary to relevant advice included in the NPPF, PPS22 Practice Guide and ETSU-R-97.

Tonal noise

- 6.69 ETSU-R-97 also stipulates a method for determining suitable penalties to be taken into account if the wind turbine generates audible tones. Should this application be approved this would be covered by conditions.

Low Frequency Noise and Infrasound

- 6.70 With regard to effects of noise from wind turbines, the main effect depends on the listener's reaction to what they may hear. There are no direct health effects from noise at the level of noise generated by wind turbines. It has been repeatedly shown by measurements of wind turbine noise undertaken in the UK, Denmark, Germany and the USA over the past decade, and accepted by

experienced noise professionals, that the levels of infrasonic noise and vibration radiated from modern, upwind configuration wind turbines are at a very low level; so low that they lie below the threshold of perception, even for those people who are particularly sensitive to such noise, and even on an actual wind turbine site.

- 6.71 In response to concerns that wind turbines emit infrasound and cause associated health problems, Dr Geoff Leventhall, Consultant in Noise Vibration and Acoustics and author of the Defra Report on Low Frequency Noise and its Effects, says: *“I can state quite categorically that there is no significant infrasound from current designs of wind turbines.”*

Amplitude Modulation

- 6.72 The aerodynamic noise is termed ‘amplitude modulated’ (AM) i.e. its volume rises and falls as the turbine blades rotate. The noise is sometimes described as blade swish’. The phenomenon of AM was considered by the Noise Working Group when the limits defined in ETSU-R-97 were established. ETSU-R-97 recognises a potential for AM of up to 3 dBA (i.e. the noise level goes up and down by 3 dBA in each blade rotation) and ETSU-R-97 states that it takes such a degree of blade swish into account in the noise limits it recommends. However the document does not include a specific penalty for AM beyond a 2 dB(A) adjustment setting the fixed noise limit for low wind speeds.
- 6.73 Whilst all the causes are not known, it appears that AM tends to occur under certain meteorological conditions and the limited evidence available suggests this effect is likely to be manifest at a minority of wind farms. Moreover, it is a highly technical area, which despite research by numerous investigators over the last 20 years; there is to date no universally accepted explanation as to the causes of AM or means to predict its occurrence. Indications of increased likelihood of occurrence of AM include excess wind shear (unlikely to occur at this site) and the close proximity of turbines to one another on wind farms (this is a single turbine).
- 6.74 Although the potential occurrence of AM has been routinely raised by objectors to wind farm schemes, many planning inspectors have regarded AM as simply an additional risk, albeit of low probability, and have not specifically refused planning permission or felt the need to apply conditions due to the potential of AM to occur.

Shadow Flicker

- 6.75 Under certain combinations of geographical position, time of day and year, the sun may pass behind the rotor of a wind turbine and cast a shadow. When blades rotate and the shadow passes a narrow window then a person within that room may perceive that the shadow appears to flick on and off; this effect is

known as shadow flicker. It occurs only within buildings where the shadow appears through a narrow window opening. Only buildings within 130 degrees either side of north relative to a turbine can be affected and the shadow can be experienced only within 10 rotor diameters of the wind farm.

- 6.76 As assessment has been carried out by Stratus Environmental Ltd to consider whether 'shadow flicker' is likely to be caused by the proposed wind turbine and assesses the potential for impact on local residential receptors.
- 6.77 The results conclude that shadow flicker is theoretically predicted to occur at various properties within the vicinity of the application site, the details of which are in the report. In practice the magnitude of shadow flicker effect will be less than that calculated, due to a number of factors, including cloud cover, times when turbines are not turning, and orientation of the hubs and rotors. Should shadow flicker be identified as a nuisance there are a number of mitigation methods that could be undertaken.
- 6.78 A further study of the actual effects of shadow flicker should be carried out once the turbine is operational. A light meter and shadow flicker times could be fitted to the turbine, if necessary, which would enable the turbine to be switched off during shadow flicker occurrences at any particular property. The light meter would ensure that the turbine is only switched off when the light conditions on that day are sufficiently strong to give rise to a shadow.
- 6.79 Guidance advises: where wind turbines have been proposed within 10 rotor diameters of an existing occupied building, a shadow flicker assessment should be carried out by the applicant; in circumstances where a wind turbine is fitted with a mechanism to inhibit shadow flicker where it has a potential to effect a property, the determining Authority should judge the shadow flicker impacts on that property to be of negligible significance.
- 6.80 Under current planning guidance there are no published criteria for the assessment of shadow flicker and there is no UK statutory limit or guidance to stipulate acceptable levels of shadow flicker and at what point it becomes a nuisance to human beings. However, some suggest (Northern Irish PPS 18, Predac, 2004) in order to avoid nuisance a maximum of 30 hours of shadow flicker in a calendar year is acceptable with no longer than 30 minutes on any one single occasion. The submitted Shadow Flicker Assessment 7 locations which exceed 30 minutes shadow flicker on a single occasion. All 7 locations are residential properties. However the comments within the assessment state that the mature vegetation between the properties and the application site will reduce any potential for the effect of shadow flicker, to the extent that the proposed turbine would not be harmful to the amenities of nearby residents in this regard subject to appropriate conditions.

Highway Safety

- 6.81 The application site is located approximately 400 metres to the east of Toogood Lane. When in close proximity to roads there is often concern that the movement of the blades on wind turbines would cause distraction to drivers. The companion guide to PPS22 advises that drivers are faced with a number of distractions during any normal journey and wind turbines should not be treated any differently. Along Toogood Lane there is mature landscaping in several locations that would screen views of the turbine although there will be many glimpses as drivers pass along roads in the vicinity. No objections have been raised by the County Highways Engineer to the proposed wind turbine on highway safety grounds.
- 6.82 Throughout the construction phase traffic will travel from M6 Junction 27 along the A5209, turn right onto Moss Lane, right onto Courage Low Lane then turning left into the site after Hesketh House. Whilst the abnormal Loads Officer has suggested 'trial runs', no objections have been raised and the development is not considered to pose harm to highway safety or the free flow of traffic in the vicinity of the site.

Coal Mining

- 6.83 The site lies within the Coal Mining Development High Risk Area. An Environmental Report has been undertaken in support of this application. This report has found that intrusive site investigation works will be required at the application site. The Coal Authority have advised that in order to assess the ground conditions of the site, a condition be attached, which requires the intrusive investigation works to be undertaken prior to any development on the site taking place. Any remedial works will be carried out before works commence on site to ensure the ground conditions are suitably stable.

Ecology and Ornithology

- 6.84 Policy EN1 of the West Lancashire Replacement Local Plan and Policy EN2 of the Submission Document West Lancashire Local Plan DPD (2012-2027) seeks to protect biodiversity by resisting development, which would destroy or adversely effect important wildlife habitats.

Bats (European protected species)

- 6.85 According to the ecology appraisal, two trees at 150 – 160m distance had potential to support roosting bats, and the mosaic of habitats on site (woodland, grassland, tree lines and hedgerows) were considered optimal (moderate to highly suitable) for foraging and commuting bats (paragraph 3.17).

- 6.86 Paragraph 4.11 of the survey concludes that the installation of a wind turbine within the site has the potential to result in mortality to bats (i.e. a breach of the Conservation of Habitats and Species Regulations 2010 (as amended)). However, paragraph 4.12 then argues that as the turbine would be located 150m from the nearest woodland edge and 60m from the nearest hedgerow, and due to a low number of bat records within 2km, the impact to the local bat population would be minimal. The report also claims that under Natural England guidance (TIN059), bat surveys would not be required.
- 6.87 Natural England guidance note TIN059 does state that a bat survey should normally be recommended for applications for turbines within 50m of potential bat habitat (in recognition of the fact that the risk will be higher at this distance, in most cases and for most species). However, the guidance does not state that surveys are not required at distances of greater than 50m. The need for surveys should be informed by the likely risk at this site. Moreover, and although the height of the closest hedgerow (or associated hedgerow trees) is not clear, the proposed turbine location appears not to maintain a safe distance (50m) between turbine blades and potential habitat (or it appears marginal that a safe distance would be maintained).
- 6.88 Following surveys, it may then be possible to infer that the risk to bats (and bat populations) would be minimised by the siting guidance (i.e. locate the turbine blades at greater than 50m from bat habitat) or indeed that some other form of mitigation may be appropriate (for example, switching off at low wind speeds, or habitat management to discourage bat foraging near the turbine).
- 6.89 Further survey information has been submitted. Paragraph 2.4 states that the surveys were based on guidance from the Bat Conservation Trust. It should be noted however that whilst the survey methods are those recommended by the guidance, the survey effort does not appear to be consistent with the guidance.
- 6.90 The report acknowledges that the installation of a turbine within this site has the potential to result in bat mortality, but concludes that the impact is likely to be of low magnitude although possibly resulting in a long-term minor negative impact to individual bats. The assessment of risk to bat populations (paragraph 4.15 onwards) will only be valid and reasonable if the results of bat surveys carried out to date do in fact constitute robust and representative data on bat species and bat activity at this site throughout the bat active season. However, as noted, survey effort does not appear to meet the minimum survey standards. The statutory nature conservation organisations in the UK support the use of the BCT guidelines, and make it clear that deviations from the published guidance in mitigation and survey strategies may be acceptable where it is supported by a thorough ecologically relevant justification. In this case it is not clear that there is any ecological justification for not meeting the minimum survey effort as recommended by the BCT guidance.

6.91 In conclusion, it seems clear from the report that there is a risk to bats at this site, but that the significance of likely impacts cannot be reliably established in the absence of further survey in accordance with the BCT guidelines or a thorough ecologically relevant justification of the deviation from the guidelines. I do not consider that there is sufficient information submitted to be able to assess the impact on European Protected Species namely bats.

Amphibians, including great crested newts (European protected species)

6.92 There are a large number of ponds in wider area, at varying distances from the proposed turbine and of varying suitability to support great crested newts (and presumably other amphibians, although this does not appear to be specifically addressed). Terrestrial habitats on site were considered suitable to support newts (paragraph 3.22). However, due to the small footprint of development, limited loss of sub-optimal habitat, and short duration of ground works, impacts on great crested newts are thought to be reasonably unlikely (paragraph 4.17). The report does recommend however that a precautionary method statement is developed for the avoidance of impacts on great crested newts (paragraph 4.18). I consider this to be a reasonable approach, and the submission of detailed proposals, for the avoidance of impacts on amphibians, for approval and subsequent implementation in full could be the subject of planning condition.

Birds, including collision risk

6.93 Collision risk modelling is used to estimate the number of bird flights through the rotor-swept area and then calculate/ predict the proportion of birds that would be hit. As noted in Natural England guidance (TIN069), the quality of the underlying data is critical in achieving reliable model outputs and a significant limitation of collision models relates to data collection. The guidance also stresses the importance of observing bird flight behaviour under conditions of poor weather and at night, as excluding such observation might significantly underestimate collision risk.

6.94 Further information has been submitted in relation to the Ornithological implications of the turbine.

6.95 The ornithology report concludes that impacts on wintering wildfowl (swans and geese) are unlikely. From the information available to me, I would agree that significant impacts on species such as pink-footed goose or whooper swan do appear reasonably unlikely in this location.

- 6.96 However, the results of the breeding bird survey appear to indicate that curlew breed within fields immediately to the east of the proposed wind turbine. Curlew is a Species of Principal Importance in England (section 41 NERC Act 2006) and, contrary to the statements made at paragraph 6.4, is a species which is particularly sensitive to displacement away from turbines (Pearce-Higgins et al., 2009). It therefore seems likely that the population of breeding curlews in this area would be reduced/ lost as a result of these proposals.
- 6.97 Paragraph 6.4 states that bird surveys have covered the area within at least 500m of the proposed turbine. It is not clear that this is the case: the breeding bird survey plans (both marked figure 2.0) appear to show a much reduced survey extent to the east and south of the proposed turbine location. It is thus not entirely clear how many pairs of curlew might breed in this area or potentially be affected by this development.
- 6.98 The ornithology report concludes that no significant populations of species considered vulnerable to a single turbine are present, and that in the absence of significant effects mitigation is not considered appropriate or necessary.
- 6.99 Policy EN2 of the submission version West Lancashire Local Plan DPD (2012-2017) states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains where possible, It is worth noting that even if the proposals only result in impacts on a low number of breeding curlew at this site, this would represent a loss of biodiversity value from the local area. Without the local or regional context for the breeding population of curlew, it is not clear that this would not represent a significant impact at the local scale. Moreover, if every turbine resulted in the displacement of only one pair of curlew, in the absence of mitigation this would quickly result in a significant cumulative impact on this priority species.
- 6.100 Therefore, whilst the likely impact on curlew might not be so significant as to justify a refusal of planning permission, it would seem entirely appropriate for this development to deliver some biodiversity offsetting (or ideally enhancement) and thereby contribute to maintaining biodiversity. For example, likely impacts on curlew could be offset through the management/ enhancement of other suitable land (at an appropriate distance from the proposed turbine) for the benefit of wading birds.
- 6.101 The predicted collision rates do seem extremely low considering that for the purposes of the model it is assumed that several thousand geese fly past the turbine each year. Indeed, I am aware of other sites within Lancashire, where smaller flocks of geese have resulted in much higher predicted collision rates. I do not consider there is sufficient information contained in the Ornithological Report to assess the impact of the proposed development on Species of Principal Importance in England.

Habitats of Principal Importance in England (section 41 NERC Act 2006)

- 6.102 The proposed site layout indicates that the track may need to be widened in several places. Aerial photographs suggest that at least in one location, this may involve some removal of hedgerow. If any hedgerows do need to be removed, then not only will it need to be ensured that impacts on protected and priority species (e.g. nesting birds, great crested newts) are avoided but also that any loss of hedgerow extent is adequately compensated through replacement hedgerow planting or by enhancement of existing hedgerows (e.g. gapping up, laying of outgrown hedgerows, or 'enhanced' management to maintain tall, wide and bushy hedgerows). No information has been submitted in relation to removal of hedgerows
- 6.103 I do not consider there is sufficient information submitted to be able to assess the potential impact of the proposal European Protected Species namely bats, nor to be able to assess the impact on the ornithology of the area and therefore consider the development to be contrary to Policy EN1 of the West Lancashire Replacement Local Plan and Policy EN2 of the Submission Document West Lancashire Local Plan DPD (2012-2027)

Aviation

- 6.104 The Ministry of Defence (MoD), Blackpool Airport, BAE Warton and National Air Traffic Services (NATS) have been consulted as part of the application process as wind turbines can affect their radar systems. None of these bodies has raised objections to the proposed wind turbine and there are no aviation safeguarding reasons to object to this proposal. It is indicated that no consultation has been made with Warton BAE Systems in relation to the police helicopter. BAE were consulted on 28th March 2013, no response has been received to the consultation letter.

TV Reception/Communications Infrastructure

- 6.105 Electromagnetic interference can arise when wind turbines interact with electromagnetic transmissions. Radio waves and microwaves are used in a variety of communications and large structures have the potential to interfere with these telecommunications signals. Consultations have been carried out by the agent and within the environmental report it is stated that the proposed turbine is located to maintain sufficient separation from all the links to prevent interference. The separation from the Electricity North West link exceeds that requiring more detailed co-ordination. The proximity of the turbine to the Vodafone link to the south (VFE08322) does require more detailed co-ordination and this is being undertaken although because the turbine is wholly outside of the link second

Fresnel zone, Vodafone are likely to determine that no impacts should arise. In addition a consultation has been conducted with Arqiva, who operate the television broadcast infrastructure for the United Kingdom who have indicated that the proposed turbine would have no impacts.

- 6.106 Based on the information submitted I do not consider there will be any impact or interference on TV Reception or communications infrastructure in the area.

Safety

- 6.107 There have been incidents throughout the UK where wind turbines have been reported to set on fire or shed part or all of a blade. Turbines are designed to operate at high safety standards and the wind energy industry has a duty to act responsibly. The Technical Annex of PPS 22 states that *'experience indicates that properly designed and maintained wind turbines are a safe technology. The very few accidents that have occurred involving injury to humans have been caused by failure to observe manufacturers' and operator's instructions for the operation of the machines. There has been no example of injury to a member of the public'*. Although there is never any guarantee that the turbine will operate safely throughout its lifespan, wind turbines are now designed with sophisticated safety systems, including shut down in high winds. I am satisfied that there are no health and safety grounds to object to the current proposal.

Precedent

- 6.108 A number of the letters of objection received comment on the proposal setting precedent for future wind turbine development of this scale in the Wrightington area. The site is within an area that is considered to be of *'moderate sensitivity'* to wind energy development. It is therefore an area within the Borough that developers may look at within the future for further wind energy development. However, any additional wind turbines would require planning permission and would be assessed on their own merits.

Decommissioning

- 6.109 The life span proposed for the turbine is 25 years and to replace the turbine or extend this time period would require a further planning consent.

Neighbour representations

- 6.110 Throughout the course of the application the Council has received a significant number of letters from members of the public. These include over 600 letters of objection. The objections have been wide ranging but the majority of concerns raised relate to the visual impact of the turbine and potential disturbance for

nearby residents from its operation. These issues have been comprehensively addressed in the body of the report. I am satisfied that other material planning considerations that have been raised have been fully considered and discussed throughout the report.

Summary

- 6.111 It is clear that there is a firm push from government for the development of renewable energy, however renewable energy development must not significantly compromise the surrounding landscape and environment. I conclude that there would be no detrimental impact upon highway safety, aviation and TV reception as a result of the development. However, with regard to the impact upon visual amenity and the landscape, I consider that the introduction of this tall columnar man-made angular feature into an undulating picturesque natural environment devoid of any structure of this scale will have a detrimental effect on the visual amenity of the area and character of the wider landscape. I consider that the introduction of a single turbine of the proposed scale in this location would detrimentally detract from the visual amenity of the picturesque, natural landscape and although the very special circumstances put forward by the applicant are valid material considerations I do not consider that they override the adverse impact upon the visual amenity of the Green Belt and the character of the landscape which is contrary to Policy GD1 and DS2 of the West Lancashire Replacement Local Plan and Policy GN3 of the Submission Document West Lancashire Local Plan DPD (2012-2027).
- 6.112 With regards to the impact on residential amenity of neighbouring properties by way of noise, having considered the site specific assessment and other guidance, research and relevant reports produced since ETSU-R-97 was published I conclude that there is insufficient information to determine if a 500kW wind turbine in this location (based on the assessment of a candidate turbine), will be able to comply with current standards for wind energy projects. The proposal is therefore contrary to GD1 of the West Lancashire Replacement Local Plan and Policy GN3 of the Submission Document West Lancashire Local Plan DPD (2012-2027).
- 6.113 With regards to ecology and ornithology, I consider that there is insufficient information submitted to be able to assess the potential impact of the proposal European Protected Species namely bats, or to be able to assess the impact on the ornithology of the area and therefore consider the development to be contrary to Policy EN1 of the West Lancashire Replacement Local Plan and Policy EN2 of the Submission Document West Lancashire Local Plan DPD (2012-2027).

7.0 **RECOMMENDATION**

7.1 That planning permission be **REFUSED** for the following reasons

Reasons for Refusal

1. The proposed development conflicts with Policies DS2 & GD1 of the West Lancashire Replacement Local Plan, the National Planning Policy Framework and Policy GN3 of the Submission Document West Lancashire Local Plan DPD (2012-2027), in that the introduction of a tall columnar man-made angular feature into this undulating picturesque natural environment devoid of any structure of this scale will have a detrimental effect on the visual amenity of the area and character of the wider landscape. The introduction of a single turbine of the proposed scale in this location would detrimentally detract from the visual amenity of the landscape and the very special circumstances advanced do not override the adverse impact upon the visual amenity of the Green Belt and the character of the landscape.
2. The proposed development is contrary to Policy EN1 of the West Lancashire Replacement Local Plan and Policy EN2 of the West Lancashire Local Plan Submission Version in that insufficient information has been provided to enable a full ecological assessment to be made relating to European protected species (bats) and the ornithology of the area.
3. The proposal is contrary to GD1 of the West Lancashire Replacement Local Plan and Policy GN3 of the Submission Document West Lancashire Local Plan DPD (2012-2027) in that insufficient information has been submitted to determine if a 500kW wind turbine in this location (based on the assessment of a candidate turbine), will be able to comply with current standards for wind energy projects by way of noise with consequent detriment to the amenity of nearby residents.



AGENDA ITEM: 8.

**PLANNING COMMITTEE:
25th July 2013**

Report of: Assistant Director Planning

Relevant Managing Director : Managing Director (Transformation)

**Contact for further information: Miss E.O.M. Woollacott (Extn. 5135)
(Email: eileen.woollacott@westlancs.gov.uk)**

SUBJECT: ENFORCEMENT ITEMS

1. PURPOSE OF REPORT

- 1.1 To bring to Members' attention those alleged breaches of planning control where a decision needs to be made as to whether authorisation be given to issue formal notices.

2. RECOMMENDATION

- 2.1 (a) That the Borough Solicitor be authorised to issue notices of the types and under the Sections of the Town and Country Planning Act 1990 and the Planning (Listed Building and Conservation Areas) Act 1990 as amended and set out below, requiring the steps to be taken within the time periods and for the reasons, all as set out below.
- (b) That the Borough Solicitor be authorised to take proceedings where any steps required by the notice are not taken within the period for compliance and the Borough Planner be authorised to enter the land and take those steps. In the event of the Borough Planner having to take such action, he be authorised to recover the expenses reasonably incurred.

(c) That the Borough Solicitor be authorised to withdraw, vary and re-issue notices if subsequent information indicates this to be necessary.

OR

(d) That no further action be taken.

3. BACKGROUND

3.1 The following reports detail alleged breaches of planning control where I consider authorisation to issue a notice would be appropriate. As with all such cases, I shall, during implementation of the appropriate procedures, continue to negotiate to try and achieve removal of the breach without the need for formal action. The cases are set out below, including an indication of the type of notice, the steps to be taken, the time period for compliance and the reason for the notice.

ENFORCEMENT No: E/2012/0130/UAU

LOCATION: 12 LYELAKE LANE, LATHOM

ALLEGED BREACH: WITHOUT PLANNING PERMISSION CHANGE OF USE OF LAND AND BUILDINGS FROM RESIDENTIAL TO MIXED USE RESIDENTIAL AND KEEPING AND BREEDING OF DOGS

- 4.1 The property is a semi-detached dwelling located on the west side of Lyelake Lane south of the junction with Dickets Lane, Lathom and is within the Green Belt. Planning permission 2006/0098 was granted and implemented for a two-storey side extension at the property. The current owners have resided at the property since July 2007 and moved there with eight Akita dogs which they show.
- 4.2 To the rear of the property in the garden area the owners have converted an existing stable into four dog pens and opposite have erected a further seven pens for the keeping of their dogs. The seven pens are bolted together although not fixed to the ground and have a Perspex roof and lighting fitted. Separate dog runs have also been created on the land which has a paved surface.
- 4.3 The Council received a complaint regarding the number of dogs at the property together with the creation of the structures and runs on the land. When officers visited the property the owners had 10 Akita dogs aged between seven months and twelve years. The Council issued a Planning Contravention Notice and the owners have provided information that the number of dogs at the property since they purchased it in 2007 has ranged between eight and eleven dogs. Breeding between the dogs has taken place producing on average per annum between fifteen to twenty puppies the majority of which are sold.
- 4.4 Policy GD1 of the adopted West Lancashire Replacement Local Plan 2006 sets out a list of criteria covering the design of development that any scheme must comply with to ensure it contributes positively to the quality of life. Criterion (xiii) says that development will be permitted if it retains reasonable levels of privacy, amenity and sufficient garden/outdoor space to meet the needs of occupiers of the building concerned and neighbouring ones. Similar requirements are made within the emerging Local Plan Policy GN3(1)(iii) and the NPPF's fourth core land use principle, which seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 4.5 There is no rule of thumb measure relating to how many dogs would result in a material change of use rather than being incidental. Whether the activity is for hobby/humanitarian purposes or commercial gain on its own is not a determining factor. There is a suggestion from case law that more than 6 dogs would trigger a change of use, but a High Court judge did say this was a speculative and arbitrary figure. However, factors which can assist to assess whether the extent of animal keeping has significantly altered the domestic nature of a property, taking into consideration its size and relationship to neighbouring ones, include:

- the erection of an unusual number of special structures for the animals in the garden;
- increased comings and goings at the property due to the presence of the dogs;
- the employment of others;
- substantial noise generation; and
- the size and breed of dog.

In my view the extent of animal keeping at this property is such that the domestic character is significantly changed from what could be reasonably expected as incidental at this particular house. The erection of the structures described above in the garden of a semi-detached dwelling, the increased comings and goings, the employment of others, noise issues and the size of breed have resulted in a significant change to the nature of the use of the property. It is not incidental and a material change of use has occurred from residential to a mixed use residential/keeping and breeding of dogs.

- 4.6 The owners were advised planning permission was required, but to date no application has been submitted and the Council continues to receive complaints regarding the number of dogs at the property and the number of people visiting to view the dogs. The most recent information is that there are fourteen adult Akitas plus two litters of puppies at the property. Taking into consideration the seven factors cited in paragraph 4.5 above and that there is an existing stable building that has been converted to house some of the dogs, I consider in this case that more than four adult dogs would trigger a material change of use. This is reflected in the recommended requirements of the notice, as is the four months compliance period to give the owners a reasonable time to re-home the other dogs.
- 4.7 Given the above I consider it is expedient to pursue enforcement action to remedy this breach of planning control and ensure the cessation of the mixed use of the dwelling for the keeping and breeding of dogs, which is contrary to Policy GD1 of the West Lancashire Replacement Local Plan; Policy GN3(1) of the submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document, and the NPPF.
- 4.8 Type of notice- Enforcement notices under Section 172.

Compliance period – Four months.

Steps to be taken to remedy this breach of planning control

1. Cease the use of the property for the keeping and breeding of dogs, except in relation to four adult dogs.
2. Excluding the converted stable, disassemble/demolish all the pens and runs and remove the resultant materials from the site.

Reason for issuing the notice:

The retention of the use for the keeping and breeding of dogs conflicts with Policy GD1 of the West Lancashire Replacement Local Plan; Policy GN3(1) of the submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document and paragraph 17 and section 7 of the NPPF in that the scale of the use results in a loss of amenity for the occupants of the adjacent property.

ENFORCEMENT No. E/2012/0152/UST

LOCATION SPRINGFIELD, GUIDE ROAD, HESKETH BANK
ALLEGED BREACH WITHOUT PLANNING PERMISSION THE ERECTION OF A 11KW WIND TURBINE INSTALLED ON A 13.7M HIGH MAST WITH 8M DIAMETER BLADES (18.48M HIGH TO BLADE TIP).

- 5.1 The site relates to land to the rear of Springfield, which is a replacement dwelling house (2007/1499/FUL). To the north on the neighbouring site is a large greenhouse development and to the south and west is open agricultural land. There are a number of residential properties along the frontage of Guide Road. The site is located within the Green Belt, Coastal Zone and is within a flood risk area.
- 5.2 Planning permission 2010/0990/FUL was granted at this site on 10/12/2010 for the erection of one **10kw** 15m high wind turbine, with 3.5m long blades (total height to blade tip 18.5m). A complaint was received in April 2012 that the wind turbine had been erected in the incorrect position. It is sited about 42m from the rear (south-west) boundary of the property instead of the approved 24m.
- 5.3 Consequentially, a planning application was submitted (2012/0818/FUL) in July 2012 to retain the siting of the wind turbine. It was also noted, from the submitted information, that an **11kw** wind turbine had been erected on a 13.7m high mast with 8m diameter blades (18.48m high to blade tip) which also differed to the approved planning application.
- 5.4 During the assessment of the application, as concerns were raised in terms of the correct height of the wind turbine, attempts were made by the Local Planning Authority to arrange a convenient time to measure the erected wind turbine. Unfortunately, this meeting did not occur and to date the wind turbine on site has not been measured by the LPA.
- 5.5 However, in determining planning application 2012/0818/FUL it was acknowledged that although wind turbines are inappropriate development in the Green Belt there were very special circumstances that outweighed the harm. It was also deemed that the development would not have a foreseen detrimental impact upon the residents of adjacent properties (subject to the noise survey being that relating to the wind turbine that had been erected) or biodiversity. The main area of concern in determining this application was its impact upon aviation.
- 5.6 The Ministry of Defence (MOD) objected to the application on 02/04/2013 on the grounds that the development causes unacceptable interference to the ATC radar at Warton Aerodrome.

5.7 The National Planning Policy Framework (NPPF) indicates that “when determining planning applications, local planning authorities should apply the presumption in favour of sustainable development and approve the application if its impacts are (or can be made) acceptable”. The NPPF is also clear that local planning authorities should follow the same approach set out in the National Policy Statement for Renewable Energy Infrastructure in conjunction with the relevant sections of the Overarching National Policy Statement for Energy Infrastructure.

5.8 Section 5.4 of the Overarching National Policy Statement for Energy (EN1) addresses civil and military aviation and defence interests. Paragraph 5.4.7 states:

Safe and efficient operations within UK airspace is dependent upon communications, navigation and surveillance (CNS) infrastructure, including radar (often referred to as ‘technical sites’). Energy infrastructure development may interfere with the operation of CNS systems such as radar. It can also act as a reflector or diffractor of radio signals upon which Air Traffic Control Services rely (an effect which is particularly likely to arise when large structures, such as wind turbines, are located in close proximity to Communications and Navigation Aids and technical sites). Wind turbines may also cause false returns when built in line of sight to Primary or Secondary Surveillance radar installations.

5.9 Paragraph 5.4.17 of the Statement sets out circumstances where permission should not be granted, one being that the development should not have an “*impact on the safe and efficient provision of en route air traffic control services for civil aviation, in particular through an adverse effect on the infrastructure required to support communications, navigation or surveillance systems*”.

5.10 Therefore, the response received from the MOD during the determination of the planning application was a material planning consideration. As the MOD objected to the planning application it was considered that the development failed to comply with the NPPF together with the Overarching National Policy Statement for Energy (EN1) and was refused on the 7th June.2013 for the following reason:

The development conflicts with the requirements of Policy EN1 in the West Lancashire Local Plan (2012-2027) Submitted Document, the National Planning Policy Framework together with the Overarching National Policy Statement for Energy (EN1) in that the wind turbine could potentially present a hazard to the safe operation of aviation interests in the vicinity of the site.

5.11 It should be noted by Members that there is an existing planning permission on this site for the erection of one 10kw 15m high wind turbine (2010/0990/FUL) which expires on 10/12/2013. The MOD was not consulted on this 2010 application, as it was not until April 2011 that the MOD formally requested that the Local Planning Authority consult on wind turbines over a height of 11m (to blade tip) or wind turbines with a rotor diameter of 2m or more. As a result of the MOD's objection, further enquiries were made by the LPA to the MOD. The MOD state that although they were not consulted in 2010, the radar line of sight methodology has evolved significantly since 2010. The MOD now use calculations which take account of radar band diffraction, whereas in 2010 the calculations were based upon a simple line of sight assessment. Also the MOD's computer modelling is more precisely based upon the specific parameters of the radar at Warton than it was in 2010. The MOD therefore maintained the objection to the application.

5.12 Given the turbine, as erected, is contrary to Policy EN1 in the West Lancashire Local Plan (2012-2027) Submitted Document, the National Planning Policy Framework together with the Overarching National Policy Statement for Energy (EN1), I consider it is expedient to pursue enforcement action to remedy the breach of planning control.

5.13 Type of notice - Enforcement notices under Section 172.

Compliance period – Three months.

Steps to be taken to remedy the breach of planning control:

1. Cease the use of the wind turbine.
2. Demolish and disassemble the wind turbine and concrete base and remove all resultant materials from the site.

Reason for issuing the notice:

The retention of the wind turbine conflicts with the requirements of Policy EN1 in the West Lancashire Local Plan (2012-2027) Submitted Document, the National Planning Policy Framework together with the Overarching National Policy Statement for Energy (EN1) in that the wind turbine could potentially present a hazard to the safe operation of aviation interests in the vicinity of the site.

ENFORCEMENT No: E/2013/0079/UAU

LOCATION: EQUESTRIAN CENTRE, LEISURE LAKES, THE GRAVEL, MERE BROW

ALLEGED BREACH: WITHOUT PLANNING PERMISSION THE CHANGE OF USE OF THE EQUESTRIAN CENTRE TO A MIXED USE OF EQUESTRIAN CENTRE AND THE SITING OF CARAVANS FOR RESIDENTIAL, ANCILLARY AND OTHER PURPOSES AND THEIR PARKING AND/OR STORAGE

- 6.1 The site is the Leisure Lakes Equestrian Centre (LLEC) which is located within the north-eastern part of the Leisure Lakes complex and is south of the residential properties located along The Gravel and Tabby Nook. The site is occupied by an established livery yard. There are a number of buildings on the site including a U-shaped stable/office building, a hay barn/store and a manure store. The present tenants (three partners of LLEC) took over the lease in October 2011. Having erected an unauthorised stable building in June 2012 they were granted planning permission 2012/1226/FUL in March 2013 for the retention of this 4 stables block as well as a proposed one containing 10 stables. There has been a static caravan at the centre since 2009, but now a second one has been brought onto the site. Tourers have also been seen on the site, so there appears to be a recent tendency to have caravans for different purposes and sizes on the site.
- 6.2 A complaint was received that two static caravans have been sited on the land to the south of the U-shaped stable/office building and are in use by the tenants as living accommodation. Apparently one of the children goes to the Mere Brow primary school and the oldest is at a secondary school in Southport.
- 6.3 In a statement dated the 15th October 2012 one of the occupants said on average they keep 16 horses at any given time and they are responsible for 9 of them, whilst the remaining are in livery. Officers established during a site visit in May 2013 that 21 horses are being kept at the stables. The tenants denied that they are living on a permanent basis in the caravans, as they have other addresses outside the Borough and use the caravans to stay over occasionally on site to avoid travelling. However, this raises questions why they do not keep a caravan on the nearby caravan site for such purposes and why a second one has been brought onto the site. Consequently, they were advised planning permission was required for the retention of the caravans, but to date an application has not been submitted.

- 6.4 The NPPF says the aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence and the Green Belt serves five purposes. In this case, the purpose relating to the safeguarding of the countryside from encroachment is valid. In paragraph 87 the NPPF re-iterates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 advises that when considering any planning application substantial weight be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of its inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 6.5 Policy DS2 of the West Lancashire Replacement Local Plan states that planning permission will not be given except in very special circumstances for the changes of use of land unless they would maintain the openness of the Green Belt and not conflict with the purposes of including land in the Green Belt. Also, there is a presumption against residential development in the Green Belt, and this is particularly the case regarding the urbanising impact emanating from the paraphernalia and/or manicured character of associated garden areas. Therefore, the siting of residential and ancillary caravans and the storage of caravans within the Green Belt is contrary to Policy DS2 of the West Lancashire Replacement Local Plan due to the detrimental impact on the openness and visual amenity of the Green Belt and the conflict with one of the purposes of including land in Green Belt aimed at safeguarding the countryside from encroachment by inappropriate uses. However, the NPPF indicates by an absence of mention that changes of use of land are automatically inappropriate development, as confirmed by two appeal decisions issued in the Borough in August 2012 and February 2013. The latter shows that Policy DS2 is inconsistent with the advice in the NPPF in permitting material changes of use in the Green Belt provided the tests of openness and purposes are met, and this conflict is more than limited. Having regard to the advice in Annex 1 of the NPPF, the weight that can be attached to this part of Policy DS2 is therefore reduced and should not be followed. Policy GN1(b) of the emerging Local Plan has more weight given it states development proposals within the Green Belt will be assessed against national policy and any relevant local plan policies.

- 6.6 The retention of residential and ancillary caravans and the storage of caravans on the land is inappropriate development, which can only be justified by very special circumstances. To date no such information has been provided to be considered sufficient very special circumstances to outweigh the harm of inappropriate development. Therefore, I do not consider very special circumstances have been proved to outweigh the harm to the Green Belt due to inappropriateness, so the retention of the caravans is contrary to Policy GN1(b) of the emerging West Lancashire Local Plan and paragraph 17 and section 9 of the NPPF. Furthermore, the NPPF considers openness to be an essential characteristic of Green Belts and the presence of the caravans does reduce openness.
- 6.7 Policy GD1 of the West Lancashire Replacement Local Plan relates to the design of development and seeks to protect the visual amenity and character of the area. Criterion (ix) states that development will be permitted if it complements or enhances any attractive attributes of its surroundings through sensitive design which includes appropriate siting, orientation, scale, materials, landscaping, boundary treatment and detailing. Policy DS2(7) of the West Lancashire Replacement Local Plan states that development if permitted will be subject to strict design control to maintain the openness and the visual amenity of the Green Belt. Similar requirements are made within the emerging Local Plan Policy GN3(1)(iv) and the NPPF's fourth core land use principle, which seeks to achieve a good standard of amenity for all existing and future occupants of land and buildings.
- 6.8 The landscape around the site is open in nature and the caravans are very visible from the public footpath which comes via Tabby Nook and follows the main north/south access road that serves the Leisure Lakes complex. Paragraph 81 of the NPPF and Policy DS2(7) require that development retains the visual amenity of the Green Belt. Therefore, they are prominent features in the landscape, so there is significant harm to the character and appearance of this rural area contrary to policy.
- 6.9 Given the fact this use of land is inappropriate development in the Green Belt I consider it is expedient to take action to remedy this breach of planning control. As at least one of the caravans is in residential use it would be reasonable to give a six months compliance period.
- 6.10 Type of notice – Enforcement notice under section 172

Compliance period - Six months for the residential caravans and three months for the ancillary, other and stored/parked caravans.

Steps to be taken to remedy the breach of planning control:

1. Cease the use of the land for the siting of residential and ancillary caravans and the storage of caravans.
2. Remove all the caravans and associated domestic paraphernalia from the site.

Reasons for issuing the notice:

1. The use of the land for the siting of caravans for residential, ancillary and other purposes and their parking and/or storage conflicts with Policy GN1(b) of the submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document and paragraph 17 and section 9 of the NPPF (protecting Green Belt land) as it constitutes inappropriate development that unduly reduces the openness of the Green Belt and has not been justified by very special circumstances.
2. The use of the land for the siting of caravans for residential, ancillary and other purposes and their parking and/or storage is contrary to Policies DS2 and GD1 of the adopted West Lancashire Replacement Local Plan 2006, Policies GN1(b) and GN3(1) of the emerging West Lancashire Local Plan Submission Document and paragraph 17 and section 7 of the NPPF in that they are prominent features in the landscape not in keeping with the rural surroundings so causing significant harm to the character and appearance of this rural area and being detrimental to the visual amenity of the Green Belt.



AGENDA ITEM: 9.

**EXECUTIVE OVERVIEW AND
SCRUTINY:
4 July 2013**

**PLANNING COMMITTEE:
25 July 2013**

CABINET: 17 September 2013

Report of: Assistant Director Planning

Relevant Managing Director: Transformation

Relevant Portfolio Holder: Councillor M Forshaw

**Contact for further information: Gillian Whitfield (Extn. 5393)
(E-mail: gillian.whitfield@westlancs.gov.uk)**

**SUBJECT: COMMUNITY INFRASTRUCTURE LEVY – DRAFT CHARGING
SCHEDULE**

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To inform Executive Overview and Scrutiny, Planning Committee and Cabinet of the proposed Community Infrastructure Levy (CIL) rates as set out within the Draft Charging Schedule (draft schedule) (Appendix 2) and to seek approval from Cabinet to begin a 6 week consultation period in September – October 2013 prior to submission of the document, in November 2013, to the Planning Inspectorate for Examination in Public.

2.0 RECOMMENDATIONS TO EXECUTIVE OVERVIEW AND SCRUTINY

2.1 That the content of this report and the CIL rates within the draft schedule (Appendix 2) be considered and that agreed comments be referred to Cabinet for consideration.

3.0 RECOMMENDATIONS TO PLANNING COMMITTEE

3.1 That the content of this report and the CIL rates within the draft schedule (Appendix 2) be considered and that agreed comments be referred to Cabinet for consideration.

4.0 RECOMMENDATIONS TO CABINET

- 4.1 That Cabinet, subject to consideration of the agreed comments received from Executive Overview and Scrutiny (Appendix 3) and Planning Committee (Appendix 4), approve the draft schedule at Appendix 2 to this report to be made available for public representation for 6 weeks in September-October 2013 (the consultation period).
 - 4.2 That delegated authority is granted to the Assistant Director Planning, in consultation with the Portfolio Holder for Planning & Development, to make any amendments to the draft schedule before submitting it to the Planning Inspectorate for Examination in Public, together with all the representations received during the consultation period and a statement detailing any such modifications.
 - 4.3 That Call In is not appropriate for this item as the report has been submitted to the Executive Overview & Scrutiny Committee on 4 July 2013.
-

5.0 COMMUNITY INFRASTRUCTURE LEVY BACKGROUND

- 5.1 CIL is a new financial charge on development in England and Wales that Local Authorities can choose to charge on new developments in their area. The funds raised can be spent on providing infrastructure to support new development. CIL can operate alongside Section 106 obligations where they are required for site specific issues but is intended to provide up front transparency for developers in terms of financial contributions and to reduce the need for complex Section 106 obligations.
- 5.2 Whilst the introduction of CIL is not mandatory, the limitations to the use of Section 106 through placing the tests into regulation and limiting the ability to pool monies towards infrastructure suggests that many Local Authorities will be encouraged to introduce the CIL or face considerable reductions in financial obligations to support new development.
- 5.3 In the past ten years the Council has successfully secured in excess of £1million each for public open space and transport improvements. The expenditure of these funds is ongoing and will continue to be until the funds have been spent.
- 5.4 However, moving forward it will become increasingly difficult for the Council to secure sums of money and spend them in accordance with the current arrangements. For example, public open space contributions are sought based on a standard calculation and then spent reasonably flexibly in consultation with ward and parish councillors. The limitations to Section 106 mean that a standard tariff approach, as set out within the Council's Open Space / Recreation Provision in New Residential Development Supplementary Planning Document (2009) will only be acceptable through a CIL charge. It also means that Section 106 obligations will need to be much more specific in the initial stages regarding the details of the project, thus removing some of the flexibility we currently have. Officers are already being faced with challenges from the large house builders

who require detailed justification up front regarding the financial obligations which are being asked of them.

CIL Update

- 5.5 When the CIL was initially established, it was never intended that all Local Authorities would introduce the charge. Only those that could demonstrate viability would be likely to make the transition and it was predicted that this would be around 75% of all local authorities in England and Wales. CIL has been in operation for over three years now and to date:
- More than 100 local authorities across the country are working on CIL with a view to introducing a charge. This has doubled in the last 6-12 months suggesting that CIL is picking up momentum
 - 13 local authorities have adopted a CIL charging schedule.
 - Several more local authorities are either waiting to go to examination or are awaiting the results of their examination, including Central Lancashire (Preston, Chorley and South Ribble).
- 5.6 In terms of Local Authorities in the North West, Trafford and Bolton (Greater Manchester Authorities) have published preliminary draft charging schedules for consultation. Within the Lancashire sub-region, the Central Lancashire Authorities have recently gone through an examination of a Joint CIL Charging Schedule in April 2013 and are awaiting the results which will be provided verbally at the time of the Cabinet Meeting (17 September).

6.0 CURRENT POSITION

- 6.1 In March 2012 the Council engaged consultants Keppie Massie and Quantity Surveyors Tweeds to assess the economic viability of development in the Borough. This work demonstrated the amount of 'surplus' value within each type of development that is expected to come forward within the Borough at different locations. It is from within this 'surplus' that a CIL charge can be derived.
- 6.2 The findings of the viability work were then cross-referenced with the Council's housing land supply and new Local Plan development allocations to ensure that any proposed charge does not unnecessarily risk the delivery of development within the Borough. These results then went into the Preliminary Draft Charging Schedule which was consulted upon in February – March of this year.

Consultation Findings

- 6.3 A total of 49 respondents submitted comments to the Preliminary Draft charging Schedule from a mix of landowners, developers, house builders, infrastructure providers and local groups. The responses were made up of the following:

	Number
Support	14
Object to the principle of CIL	9
Object to rate / approach	13
No objections / no comments	9
Observations	4
Total	49

- 6.4 The majority of those objecting to CIL were opposed to the approach to the rate setting or the rates themselves rather than the principle and in many cases the respondent noted an overall support to the principle of CIL. The remaining objectors were those who objected to the principle of CIL. This was to some extent appeared to be as a result of a misunderstanding of CIL and the possible benefits of the system. However, some were just entirely opposed to any further costs to developers / landowners, irrespective of the need to consider infrastructure delivery.
- 6.5 Of those who submitted detailed comments questioning the methodology for assessing viability, the assumptions used and the level of the rate of CIL recommended, no respondent was able to substantiate their objections with evidence to support why the rate should be different. Even after several follow up attempts by the Council and our consultants, no further evidence was submitted and all objections were responded to in full within the consultation report (available separately as part of the CIL evidence base or on request).
- 6.6 The CIL regulations require a charging schedule to be based on appropriate and available evidence. The evidence used to establish the West Lancashire rate is based on the consultant's thorough understanding of the local market, numerous sources of data and discussions with local and national developers and house builders.

Recommendations and changes to the draft schedule

- 6.7 A number of points were raised within the objections and through the consultant's annual refresh of the viability appraisals that have been given further consideration and resulted in amendments to the evidence of the draft schedule. These include:
- 1) Apartments – the evidence suggests that apartment development is marginal or unviable. As Policy RS2 of the emerging Local Plan (2012-2027) requires 20% of new residential development to be for elderly use (subject to viability), it is considered pertinent to reflect the possible contribution apartments could make to this market and therefore set them aside from residential with a nil rate.
 - 2) Retail – due to a further decline in comparison¹ goods retailing since the initial assessments, more detailed analysis has been undertaken with refreshed data. This shows that, in the town centres, comparison retail development is only likely

¹ Comparison Retail - Comparison goods are those typically clustered together in high streets, town centres or retail parks where similar goods may be compared by the consumer. Such good include electrical products, appliances, clothing and items bought less regularly.

to be marginal with little or no scope to introduce a charge. Whilst the assessments showed greater viability for such goods out of town centres, the Council does not expect to see any proposals for this type of development within its area over the life of the Local Plan. As such, a nil rate has been proposed for comparison retail. However, the viability assessments showed that convenience retail (generally supermarkets) remains viable and the charge of £160 which was previously consulted upon is still affordable across the Borough (excluding Skelmersdale).

3) Food and Drink – updated viability assessments show that a more modest charge of £90 per square metre would be affordable than the rate of £186 per square metre that was originally consulted upon. The adjusted charge of £90 would still allow for a 50% viability buffer i.e. £180 per square metre is the maximum affordable amount.

6.8 In addition to the above, further evidence has been provided to demonstrate that the Council does indeed have an infrastructure funding gap and therefore a CIL charge can be justified. Also, additional evidence has been provided to demonstrate that retail, food and drink development in Skelmersdale is likely to be marginal as part of a regeneration scheme.

Proposed Draft Charging Schedule

Development Type	Proposed CIL Rate (£ per square metre)	
	Zone A	Zone B
Residential (dwelling house)	£85	£0
Apartments	£0	£0
Retail – Comparison	£0	£0
Retail – Convenience	£160	£0
Food and Drink (A3/A4)	£90	£0
All other uses	£0	£0

Zone A – The entire Borough outside of Zone B (Map 1)

Zone B – Skelmersdale and Up Holland inner areas (Map 1)

7.0 Next Steps

7.1 If Members are minded to grant approval to consult on the Draft Charging Schedule, a period of 6 weeks public consultation will be undertaken to allow respondents a final opportunity to submit comments and additional evidence. Whilst the results of this consultation cannot be predetermined, given the above amendments have been made in response to the initial consultation and given no objector was able to provide any evidence to substantiate further objections relating to the CIL rate and viability assumptions, it is unlikely that any significant evidence based objections would be submitted at this stage.

7.2 Notwithstanding this point, any comments that are submitted will be given full consideration before being summarised ready for submission to the Planning Inspector for Examination. If as a result of the consultation exercise it's

considered that further amendments are required to the Draft Charging Schedule, then in order to expedite the progress of the document, recommendation 4.2 of this report, seeks delegated authority to the Assistant Director Planning in consultation with the Portfolio Holder for Planning & Development, to make such amendments to the draft schedule before submitting it to the Planning Inspectorate for Examination in Public. The submission to the Planning Inspectorate will include all the representations received during the consultation period and a statement detailing any such modifications.

- 7.3 Furthermore, the Government is currently consulting on a number of possible amendments to the CIL regulations to make sure the levy is as flexible as possible. This includes regulations relating to exemptions, self builders and possible extension of the deadline for the restrictions to pooling Section 106 obligations from 2014 to 2015. Whilst the implications of the consultation are mainly related to operational issues rather than setting the levy, it is worth considering all of the findings which should be available in September and could be taken into account before submission for examination.
- 7.4 Once submitted to the Inspectorate, it is likely that an examination date would become available early 2014 when the document would be examined in public. Whilst the process is similar to that of the Local Plan, it is significantly scaled back. The timescales for this process, and in particular, the submission of the CIL Draft Charging Schedule for examination, are subject to the progress of the Local Plan as an up to date development plan is a prerequisite for a CIL charge. However, it is anticipated that the new Local Plan will be submitted to Full Council for adoption in October 2013.
- 7.5 In the event the examiner finds the CIL Draft Charging Schedule to be acceptable, adoption of the CIL would be subject to a vote taken by Full Council. This would also take place within the New Year following the examination of the CIL Charging Schedule.
- 7.6 In addition to the production of the charging schedule, future reports detailing proposed protocols for governance and administration of expenditure of CIL revenue will be brought to Cabinet for Members to consider alongside the implications for Section 106 funding and expenditure.
- 7.7 Finally, once in place, the CIL charge will apply until it is either withdrawn by the Council or updated and replaced. The Government, within The Community Infrastructure Levy Guidance (April, 2013), strongly encourages authorities to keep their charging schedules under review to ensure that the CIL charges remain appropriate over time. For instance, as market conditions change, and also so that they remain relevant to the gap in the funding for the infrastructure needed. In the event an update is required the process would be the same process as applied to the preparation, examination, approval and publication of the initial charging schedule.
- 7.8 It should be noted that at this time, the Planning Policy Team are working with Lancashire County Council to update the infrastructure evidence that we currently hold in order to determine some indicative costs for required infrastructure in the Borough, so that we may reasonably demonstrate a funding

gap that justifies charging a CIL. Whilst the Council is aware that there is a funding deficit to support necessary infrastructure, until this information has been confirmed by LCC we have left these figures blank within the Draft charging Schedule and will complete that in advance of the report going to Cabinet in September.

8.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 8.1 Securing revenue to deliver infrastructure in order to support development needs is fundamental in delivering sustainable development and is key to the delivery of the Community Strategy. Ensuring the revenue secured cannot be challenged, and potentially lost, is equally important to delivering the Community Strategy.

9.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 9.1 The costs of preparing a CIL charging schedule, and managing the ongoing implementation of it, are capable of being met by the levy itself through the regulations which permit up to 5% expenditure of the levy on administration costs. It is difficult to estimate with certainty how much this administration charge will deliver in income to the Council but a figure of £27,000 p.a. has been identified as part of the Council's MSR proposals. There will be a cost of approx £22,500 for the Public Examination of the charging schedule. This cost will be met by the budget agreed by Council in July to meet one off and transitional funding requirements that may be needed to implement MSR proposals.
- 9.2 In terms of revenue implications, it is difficult to predict how much development will come forward and when. However, using the Local Plan housing delivery targets as a baseline, multiplied by the proposed charge of £85 per square metre, a rough projection ranges from £425,000 per annum in the beginning of the Local Plan period (2015/16) to £1.1million per annum later in the period (2022/23) or as an average of approximately £800,000 per year. However this figure is subject to housing delivery rates.
- 9.3 Statutory regulations govern the way in which a CIL Charging Schedule will be prepared and these are in accordance with requirements set out within the Council's Charging Policy.

10.0 RISK ASSESSMENT

- 10.1 The Community Infrastructure Levy Charging Schedule will ultimately be subject to an independent examination to ensure that all the correct procedures have been followed in preparing the document and will assess whether the document can be considered "reasonable" or not. In the event that the Council elects not to pursue a Community Infrastructure Levy for the Borough, there is a risk that the scaling back of Section 106 Obligations will limit the amount of infrastructure that may be funded through development and impact the delivery of the Local Plan and ultimately the Sustainable Community Strategy.

Background Documents

*The following background documents (as defined in Section 100D (5) of the Local Government Act 1972) have been relied on to a material extent in preparing this Report.

<u>Date</u>	<u>Document</u>
May 2013	Community Infrastructure Levy Economic Viability Report (Final)
May 2013	CIL Appropriate Balance Report
6 th April 2010	The Community Infrastructure Levy Regulations
February 2011	The Community Infrastructure Levy (Amendment) Regulations
April 2013	The Community Infrastructure Levy (Amendment) Regulations
April 2013	The Community Infrastructure Levy Guidance (CLG)

Equality Impact Assessment

Although there will be a direct impact on members of the public, employees, elected members and / or stakeholders, it is likely that these impacts will be positive as the proposed new policy for Community Infrastructure Levy will ensure development delivers necessary infrastructure and services to support sustainable communities. An Equality Impact Assessment is attached as an Appendix to this report, the results of which have been taken into account in the recommendations contained within this report

Appendices

Appendix 1 – Equality Impact Assessment

Appendix 2 — Draft Charging Schedule

Appendix 3 — Executive Overview and Scrutiny Committee Minute 4 July 2013 (Planning Committee and Cabinet only)

Appendix 4 – Planning Committee Minute 25 July 2013 (Cabinet only)

Appendix 1 - Equality Impact Assessment - process for services, policies, projects and strategies

<p>1. Using information that you have gathered from service monitoring, surveys, consultation, and other sources such as anecdotal information fed back by members of staff, in your opinion, could your service/policy/strategy/decision (including decisions to cut or change a service or policy) disadvantage, or have a potentially disproportionately negative effect on, any of the following groups of people: People of different ages – including young and older people People with a disability; People of different races/ethnicities/ nationalities; Men; Women; People of different religions/beliefs; People of different sexual orientations; People who are or have identified as transgender; People who are married or in a civil partnership; Women who are pregnant or on maternity leave or men whose partners are pregnant or on maternity leave; People living in areas of deprivation or who are financially disadvantaged.</p>	<p>No</p>
<p>2. What sources of information have you used to come to this decision?</p>	<p>Existing draft Community Infrastructure Schedules from other Local Authorities. Feedback from the Preliminary Draft Charging Schedule Consultation carried out February – March 2013.</p>
<p>3. How have you tried to involve people/groups in developing your service/policy/strategy or in making your decision (including decisions to cut or change a service or policy)?</p>	<p>Through the Local Plan community consultation process, the issue of a developer tariff system, such as CIL, has been raised and views taken through discussion groups and in written format. The views of the public and any affected groups were also sought at a Stakeholder event in September 2012 and further consultation undertaken earlier this year for the Preliminary Draft Charging Schedule.</p>
<p>4. Could your service/policy/strategy or decision (including decisions to cut or change a service or policy) help or hamper our ability to meet our duties under the Equality Act 2010? Duties are to:- Eliminate discrimination, harassment and victimisation; Advance equality of opportunity (removing or minimising disadvantage, meeting the needs of people); Foster good relations between people who share a protected characteristic and those who do not share it.</p>	<p>The CIL could assist in delivering the Councils duty to “advance equality of opportunity” by meeting the needs of people through infrastructure and service provision.</p>
<p>5. What actions will you take to address any issues raised in your answers above</p>	<p>No negative issues were raised</p>

West Lancashire Borough Council

Community Infrastructure Levy Draft Charging Schedule Consultation Document

September 2013

John Harrison, DipEnvP, MRTPI
Assistant Director Planning
West Lancashire Borough Council

www.westlancs.gov.uk

WEST LANCASHIRE



LOCAL PLAN

1. Introduction and Background

- 1.1 The Community Infrastructure Levy (commonly called CIL) was introduced in April 2010 and is a charge that developers pay on new development. It allows local authorities in England and Wales to raise funds from developers who are undertaking new building projects in their area. The money can be used to pay for a wide range of infrastructure that is needed as a result of development and can include, for example, transport schemes, green spaces and the maintenance of new infrastructure.
- 1.2 This document is the Draft Charging Schedule (DCS) for West Lancashire Borough Council's Community Infrastructure Levy (CIL) and it was approved for publication at a meeting of the Council's Cabinet on 17 September 2013. This consultation follows the Preliminary Draft Charging Schedule consultation carried out earlier this year. Any representations submitted in relation to the DCS will be summarised and submitted in full to the examiner along with the DCS for independent examination.
- 1.3 The DCS is published in accordance with Part 11 of the Planning Act 2008 (as amended by Part 6 of the Localism Act 2011), and Community Infrastructure Levy Regulations 2010 (as amended by the Community Infrastructure Levy (Amendment) Regulations 2013).

2. How to Comment

- 2.1 The DCS is published for a six week consultation period from Thursday 19 September 2013 to the deadline at 5pm on Friday 1 November 2013. Comments are welcomed from everyone and we would encourage you to complete the consultation response form available on the website and in libraries and at Council offices.

All supporting documents, and the consultation response forms, are available on the web at www.westlancs.gov.uk/CIL

Comments can be returned via the following methods:

- Email: localplan@westlancs.gov.uk
- in writing to: John Harrison DipEnvP
Borough Planner
West Lancashire Borough Council
52 Derby Street
Ormskirk
L39 2DF

If you wish to discuss any aspect of this document or require further information please contact the Planning Policy Team on **01695 585393**

More information on CIL can be found on the Government's website at:

<http://www.communities.gov.uk/planningandbuilding/planningsystem/communityinfrastructurelevy>

3. Background Evidence

- 3.1 In setting the CIL rate for West Lancashire, the Council must have regard for the CIL Regulations and strike an appropriate balance between the desire for funding from CIL to support infrastructure and potential effects of the imposition of CIL on the economic viability of development. To ensure an appropriate balance is achieved appropriate evidence has been used and is available separately on the Council's website.

Local Plan

- 3.2 A requirement for introducing a CIL charge is that the charging authority (the Council) must have an up to date Development Plan. The Council has been working on a new Local Plan to replace the existing Local Plan that was adopted in 2006. Once the new Local Plan has been examined and found sound by an independent planning inspector, the Council will adopt it as the up to date development plan for its area.
- 3.3 It is hoped that the new Local Plan will be adopted in October 2013. However, the information within the Plan has helped to guide the evidence base for the CIL and, in particular, to demonstrate an infrastructure funding gap and identify the development type and location likely to be subject to any forthcoming CIL charge.

Infrastructure Funding Gap

- 3.4 Planning for infrastructure requirements to support growth is a fundamental part of the Local Plan process. Therefore, the Infrastructure Delivery Plan (IDP) was first published in January 2012 and has subsequently been updated. The IDP sets out the baseline provision for infrastructure in the Borough and also identifies any existing deficits and where a deficit may be created as a result of proposed development within the Local Plan.
- 3.5 The Infrastructure Delivery Schedule (IDS) sits alongside the IDP and sets out a list of known infrastructure requirements. The IDS includes details relating to the infrastructure scheme, including location, when it should be delivered, who will lead the delivery, the cost and the likely funding mechanisms to deliver the scheme. This information is then used to demonstrate the total funding gap and is the justification for introducing a CIL charge in the Borough.
- 3.6 The IDS was refreshed in May 2013 and includes many schemes that at this time don't have known costs that can be included in demonstrating the funding gap. However, of those schemes that are more advanced or have greater certainty the cost or estimated cost has been considered in establishing the current funding gap for infrastructure which amounts **TBC**. The IDS is available separately within the CIL evidence base documents but, briefly, this figure includes the following information set out in table 3.1 below:

SCHEME	COST (£)
Electrification of Ormskirk to Burscough line	10 – 40 million
Railway connection to Skelmersdale from the Kirby – Wigan line	50 -100 million
Extension and refurbishment of Mere Sands Woods visitor centre	500,000
New Skelmersdale sports centre	12 million
Haskayne Cutting nature Reserve – Installation of an access boardwalk	8,000
Health Centre Improvements Skelmersdale	TBC
Health Centre Improvements Burscough	TBC
Extension to primary school Burscough	TBC
Improvements to or replacement library Burscough	TBC
Cycle	TBC
Cycle	TBC
Total	TBC

Table 3.1

Economic Viability Assessment

- 3.7 In order to demonstrate that a CIL charge is affordable within the Borough an economic assessment of the viability of development has been carried out. The Community Infrastructure Levy Economic Viability Assessment (EVA) is available separately on the Council's website and it is the findings of this document that underpins this charging schedule.
- 3.8 As a starting point, the EVA had regard to the West Lancashire's Affordable Housing Viability Study (November, 2010). It also took account of existing and emerging planning policy and property market evidence. This information was used to formulate development scenarios that would be tested for viability. The full method and assumptions are set out within the EVA as are the findings which demonstrated the development surplus likely to be available to accommodate a CIL charge in relation to each development scenario.
- 3.9 Through the process of the EVA, a stakeholder workshop was held in order to gain some informal feedback at the earliest stage possible from developers and parties likely to be affected by a CIL charge. Consultation was also undertaken through the Preliminary Draft Charging Schedule and the findings of this consultation helped to update and refresh the EVA assumptions so that they are as current and relative to the market as possible.
- 3.10 An additional background paper has also been produced which compares the findings of the EVA with the actual housing land supply and other expected development types in order to fully understand the consequences of introducing a CIL charge within the Borough. The Appropriate Balance Report (June 2013) is also available separately on

the Council website and sets out recommendations for a CIL charge in West Lancashire, having regard to the required amount of infrastructure funding. The recommended rates have been tested within the EVA to ensure they can be reasonably accommodated.

4. Draft Charging Schedule

4.1 In line with the CIL regulations, the following development types will be liable for CIL:

- Development comprising 100m² or more of new build floor space;
- Development of less than 100m² of new build floor space that results in the creation of one or more dwellings;
- The conversion of a building that is no longer in lawful use.

For development that is liable for the CIL charge the below table sets out the proposed CIL rates for West Lancashire.

Development Type	Proposed CIL Rate (£ per square metre)	
	Zone A	Zone B
Residential dwelling house	£85	Nil
Apartments	Nil	Nil
Retail – Comparison	Nil	Nil
Retail – Convenience	£160	Nil
Food and Drink (A3/A4)	£90	Nil
All other uses	Nil	Nil

Zone A – The entire Borough outside of Zone B (Map 1)

Zone B – Existing Skelmersdale and Up Holland settlement area (Map 1)

Calculating the CIL Charge

4.2 The Council will calculate the amount of CIL chargeable on qualifying development in accordance with Part 5 of The Community Infrastructure Levy Regulations (2010) (as amended). In summary the amount of CIL chargeable is calculated as follows:

$$\text{CIL Rate (£)} \times \text{net chargeable floor area (m}^2\text{)} \times \text{BCIS index figure (at date of planning permission)}$$

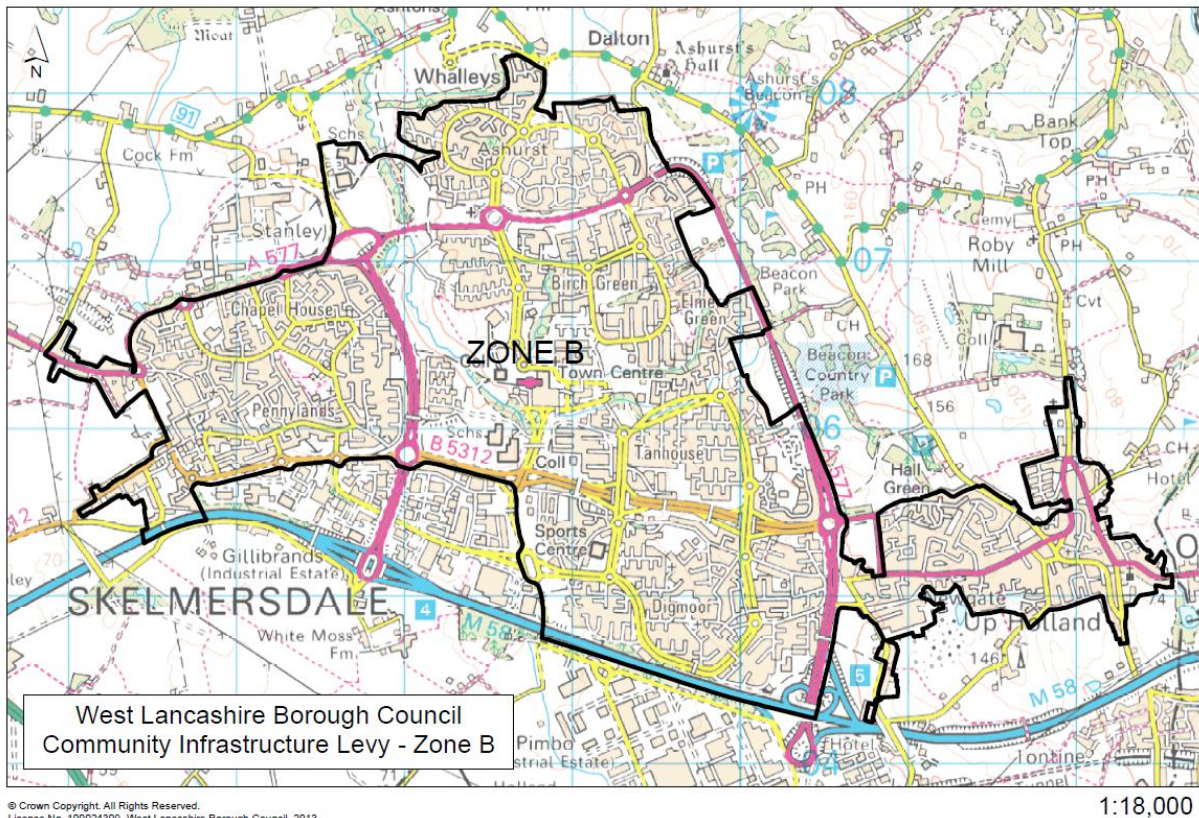
BCIS Index figure (at date of implementation of the Charging Schedule)

4.3 The above calculation multiplies the CIL rate e.g. £85, by the net new floor area and then adjusts the result accordingly to take account of inflation (BCIS index figure) at the time of planning permission. This ensures that any increase or decrease in inflation is reflected in the final chargeable amount.

4.4 The **CIL rate (£ per m²)** is the applicable rate from the above schedule.

The **net chargeable floor area (m²)** is the gross internal floorspace of the development minus the gross internal floorspace of any existing buildings that are to be retained or demolished, providing that they have been in continuous lawful use for at least six months in the past 12 months (Regulation 64). Where there is more than one use class on a development, the chargeable amount in each use class is calculated separately and then added together to provide the total chargeable amount. However, where the amount is less than £50 the chargeable amount is zero.

The **BCIS Index Figure (%)** is an annually updated measure of inflation published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors (RICS). It ensures that the time between the grant of planning permission and commencement of development is taken into account.



5. Exemptions and Relief from CIL

5.1 The CIL regulations allow for certain types of development to be exempt from payment of CIL and also provide for two types of relief from CIL, mandatory and discretionary. The details of exemptions and relief circumstances are set out below:

5.2 Development exempt from CIL

- The conversion of any building previously used as a dwelling house to two or more dwellings;
- Development of less than 100m² of new build floorspace, provided that it does not result in the creation of a new dwelling; this includes residential extensions;
- The conversion of a building in lawful use, or the creation of additional floorspace within the existing structure of a building in lawful use;
- Development of buildings and structures into which people do not normally go (eg, pylons, wind turbines, electricity sub stations).

5.3 Development entitled to Mandatory Relief from CIL

- Development by registered charities for the delivery of their charitable purposes, as set out in Regulation 43 of the Community Infrastructure Levy Regulations 2010.
- Development of social housing, including rented and shared ownership dwellings that are let by a registered provider where the tenancy and shared ownership conditions are in accordance with Regulation 49 of the Community Infrastructure Levy Regulations 2010.

Exceptional Circumstances Relief from CIL

- 5.4 Exceptional circumstances relief is not mandatory and the Council has the option whether or not to introduce such relief. To do so the Council must publish an exceptional circumstances policy on its website and will consider claims for relief on a case by case basis, provided the following three conditions are met:
- A section 106 agreement must exist on the planning permission permitting the chargeable development;
 - The charging authority must consider that the cost of complying with the section 106 agreement is greater than the levy's charge on the development and that paying the full charge would have an unacceptable impact on the development's economic viability. An assessment of this must be carried out by an independent person with appropriate qualifications and experience. The person must be appointed by the claimant and agreed with the charging authority;
 - Any relief the charging authority chooses to give must not constitute a notifiable state aid.
- 5.5 Such a policy is not part of the charging schedule and can be published at any time. The Government is currently consulting further on the above tests of qualification for exceptional circumstances relief and until this has been finalised, the Council is yet to make a decision regarding the introduction of such a policy.

6. Instalments Policy

- 6.1 The majority of consultees who submitted representations to the Preliminary Draft Charging Schedule supported a policy which would allow payment by instalment. Consequently the Council is likely to introduce a CIL Instalment Policy in accordance with part 69B of the Community Infrastructure Levy (Amendment) Regulations 2011.

7. Consultation

- 7.1 During the viability assessment process, a group of stakeholders were engaged in order to feed into the process. The stakeholders consisted of a cross section of representatives including house builders, retailers, land agents, housing associations, local authority representatives and County Council representatives.
- 7.2 During the first formal stage of consultation for the Preliminary Draft Charging Schedule, the Council engaged with the widest group of stakeholder's available and sought feedback on the key issues relating to the proposed CIL.
- 7.3 The Council took on board the comments received from the 49 respondents and detailed summaries of the submissions plus the Council's response and recommendations to the submissions are available in the Consultation Report on the Council's website at www.westlincs.gov.uk/CIL

7.4 This final stage of consultation sets out what the Council considers to be the appropriate charge for the Borough and what will be submitted for independent examination.

8. Other Background Documents

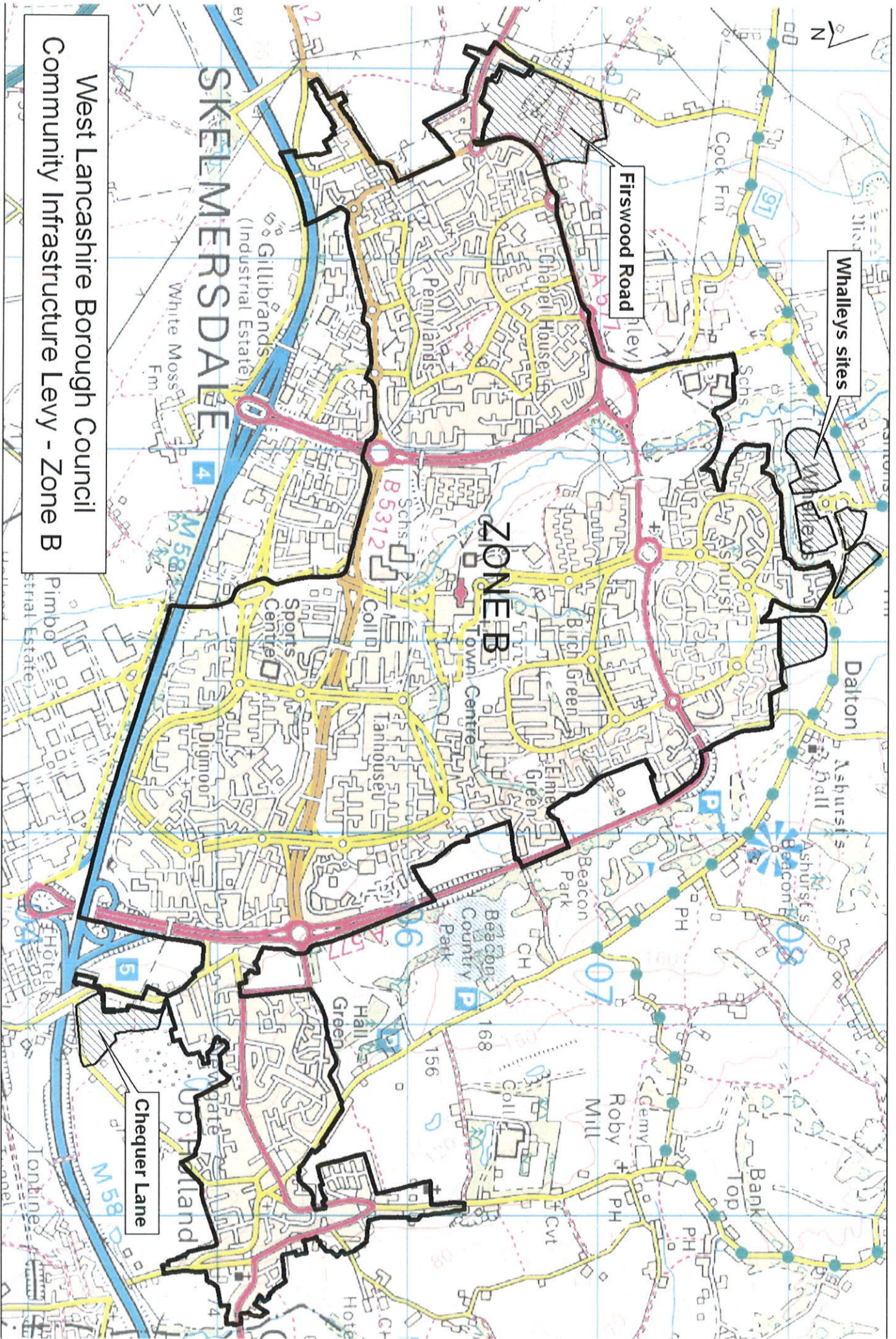
8.1 Section three of this charging schedule sets out the key background evidence that supports the proposed charges and includes demonstrating there is an infrastructure funding gap and that development can reasonably afford to pay the CIL. Below is a full list of the documents which support CIL and are available on the CIL evidence page of the website (www.westlancs.gov.uk/CIL):

- **West Lancashire Economic Viability Assessment** (May 2013) – Sets out development viability in the Borough
- **West Lancashire Infrastructure Delivery Plan** (September 2012) – Sets out the existing and likely required infrastructure needed to support the Local Plan 2012 - 2027
- **West Lancashire Infrastructure Delivery Schedule** (June 2013) – Detailed list which is updated annually to reflect the delivery and progress of infrastructure schemes in the Borough
- **Appropriate Balance Report** (May 2013) – Sets out the justification for selecting the relevant charges, having regard to the economic viability evidence and the required infrastructure funding gap.
- **Approach to CIL and Section 106 Statement** (June 2013) – Sets out how the Council will manage both the CIL and Section 106 processes together.
- **Draft regulation 123 List** (June 2013) – Establishes what infrastructure types and projects will benefit from CIL funding and by omission, what could still be secured through Section 106 agreements in specific circumstances.
- **Draft Instalment Policy** (TBC) – This will establish an appropriate payment regime to assist with the development finance of larger schemes.
- **Draft Exceptional Circumstances Policy** (TBC) – Subject to the Governments consultation, this will set out the's policy regarding possible exceptional circumstances
- **West Lancashire Section 106 Performance Report** (June 2013) – Evidences the amount of funds secured through Section 106 obligations in the preceding 10 years.

9. Next Steps

9.1 Following consultation of this DCS, the Council will consider comments submitted and then provide these, along with any proposed modifications (set out in a Statement of Modifications) to the DCS to the inspector for full consideration through the examination process.

West Lancashire Borough Council
Community Infrastructure Levy - Zone B



PLANNING COMMITTEE: 25 JULY 2013
CABINET: 17 SEPTEMBER 2013

MINUTE OF THE EXECUTIVE OVERVIEW AND SCRUTINY COMMITTEE: 4 JULY 2013

12. COMMUNITY INFRASTRUCTURE LEVY - DRAFT CHARGING SCHEDULE

Consideration was given to the report of the Assistant Director Planning, as contained on pages 89 to 107 of the Book of Reports, that provided information in relation to the proposed Community Infrastructure Levy (CIL) rates as set out within the Draft Charging Schedule (Appendix 2) that sought the views of the Committee prior to consideration by Cabinet on 17 September 2013.

Members raised comments and questions in relation to:

- The criteria relating to Zone allocation.
- The reasons for the inclusion of Up Holland in Zone B.
- The categories (development type) and the proposed CIL rate identified.
- The practicalities of assigning a "Zone C" and "Zone D".
- Demonstrating CIL affordability against the economic assessment viability of a development.
- Comparisons against the approach used by other exemplified LA's.
- The practical use of Section 106 monies.
- Opportunities to adjust future CIL charges.

The LDF Team Leader attended the meeting and responded to questions referencing details in the report. He explained that the report was due to receive consideration by the Planning Committee on 25 July 2013 and Cabinet on 17 September 2013.

The LDF Team Leader made an undertaking to provide a map, detailing the proposed Zone B, for inclusion with the papers for the item for 25 July 2013 Planning Committee.

As a consequence of the discussion on this item it was agreed that the following agreed comment be referred to Cabinet.

RESOLVED: That Zone B be reviewed and split into smaller zones with percentage viabilities rather than a blanket 0%, with particular reference to Up Holland.