

## 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 <b>because</b> it affects my financial position or the financial position of a connected person or, a body described in 10.1(1)(i) and (ii) <b>and</b> 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 a connected person or, a body described in 10.1(1)(i) and (ii) <b>and</b> 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: 16 JANUARY 2014**

Start: 7.30 p.m.

Finish: 9.30 p.m.

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

Councillors: Bailey	J. Hodson
Mrs. Baybutt	L. Hodson
Bell	Mrs. Hopley
Mrs. Blake	Mrs. Houlgrave
Davis	McKay
Dereli	O'Toole
C. Evans	Owen
Fowler	Mrs. Stephenson
Griffiths	West
Hennessy	Westley
G. Hodson	Wynn

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

### 60. APOLOGIES

There were no apologies for absence received.

### 61. MEMBERSHIP OF THE COMMITTEE

In accordance with Council Procedure Rule No.4, the Committee noted the termination of Councillors Ms. Melling and Pye and the appointments of Councillor Mrs. Hopley and G. Hodson for this meeting only, thereby giving effect to the wishes of the Political Groups.

### 62. URGENT BUSINESS, IF ANY, INTRODUCED BY THE CHAIRMAN

There were no urgent items of business.

**63. DECLARATIONS OF INTEREST**

1. Councillor Bailey declared a pecuniary interest in respect of planning application 2013/1195/FUL relating to Edge Hill University, St. Helens Road, Ormskirk as his wife is employed by the applicant and therefore left the Chamber during consideration of this item.
2. Councillor Pope declared a pecuniary interest in respect of planning application 2013/1195/FUL relating to Edge Hill University, St. Helens Road, Ormskirk by virtue of his employment at the University of Central Lancashire and therefore left the Chamber during consideration of this item.
3. Councillor Dereli declared a pecuniary interest in respect of agenda item no. 9 relating to Yew Tree Farm Masterplan Supplementary Planning Documents Options Paper as she lived close to the application site and therefore left the Chamber during consideration of this item.

**64. DECLARATIONS OF PARTY WHIP**

There were no declarations of Party Whip.

**65. MINUTES**

**RESOLVED:** That the minutes of the meeting held on the 12 December 2013 be agreed as a correct record and signed by the Chairman.

**66. 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 1239 to 1283 of the Book of Reports and on pages 1471 to 1473 giving details of late information.

- RESOLVED**
- A. That the undermentioned planning applications be approved subject to the conditions in the schedule:-  
  
1158/FUL; 1195/FUL
  - B. That planning application 1208/FUL relating to Moss Bridge Barn, Moss Bridge Lane, Lathom, Ormskirk be refused for the following reason:-

The retention of the wood store constitutes inappropriate development in the Green Belt and is a form of encroachment which is detrimental to the openness and visual amenity of the Green Belt. Its retention would be contrary to Policy GN1 of the West Lancashire

Local Plan 2012-2027 DPD and advice given in the National Planning Policy Framework (NPPF) and conflict with the purposes of including land within the Green Belt. No very special circumstances have been identified which would outweigh the harm caused.

- C. That in respect of planning application 1059/FUL relating to 95 Burscough Street, 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 a planning obligation under S.106 of the Town and Country Planning Act 1990 to secure a financial contribution towards the provision or improvement of public open space within 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 1258 to 1260 of the Book of Reports and with an additional condition and the amendment of Condition 10 as below:-

Condition 10

Notwithstanding the approved plans, no development on the construction phase shall take place until details of a scheme for the one-way system, including details of footpath and surfacing materials to segregate pedestrians from vehicles, has been submitted to and approved in writing by the Local Planning Authority. The access and one-way system shall be provided in accordance with the approved details before the flats are first occupied and shall be permanently maintained thereafter.

Condition 14

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent Orders or statutory provisions re-enacting the provision of these Orders the flats hereby approved shall not be occupied as student accommodation.

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 RS3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

- D. That planning application 2013/1135/COU relating to 194 Burscough Street, Ormskirk be refused for the following reasons:-
1. This application fails to comply with Policy RS3 of the adopted West Lancashire Local Plan in that it would result in over 10% of dwellings on Burscough Street being used as an HMO, to the detriment of the character of the area. No compelling reasons have been put forward to allow this limited to be exceeded.
  2. The proposed development conflicts with Policies GN3 and RS3 of the West Lancashire Local Plan 2012-2027 in that it would result in a clustering of HMO's along this part of Burscough Street, thereby increasing noise and disturbance to the detriment of the amenities of nearby residents.

(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. 1059/FUL
2. The Chairman, Councillor Pope had declared a pecuniary interest in respect of planning application 2013/1195/FUL relating to Edge Hill University and therefore took no part in the decision making process in this application whereupon the Vice-Chairman Councillor Blane took the Chair.
3. Councillor Bailey had declared a pecuniary interest in respect of planning application 2013/1195/FUL relating to Edge Hill University and therefore took no part in the decision making process.
4. Councillor Bailey arrived at the meeting during consideration of planning application 2013/1059/FUL relating to 95 Burscough Street, Ormskirk and therefore took no part in in the debate or any decision making in respect of this application.)

## **67. ENFORCEMENT ITEMS**

The Assistant Director Planning submitted a report contained details of enforcement items as contained on pages 1285 to 1299 and on pages 1473 to 1471 giving details of late information

- RESOLVED A. That in relation to Enforcement Items E/2013/0195/UAU; E/2013/0212/UAU; E/2013/0273/UAU and E/2014/0001/UBW:-
- (a) That the Borough Solicitor be authorised to issue notices of the types and under the Sections of the Town and Country Planning Act and the Planning (Listed Building and Conservation Areas) Act 1990 as amended and set out in the report , requiring the steps to be taken within the time periods and for the reasons as set out in the report
  - (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 Assistant Director Planning be authorised to enter the land and take those steps. In the

event of the Assistant Director Planning having to take such action, he be authorised to recover the expenses reasonably incurred.

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

**68. YEW TREE FARM MASTERPLAN SUPPLEMENTARY PLANNING DOCUMENT OPTIONS PAPER**

Consideration was given to the report of the Assistant Director Planning as contained on pages 1301 to 1406 of the Book of Reports and on page 1477 giving details of additional late information, the purpose of which was to update Members on the progress of the Yew Tree Farm Masterplan Supplementary Planning Document (DPD) and to recommend the "Options" version of the document for a period of public consultation 6 February – 21 March 2014.

That the following agreed comments be referred to the Assistant Director Planning:-

- RESOLVED
- A. That the consultation documents be reviewed to ensure that it provides clarity to all consultees.
  - B. That any documentation is made clear to the public in its presentation as a positive opportunity for residents to contribute to the development of Burscough.

(Note:

1. Councillor Dereli had declared a pecuniary interest in respect of Agenda Item 9 relating to the Yew Tree Farm Masterplan Supplementary Planning Document Options Paper and therefore took no part in the decision making process in this item and was not present for the remainder of the meeting.
2. Councillor McKay left the Chamber during consideration of Agenda Item 9, Yew Tree Farm Masterplan Supplementary Planning Document Options Paper and therefore took no part in the debate or decision making process.
3. Councillor Bell left the Chamber during consideration of Agenda Item 9, Yew Tree Farm Masterplan Supplementary Planning Document Options Paper and was not present for the remainder of the meeting.)

**69. DEVELOPMENT BRIEFS FOR HOUSING SITES AT GROVE FARM, ORMSKIRK AND FIRSWOOD ROAD LATHOM/SKELMERSDALE**

Consideration was given to the report of the Assistant Director Planning as contained on pages 1407 to 1457 of the Book of Reports and on page 1478 giving details of additional late information, the purpose of which was to recommend the draft development briefs for the allocated housing sites at Grove Farm, Ormskirk and Firswood Road, Lathom/Skelmersdale for public consultation 6 February – 21 March 2014.

That the following agreed comments be referred to the Assistant Director Planning:-

RESOLVED: A. That in respect of Firswood Road, Lathom, there were no agreed comments.

B. That in respect of Grove Farm, Ormskirk that the purpose of the Linear Park and its benefits be clarified/strengthened within the document.

(Note: Councillors Mrs. Hopley and Westley left the Chamber during consideration of Agenda Item 10 relating to the Development Briefs for Housing Sites at Grove Farm, Ormskirk and Firswood Road Lathom/Skelmersdale and were not present for the remainder of the meeting.)

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- CHAIRMAN -





**AGENDA ITEM: 7.**

**PLANNING COMMITTEE:  
13<sup>TH</sup> FEBRUARY 2014**

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**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)

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**SUBJECT: PLANNING APPLICATIONS**

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**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>Application No</u>	<u>Site Location &amp; Proposal</u>	<u>Recommendation</u>
1	Ashurst	2013/1060/WL3	<p>Land At Whalleys, Whalleys Road Skelmersdale Lancashire</p> <p>Outline application (with all matters reserved) for a residential development consisting of up to 630 dwellings together with associated open space and landscaping.</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>
2	Halsall	2013/0994/FUL	<p>Land Rear Of 114 Summerwood Lane Halsall Lancashire L39 8RH</p> <p>Demolition of existing buildings and erection of 14 semi-detached dwellings. New vehicular/ pedestrian access road and provision of car parking.</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>

<b>Report No</b>	<b>Ward</b>	<b>Application No</b>	<b>Site Location &amp; Proposal</b>	<b>Recommendation</b>
3	Hesketh-with-Becconsall	2013/1011/FUL	<p>Hesketh Out Marsh East Guide Road Hesketh Bank Lancashire PR4 6XS</p> <p>Upgrade of the existing inner flood defence embankment and breaches in the outer embankment to enable the creation of intertidal saltmarsh habitat, including the excavation of lagoons and creeks. Construction of access ridges through the site, installation of bird hide, extension to existing car park, improvements to the footpath along the crest of the embankment and reprofiling of existing access ramps into the site.</p>	<p><b>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.</b></p>
4	Tarleton	2013/1182/FUL	<p>Land Adjacent To 207 Hesketh Lane Tarleton Lancashire</p> <p>Modification of condition no. 2 imposed on planning permission 2012/0265/FUL for erection of detached dwelling and garage to accurately reflect the revised position of the dwelling on the plot.</p>	<p><b>Planning permission be granted.</b></p>

<b>No. 1</b>	<b>APPLICATION NO.</b>	2013/1060/WL3
	<b>LOCATION</b>	Land At Whalleys, Whalleys Road, Skelmersdale Lancashire
	<b>PROPOSAL</b>	Outline application (with all matters reserved) for a residential development consisting of up to 630 dwellings together with associated open space and landscaping.
	<b>APPLICANT</b>	West Lancashire Borough Council
	<b>WARD</b>	Ashurst
	<b>PARISH</b>	Unparished - Skelmersdale
	<b>TARGET DATE</b>	27th December 2013

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## **1.0 PREVIOUS RELEVANT DECISIONS**

- 1.1 1999/0772 (Withdrawn 02.08.2005) Outline - Residential development and footpath/bridlepath.
- 1.2 1998/0216 (Withdrawn 02.08.2005) Outline - Residential development.
- 1.3 1994/0258 (Refused 23.06.1994) Outline - Residential development (including means of access and landscaping).
- 1.4 Dalton Park (adjacent to site) - 1996/0382 (Granted 16.10.1996) Reserved Matters - Residential development (104 dwellings) with public open space & estate road.
- 1.5 Dalton Park (adjacent to site) -1993/1165 (Granted 15.03.1995) Outline - Residential development including details of access points.

## **2.0 OBSERVATIONS OF CONSULTEES**

- 2.1 LCC HIGHWAYS (26.11.13) and (28.11.13), (09.01.14) and (14.01.14) – No objection in principle; provided the measures identified below are taken into consideration:

### Highway Capacity

The existing highway infrastructure in the vicinity of the proposed development is not currently suffering from high levels of congestion, and the application site is situated within relatively easy access to the strategic highway network. However, to achieve sustainable patterns of movement and reduce people's reliance on private cars for making journeys, the construction of a development of this scale will require suitable mitigating measures to integrate the site with the surrounding built environment and wider community. If appropriate measures are delivered, the proposed residential area is less likely to become a car dependant site.

### Highway Impact

The highway impact and capacity in the area is able to accommodate the projected traffic generated by the proposed development

### Access

An application of this size should ideally be taken forward with definitive access proposals in order to determine the likely impacts and ensure that proposals are mitigated to LCC satisfaction. The TA omits details of the proposed vehicular access, however, the Planning Design and Access (D&A) Statement (2.4), refers to vehicular access points for each parcel of the proposed development. Drawings of the proposed site access points have now been indicated on parameter plans which are acceptable. LCC would expect the construction of the site accesses to be delivered through Section 278 agreements.

### Sustainable Travel

It is crucial, where possible and practicable, that developments support sustainable transport and communities. The TA includes substantial analysis of traffic flows on the highway network and junction capacity. However, travel by sustainable modes has not been comprehensively addressed.

This development site location could not be described as a location which is sustainable in terms of public transport and non-motorised means of transport to access the full range of facilities/services and employment required to support sustainable development; and hence the emphasis would be for the proposed significant development to provide appropriate measures to make the development location sustainable and comply with national transport policy. It is important that public transport services and infrastructure are improved together with a network of continuous, safe, desirable pedestrian and cyclist routes that will provide better access to key destinations and services from the development site. Public transport routing and infrastructure should satisfy the full needs of the development, including adequate frequency for both weekday and weekend.

### Comments on the Transport Assessment

With regard to access for cyclists to Lathom High and Our Lady Queen of Peace Catholic High School; the TA recommended route is via Cobb's Clough Road (a derestricted country road) and not one recommended for a safe route to school.

The TA mentions the Lancashire Cycleway (Regional Route 91) as being nearby, though it is not really relevant as the Lancashire Cycleway is a 260 mile cycle tour of the county and at this location does not really provide convenient connectivity to the Town Centre, employment or educational establishments.

The TEMPRO background traffic growth factors for 2013 to 2015 and 2013 to 2025 as submitted are acceptable.

The TA does not really consider "whether any changes to the location of bus stops are required", or "what routes public transport services should take within the site and identifies measures to improve links to public transport interchange". Although it is acknowledged that an additional bus service will be required to serve the development.

The TA makes no reference to vehicular movements associated with Round 'O' Quarry which is situated to the west of Cobb's Brow Lane. Access into the quarry is from Cobb's Brow Lane, north of the junction with Lower Beacon Lane. The Round 'O' Quarry has recently had its operational licence for landfill extended until 2019, allowing for up to 200 HGV trips a day. Half of those trips will be routed along Cobb's Brow Lane, Cobbs Clough Lane and Whalleys Road. This may have an adverse impact on pedestrian and cyclist movements along those routes, particularly where there is limited provision for pedestrians and cyclists.

#### Suggestions for improved sustainable transport provision

##### Tawd Valley:

There is a current proposal to build a cycle path through the Tawd Valley Park from Summer Street to the town centre and West Lancashire College. The cycle route should be extended north to the proposed development utilising PROW FP no.98. It should be open at an early stage of the development as it links to high schools and Stanley Industrial Estate. A S106 contribution of £90k would be required.

##### Ashurst Road / Northway:

To serve the east side of the development a cycle path should be built along Ashurst Road and Northway to link to the town centre. This would also link to the local shops at Ashurst and neighbouring primary school. An addition would be a toucan across Hoghton's Road. These works could be carried out through S278 highway works.

##### Whalleys Road:

A cycle path should be installed on Whalleys Road from Ashurst Road to the Clough Lane junction/Maharishi School. It could be done as part of the Section 278 works for the development and delivered concurrently with the site vehicle access junction.

##### Ashurst Road:

Upgrade the existing path from Ashurst Road into the Whalleys 4 development. The path is possible route to St James Primary School and Ashurst shops from the development. Again I would see this competed as part of the section 278 works.

#### Beacon Lane:

Dalton Parish Council has suggested a cycle path along Beacon Lane to link with the Primary School, which gets a lot of its catchment from Skelmersdale. LCC support this and the path could be extended south to Beacon Park at a future date. Part of the route could be built by the developer (s38 estate adoptions) with the remainder via a Section 106 agreement (approximately £60k) as it would require a strip of land alongside Beacon Lane to construct the path. This could be provided along the internal edge of Whalleys Site 4.

#### Newby Drive:

There are two paths from Newby Drive and Newton Drive that access the open space that separates the existing estate from the development sites. These paths should be extended to continue through to the new development. This would be delivered via the s106 with a contribution of £15k for both routes. The request now relates to the provision of only one route as there appears to be an existing route through the woodland at the end of Newby Drive.

#### Lancashire Cycleway

Extending the cycle route along the estate (Whalleys 5) to Cobbs Brow Lane would be beneficial, though it would involve an uncontrolled crossing of Cobbs Clough Road. This work could be completed as part of the section 278 works concurrent with the site vehicle access junction.

#### Cycle Route to Parbold Station

The site is about 3 miles from Parbold station which has a half hourly service to Manchester, Wigan and Southport. Cycling to railway stations is one of the fastest growing forms of transport. A contribution of £10,000 is requested for cycle parking improvements at the station to provide a covered cycle shelter. This request has now been withdrawn.

#### Public Transport

There is limited existing bus provision within the area of the proposed development. It is essential that full consideration is given to supporting an improved bus service which will provide a sustainable and realistic travel choice for the development's residents to access the local and wider area, particularly where amenities and services are situated beyond a convenient walking distance. To maximise the sustainability of this development, the developer should seek to provide a frequent bus service throughout the day (particularly at peak times) and at weekends to a range of destinations. This will serve to encourage residents to use public transport in preference to the private car.

I would recommend that bus stops are provided at intervals on both sides along Whalleys Road to minimise walking distances from all parts of the development. The existing lay-bys (intended for future bus stops) may not be suitably located, or fit for purpose (they have Trief kerbs which pose a fall/trip hazard to pedestrians).

LCC would request suitable planning contributions to be made by the developer to support the provision of additional or new bus services to support the development. To secure the long term sustainability of the site, any service provided needs to continue to be viable once the initial funding period has passed. In discussion with LCC Public Transport Team, they have indicated it would be possible to divert the existing 311 service (Liv-Orm-Skem) via Cobbs Clough to provide a half hourly service for all of Whalleys. However, this is a lengthy diversion and is likely to require an additional bus to maintain the existing timetable, hence in the short term, it will be necessary for developer funding to cover the additional operating costs – approx. £120K per year. Suggest funding is requested for initial 3 years (£360K) with a trigger point of first payment at the 101<sup>st</sup> occupation to allow start-up of Phase 1 and 2. Any new and/or extended services will need to be assessed at the time when the development comes forward, so mitigation measures need to be flexible and not tied to one bus service, but to the minimum frequency. If not viable to extend or divert the 311 service, then funding would be sufficient to provide a new circular bus service from Skelmersdale bus station, or provide additional frequency on the 3A service identified by the applicant. It is reasonable to expect that when the full development is delivered and occupied, the bus service should be self-sufficient.

#### Travel Plan

The measures implemented through a Travel Plan need to ensure that the site is more sustainable than the existing surrounding area. It must be noted that the effectiveness of a Travel Plan will be limited at this location without changes to infrastructure to improve accessibility by sustainable modes.

In order to carefully monitor the potential impacts of the development and the success of mitigating measures, it is recommended that the impacts on the network are monitored as each phase of the development opens.

For a development of this size we would normally request a Section 106 contribution of £24,000 for Travel Planning Support to enable Lancashire County Council 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.

A number of potential measures are included for consideration as part of the submitted Master Travel Plan. However, without a commitment to funding these measures they cannot be implemented and therefore the benefits of the Travel Plan will be overstated. The development of sustainable measures is key to our agreement on trip rates within the TA, without these measures these rates are unlikely to be achieved. LCC request that a further sustainable transport contribution of £220 per unit is included in the S106 to deliver a range of necessary Personalised Travel Plan Measures as set out below:



- Public Transport Smartcards for households to encourage sustainable patterns from the outset of the development.
- Provision of cycles for households

LCC are satisfied that this request meets the requirements of the CIL regulations, and on balance, an overall package of measures is appropriate and necessary to minimise the impact of this proposal and support a sustainable development. Agreement of the targets to be set within the Full Travel Plan should be made as soon as possible to support this approach.

#### Existing Right of Way

The existing Public Rights of Way (PROW) FP97 must not be obstructed. The grant of planning permission does not entitle a developer to obstruct a right of way and any proposed stopping-up or diversion of a right of way should be the subject of an Order under the appropriate Act. I understand that, under new legislation the Planning Authority have powers to divert PROWs in connection with a planning application. WLBC should be able to assist with this element of the development.

#### 2.2 LCC ECOLOGY (11.11.13) and (24.01.14) – Raises the following concerns:

The site supports a mosaic of habitats, including semi-natural grassland, marshy grassland, arable land, scrub, hedgerows with mature trees and broad-leaved plantation, and is in close proximity to other habitats (woodland of ancient semi-natural character). This habitat mosaic supports a rich assemblage of breeding (and foraging) birds, and is important as a foraging and commuting resource for bats (which also roost at this site).

The main ecological issues arising from the proposal therefore include potential/ actual impacts on:

- ? Locally designated sites, including Tawd Valley Park Biological Heritage Site.
- ? Protected species and Species of Principal Importance (birds and bats).
- ? habitat connectivity.

If significant impacts on biodiversity are unavoidable, then mitigation or as a last resort compensation are required to fully offset impacts and, if avoidance, mitigation or compensation are not possible, the application should be refused (NPPF paragraph 118).

#### Biological Heritage Site

The proposed development is immediately adjacent to and would affect Tawd Valley Park Biological Heritage Site (BHS40NE04). Given the acknowledged importance of such local sites, it is clear that this site would need to be adequately protected during both development work and the lifetime of the development, (e.g. measures to retain and appropriately manage substantial buffer zones; management and remedial mitigation measures for recreational impacts such as damage to vegetation and disturbance to wildlife).

Given that the proposals would inevitably result in impacts upon the BHS (even without the applicant's apparent intention for it to function as both recreational/amenity space and compensation for impacts on biodiversity), it would be appropriate for the applicant to submit the results of surveys of the BHS together with a thorough assessment of impacts (construction and operation), and proposals for mitigation and compensation. Agrees that a Construction Environmental Management Plan and the Ecological and Landscape Strategy can be conditioned, provided that impacts on the BHS are sufficiently understood and that effective mitigation and compensation can be delivered.

#### Protected Species - Bats

According to the ES, the application area supports both bat roosts and bat foraging and commuting habitat. Further details of the bat survey have now been submitted.

On the basis of the summary results presented, the assessment of impacts on bats appears incomplete:

- The ES indicates that the site is of local value only for bats. This is incorrect: Biological Heritage Sites Guidelines for Site Selection indicate that any site which regularly supports a roost of any species of bat, as included in Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) qualifies as a Biological Heritage Site. This site therefore meets the BHS guideline threshold, and the site must therefore be considered of County significance for bats.
- The illustrative layout appears to indicate a new internal access road in close proximity to one of the known bat tree roosts. Clearly, these trees (and surrounding connecting and supporting habitat) will need to be adequately protected during construction and operation of this development. In addition, any other trees with potential (but no confirmed roosts) should be retained (or adequate mitigation and compensation proposed).
- it is not clear whether or not the proposed arboricultural works would affect bat roosts/ bat habitat.
- Bats were observed on all vegetated corridors. The illustrative masterplan indicates that the majority of foraging and commuting habitat (predominantly at site boundaries and/ or part of the adjacent BHS) would be retained. However, the proposals include a new access through the most valuable area of foraging/ commuting habitat (between sites 5A and 5B). However, provided that impacts on bat roosts/potential roosts in trees can be adequately avoided during construction and subject to the bullet points on pg 15 and 16 of Arup's additional response and given that Natural England has raised no concerns, then significant adverse impacts on bats may be avoided at this site.
- The LPA should be satisfied that noise and vibration during construction will not be significant. Full details of mitigation would then need to be dealt with through the CEMP.

- West Lancashire Borough Council should be satisfied that the proposals will not lead to operation lighting impacts on bats.
- The ES discusses habitat creation and enhancement for bats, but does not appear to propose the creation of any new bat roosts at this site. However, particularly if foraging and commuting habitat is adversely affected (as is proposed) and/ or trees with potential to support bat roosts would be lost, it would seem entirely appropriate for new bat roosting opportunities (various species) to be incorporated into the built fabric of the development.

#### Protected Species - Birds

These proposals would result in significant adverse impacts on breeding birds. Surveys have demonstrated that habitats on the site support nesting birds, including ground nesting species. Of the 44 bird species recorded, 9 are red list (*i.e.* species of the highest conservation concern, in need of urgent action to halt and reverse severe population declines), 11 are amber list, and 12 are listed as Species of Principal Importance in England. Since the assemblage of birds present appears to be of County level significance: the site meets the threshold for designation as a Biological Heritage Site,

Three areas of the site were found to be of greatest value to birds: ungrazed grassland with wet flushes, woodland and scrub at Cobb's Clough, followed by the arable farmland at Site 4, then the grassland and scrub to the west of site 5. Lapwing and skylark are breeding on the site and there can be no compensation for the loss of these species.

The ES does acknowledge that whilst the site might become less suitable for some species, it would become more suitable for other species. However it should also be noted that if the site were to remain unmanaged, existing areas of scrub would be likely to grow into woodland, but new areas of scrub would develop. Therefore any losses or changes to the bird assemblage would be long term but would not necessarily result in an assemblage of lower conservation value.

Proposed mitigation for impacts on birds includes standard avoidance of impacts on nesting birds during construction (paragraph 433); consideration of bird boxes on trees, and possible integration of bird boxes into new buildings for species such as house sparrow and house martins (paragraph 434); and proposed habitat creation and enhancement in buffered areas at boundaries and in the sustainable urban drainage system which will apparently replicate and enhance existing habitats.

In my opinion the ES does not demonstrate that the ornithological value of this site would be maintained. The bird species for which this site is currently valuable are likely to be largely lost as a result of urbanisation and loss of habitat, and would be replaced by the range of species which is commonly encountered in any urban area (and which would not be considered of importance at the County level). It therefore appears that the proposals will result in a loss of biodiversity value of County significance.

The ES concludes that the loss of bird habitat, and the operational impacts are all judged to be not significant due to the proposed wet scrub, SUDS and woodland. Unfortunately the evidence to support this conclusion is not presented within the ES. The wet scrub and SUDS appear to be one and the same thing and it is not clear, even if the use of SUDS to compensate for significant impacts on biodiversity was acceptable (which it is not), that wet scrub could be delivered within the SUDS system.

The applicant should demonstrate that the habitat requirements (quantity and quality) of the species of birds/ bird assemblage for which the site is currently important can be delivered within the proposed development (and this should not be within the SUDS), and that recreational impacts can be adequately managed to maintain the important breeding bird assemblage at this site.

#### *Protected Species: Reptiles*

Surveys did not find any evidence of reptiles, but the ES recommends a precautionary pre-works check to confirm the continuing absence of reptiles. This can be dealt with by planning condition.

#### *Protected Species: Badgers*

Surveys did not find evidence of badgers. However, pre-works checks (confirmation of continued absence of badgers/ badger setts) are recommended. This can be addressed through planning condition. The applicant should be made aware that a licence is likely to be required for works that may disturb badgers.

#### *Other Biodiversity Issues*

The Arboricultural report notes the presence of ivy cover on several trees/ tree groups and recommends removal and reinspection. However, if these trees are not in a dangerous location, then ivy should not be removed. Ivy is an invaluable resource for wildlife, providing shelter (including bird nesting/ roosting and bat roosting opportunities, but also for invertebrates), late season nectar for invertebrates (including bees) and overwinter food for birds (berries).

Species listed in Schedule 9 of the Wildlife and Countryside Act, 1981 (as amended) are present in/ adjacent to the application area: Himalayan balsam (*Impatiens glandulifera*) is present at the northern and southern boundaries of Cobb's Clough. The applicant will need to adopt appropriate working methods to prevent the spread of this species.

#### Mitigation, Habitat Creation and Landscaping

In my opinion the proposals do not demonstrate that existing biodiversity would be adequately integrated and conserved as part of these proposals, or that habitat losses would be offset (quantity and quality), e.g.

- Details of habitat creation would be included within the proposed Ecological and Landscape Strategy (ELS), but are outlined as enhancement and management of habitats including existing broad-leaved woodland boundary features, and broad-leaved woodland immediately south of site; and newly created/ enhanced wetland features and scrub.
- The ES states that habitat losses would be offset through the creation of 6 waterbodies and associated wetland habitats which, in line with best practice and subject to design constraints, would have undulating landform with a variety of water depths and wider drawdown zones. Again, the ES appears to be referring to the SUDS here. The use of SUDS to compensate for significant impacts on biodiversity is not acceptable or appropriate. Carefully designed SUDS may provide a benefit to biodiversity, but they cannot be used to offset impacts on biodiversity. Arrangements for biodiversity compensation must be separate.
- The ES refers to multifunctional open spaces also delivering species-rich grassland. It seems highly unlikely that areas of amenity land for residents would or could actually also deliver species-rich grassland (given the likely impact of recreational pressure and the varying management requirements to sustain amenity versus species-rich grassland).
- The ES refers to retention of tree cover along boundaries, and to buffers adjacent to the BHS to provide some understorey planting for birds; and tree and scrub loss to be offset by enhancement of adjacent woodland with the BHS. However, no survey data for the adjacent BHS appears to have been provided so it is unclear that the area of woodland referred to is in need of enhancement, or that the proposed enhancement would compensate for losses.
- The ES suggests that the residual habitat impact would not be significant as there would be enhancement/ creation of 10.5ha of broad-leaved BAP woodland, creation of waterbodies, improved or created 9.6ha of broad-leaved woodland, scrub & species-rich grassland. The illustrative masterplan does not appear to indicate where all of this habitat compensation would be delivered. However, it appears that woodland creation and enhancement is proposed within the existing adjacent woodland, and that water bodies (and associated wetlands and scrub) are in fact the SUDS, and that species-rich grassland would be amenity areas. To my mind this does not demonstrate that significant impacts on biodiversity would be avoided, or that adequate mitigation or compensation for significant impacts on biodiversity is actually proposed.

### Summary

Since the applicant has not yet demonstrated that significant impacts on biodiversity would be avoided, or that effective mitigation or compensation would be delivered as part of this scheme, and if West Lancashire Borough Council is minded to approve this application, it should be on the understanding that any subsequent layout at the full or reserved matters application stage **is not** substantially in accordance with the illustrative masterplan. At the reserved matters/ full application stage, the applicant will need to submit details including site layout that demonstrate effective avoidance, mitigation or as a last resort compensation for impacts on biodiversity. The Sustainable Drainage System should be designed to maximise biodiversity benefit, but will not be used to mitigate or compensate for impacts on biodiversity. If it transpires at the later application stages that effective mitigation and compensation will not be delivered within the proposed development, then arrangements to deliver adequate compensation off site will need to be explored.

2.3 LANCASHIRE WILDLIFE TRUST (11.12.13) – No objection in principle; however, do have specific objections to the proposal as submitted for the following reasons:

- The ES assesses surveyed bird and bat assemblages as of district / local importance only. This is incorrect. These qualify as being of county importance when assessed against the published *Lancashire Biological Heritage Site Selection Guidelines*. Policy EN2 of the Adopted Local Plan for West Lancashire therefore applies specifically to those locations, as well as to the generality of the issues raised below.
- Variation within and from the masterplan in any subsequent detailed application could have significant impact on the quality and functionality of the nearby ancient, secondary and planted semi-natural woodland habitats of Cobbs Clough (which forms part of the *Tawd Valley Park* Local Wildlife Site (BHS 40NE04)), Such impacts would be on its biodiversity resources, its roles as part of the district's and county's ecological network, and as part of the green infrastructure of both the district and the county; and as linkages with those of adjacent unitary authority areas and Liverpool City region. It is essential that measures are delivered to allow these resources and functions to be maintained, and enhanced. For example, an adequate buffer zone would need to be retained.
- We welcome the applicant's indicative retention of most of the trees and hedges on the development site, inasmuch as these potentially offer usefully retained wildlife habitat within it and would seem likely to form part of the immediate locality's ecological network and green infrastructure.

- We would welcome sight of any details submitted with regard to the ecological network within and connecting with the application site, and recommend that you consult your authority's ecological adviser on the quality and accuracy of same.
- The ES proposes the creation of several hectares of plantation woodland and the enhancement/ creation of BAP woodland *within* the adjacent BHS, which should *already qualify* as BAP woodland. The related map doesn't appear to show *any* new woodland. As no survey data is provided for the existing BHS, we feel that the ES does not provide a basis on which we or, presumably, your authority's ecological adviser would be able to assess and confirm (or refute) the need for such management and the likely effectiveness of the proposals for BAP woodland habitat enhancement.
- The ES proposes to offset habitat losses through the creation of water bodies and associated wetland habitats. Whilst this would be welcome in principle, in practice those bodies are actually components of SuDS (**Sustainable Drainage Schemes**). Provision of SuDS is a statutory requirement and so should *not* be counted towards biodiversity compensation. That should be *additional to statutory requirements*. We don't doubt that the SuDS may offer co-lateral biodiversity enhancements if suitably designed, but these are an intrinsic part of the development (like other infrastructure) rather than an addition to provide compensation for unavoidable losses.
- There would be a loss of ground-nesting habitat for Lapwing and Skylark. No mitigation or compensation is identified.
- There would be loss of established scrub habitat. Compensation for this is proposed to be delivered through woodland creation/ enhancement and SuDS. It is far from clear this that would result, especially as the ES itself states earlier that, if left unmanaged, succession of scrub to woodland would be negative for birds. Where is this proposed new woodland to be established and maintained? SuDS may not be used as compensatory habitat.
- The ES identifies that the development would result in the severance of a key foraging / commuting area (Site 5) for bats. However, there are no specific proposals for avoidance, mitigation, or compensation for the likely impacts of that severance.
- *If* your authority is minded to approve this outline application, we suggest that conditions and obligations would need to be imposed to ensure no net loss of biodiversity.

2.4 NATURAL ENGLAND (11.11.13) – Do not consider that this application poses any likely or significant risk to those features of the natural environment for which we would otherwise provide a more detailed consultation response and so does not wish to make specific comment on the details of this consultation. The lack of comment should not be interpreted as a statement that there are no impacts on the natural environment. Other bodies and individuals may take comments that will help the Local Planning Authority to fully take account of the environmental value of this site in the decision making process. The LPA should assess possible impacts resulting from the proposal on the following:

Bats – It is noted that a protected species survey has been undertaken. Natural England does not object to the proposed development, on the basis of the information available to us, our advice is that the proposed development would be unlikely to affect bats.

BHS – If the site is on or adjacent to a BHS, the LPA should ensure it has sufficient information to understand the impact on the local wildlife site.

Land quality – the application falls outside the scope of the consultation arrangements as the development would not appear to lead to the loss of over 20ha best and most versatile agricultural land.

Biodiversity – The application may provide opportunities to enhance biodiversity of the site.

Landscape - The application may provide opportunities to enhance the character and local distinctiveness of the site, use natural resources more sustainably and bring benefits for the local community.

2.5 THE COAL AUTHORITY (28.10.13) – No objection subject to conditions.

Confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The applicant has obtained appropriate and up-to-date coal mining information for the proposed development site and has used this information to inform the Environmental Statement, which accompanies this planning application.

The Coal Authority concurs with the recommendations of the Phase 1 Geo-Environmental Desk Study Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.



The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring site investigation works prior to commencement of development. In the event that the site investigations confirm the need for remedial works to treat the mine entries and/or areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

The Coal Authority considers that the content and conclusions of the Phase 1 Geo-Environmental Desk Study Report are sufficient for the purposes of the planning system and meets the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore has no objection to the proposed development subject to the imposition of the above condition.

- 2.6 ENVIRONMENT AGENCY (15.10.13) – The proposed development will only meet the requirements of the National Planning Policy Framework if the measure(s) as detailed in the Flood Risk Assessment 230091-11 issued 26 September 2013 submitted with this application are implemented and secured by way of a planning condition on any planning permission.
- 2.7 LCC PLANNING CONTRIBUTIONS (24.10.13) – The application has been assessed by the Education Team and has not resulted in a request for a planning contribution.
- 2.8 LCC ARCHAEOLOGY (06.11.13) – Recommend a condition regarding site investigation. The ES has identified two known sites of potential archaeological interest that might be affected by the proposals. It is suggested that these sites are of low significance which could be dealt with by means of mitigation works secured by planning condition.
- 2.9 LCC PUBLIC FOOTPATHS (21.10.13) – The application site incorporates Public Footpath No. 97. Public Rights Of Way (PROW) must not be obstructed during development and it is the responsibility of the landowner to ensure that the necessary procedures are followed for the legal diversion of the PROW, either temporarily or permanently.
- 2.10 LANCASHIRE CONSTABULARY (10.10.13) - A crime and incident search has been conducted at this policing incident location and during the period 10/10/2012 to 10/10/2013 there has been over 200 reported crimes including theft from a vehicle, criminal damage and burglary. In order to prevent the opportunity for crime and disorder at the proposed development the Police Architectural Liaison Officer makes a number of recommendations which will need to be considered at the reserved matters stage.

- 2.11 ASSISTANT DIRECTOR COMMUNITY SERVICES – CONTAMINATION (24.10.13) – No observations in relation to land contamination issues.
- 2.12 ASSISTANT DIRECTOR COMMUNITY SERVICES – ENVIRONMENTAL HEALTH (12.11.13) – No objection in principle. Main issue will arise during the construction phases of the development. Within the ES, the applicant has proposed a Construction Environmental Management Plan (CEMP) be produced. This should encompass detailed arrangements to minimise the impact of noise and dust during construction. Recommend conditions to require the submission of a CEMP.
- 2.13 HOUSING STRATEGY MANAGER (08.11.13) – Confirms the need for affordable housing in this area. In order to best meet affordable housing would seek the maximum affordable contribution allowable under planning policy with a tenure mix of 80% social rent and 20% shared ownership and all affordable units to be built to Lifetime Homes Standard.
- 2.14 UNITED UTILITIES (23.01.14) – No objection provided that the drainage strategy proposed within the FRA is adhered to.
- 2.15 CLINICAL COMMISSIONING GROUP – comments awaited

#### **4.0 OTHER REPRESENTATIONS**

- 4.1 Ward Councillors (Cllr Y Gagan, Cllr G Hodson and Cllr E Savage) (31.10.13) - Comment as follows:
- Would like the mature trees and hedgerows preserving and buffer hedges to be retained. Also, TPO on mature trees. Such an approach will ensure the developer is aware of constraints on the site. There should be no net loss of biodiversity and any unavoidable loss should be compensated for through mitigation;
  - The amenity value of the site enjoyed by large numbers of the public in terms of access and usage of the footpath network should be retained as an integral design feature of the eventual development;
  - Would like to see a mixed level of design of houses. A minimum 30% needs to be affordable housing which should be spread throughout the development and overall the site should reflect the current and future demographic needs of West Lancs;
  - The development should have regard to Policy EN1 of the Local Plan – low carbon development and energy infrastructure;

- Many residents comment that they would like the design to reflect the style of buildings which are in Dalton Park;
- Residents have raised concerns that this area is remote from the town centre and there is no bus link. Infrastructure should be able to cope with rising numbers in regards school and medical provision. Also like the impact of site traffic on local roads, particularly around the Dalton area, to be assessed;
- Would like assurances that the Whalleys development does not detract from the regeneration of Skelmersdale as listed as a priority within the sustainable community strategy for West Lancs.

#### 4.2 Dalton Parish Council (12.12.13) – raise the following concerns:

- Extremely concerned about the extra traffic this development will create. None of the surveys have been carried out in Dalton. Based on what currently happens, traffic travels up Beacon Lane and turns left onto Higher Lane, travelling through Dalton to join the A5209. At some points both Beacon Lane and Higher Lane are in many places not wide enough to allow two cars to pass at once, and as such there are weekly accidents. These roads cannot cope with any increase in traffic. In a recent traffic study over two weeks, 19,000 vehicles used Higher Lane. Even if there are only 400 additional journeys through Dalton (less than one journey per household in the Whalleys development), that is in excess of 2,500 additional journeys per week – an increase of over 25%;
- It may be possible to consider new road access via Stannanought Road as Beacon Park is redeveloped;
- It may be possible to consider implementing a new one-way system along (lower) Beacon Lane or one-way along Elmers Green Lane as an opportunity to re-link part of the road split into 3 by developers;
- Create a link cycle-path, pedestrian walkway alongside Whalley Farm;
- Implement the traffic calming measures through Dalton advocated in The Supplementary Planning Guidance (August 2007);
- There are insufficient facilities or services to support such a large amount of additional housing – eg. Schools, shops, dentists, doctors and other services will not be able to cope;
- Lack of both jobs and amenities will increase travel outside of Skelmersdale, further increasing traffic movements;
- Might it be possible to bring forward more mixed development on the land or extra shopping/parking space?
- Affordable housing should be between 30% and 50% but people will be stuck on the outskirts of Skelmersdale with no access to public transport and no footpaths to the shops at Ashurst – not sustainable;
- During the Local Plan consultations, it was stated that developers would not be able to “cherry pick” sites. The town centre regeneration must come first and only then would development be allowed in the outer areas, otherwise it will only be exacerbating the existing problems – promotion and development of this site first, before town centre sites flies in the face of agreed principles;

- Whalleys 4 exits onto Beacon Lane which would increase traffic on Beacon Lane. The master plan shows the same density of housing in Whalleys 4 as in the other areas, but as the SPG states, the housing at Whalleys 4 should be of lower density due to the elevated nature of the site, meaning any development will be visible from long distances, as is noticeable from the intrusive nature of Kestrel Park adjacent;
- On the plan, it shows the cycleway/footpath between Whalleys and Beacon Country Park as being on the outside of the development. It would make more sense and increase the use of this path if it carried on from the existing one through Tawd Valley Park through to Beacon Country Park, as was envisaged in the SPG.
- Whilst making green spaces there needs to be very careful consideration as to where these go, as in the majority of cases these just serve to attract anti-social behaviour, as is the case in Skelmersdale today. We can see from the plans that some of the play areas/green spaces are just going to end up being used for anti-social behaviour rather than the use they were intended for.
- The area has a great wealth of natural beauty that should be preserved where it can be fitted into the scheme. There are mature trees, natural banking, copses and tree-encircled land depressions forming pits that should be incorporated into the estate design to create a unique and desirable place to live. This mature planting can provide screening and retain the rural look of the area.
- Dalton Parish Council has campaigned for many years for improved pedestrian and cycle access for Ashurst/ Whalleys to Dalton Church and School. There is a missed opportunity here as no suggestion of this is incorporated into the ARUP plan.
- The SPG shows pedestrian and bridle path link but the illustrative master plan shows link aborted in the field and park alongside Beacon Lane instead of within the buffer zone and the south.
- We suggest that the Beacon Park/Tawd Valley Park link would be more appropriate if it was adjacent to Cobbs Clough Wood rather than along the northern edge . That way it would be more accessible for more residents.
- In the illustrative master plan pedestrian access from the new sites to Ashurst shops remains problematic and dangerous. There are 2 new link footpaths, one to Tawd Valley Park, the other one near St James School. The provision of a footpath along the remainder of Ashley Road to the south and Dalton Park is paramount for pedestrian and vehicle safety.
- Dalton Parish Council accepts that development will take place, however urges design to be forward thinking and not to replicate any problems encountered elsewhere in Skelmersdale with previous street layouts;

- In addition the Parish Council notes that the SPG includes a condition of planning permission that the developer is to provide a footpath/cycleway/bridle-path along Beacon Road from Dalton church and school to the new Whalleys development. This is omitted from the proposal under consideration. The precedent for such a scheme is set by the developers of West Lancashire College providing a pathway link to the sites of Lathom High School and Our Lady Queen of Peace Engineering College as part of a Section 106 agreement, so Dalton Parish Council requests that such an arrangement should be added to the Whalleys Development Plan.

4.3 Newburgh Parish Council (09.12.13) – make the following comments:

- There is likely to be a significant increase in traffic through Newburgh, which will put a strain on Cobbs Brow Lane, already burdened by heavy volumes of quarry traffic. Concerned about traffic pressure at the junction of Cobbs Brow Lane and A5209 and the use of Smithy Brow. Also concerned about the volume of traffic at the junction of Beacon Lane and Cobbs Brow Lane. The proposals for pedestrian and cycle paths, and for public transport, whilst necessary and worthwhile, will not in any significant way mitigate the impact of increased volumes of traffic through Newburgh.

4.4 Representations have been received from eight local residents objecting to the proposed development on the following grounds:

- Too many houses crammed onto a small space;
- Limited/inadequate existing infrastructure – local primary schools full, not enough shops, lack of health facilities, supply of electricity poor, poor transport links;
- The land has, by default, become a nature reserve and is returning to forest, so this should be fostered and the land kept as a nature reserve;
- Development of land should be done “in order” as advocated in the Local Plan with centrally located sites in Skelmersdale developed first;
- Contrary to Council’s own policies and documents which originally stated no one builder would get a parcel of land, the idea of building systematically instead of “bit part” here and there has also been shelved;
- Unemployment in the area is rising; there is no proven requirement that there is a lack of housing or further housing required in the immediate future;
- Council should concentrate on the regeneration of the town centre;
- The idea of affordable housing has not been quantified;
- Other more “brown” areas desperate for regeneration should take precedent over encroaching into the countryside;
- Impact on wildlife;
- Impact on trees;
- Bests interests of the town not being considered;
- Taking away the recreational area that is used by many;

- Increased traffic, particularly on narrow surrounding roads;
- Highway safety – roads do not have footpaths;
- Impact on visual amenity;
- Impact of increased noise;
- Lack of detailed plans showing layout, density, design and appearance;
- Will be like adding another mini-town in the area;
- Already a number of new houses being built which have not sold – this would imply supply exceeds demand so how is such a large number of houses justified?
- Lack of recreational and leisure-time facilities in the area;
- Unlimited access to the wooded area will create anti-social behaviour;
- Conflict of interest as Council is applicant and decider;
- Increased waste.

## **5.0 SUPPORTING INFORMATION**

5.1 The application is supported by an Environmental Impact Assessment (ES), which essentially provides an evaluation of the following:

Air Quality  
 Cultural Heritage  
 Ecology  
 Ground conditions and contamination  
 Noise and vibration  
 Landscape and visual amenity  
 Waste  
 Water resources

Alongside the ES, the following additional supporting information has been submitted:

Planning, Design and Access Statement  
 Statement of Community Engagement  
 Flood Risk Assessment  
 Drainage Strategy  
 Utilities Statement  
 Sustainability Statement  
 Arboricultural Report  
 Transport Assessment  
 Travel Plan Framework

## **6.0 RELEVANT PLANNING POLICIES**

6.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan (2012-2027) DPD provide the policy framework against which the development will be assessed.

6.2 The site is allocated as SP1 – Regional Town; RS1(a)(v) – Residential Development; EN3 – Green Infrastructure; Mineral Safeguarding Area

Relevant West Lancashire Local Plan (2012-2027) DPD policies:

SP1 – A Sustainable Development Framework for West Lancashire

GN1 – Settlement Boundaries

GN3 – Criteria for Sustainable Development

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

As the site is within a Mineral Safeguarding Area an assessment of whether or not the site should be retained for future mineral extraction should be made in order to accord with Policy M2 of the Lancashire Minerals and Sites Allocation and Development Management Policies Local Plan.

6.3 Additionally the following supplementary planning documents are relevant:

Key Principles for Residential Development at Whalleys, Skelmersdale (Sep 2012)

SPG – Whalleys Housing Site, Skelmersdale Plus Mixed Development (updated July 2007)

SPD – Design Guide (Jan 2008)

SPD - Open Space/Recreational Provision in New Residential Developments (April 2009).

## **7.0 OBSERVATIONS OF ASSISTANT DIRECTOR PLANNING**

### The Site

- 7.1 The application site relates to four separate parcels of undeveloped greenfield land in north Skelmersdale, adjacent to Ashurst and approximately 2km north of the town centre. The sites are all located within the Skelmersdale settlement boundary and Cobbs Clough Road and Beacon Lane form their northern boundary as well as the edge of the settlement area, with Green Belt beyond. The total area of the sites is approximately 32 hectares. The site is predominantly surrounded by arable land to the north and residential estates to the south. The four parcels of land are known as Cobbs Clough, Whalleys Site 2, Whalleys Site 4, and Whalleys Site 5.
- 7.2 Cobbs Clough is the largest of the four sites, which, together with Whalleys 2 provides a “developable area” of approximately 12 hectares. It is the western-most site and is bound by the Cobbs Clough wooded Biological Heritage Site (BHS) to the south with the residential areas of Ashurst beyond and the Tawd Valley wooded BHS to the west, beyond which lies Rogers Farm and the playing fields of Our Lady Queen of Peace Engineering College. To the north is Cobbs Clough Road and to the east is Whalleys Site 2. The land is currently rough long grassland, scrub and wood and slopes east to west down to the Tawd Valley. Informal paths exist around the edge of the site and a public right of way (PROW) runs north-south on the western side of the site. The site is accessed from a roundabout off Whalleys Road constructed a number of years ago for future development at Whalleys.
- 7.3 Whalleys Site 2 is directly to the east of Cobbs Clough and is accessed off the same roundabout as above with Whalleys Road forming the northern boundary. To the east and south is the wooded Cobbs Clough BHS with the residential development of Dalton Park beyond to the east and other residential areas of Ashurst beyond to the south. The land is very similar to that at Cobbs Clough in that it slopes east to west and is bound by woodland on two sides with a strip of trees to the west between it and Cobbs Clough and comprises rough long grass and scrubland with informal paths around the edge of the site. There is a small pond area in the north-east corner of the site.
- 7.4 Whalleys 4 is separated somewhat from the other three sites by the roundabout at the junction of Beacon Lane and Whalleys Road and the existing residential development at Dalton Park. It is the eastern-most site and has a “developable area” of approximately 6 hectares. It is bound to the north by Beacon Lane with Green Belt and agricultural land beyond and to the west (fronted by a mature tree belt) is Whalleys Road with existing residential development beyond. To the south of the site is St James’s Primary School and properties on Kestrel Mews. To the east lies arable farmland forming Protected Land (Policy GN1 of the Local plan). This site is currently in arable crop production and slopes steeply upwards from west to east towards Dalton Church.



- 7.5 Finally, Whalleys 5 is the northern-most site and can effectively be split into two parts, 5a (west) and 5b (east), together amounting to an approximate 4 hectare developable area. 5a is bound by Whalleys Road to the south and west, site 5b to the east and agricultural land, Ashtons Farm and the Maharishi Primary School to the north. The land is slightly sloping east to west and is characterised by rough grass and scrubs with a range of trees grouped and scattered around. At the western point of the site, the land slopes steeply into a hollow which leads to a subway under Whalleys Road connecting Site 5 with Cobbs Clough. Site 5b is relatively flat and is currently in use as arable farmland. It is triangular in shape and bound by Whalleys Road to the south, site 5a to the west, separated by a belt of trees and Beacon Lane to the east and north with agricultural Green Belt land beyond.

### The Proposals

- 7.6 The application seeks outline planning permission (with all matters reserved) for the provision of approximately 630 dwellings across the four sites. The total site area equates to approximately 32 hectares, within which there is approximately 22 hectares of developable land as a large part of the woodland to the south will be retained, alongside green buffer areas surrounding the sites, as indicated in the Local Plan and amounting to approximately 9 hectares. This provides an estimated density of 29 dwellings per hectare. An indication has been provided, based on this information, which assumes the number of dwellings on each site to be:
- Cobbs Clough – 194 dwellings
  - Whalleys 2 – 145 dwelling
  - Whalleys 4 – 177 dwellings
  - Whalleys 5 – 114 dwellings
- 7.7 Alongside the dwellings, it is also proposed to provide areas of public open space, including a Multi-Use Games Area (MUGA) and Sustainable Urban Drainage (SUDS) in the form of swales and ponds. The application is in outline only and as such, details of layout, design, appearance and exact locations of public open space and SUDS and other infrastructure are not under consideration at this time, although the submitted illustrative masterplan makes reference to a number of these elements.

- 7.8 The design and access statement provides an indication at this stage that the “grain” of the development on most of the sites will be two storeys, with an element of some three storey townhouses and apartments in less visually prominent areas. Indicative layouts suggest a legible streetscene with few cul-de-sacs and dead-ends and with houses fronting green buffer areas allowing for passive surveillance. A mix of housing types, tenures and styles is envisaged, providing a mix of affordable housing, specialist elderly and open market housing with parking in accordance with Local Plan policy.
- 7.9 The full requirement of 30% affordable housing is proposed, within which some specialist elderly and lifetime home dwellings will be incorporated.
- 7.10 It is proposed to improve accessibility to the site by means other than the private car by incorporating pedestrian and cycle paths to the site, pedestrian crossings where appropriate, new bus stops and a means to help increase the frequency of bus services at peak times.

### Principle of Development

#### *National Planning Policy Framework*

- 7.11 The National Planning Policy Framework (NPPF) was issued on 27<sup>th</sup> March 2012 and this 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 implementation section of the NPPF states (paragraph 215) that the weight that can be given to the relevant policies in local plans will be proportionate to their degree of consistency with the NPPF. Significant weight can therefore be given to relevant policies in the West Lancashire Local Plan 2012-2027 DPD (Local Plan) because the Local Plan has only recently been adopted (Oct 2013) and is consistent with the NPPF.
- 7.12 At the heart of the NPPF is a presumption in favour of sustainable development. In order to deliver a wide choice of housing, the NPPF advocates the importance of meeting locally identified need/demand and ensuring a rolling five year supply of deliverable housing sites to meet these requirements. Consistent with NPPF’s approach, the recently adopted Local Plan allocates a significant amount of land at Whalleys for residential development. The proposed development is therefore consistent with the aims and objectives of the NPPF.

- 7.13 On more detailed matters, the NPPF establishes the role of transport policies in facilitating sustainable development and advises that development with the potential to generate significant amounts of movement should be supported by a Transport Assessment. Furthermore, the NPPF makes clear that new development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. At paragraph 109, the NPPF outlines how the planning system should contribute to and enhance the natural and local environment by protecting landscapes, minimising impact on biodiversity, protecting the best and most versatile agricultural land, conserving the historic environment and avoiding unacceptable risk from soil, air, water or noise pollution.

*West Lancashire Local Plan 2012-2027 DPD*

- 7.14 The site lies within Skelmersdale and is specifically allocated for residential development in the West Lancashire Local Plan 2012-2027 DPD (Local Plan). Housing is therefore considered to be acceptable in principle on the site and is in accordance with the NPPF alongside Policies SP1, GN1 and RS1 of the Local Plan, subject to the proposal conforming with all other planning policy. Policy SP1 advises that new development should be promoted in accordance with a settlement hierarchy, with those settlements higher up the hierarchy taking more development than those lower down. The proposed development accords with this hierarchy by contributing a significant number of dwellings towards the housing target for Skelmersdale with Up Holland (top of the settlement hierarchy). In addition, the development of housing on this site will make an important contribution towards achieving the Council's spatial strategy and vision.
- 7.15 It is to be noted that the red edge boundary of the application site includes land allocated for the provision of Green Infrastructure (Policy EN3) and Nature Conservation (Policy EN2), mostly around the edges of all the separate sites. However, the actual developable area identified on the submitted parameter plan excludes the above areas, which it is proposed to retain.

*Supplementary Planning Guidance: Whalleys Housing Site 2007*

- 7.16 In 2000, Supplementary Planning Guidance (SPG) was adopted for mixed use development at Whalleys. This was updated in July 2007 and formed part of the West Lancashire Replacement Local Plan 2006. Although this plan has now been superseded by the West Lancashire Local Plan 2012-2027 DPD and the land allocation on Cobbs Clough (previously employment land) has changed; the fundamental principles set out in the SPG remain a material consideration. The SPG provides guidance in relation to housing mix, design, density, access and pedestrian infrastructure improvements as well as open space and natural landscape provision.

## Access, Traffic and Highways

- 7.17 Details of access to the individual sites are not included on the outline planning application and would be dealt with at Reserved Matters stage, although an indicative plan identifies suitable access points for each of the separate parcels of land, which have been considered by the Highway Authority. Considerable negotiation has been undertaken with the Highway Authority in ensuring that the sites can be developed in a way which is safe and sustainable. Highway infrastructure was put in place for the future development of these sites some years ago as an extension of Whalleys Road, even incorporating a roundabout and bus lay-bys.
- 7.18 The Highway Authority is of the opinion that the existing highway infrastructure in the vicinity of the proposed development is not currently suffering from high levels of congestion and the application site is situated within relatively easy access to the strategic highway network, as such, the development should have a negligible impact on highway safety in the immediate vicinity of the site, providing a number of mitigating measures are implemented to achieve sustainable patterns of movement and reduce people's reliance on private cars for making journeys.
- 7.19 In terms of traffic generation, the Highway Authority have concurred with the submitted growth figures to 2025 and are similarly satisfied that all surrounding roads and junctions can accommodate the estimated net increase in traffic as a result of the development, apart from one junction – Cobbs Brow/Smithy Brow/Ash Brow (A5209) in Newburgh. Various alternative junction arrangements have been carefully considered in order to improve this junction, including traffic lights, mini-roundabout and a one-way system; however LCC consider that a full assessment of how this junction will operate would be better made once a certain trigger of dwellings have been built and occupied, after which time, the developer would be required to re-evaluate the junction capacity. This can be imposed by condition as part of the phasing of the development.
- 7.20 As part of the development, the applicant is proposing to carry out the following highway improvements:
- 3m wide pedestrian/cycle way on east side of Whalleys Road along frontage of Whalleys Site 4 from Beacon Lane to existing footway in front of St James Primary School;
  - Pedestrian footway alongside western side of Whalleys Road connecting from end of existing footway to bus stop;
  - Toucan crossing across Whalleys Road connecting the above two footways;
  - 3m wide pedestrian/cycle way along northern internal perimeter of Whalleys 4 providing potential to link up to Dalton Church in future;

- 3m wide pedestrian/cycle way on south side of Whalleys Road continuing on from existing footway outside Dalton Park, along northern boundary of Site 2 to connect to a crossing over Whalleys Road;
- 3m wide pedestrian/cycle way around internal eastern and southern perimeter of Site 2;
- 3m wide pedestrian/cycle way to northern side of Whalleys Road along frontage of Site 5 (a) and (b) between existing roundabouts;
- 3m wide pedestrian/cycle way around internal perimeter of Site 5(b);
- 3m pedestrian/cycle way along internal northern perimeter of Site 5(a) connecting to short length of new footway on eastern side of Cobbs Brow Lane with toucan crossing across Cobbs Brow Lane opposite Maharishi School;
- 3m wide pedestrian/cycle way along western side of Whalleys Road along frontage to Cobbs Clough, following road round to the junction with Cobbs Clough Road;
- Two bus stops on Whalleys Road outside Sites 5(a) and (b);
- Improvements to subway between Cobbs Clough and Site 5(a);
- Upgrade of existing Public Right of Way through Clough to connect with Summer Street;
- Creation of on-road advisory cycle lanes along Whalleys and Ashurst Roads to link with cycle route north of Toby Island (A577).

7.21 The above improvements are welcomed and will be delivered through a combination of S278 Highway works and/or planning obligations.

7.22 In addition to the above, it has been recognised in the submitted Transport Assessment that the provision of a more frequent bus service through the site would support social inclusion and promote sustainable forms of transport for this development. A service of every half an hour is preferable. The current frequency (the existing 3A service between Wrightington Hospital and Ormskirk) operates approximately hourly, which probably reflects the current low level of demand for the service; however, the construction of approximately 600 dwellings at Whalleys may provide the demand required to justify an increase in the service frequency. It is accepted that, in the early years, this increase would require some subsidy to kick-start the service and make it commercially viable. It may be possible to divert the existing 311 service (Liverpool-Ormskirk-Skelmersdale) via Cobbs Clough Road to provide a half hourly service for all of Whalleys or provide a new circular service from the town centre. The operating costs to a bus operator are typically in the region of £120k per year. The Highway Authority consider that a three year annual payment of this amount would be sufficient to cover the initial start-up of the increased service but that this will need to be assessed at the time when the development comes forward, so mitigation measures need to be flexible and not tied to one bus service, but to minimum service frequency. The Highway Authority consider that it is reasonable to expect that when the full development is delivered and occupied,

the bus service should be self-sufficient. The applicant has agreed to fund the first year of this increased service (£120k) but claims that any more than this would bring into doubt the viability of the scheme and the ability to deliver the required 30% affordable housing provision and other highway improvements.

- 7.23 A Master 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, carry out residents travel surveys, provide details of cycling, pedestrian and public transport links through the site, provide cycle parking, produce smart TARGETS for non-car modes of travel, provide a detailed action plan of measures to be introduced and appropriate funding and provide details of monitoring and review of the plan for at least 5 years or the full life of the development. A planning obligation contribution of £24,000 is requested to enable LCC's travel plan team to appraise, monitor and support the sustainable travel needs of the development.
- 7.24 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.
- 7.25 Concerns have been expressed that the traffic generated by the proposed development will have a significant effect on surrounding roads, particularly through Dalton on Beacon Lane and Higher Lane, and at the Cobbs Brow/Smithy Lane/Ash Brow (A5209) junction in Newburgh. A full analysis of the impact on roads through Dalton has not been undertaken by the applicant; however, the Highway Authority is satisfied that, although these roads are narrow, they are currently lightly trafficked and despite there being an inevitable increase in traffic along these roads, it is not considered to be at levels where highway safety is significantly compromised. The Highway Authority has expressed some concerns regarding the junction at Cobbs Brow Lane and Ash Brow and discussion has centred around what improvements, if any, may be required at this junction due to increase traffic, particularly travelling eastwards at the junction. LCC have advised that this can be assessed at Reserved Matters stage.
- 7.26 To summarise highway issues, I am satisfied that provided the measures outlined above regarding highway improvements and bus provision are implemented consistent with each phase of development, the proposal will not lead to unacceptable traffic generation, will integrate well with the surrounding area and provide safe sustainable accessibility for different modes of transport, in accordance with the NPPF, Policies GN3 and IF2 of the Local Plan and the SPG.

## Housing Development

- 7.27 The application is submitted in outline therefore only indicative details are provided, which indicate that approximately 630 dwellings could be provided over the four sites. Estimated figures based on a density of 29 dwellings per hectare show that there could be approximately 200 dwellings on Cobbs Clough, 147 on Whalleys Site 2, 186 on Whalleys Site 4, 57 on Whalleys Site 5a and 66 on Whalleys Site 5b. This density is below the minimum requirement of 30 dwellings per hectare stated in the Local Plan, 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. The indicative plan gives rise to some concerns with respect to the juxtaposition of development and trees/biodiversity interests on the site; 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.
- 7.28 Policy RS2 requires that within residential developments on greenfield sites on the edge of the built-up area, up to 30% of the units will be required to be affordable, in accordance with Policy SP2. The size and type would be determined at reserved matters stage having regard to the viability of the individual sites and local need although a tenure split of 80% social rented and 20% shared ownership has been identified as the need in this area. Furthermore, both Policy RS1 and Policy RS2 require that at least 20% of the total number of residential units on the site (which should include some of the affordable units) should be designed specifically to accommodate the elderly. The applicant has agreed to the full 30% requirement of affordable housing and to the incorporation of 20% specialist accommodation suitable for the elderly. This can be incorporated within a planning obligation.

## Surface Water, Drainage and Flood Risk

- 7.29 In terms of the principle of development relating to flood risk, the application site is entirely within Flood Zone 1, the least susceptible to flood risk. However, the NPPF requires that a site specific Flood Risk Assessment (FRA) is required for proposals of 1 hectare or greater. The submitted FRA identifies that the closest major water course to the site is the River Tawd, located 100m west of the western boundary of the site. The Cobbs Clough water course bounds the site to the south. Given the site is located within flood zone 1 and the distance to the nearest rivers, the FRA shows a very low risk of fluvial flooding. As the site is presently greenfield, the NPPF and Policy GN3 of the Local Plan require that any development upon the land should not result in unacceptable flood risk or

drainage problems and should achieve a surface water run-off rate to that equivalent of the greenfield run-off rate. In order to achieve a sustainable surface water run-off rate, it is proposed to manage surface water by means of a Sustainable Urban Drainage Scheme of shallow storage ponds and swales on site, which will discharge into the existing surrounding drainage ditches, which in turn, drain to the River Tawd.

- 7.30 The Environment Agency has assessed the submissions and has raised no objections 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. Additionally, details of how the final maintenance of the surface water system for the site will be subject to approval. As the application is in outline and the final make up of the scheme is as yet unknown the above requirements will be subject of planning conditions.
- 7.31 It is proposed that the foul water discharges freely into the public sewer, which appears to have been constructed to accommodate the future development of this land and has been confirmed by United Utilities to be acceptable.

#### Mineral Safeguarding and Coal Mining Issues

- 7.32 The Lancashire County Council Minerals and Waste Site Allocation and Development Management Policies DPD was adopted on 26<sup>th</sup> September 2013. This plan provides policies for minerals and waste planning in Lancashire. Policy M2 of this document identifies the site as falling within a Minerals Safeguarding Area. Within these areas, planning permission will generally not be granted for any form of development that is incompatible by reason of scale, proximity and permanence with working the minerals found on the land (in this case the extraction of shallow coal), unless the applicant can demonstrate that the mineral concerned is no longer of any value or has been fully extracted, or there is an overarching need for the incompatible development that outweighs the need to avoid the sterilisation of the mineral resource.
- 7.33 In order to assess the extent and value of the coal resource, and to assess the stability of the land for future development, a Coal Mining Risk Assessment has been submitted by the applicant. The assessment concludes that the future extraction of coal from the site is unlikely, due to the depth of the coal seams and associated economic viability issues and as such, the development of the site for uses not compatible with mineral extraction (i.e. housing) would be in conformity with Policy M2. It is further noted that the demonstrable need for the delivery of housing across the Borough outweighs the need to avoid the sterilisation of coal present on the site. I would agree with this assessment and also consider that the extraction of coal on this site would lead to considerable damage to the surrounding environment by way of noise, dust, vibration and biodiversity given the close proximity of existing housing and the Biological Heritage Site.



Therefore, on balance, I consider the development of the site for housing to meet the future needs of the Borough and the regeneration of Skelmersdale outweigh the limited potential for mineral extraction on the site and is in compliance with Policy M2 of the Minerals and Waste Site Allocations DPD.

- 7.34 The Coal Mining Risk Assessment has been appraised by the Coal Authority, who are satisfied that, provided further intrusive site investigation works are undertaken prior to commencement of development (and in the event that the site investigations confirm the need for remedial works that this is carried out prior to development) the proposal is considered to be acceptable and meets the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development.

#### Biodiversity and Trees

- 7.35 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).
- 7.36 The development of this greenfield site will inevitably affect the existing biodiversity value of the site, since the majority of the land has been left to naturalise over time. Other parts of the site are in arable crop production, which brings with it a certain kind of habitat. Any development on the land must be carried out in such a way that biodiversity value and conservation and enhancement of the natural environment are achieved. Under the terms of Policy EN2 in the Local Plan development proposals must seek to avoid impacts on significant ecological assets and protect and improve the biodiversity value of sites. If significant impacts on biodiversity are unavoidable, then mitigation or as a last resort, compensation, are required to fully offset impacts.
- 7.37 The site is immediately adjacent to the Tawd Valley Park Biological Heritage Site (BHS) and it is clear that the BHS would need to be adequately protected during development and the lifetime of the development. Surveys of the site have been carried out in respect of protected species, an extended phase 1 habitat survey and trees.

- 7.38 It is proposed to submit, as part of any reserved matters application, a vegetative assessment of the site to provide further clarification as to the current condition of the adjacent BHS. This survey data will then inform a detailed Ecological and Landscape Strategy (ELS). The ELS would provide full details of mitigation and enhancement measures on the site. In addition, a Construction Environmental Management Plan (CEMP) will also be submitted at reserved matters stage which will provide detail on construction methods and protection of the BHS. I am satisfied that at this outline stage, sufficient scope and land exists within the site to provide enhancement and mitigation opportunities for any adverse impact and/or loss of biodiversity value of the BHS.
- 7.39 A bat survey identified the use of the site by several types of bats. Bat activity (feeding and commuting) was recorded across the site and there were two confirmed tree roosts of common pipistrelle bat, one suspected tree roost of noctule bat. The indicative plan shows little retention of existing vegetation within the site itself, although the majority of the woodland edge will be retained. 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 part of the site 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. In order to meet the policy test that adequate mitigation and compensation is achievable it is recommended that a planning condition is imposed requiring the submission of details of bat roosting opportunities for pipistrelle, noctule and myotis bats to be incorporated into the development.
- 7.40 It is acknowledged that the site currently supports a wide range of bird species, some of which are considered of importance at the County level. There are three pairs of skylark and two pairs of lapwing nesting on the site. The development of the land will result in the loss of habitat that supports these species and there can be no compensation for these species on site. The proposed development will, however, support other bird species instead and there is alternative suitable habitat within the surrounding agricultural landscape to accommodate skylarks and lapwings. In addition, areas of wet scrub and wetland in addition to tree/scrub planting and enhancement to the existing woodland will be created as part of any mitigation proposals for the loss of the overall habitat and specific bird species. Provided the ELS does not result in the overall loss of biodiversity of the site then I am satisfied that, in principle, the proposed scheme complies with Policy EN2, the NPPF, the Conservation of Habitats and Species Regulations.

- 7.41 More generally, the County Ecologist has expressed some concern that the proposed use of the SUDs scheme to provide some mitigation for loss of biodiversity cannot be accepted. SUDs can deliver multi-functional benefits, including biodiversity enhancement but guidance advises that SUDs features should not be used to offset impacts on biodiversity as a result of development. Moreover, once the Flood and Water Management Act 2010 is fully implemented, the County Council will be responsible for adopting and managing SUDs and this may present a financial and management burden. The applicant's ecologist disagrees with this view and considers that carefully designed SUDs can contribute towards mitigation for loss of biodiversity, as advocated in RSPB and WWT guidance 2012. On balance, I am satisfied that given the large areas of greenspace surrounding the site and the need to provide on-site surface water storage by means of swales and SUDs, there is sufficient scope on the site to accommodate mitigation and enhancement measures such to ensure no net loss of biodiversity, whether or not SUDs are accepted as a form of mitigation or enhancement.
- 7.42 The proposal results in the retention of the vast majority of the woodland around the southern edge of the site as this is outside the red edge application site and in the ownership of the Borough Council. The trees/hedges and shrubs on all other outer boundaries are also shown for retention. The area of tree removal is between sites 5a and 5b to allow for a potential access between the two sites. Any significant loss of trees will require mitigation planting at reserved matters stage. The retention of selective boundary tree/hedgerow features can be protected with a TPO which will ensure that the biodiversity and amenity value of the site is secured.
- 7.43 The ecology report notes the presence of a number of invasive species on the site including 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).
- 7.44 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.
- 7.45 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 residential land use. 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 retention of the dense areas of greenspace buffers around the application site, together with on-site habitat enhancement will provide suitable mitigation opportunities.

### Impact of Development on Neighbouring Residential Amenity

- 7.46 It is necessary to consider the impact of the proposed development on the amenity of existing surrounding residents, including loss of privacy, light or undue noise. As this application is in outline, only an illustrative layout has been provided indicating that the relevant distances between dwellings is achievable. Should the proposal be considered acceptable in outline, then a more detailed Reserved Matters application will be required to be submitted to assess the detailed implications upon neighbouring residential amenity. At this stage, I am satisfied that the principle of residential development can be accommodated on this site, bearing in mind the site constraints. I do not anticipate that the development would pose any harm to neighbouring residential amenity provided that the relevant distances are adhered to in any subsequent reserved matters application, as required in the Council's adopted SPD Design Guide.
- 7.47 The main impacts of any significant residential development in this area would be during the construction phase of development in terms of noise; and in the longer term, from increased traffic and use of local services generated by the development. Whilst some noise will be generated during the construction phases, this will be subject to environmental control. In addition, the applicant suggests that a Construction Environmental Management Plan (CEMP) will be submitted prior to any reserved matters application and this would provide the necessary measures to control noise levels, hours of working, construction traffic routing, construction barriers to protect habitats etc. This detail can be imposed by condition.
- 7.48 In terms of the additional traffic that will be generated as a result of this development, LCC Highways have assessed the predicted traffic generation levels and conclude that, provided the improvements to pedestrian/cycling/bus service and stops are implemented, the development will not prejudice highway capacity or safety in the surrounding area. With regards the impact of the additional population on local services such as school places and health provision I am satisfied that the relevant bodies have been consulted and concluded that the proposed development would not significantly impact on the existing provision such to require any additional school places. The proposed development would also secure and benefit local shopping services in the locality and also the help towards the wider regeneration of Skelmersdale.

### Other Matters

- 7.49 The environmental statement submitted with the application has identified two known sites of potential archaeological interest that might be affected by the proposals. It is suggested that these sites are of low significance which could be dealt with by means of mitigation works secured by planning condition. This view is supported by the County Archaeologist.

- 7.50 A number of other issues have been raised by interested parties other than those covered above. Concern has been expressed that the proposal will result in an impact upon the boundary BHS woodland and that the proposal does not provide sufficient mitigation for this loss. The proposed ELS and vegetative assessment will provide further information on the proposed mitigation and enhancement measures to be incorporated within the development at reserved matters stage. In addition, a Tree Preservation Order could be imposed upon any trees around the boundaries of the sites to ensure the protection of selective trees of visual and biodiversity value.
- 7.51 It is stated that the amenity value of the site currently enjoyed by members of the public will be lost; however, the land is in private ownership and does not constitute a recognised public area of amenity space, although the undisturbed biodiversity value of the site is recognised.
- 7.52 Issues raised regarding the size and design of the proposed dwellings will be considered as part of a detailed reserved matters application; however, the layout and design of any new dwelling will be required to adhere to the Council's policies on design and energy efficiency as set out in the SPD Design Guide.
- 7.53 In recognising the distance from the town centre and the surrounding infrastructure network, regard has been had of increasing accessibility to the site by means other than the private car and in the provision of community facilities such as schools and health provision. The proposed highway improvements will secure a better public transport provision for the area and improve local footpath/cyclepath. The Education Authority has been consulted and does not require additional school, place provision. Similarly, the Clinical Commissioning Group has been consulted regarding health provision in the area.
- 7.54 Concern has been expressed about the increase in traffic through Dalton and a number of alternative options of accessing the site have been suggested. The potential increase in traffic through Dalton has been assessed by LCC Highways as stated in paragraph 7.26 above and has been deemed acceptable. Any alternative traffic route would result in other planning issues and the proposal has to be considered as submitted.
- 7.55 Dalton Parish Council believe that town centre regeneration must come first and only then should development be allowed in the outer areas and that to do otherwise will only be exacerbating the existing problems. I would advise that the development of this site, which is allocated for housing, will help in promoting the regeneration of Skelmersdale and provide an increased population that will use and subsequently promote investment and regeneration of the town centre.

- 7.56 In terms of increased accessibility to the church and school in Dalton, provision can be made within the internal edge of Whalleys Site 4 for a footway/cycle path for future linkage and a safe route to schools.
- 7.57 A particular concern with residents is that unemployment in the area is rising and there is no evidence that there is a lack of housing or further housing required in the immediate future, particularly when there are already a number of houses in the area for sale. I would advise that it has been confirmed at the recent examination in public for the Local Plan there is a need for 4,860 new dwellings in West Lancashire as a minimum, the majority of which are identified for delivery within Skelmersdale. It is anticipated that the development of this land for residential purposes will help in the regeneration of Skelmersdale

### Planning Obligations

- 7.58 Under the terms of the provisions of Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 and requirements under s.106 of the Planning Act 1990, planning obligations 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.

Therefore it is proposed that the following requirements be secured by s.106 agreement:

Affordable housing occupation/tenancy/nomination rights etc.;

The provision of the public open space

The provision and maintenance of biodiversity mitigation measures

Appropriate sustainable travel measures.

### *Public Open Space*

- 7.59 Residential developments of the scale proposed attract a requirement under Policy IF4 in the Local Plan to 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. The adopted SPG for this site advises that, due to the scale of development, a Multi Use Games Area (MUGA) should be provided on the site. The illustrative masterplan identifies an area between Cobbs Clough and Site 2 for this purpose, which would comply with the SPG and also enhance outdoor play provision in the area. It is anticipated that commuted sums from the other sites could be used towards the enhancement of this area, and that a separate area of public open space should also be provided on site 4.

Additionally, there is a small play space adjacent to but outside the eastern boundary of Site 2, on Dalton Park, which could be enhanced. Enhancements to newly created areas of public open space on the site or to management of the adjacent BHS could be provided through a management programme to be considered at reserved matters stage and secured through planning condition or s.106.

#### *Affordable Housing*

- 7.60 Policy RS2 relating to affordable housing in the Local Plan requires the provision of a minimum of 30% affordable units on-site and that of the overall total number of dwellings across the site, 20% are provided as specialist accommodation suitable for the elderly.
- 7.61 The applicant has confirmed that the indicative scheme is fully capable of meeting this provision. However, in this instance, as only the principle of the development is sought and there are a number of financial and physical constraints on the site which may affect the viability of the scheme, it is considered that the best practicable approach to ensure flexibility in the planning system, will be to require an appraisal of viability at the reserved matters stage and further assessments of viability in the event of delays in development coming forward. This will be a condition of any approval.

#### *Sustainable Transport*

- 7.62 It is noteworthy that the Highway Authority has 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
  2. To support sustainable transport and improve social inclusion, £24,000 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 £90,000 contribution to go towards the implementation of a new off road pedestrian/cycle lane as a continuation of the Public Right of Way linking Cobbs Brow Lane to Summer Street. The proposed scheme would provide a continuation of the proposed Tawd Valley Cycleway to the town centre.
  4. To support sustainable transport and improve social inclusion, a £15,000 contribution to go towards the implementation of a pedestrian link to Newby Drive.
  5. To support sustainable transport and improve social inclusion, a £120,000 x 3 contribution to go towards the proposed diversion of a bus route to serve the proposed development.

The remainder of the sustainable transport improvement suggested by LCC can be implemented under S278 of the Highway Act as they are works within an existing highway.

Of these requests it is considered that only those made at point 1(excluding any maintenance contribution),3,4 and 5 will meet the necessary tests and can therefore be sought as a planning obligation; however, it is considered unreasonable for a three year payment for bus contributions to be made and the applicant has indicated this would impact upon the viability of the scheme. In the event that either the bus route diversion or the cycle track cannot be delivered within a period of five years it would be appropriate to redirect such obligations to other sustainable transport measure enhancements in the vicinity on consultation with the highway authority and local elected representatives.

### *Phasing*

- 7.63 In order to realise the benefits of all parts of the development proposed, the phasing of development will be subject to agreement. This will include delivery of key infrastructure, any affordable housing provision, the highway improvements and public open space (including any ecological mitigation and future management requirements) alongside the market housing development.

### Summary

- 7.64 The principle of residential development is accepted on this site given the Local Plan allocation and terms of the NPPF. The site is subject to a number of constraints such that it is not possible to fully determine the exact amount and type of development to be delivered. Such matters will be determined at the reserved matters stage and be tied through conditions and a requirement to enter into a planning obligation.
- 7.65 The indicative details of access to the site have been considered and it is concluded that the levels of traffic generated by the development can be safely accommodated within capacities of the local highway network.

## **8.0 RECOMMENDATION**

- 8.1 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 30% affordable housing and 20% specialist housing (subject to demonstrating viability); provide mitigation and biodiversity enhancement on the site; to secure a financial contribution of £255,000 for sustainable transport measures/improvements in the locality; and, to define the phased delivery of the development and public open space.



- 8.2 That any planning permission granted by the Assistant Director Planning pursuant to recommendation 8.1 above be subject to the following conditions:

**Conditions**

1. The development hereby permitted shall be begun either before the expiration of three years from the date of this approval, or before the expiration of two years from the date of the approval of the first application for Reserved Matters, whichever is the later.
2. The first application for the approval of Reserved Matters as set out in condition (3) below, shall be submitted to the Local Planning Authority within three years from the date of this permission. All subsequent Reserved Matters shall be submitted to the Local Planning Authority for approval no later than 15 years from the date of the commencement of the development.
3. Plans and particulars showing precise details of the access, layout, scale, external appearance (including materials) and landscaping of the site (herein after called the "Reserved Matters") shall be submitted to and approved in writing by the Local Planning Authority for each phase of the development before any development is begun in that phase. All development shall be carried out in accordance with the "Reserved Matters" details approved.
4. The development shall be implemented in substantial accordance with the Master Plan Drawing Number A-L-116 Rev A with regards to general access points to each site, landscape buffers and areas of public open spaces.
5. The details submitted in accordance with Condition 3 above shall include details of existing and proposed levels across the site and finished ground floor levels of all buildings. The development shall be carried out in accordance with the approved details.
6. No dwellings shall be occupied on Whalleys Site 4 until the highway works shown on Plan Ref: HCA-SW-GA-012 (3m foot/cycleway to east side of Whalleys Road; footway link to bus stop on west side of Whalleys Road; Toucan crossing on Whalleys Road and advisory cycle lanes along Whalleys Road and Ashurst Road) have been implemented.
7. No dwellings shall be occupied on Whalleys Site 5a or 5b until the highway works shown on Plan Ref: HCA-SW-GA-013 (3m wide foot/cycleway to north side of Whalleys Road; bus stop/shelter to north side of Whalleys Road; and a 3m wide foot/cycleway to frontage of Whalleys Farm) have been implemented.
8. No dwellings shall be occupied on Whalleys Site 2 until the highway works shown on Plan Ref: HCA-SW-GA-011 (3m wide foot/cycleway to south side of Whalleys Road; 3m wide foot/cycleway to east side of Cobbs Brow Lane; bus stop/shelter to south side of Whalleys Road; and a Toucan crossing on Whalleys Road and Cobbs Brow Lane) have been implemented.
9. No dwellings shall be occupied on Whalleys Cobbs Clough site until the highway works shown on Plan Ref: HCA-SW-GA-010 (3m wide foot/cycleway to south side of Whalleys Road around existing roundabout; 3m wide foot/cycleway to west side of Whalleys Road; bus stop/shelter to west and south side of Whalleys Road; and improvements to the existing subway) have been implemented.

10. Within each phase, (with a phase equating to a Reserved Matters application) the new estate roads 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 that phase and shall be further extended before any development commences fronting the new estate road.
11. For each phase of development, (with a phase equating to a Reserved Matters application) 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 provided in accordance with the approved scheme, before the dwelling to which they relate is occupied.
12. For each phase (with a phase equating to a Reserved Matters application) 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 and the timetable therein. The agreed Travel Plan shall be reviewed annually thereafter and any revisions agreed in writing with the Local Planning Authority. Records of implementation shall also be made available annually to the Local Planning Authority.
13. For each phase, (with a phase equating to a Reserved Matters application) no development shall take place until a scheme for the construction of the site access together with 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. No dwellings in a phase shall be occupied until the agreed site access and off-site works have been completed.
14. No development of any phase (with a phase equating to a Reserved Matters application) shall take place until a further Highway Assessment of the junction of the A5209/Cobbs Brow Lane/Smithy Brow has been submitted to and approved in writing by the Local Planning Authority. Should the assessment identify that junction improvements are necessary, the details of such improvements shall be submitted to and approved in writing by the Local Planning Authority and implemented prior to the occupation of any dwelling on that phase.
15. Tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds shall be avoided between the months of March to August inclusive unless the absence of nesting birds has been confirmed by further surveys or inspections. Such surveys shall be carried out by a suitably qualified and experienced ecologist. If nesting birds (or dependent young) are found to be present, works shall be delayed until such time as nesting is complete and young have fledged.
16. No development of any phase (with a phase equating to a Reserved Matters application) shall take place until an Ecological and Landscape Strategy (ELS) for that phase has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, the ELS shall include a full vegetative assessment in the form of a National Vegetation Classification Survey. The approved ELS shall be implemented in full.

17. No development of any phase (with a phase equating to a Reserved Matters application) shall take place until detailed bat protection; mitigation and enhancement proposals for that phase have been submitted to and approved in writing by the local Planning Authority. The agreed measures shall be implemented in full prior to occupation of the dwellings.
18. No development of any phase identified on Master Plan Drawing Number A-L-116 Rev A (with a phase equating to a Reserved Matters application) shall take place until a landscaping scheme for that phase has been submitted to and approved in writing 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, details of seed and plant specifications, seeding rates, planting densities, establishment methods, aftercare, design of culverts to facilitate wildlife connectivity, swales and embankments. Trees and shrubs planted shall comply with BS.3936 (Specification of Nursery Stock) and shall be planted in accordance with BS. 4428 (General Landscaped Operations). The landscaping scheme shall also set out a timetable for implementation. The approved scheme shall be carried out in full accordance with the approved details. 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.
19. No development shall take place within a phase identified on Master Plan Drawing Number A-L-116 Rev A (with a phase equating to a Reserved Matters application) until details of measures for soil conservation, including stripping, storage, movement and replacement for that phase have been submitted to and approved in writing by the Local Planning Authority. Approved details shall be implemented in full.
20. No development shall take within a phase identified on Master Plan Drawing Number A-L-116 Rev A (with a phase equating to a Reserved Matters application) until a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens) for that phase has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority. The scheme shall include the following elements:
  - Details and extent of new and existing wetland habitats i.e SuDS systems, swales etc incorporating the onsite pond and how these will be constructed and managed;
  - Details of treatment of site boundaries and/or buffers around water bodies and woodland edge;
  - Details of management responsibilities.

21. For each phase, (with a phase equating to a Reserved Matters application) no development shall take place until 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. The scheme shall subsequently be implemented in accordance with the approved details before the development of that phase is completed. The scheme to be submitted shall demonstrate:
  - The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations;
  - Responsibility for the future maintenance of drainage features.
22. The development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) 230091-11 issued 26 September 2013 and the following mitigation measures detailed within the FRA:
  - Limiting the surface water run-off generated by the 1 in 100 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.
  - The mitigation measures shall be fully in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.
23. The development hereby permitted shall be drained on a separate system, with only foul drainage connected to the existing public sewer.
24. No development of any phase identified on Master Plan Drawing Number A-L-116 Rev A (with a phase equating to a Reserved Matters application) shall take place until a construction environment management plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved plan shall be implemented in full. The plan shall provide for:
  - Details of measures to mitigate impacts on biodiversity including a timetable of mitigation works relative to site investigation, site preparation and site clearance;
  - Updated surveys to be carried out for features of biodiversity value to inform mitigation proposals;
  - Survey for species in schedule 9 of the Wildlife and Countryside Act 1981 (as amended) shall also be undertaken and measures to prevent the spread of any such species shall be implemented if necessary;
  - A Method Statement detailing measures to be taken during construction to protect the health of the existing trees;
  - Construction vehicle routing to the site, vehicle parking, site compounds, storage of plant and materials used in constructing the development; a scheme for recycling/disposing of waste resulting from the construction works and measures to control dust, lighting and noise during construction.

25. For the full period of 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.
26. No development on a phase (with a phase equating to a Reserved Matters application) shall take place until further intrusive site investigations have been carried out to establish the exact situation regarding the coal mining legacy issues on the site. A report shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. In the event that the submitted report confirms the need for remedial works to treat mine entries and/or shallow mine workings, a full programme of remedial works required shall be submitted to and approved in writing by the Local Planning Authority. The approved remedial works shall be undertaken prior to commencement of development on the site.
27. No development shall take place in each phase (with a phase equating to a Reserved Matters application) until the applicant or their agent or successors in title, has secured the implementation of a programme of archaeological work for that phase. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and agreed in writing by the Local Planning Authority.
28. No development on a phase (with a phase equating to a Reserved Matters application) shall take place until a scheme detailing the proposed lighting to be installed on the site in that phase has been submitted to and approved in writing by the Local Planning Authority. All lighting shall be installed and maintained in accordance with the agreed scheme. There shall be no further lighting installed on the site without the express written consent of the Local Planning Authority.
29. No development on any individual phase (with a phase equating to a Reserved Matters application) shall take place until an Energy Statement has been submitted to and approved in writing by the Local Planning Authority for that phase. The Statement shall detail the efficiency and sustainability measures that will be incorporated into the building design and construction. All dwellings shall, as a minimum, achieve the Code of Sustainable Homes Level 3 rising to Level 4 and Level 6 in line with the increases in Part L of the Building Regulations. No development on a phase shall be occupied until a letter of assurance detailing how the dwelling(s) have met the relevant Code Level has been issued by a DCLG approved certification body. Within 6 months of the occupation of the dwelling(s) a Final Certificate, certifying that the relevant Code for Sustainable Homes Level has been achieved shall be submitted to the Local Planning Authority.
30. No development shall take place on any phase (with a phase equating to a Reserved Matters application) until a Design Brief has been submitted for that phase which shall include:
  - street hierarchy including principles of adopting highway infrastructure, typical street cross sections

- details of how mobility has been taken into account
  - block principles to establish density and building typologies, primary frontages, pedestrian access points, fronts and backs
  - height, scale and form and building style
  - materials palette
  - views and vistas and landmarks
  - parking levels
  - incorporation of ancillary infrastructure required by statutory undertakers
  - details of cycle parking
  - treatment of footways
  - lighting strategy
  - measures to minimise opportunity for crime
31. Notwithstanding the provisions of Article 3, Schedule 2, Part 14 Class A; Part 15 Class A; Part 16 Class A; Part 17 Class G to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) no substations or other buildings shall be provided within the site without the prior approval in writing of the LPA of the detailed siting and external appearance of the substations.

### **Reasons**

1. Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 (as amended).
2. Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 (as amended).
3. Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 (as amended).
4. For the avoidance of doubt and to ensure compliance with the provisions of Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
5. For the avoidance of doubt and to ensure compliance with the provisions of Policy GN3 in the Submission version of the West Lancashire Local Plan 2012-2027 Development Plan Document.
6. To safeguard the safety and interests of the users of the highway and provide a sustainable form of development and to ensure that the development complies with the provisions of Policies GN3 and IF3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
7. To safeguard the safety and interests of the users of the highway and provide a sustainable form of development and to ensure that the development complies with the provisions of Policies GN3 and IF3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
8. To safeguard the safety and interests of the users of the highway and provide a sustainable form of development and to ensure that the development complies with the provisions of Policies GN3 and IF3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

9. To safeguard the safety and interests of the users of the highway and provide a sustainable form of development and to ensure that the development complies with the provisions of Policies GN3 and IF2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
10. To ensure that satisfactory access is provided to each site before the development hereby permitted becomes operative in accordance with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
11. To allow for the effective use of the parking areas in accordance with Policy GN3 in 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 IF2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
13. 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 GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
14. To allow for effective use of the junction in the interests of highway safety in accordance with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
15. To protect nesting birds and comply with the requirements of Policy EN 2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
16. To safeguard protected species and in the interests of protecting and preserving biodiversity and to ensure compliance with Policy EN2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
17. To safeguard protected species and so ensure compliance with Policy EN2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
18. To assimilate the proposed development into its surroundings and to ensure that the development complies with the provisions of Policies GN3 and EN2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
19. In the interests of protecting biodiversity, levels, and traffic movement in accordance with Policies GN3 and EN2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
20. To enable adequate maintenance and management of landscaped areas and so ensure the development complies with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
21. To ensure that the site is properly drained in the interest of local amenity and that the development, therefore, complies with the provisions of Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
22. To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site in accordance with the provisions of Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
23. To ensure that the site is properly drained in the interest of local amenity and that the development, therefore, complies with the provisions of Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

24. In the interests of protecting biodiversity and residential amenity so to ensure compliance with Policies GN3 and EN2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
25. 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 Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
26. To prevent coal mining risk to the development in accordance with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
27. To ensure and safeguard the recording and inspection of matters of archaeological/historical importance associated with the site in accordance with Policy EN4 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
28. To ensure that the external appearance of the development is satisfactory and to minimise potential disturbance to both retained and newly planted habitats watercourses and adjacent habitats and the external lighting scheme should be designed to ensure that light spill onto vegetated areas is avoided and to ensure the development therefore complies with the provisions of Policies GN3 and EN2 in West Lancashire Local Plan 2012-2027 Development Plan Document.
29. In order to provide a sustainable and energy efficient development and to ensure the development therefore complies with the provisions of Policy EN1 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
30. In order to monitor more closely the parameters for the detail design to ensure the development of the site achieves a high standard of design appropriate to the context of the site and therefore to comply with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.
31. To enable the Local Planning Authority to consider the appearance of substations or other such buildings given the high standard of public realm considerations for the overall layout of the site whereby non-sensitive infrastructure would undermine the achievement of quality public spaces and wider public realm and therefore to comply with Policy GN3 in 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 adopted West Lancashire Local Plan 2012-2027 Development Plan Document:

SP1 – A Sustainable Development Framework for West Lancashire

GN1 – Settlement Boundaries

GN3 – Criteria for Sustainable Development

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.

<b>No. 2</b>	<b>APPLICATION NO.</b>	2013/0994/FUL
	<b>LOCATION</b>	Land Rear Of 114 Summerwood Lane Halsall Lancashire L39 8RH
	<b>PROPOSAL</b>	Demolition of existing buildings and erection of 14 semi-detached dwellings. New vehicular/pedestrian access road and provision of car parking.
	<b>APPLICANT</b>	Broadley Developments Ltd
	<b>WARD</b>	Halsall
	<b>PARISH</b>	Halsall
	<b>TARGET DATE</b>	20th December 2013

## **1.0 PREVIOUS RELEVANT DECISIONS**

- 1.1 2005/0889 - Demolition of existing buildings and erection of 20 affordable dwellings (comprising mix of 2 & 3 storeys), widening of existing access, internal access road and associated landscaping. REFUSED on 17.02.2006 for the following reasons:-
- The visibility splays at the entrance into the site are below minimum standards and consequently given the significant increase in vehicle movements, the proposed development would prejudice highway safety and be contrary to Policy T.2 and H.4 of the Adopted West Lancashire Local Plan and Policy GD1 of the Re-Deposit Draft West Lancashire Replacement Local Plan.*
- 1.2 2007/1073/FUL - Residential development for affordable housing comprising four bungalows, six flats and six two storey houses, construction of access road, provision of car parking and landscaping. WITHDRAWN 23.10.2007
- 1.3 2009/0173/FUL - Erection of 16 dwellings comprising 8 affordable housing units and 8 open market housing units together with access road. WITHDRAWN 20.08.2009

## **2.0 OBSERVATIONS OF CONSULTEES**

- 2.1 UNITED UTILITIES (23/10/2013) – The ability of a developer to connect new development to the mains sewer is a complex area of law. Our interactions in the planning system have to be in the context of our statutory obligations and we must allow new connections to the sewer. Although we must allow new connections, we will consider how we can best minimize the impact on our network through the use of planning conditions. It is known that there is a pre-existing condition where the public foul sewer in Summerwood Lane floods during storm conditions affecting local properties. It is important to explain that surface water flows are very large compared with foul flows and as a result they use up a lot of capacity in our infrastructure. It is noted that this is a brownfield site and intention of the developer to discharge surface water from the proposed development to watercourse rather than the public sewer. This is significant and we would wish this to be a condition of any planning permission that may be granted. It is not currently known where the surface water from this site discharges to and we recommend that the applicant is asked to confirm the current surface water drainage arrangements. If there is an existing surface water connection to the public sewer from the current site, we would ask that this is disconnected as part of the proposed development and re-routed via the new on-site surface water drainage system so that it would discharge to watercourse. This would reduce the pressure on the public sewer and result in a reduction in the likelihood of sewer flooding. Also it is important to establish the current rate of surface water discharge regardless of the proposed receiving body. A controlled rate of discharge would be secured by condition

UNITED UTILITIES (17/12/2013) - It has been confirmed that there is an existing connection to the foul sewer within Summerwood Lane for foul and surface water from the site. The drainage statement prepared by REFA Consulting Engineers submitted with the application and dated 23<sup>rd</sup> October 2013 confirms the intention to connect only foul water to the sewer in Summerwood Lane. Surface water will discharge to watercourse. In agreement with the EA, the rate of discharge should be no greater than 5 l/s. The diversion of surface water from the sewer to watercourse at an attenuated rate is a significant change from the existing site drainage and will result in a reduction in pressure on the sewer as a result of the development proposal. On this basis we have no objection to the proposed development subject to the attachment of recommended conditions.

UNITED UTILITIES (16/1/2014) – The information from Mr Silcock includes an engineering report prepared by Hamilton Technical Services dated 9<sup>th</sup> December 2013. It is clear from the report prepared by Betts Associates on behalf of the applicant that as a result of recent demolition work, it is only possible to prove a positive connection of surface water to the foul public sewerage system from the gatehouse at the front of the site. This reflects the report prepared by Hamilton Technical Services. The letter from Betts Associates suggests that there may be surface water entering the public sewerage system from the remainder of the site, however it appears that this cannot be positively proved and therefore any calculations on the impact of the proposed development have been based on surface water from the gatehouse alone. The intention of the applicant as part of the development proposal is to disconnect the surface water connection from the gatehouse to the public sewerage system and divert the surface water via the on-site surface water drainage system which will discharge to watercourse at the rear of the proposed development site at an attenuated rate. It is very significant that there will be no surface water entering the public sewerage system as a result of the development. The report prepared by Hamilton Technical Services acknowledges a minor improvement in the volume of flows entering the public sewerage system for a 1 in 3 rainfall event as a result of the development proposals disconnecting the surface water from the gatehouse. We acknowledge that the reduction in flows entering the public sewerage system for a 1 in 3 rainfall event is only minor. It is relevant to note that for events larger than 1 in 3 rainfall events, for example, a 1 in 30 rainfall event, there is a greater reduction in the volume of flows entering the public sewerage system as a result of the development proposed. On the basis of the information provided by Hamilton Technical Services, Betts Associates and the advice from our internal Development Engineers, UU has concluded that as a result of the development proposals there will be no increase in the risk of sewer flooding. Therefore, we have no objection to the proposed development. It is acknowledged that UU raised an objection to a residential scheme on this site in 2009 based on an increased risk of flooding. In addition to the technical assessments undertaken, it has also been explained that since July 2009, UU have had it confirmed that our interactions in the planning system have to be in the context of our statutory obligations. On a separate note a further condition is recommended with regards to the watercourse to which surface water is proposed to be discharged. The recommended condition relates to the future maintenance and management of the surface water regulation scheme.

- 2.2 ENVIRONMENTAL HEALTH (SCIENTIFIC OFFICER) (17/10/2013) – No comments or objections regarding possible land contamination issues due to the former use of the site.

- 2.3 ENVIRONMENTAL HEALTH (14/11/2013) – The proposed houses back on to the car park of the Saracens Head. The Saracens Head is currently licensed to be open until 00.30 through the week and 0100 on Fridays and Saturdays. The proposal is sufficiently distant from the pub itself that the pub should not have a detrimental impact on the future occupiers. However there is likely to be noise from the car park late at night from vehicle movement and voices of customers. Occupiers of the proposed houses may also be affected by vehicles lights. In order to minimise the effect of noise from the car park I advise that the bedrooms on the elevation facing the car parking be provided with acoustically upgraded sound insulation and ventilation. The rear boundary walls should also be close boarded, without gaps to limit the vehicles headlights affecting the properties. A suitable condition has been recommended.
- 2.4 ENVIRONEMENT AGENCY (15/10/2013) – This application falls outside of our remit and we therefore have no comments to make.
- 2.5 HIGHWAY AUTHORITY (28/11/2013) – No objection 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. The development shall be accessed via an existing modified access onto Summerwood Lane. Using TRICS the development may generate an estimated 98 vehicular movements a day with an estimated peak flow between 17:00 and 18:00. The proposal would remove the amount of HGV movements which could be generated if the current use was brought back into operation. The data base for accidents indicates that there have not been any reported injuries related to vehicles near the access to the new development or within 100m of the site access. The applicant has shown that the required sight lines of 2.4m x 43m in both directions can be achieved over the existing adopted highway. The location of the access is to prescribed design standards for pedestrians and vehicles.

HIGHWAY AUTHORITY (19/12/2013) – From our records it appears that in relation to highway comments on a previous scheme for this site, LCC provided accurate comments based on guidelines available in 2009. Since that time new legislation and guide lines have been produced mainly Manual for Streets 2009. The recent highway comments have therefore been made on the current legislation and guidelines. The site was visited as part of the current planning application on two occasions so that a well-informed judgement could be made about the impact of this development on highway safety.

2.6 LANCASHIRE COUNTY COUNCIL SUSTAINABLE TRAVEL SECTION (29/11/2013) – The proposed housing development will generate more pedestrian movements along Summerwood Lane. Due to the increased pedestrian movements from the site, to improve highway safety for pedestrians, to aid social inclusion and promote sustainable forms of transport, improved pedestrian facilities are required on Summerwood Lane. This would aid pedestrian movements from the site to the village centre, church, local primary school, the bus stops on the A5147 and the towpath along the Leeds and Liverpool Canal. The estimated costs for the works are £15000 and the money should be secured through the Section 106 process.

2.7 LANCASHIRE CONSTABULARY (24/9/2013) – No objection in principle but would prefer the design to be altered to include front entrances only.

2.8 CANAL AND RIVER TRUST (14/10/2013) – No comments

### **3.0 OTHER REPRESENTATIONS**

3.1 Halsall Parish Council (14/10/2013) – Objects to the proposed development on the following grounds:-

Policy GN1 – Impact on biodiversity, impact on character and appearance of settlement, impact on rural character of area

Policy GN3 – Impact on existing flood issues, no SUDS proposed, the LPA should satisfy themselves about the effectiveness of the existing drainage system

Policy GN4 – No demonstration of non-viability of existing use accompanying the application

Policy RS1 – Non-compliance with Lifetime Homes Standards, outrigger/backland development where neighbours amenity will be ‘unacceptably harmed’, density, under-provision of affordable housing

3.2 A total of 30 representations have been received. 28 of these raise objections to the proposed scheme while 2 provide support. All of these representations can be reviewed in full on the Council’s website. A summary of the issues raised is as follows:-

- Impact on local electricity supply
- Impact on drainage and associated infrastructure
- The hedging, street lighting and pavements in this area are not maintained properly
- Impact on wildlife within the site and the buildings
- A ‘breach of process’ has occurred as the site notice was not erected (officers can confirm that the site notice was correctly displayed)

- Overdevelopment of the site
- Too many dwellings proposed
- Impact on highway safety
- At odds with rural character of area
- The pumping station to which the development will be connected to is unable to cope with the current level of connection.
- This results in frequent episodes of flooding in the local area
- UU have admitted in the past that the pumping station cannot cope with the current situation
- The increase in drainage needs will result in intolerable smells in the area and will be a health hazard as it will result in additional foul waste flooding
- The surface water proposals will increase the risk of flooding in the surrounding fields which are already prone to flooding
- The submitted report is wrong to say there is no flood risk in the area
- The access will conflict with a field access located opposite the site
- This is not a sustainable location
- No mains gas supply in the area
- There is asbestos on the site
- The number of dwellings will effectively double the amount of properties in this part of the Summerwood Lane
- More households in this area should have been notified of this development
- The Council has previously refused an application for development on this site. The same concerns raised at that time remain now
- Increase in crime/burglaries that are taking place in the Village and surrounding area
- The rules in the Interim Housing Policy should still apply as these were in force when the application was submitted
- Loss of an employment site
- Would perhaps consider favourably a smaller development on the site if the issues with infrastructure and highway safety could be addressed
- Impact on privacy
- Any windows facing towards neighbouring sites should be opaque
- It is unsafe for pedestrians to use the road
- Any future development of this site should be considerate and sensitive to the needs of existing residents
- Demolition has already commenced on site. This is a breach of planning control
- The loss of the 'Saddlers Shop' will be detrimental to the heritage of the area
- The applicant has submitted incorrect information within the supporting information
- The proposed development cannot be compared to existing development at Watson House Cottage
- The development is totally out of character with its surroundings
- The highway authority has previously objected to this development on this site. What has changed?

- The pumping station needs to be completely replaced
- The existing infrastructure results in internal flooding
- The density of the proposed scheme does not accord with local policy
- Fails to provide an appropriate level of affordable housing
- UU have to send large tankers to attend the existing pumping station. This alone is evidence that it is overloaded and cannot cope with further connections
- An independent survey of the existing drainage system should be undertaken by the Council
- EH recommended in 2005 that a land contamination investigation should be undertaken due to previous uses of the land
- The proposal will change the landscape and farmlands of the area
- The additional noise and traffic generated by the proposal will take away the serenity and peace that Halsall is blessed for
- The vehicles using Summerwood Lane have become larger over the years and this has led to an increase in safety concerns
- Poor telephone connection services in the area
- Has the consent of the owner of the drain and field to the rear of the site been notified of the proposal
- The building removed was a habitat for bats
- Emergency vehicles should be able to adequately access the site
- The development represents outrigger/backland development where the neighbouring amenity will be unacceptably harmed contrary to Policy RS1
- UU are fully aware of the problems experienced by local residents but are choosing to ignore them
- It is unlikely that building warranty bodies would issue a 10 year building guarantee given the highlighted problems
- An on-site Klargester system should have been used
- UU previously objected to a scheme on this site
- A surface and foul water flow impact assessment has been commissioned and undertaken by Hamilton Technical Services. This reports confirms the problems which have been highlighted and previously agreed by UU
- The lack of a comprehensive investigation into drainage problems would breach Policy GN3
- The surface water run off needs to be attenuated as outlined in the submitted information
- The applicant appears to have paid an inflated price for land leading to an issue of viability when including affordable housing. Guidance on this matter confirms that planning should not insulate the developer from his requirements
- The proposal neither creates nor retains reasonable levels of privacy or amenity. This is contrary to Policy RS3
- As admitted by the applicant, the plot sizes do not conform with the local settlement pattern

- The proposal is detrimental to the linear character of the village and will create a suburban character
- The applicant has submitted insufficient information
- The service road to the development is in close proximity to the bridge, increasing the danger
- The additional dwellings will benefit Halsall community
- The proposal will allow the children of current residents to return with their families
- The proposed houses can accommodate young families

#### **4.0 SUPPORTING INFORMATION**

4.1 The following documents have been submitted in support of the application:-

- Residential Master plan Design and Access Statement
- Ecological Scoping Services
- Affordable Housing/Viability Statement

#### **5.0 RELEVANT POLICIES**

5.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan DPD (2012-2027) provide the policy framework against which the development will be assessed.

5.2 The main site is allocated as being within the settlement area of Halsall, identified as a Rural Sustainable Village in the adopted local plan.

5.3 Relevant West Lancashire Local Plan 2012-2027 DPD policies:-

- SP1 – A Sustainable Development Framework for West Lancashire
- RS1 – Residential Development
- RS2 – Affordable and Specialist Housing
- IF2 – Enhancing Sustainable Transport Choice
- IF3 – Service Accessibility and Infrastructure for Growth
- IF4 – Developer Contributions
- EC1 – The Economy and Employment Land
- EC2 – The Rural Economy
- EN2 – Preserving and Enhancing West Lancashire’s Natural Environment
- GN3 – Design of Development
- GN4 – Demonstrating Viability



- 5.4 In addition the following supplementary documents are material considerations:

The Technical Guidance to the National Planning Policy Framework  
SPD – Design Guide (Jan 2008)  
SPD - Open Space/Recreational Provision in New Residential Developments  
(April 2009).  
Planning Obligations in Lancashire

## **6.0 OBSERVATIONS OF THE ASSISTANT DIRECTOR PLANNING**

### *The Site*

- 6.1 The application site is located on the southern side of Summerwood Lane approximately 60m from the Leeds-Liverpool Canal. The site is roughly rectangular in shape and is currently occupied by one building and the frame of another along with large areas of hardstanding. Previous aerial photographs confirm that in the past, the majority of the rear of the site was covered in buildings and hardstanding. The site is currently vacant, it's previous use having been commercial and associated with the storage and distribution of horticultural supplies.
- 6.2 The site is adjoined to the north-east and south-east by residential development, to the north-west by a bowling green and car park associated with the Saracens Head Public House and to the south-west by open land. The land surrounding the rear of the site lies within the Green Belt. Vehicular access into the site is via the existing access off Summerwood Lane.
- 6.3 Given the history of the site I am satisfied that the site can be defined as having a brownfield status.

### *The Proposal*

- 6.4 Planning consent is sought for the demolition of the existing buildings and the erection of 14 semi-detached dwellings, a new vehicular/pedestrian access road and provision of car parking.

- 6.5 Each of the proposed dwellings will be semi-detached and have an approximate floor area of 100sqm. The proposal will form a linear row of 8 dwellings towards the north-western boundary of the site and further row of 6 dwellings towards the southern boundary of the site. Each plot will be served with a front parking area and a rear garden. The proposed access road will lead off from Summerwood Lane as existing and will provide two turning areas directly south of the access and another towards the north-western boundary. The proposed access road is facilitated by the removal of the existing building known as the 'Saddlers Shop', a frontage building on Summerwood Lane. The proposed development includes one affordable dwelling.

*Principle of Development*

- 6.6 The application site is located within a Rural Sustainable Village as defined by Policy SP1 and Policy RS1 in the WLLP. Policy RS1 confirms that residential development will be permitted on brownfield sites, and on greenfield sites not protected by other policies, subject to the proposals conforming with all other planning policy. On this basis I am satisfied that the proposed development is compliant with local policy and acceptable in principle.
- 6.7 In addition to the above, the NPPF advocates a presumption in favour of sustainable development. Whilst the site is located within a relatively rural area, there are known public facilities such as a public house, pharmacy, school, church and public transport links located on Summerwood Lane and the nearby Halsall Road. On this basis I am satisfied that the application site can be defined as sustainable and is accordance with the NPPF in this respect.

*Principle of Development – Employment Land*

- 6.8 The most recent use of the site was for commercial purposes and even though the site has been vacant for some time, this leads to a designation of employment use which must be considered in accordance with Policy EC1, EC2 and GN4 of the WLLP.
- 6.9 Policy EC1 'The Economy and Employment Land' states that the *re-development of existing individual employment sites for other uses (other than B1, B2 and B8) will be considered where a viability case can be put forward (in line with Policy GN4) and where the provisions of Policy EC2 and EC3 are met, where relevant.*

- 6.10 Policy EC2, 'The Rural Economy', states that *the Council will protect the continued employment use of existing employment sites in rural areas. This includes any type of employment use, including agriculture and farming, and is not merely be restricted to B1, B2 and B8 land uses. Where it can be robustly demonstrated that the site is unsuitable for an ongoing viable employment use (in accordance with the requirements of Policy GN4), the Council will consider alternative uses where this is in accordance with other policies in the Local Plan. As a general approach, the re-use of existing buildings within rural areas will be supported where they would otherwise be left vacant.*
- 6.11 The proposed development would involve the loss of an existing, albeit vacant, employment site and therefore a viability case needs to be demonstrated based on Policy GN4 in the WLLP.
- 6.12 Policy GN4 'Demonstrating Viability' states that the Council will seek to retain existing commercial/industrial and retail premises, unless it can be demonstrated that **one** of the following tests can be met
- a) *the continued use of the site/premises for its existing use is no longer viable in terms of its operation of the existing use, building age and format and that it is not commercially viable to redevelop the land or refurbish the premises for its existing use. In these circumstances, and where appropriate, it will also need to be demonstrated that there is no realistic prospect of a mixed-use scheme for the existing use and a compatible use; or*
  - b) *the land/premises is no longer suitable for the existing use when taking into account access/highways issues (including public transport), site location and infrastructure, physical constraints, environmental considerations and amenity issues. The compatibility of the existing use with adjacent uses may also be a consideration; or*
  - c) *marketing of the land/property indicates that there is no demand for the land/property in its existing use.*

- 6.13 The applicant has submitted a case supporting the loss of the current employment site on the basis that the land is no longer suitable for the existing use when taking into account access/highways issues, site location and physical constraints. The case centres on an account provided by a local property consultant who has been involved in the sale and purchase of the site for many years. This account confirms that the previous commercial use was in itself constrained given the existing access and its general location and its reuse for commercial purposes has not been forthcoming despite the land owner seeking such buyers in the past. Furthermore, a viability assessment submitted by the applicant which has been independently verified noted that *it is highly unlikely that the site could be sold for employment uses in the current market and if it were to be the value would be very low*. I also note that when assessing application 2005/0889 no concern was raised by the Council in terms of the loss of a previous employment site, although this application was ultimately refused on highway safety grounds.
- 6.14 On the basis of the information submitted I accept that the options available to the land owner in terms of bringing the site back into employment use and modernising the site for that purpose are limited due to the location of the site and restrictions on the site access in terms of its use for larger vehicles. The site is further constrained by its proximity to neighbouring dwellings and it would be difficult to support the re use of the site for a large commercial enterprise given the likely impact of this on the amenities of the neighbouring properties. In addition given the relatively small size of the site (in commercial terms), a mixed use scheme would not appear to be a viable option. It is clear that the site has not contributed to the local rural economy for some years. On balance therefore I am satisfied that the proposed development would accord with the aims of Policy GN4 in the WLLP.

### *Design/Layout*

- 6.15 The site is prominent given the way in which it protrudes out in to the surrounding Green Belt. However in considering the appropriateness of the proposed development it must be remembered that the site remains within the settlement area and has previously been used for commercial purposes and contained large commercial buildings. The proposal does not represent garden land development or development on a greenfield site and policy requirements relating to such development cannot be applied in this case. The introduction of a residential scheme in lieu of the previous commercial enterprise and associated buildings is considered acceptable and sympathetic to the predominantly residential area surrounding the site. Whilst the site is surrounded in part by Green Belt, it is not considered that this proposal results in any greater harm to views into, out of or across the neighbouring open countryside than the previous commercial use. It is appreciated that the established pattern of development in the local area is one which is linear in form, fronting onto Summerwood Lane. However there are examples of residential properties which are located back from the highway, albeit not on the same scale as the proposed development. Despite this however I am mindful that Policy SP1 in the WLLP favours brownfield development and national policy promotes sustainable development and the proposal conforms to both of these provisions.
- 6.16 The proposed layout of the scheme is comprehensive and legible. It provides suitable interface distances between the proposed buildings and suitable separation distances between them and surrounding properties. It allows for the safe movement of vehicles and pedestrians both within the site and onto Summerwood Lane. Whilst the proposed plots sizes are somewhat smaller than the surrounding properties, the external amenity space for each dwelling complies with the standards in the Council's Design Guide and the scheme will result in the creation of a development which will have its own identity while continuing to respect the residential character of the locality.
- 6.17 The design of the proposed dwellings includes a variety of elevational treatments and roof styles and whilst taking some architectural references from nearby dwellings, the scheme also includes some unique features such as cat slide roofs to add to its own identity. Overall I consider that the proposed design is acceptable and is sensitive to its semi-rural setting. In addition to this I am satisfied that the removal of the former saddlery building to the front will not result in any undue harm to the character and appearance of Summerwood Lane.

- 6.18 Policy GN3 in the WLLP states that new development should, amongst other requirements, be of a high quality design and should, through sensitive design, compliment or enhance any attractive attributes and/or local distinctiveness within its surroundings. On the basis that this is a brownfield site, with clear evidence of previous commercial uses and buildings, located within a settlement area, I am satisfied that the proposal complies with Policy GN3 in that it compliments the nature of the surrounding residential area and is of a layout which is acceptable given the previous uses of the land.

*Density*

- 6.19 Policy RS1 states that residential developments within the Borough should be a minimum of 30 dwellings per hectare, subject to the specific context for each site. In this case, with a site area of approximately 0.46 hectare, the proposed development meets this criterion.

*Impact on Neighbouring Land Uses*

- 6.20 In terms of the impact upon neighbouring land uses, sufficient interface distances will be provided between the proposed dwellings and the existing properties at 110 and 112 Summerwood Lane. There will remain a distance of approximately 22m between the flank elevation of plot 1 and the rear elevations of these neighbouring properties. There will be one side window facing towards these properties but that will serve a bathroom and this window can be conditioned to be maintained with obscure glazing. Given this set back distance and the lack of habitable room windows facing towards the neighbouring sites, I am satisfied that the proposed development will not cause undue harm on the amenities of these neighbouring properties. The proposed dwellings are considered to be set far enough back from the boundary with the neighbouring property to the south, No. 116 Summerwood Lane, to ensure that the amenities of this property will be protected.
- 6.21 The access to the site will be located immediately adjacent to No. 112 Summerwood Lane and will run along the boundary with No. 116 Summerwood Lane. I am mindful of the potential impact of the comings and goings of vehicles on the amenities of these properties. However I do not consider that the movements generated by the proposal will exceed those which would be generated if the commercial use was re-commenced especially in terms of the size of vehicles. On this basis I am satisfied that vehicular movements associated with the proposed development will not cause additional harm to Nos. 112 and 116 Summerwood Lane.

- 6.22 The Council's Environmental Health officer has raised awareness of the potential impact on the amenities of the future occupants given the proximity of the public house and associated car park to the north of the application site. Noise from comings and goings of patrons can however be mitigated by ensuring that the rear facing windows of the properties which back onto this neighbouring site are designed to provide acoustic protection and adequate boundary fencing is provided.
- 6.23 I am satisfied that the proposed development is in accordance with Policy GN3 of the WLLP and the Council's SPD 'Design Guide' and would cause no significant harm to the residential amenities of neighbouring properties.

#### *Highways*

- 6.24 The proposed development will utilise an existing access off Summerwood Lane which will be widened by virtue of the removal of the existing Saddlers Shop building. The suitability of the access has been considered by the Highway Authority and they have confirmed that it is to a prescribed standard and the required visibility splays can be achieved. I am aware that a residential scheme for this site has been refused before on the basis of highway safety. However in respect of this application the site provides sufficient width at the frontage to achieve the required visibility splays and all of this land lies within the ownership of the applicant. This situation differs from the previous application.
- 6.25 Two parking spaces are provided per dwelling which meets with the requirements of Policy IF2 in the WLLP. In addition I am satisfied that the site layout allows for sufficient manoeuvring space for cars and refuse vehicles.
- 6.26 There have been a number of concerns raised by local residents over the potential impact of the development on highway safety in the immediate area. However the Highway Authority have confirmed that given the amount of the traffic movements that the site will generate together with the removal of HGV movements which could be generated if the commercial use of the site was brought back into use and the capability of achieving the required visibility splays, the proposed development will have a negligible impact on highway safety and I concur with this view. On this basis I am satisfied that the proposed development is in accordance with Policy GN3 and IF2 of the Local Plan.

### *Landscaping/Ecology*

- 6.27 There are a number of existing trees situated around the perimeter of the site and these consist mainly of low grade trees and hedging. The proposed layout shows the retention of most of these existing trees/hedging while new planting is shown in relation to individual properties. I am satisfied that the proposal will not lead to a notable loss of amenity subject to the imposition of a condition which requires a suitable landscaping scheme including both retention of existing landscape features and the planting of additional landscaping. To ensure there is no significant impact on trees within neighbouring sites a condition will be imposed for a tree protection method statement to be submitted before any development takes place. On this basis I am satisfied that the proposed development is compliant with Policy EN2 in this respect.
- 6.28 An ecological scoping survey has been submitted which has concluded that there was no evidence that the site or the building supported bats, nesting birds, common amphibians, hedgehogs or plant species of ecological importance. A cautious approach has been recommended to the proposed demolition of the remaining building and general site clearance and this can be achieved through a planning condition. On this basis I am satisfied that the proposal is compliant with Policy EN2 in the WLLP in respect of priority species and habitats and biodiversity.

### *Drainage*

- 6.29 The applicant proposes to connect foul sewerage to the foul sewer and to discharge surface water to an existing watercourse which runs along the rear of the site at an attenuated rate. Of particular relevance to this application, Policy GN3 states that within new developments opportunities should be taken to remove surface water from existing sewers and any surface water connection must be at an agreed attenuated rate.
- 6.30 From surveys carried out on the site, it has been concluded that existing drainage from the site takes both foul and surface water to the foul sewer. Whilst this connection remains clear from the Saddlers Shop, it is somewhat more obscure on the remainder of the site due to recent demolitions. However it is agreed that the proposed disconnection of surface water to the foul sewer will result in an overall benefit given that surface water flows are much greater than foul and take up a lot more capacity in the system. United Utilities have acknowledged that *"it is known that there is a pre-existing condition where the public foul sewer in Summerwood Lane floods during storm conditions affecting local properties"*. However they have also confirmed that due to the existing arrangement on site and the fact that the proposal will not result in any surface water entering the foul system, the proposed development will not result in a worsening of the existing issues related to the public foul sewer in this area.



From a strictly planning point of view, there is no planning reason to refuse the application on the basis of the concerns raised by local residents regarding the impact of the development on the foul sewer. On-going concerns relating to this can only be resolved by United Utilities if they meet the threshold for investment for improvements to be made. I am aware that local residents are particularly concerned about this matter and have gone to the trouble of commissioning an engineering report on the subject. I can confirm that this has also been considered by UU and does not alter their advice that subject to conditions ensuring that drainage is managed on a separate system, they have no objection to the proposed scheme.

- 6.31 With respect to the surface water drainage, the applicant has proposed an attenuated rate of discharge of 5 l/s which is considered appropriate for a brownfield site. The applicant has furthermore submitted information with regard to the condition of the watercourse and the profiles submitted show that the watercourse has sufficient gradient to drain and to accommodate the attenuated run off from the site.
- 6.32 As the applicant has provided details of a suitable separate drainage system, the proposal is considered to comply with Policy IF3 of the emerging local plan.

#### *Planning Contributions*

- 6.33 In accordance with Policy RS2 in the WLLP, residential developments which include between 10-14 dwellings should include a minimum of 30% of the units as affordable housing. In this case that requirement would result in 4 of the units being designated as affordable housing. However Policy RS2 also states that the Council will take account of viability when assessing individual schemes and if a level of affordable housing lower than those set out as above is proposed this would need to be supported by information on viability which may have to be independently verified. The applicant has only proposed one dwelling to be allocated as affordable housing and has based this shortfall on a matter of viability. Prior to submitting this application, the applicant put forward a viability assessment so that it could be independently assessed. The results of this independent assessment has been included in the applicant's submission (Affordable Housing/Viability Statement) and concluded that the applicant could provide one social rent unit or two shared ownership units and still make a 17.5% profit which is considered to be an acceptable mid-range profit for a residential scheme of this nature. It should be noted that this assessment used a 'benchmark' land value figure which was significantly less than the amount claimed to have been paid for the land by the applicant. In addition this assessment was based on a scheme which included a total of 11 dwellings, 7 detached and 4 semi-detached. Whilst the amount of dwellings has increased, there are no longer any detached properties included and the Gross

Development Value as estimated by the independent valuer is slightly less than that estimated under a scheme for 11 dwellings and so I am satisfied that the resulting advice remains applicable. On the basis of the independent advice received, I am satisfied that the proposed development meets the requirements of Policy RS2 in that an independently verified viability case has shown that a lower level of affordable housing is acceptable. The terms and conditions related to the proposed affordable unit will be formally agreed through a S106 Agreement.

- 6.34 The development falls below the threshold for providing public open space within the site but attracts a financial obligation for the provision or enhancement of public open space in the vicinity of the site under the terms of the updated SPD - Open Space/Recreational Provision in New Residential Developments. This will be finalized and agreed through a S106 Agreement.
- 6.35 Negotiations are continuing with the Highway Authority in terms of the proposed measures to aid sustainable transport options. The Highway Authority has proposed a scheme to upgrade the footpath facilities in the vicinity of the application site by the provision of a section of new footpath on the eastern side of Summerwood Lane. A short stretch of footpath would be provided on either side of the canal bridge. Whether or not the provision of the footpath as shown by LCC will be feasible remains to be demonstrated but in any event the applicant will be required to provide a financial contribution of £15,000 to either provide the new footway or upgrade the existing pavement within the vicinity of the site to improve the pedestrian routes between the application site and essential community facilities.

### *Summary*

- 6.36 The proposed development is acceptable in principle and is in accordance with Policies RS1, GN3, GN4, IF2, IF4, EC1, EC2 and EN2 in the Local Plan in terms of siting, design, layout, impact on neighbouring land uses and highway matters. Subject to the imposition of planning conditions, I am satisfied that the proposed development also accords with Policy GN3 in terms of drainage. It is acknowledged that the proposed development fails to comply with Policy RS2 in terms of the number of affordable houses included in the scheme, but I am satisfied that a suitable and independently verified justification for this has been put forward by the applicant.

## **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 under s.106 of the Town and Country Planning Act 1990 to secure the provision of:

- Terms and conditions of the affordable housing unit
- A financial contribution towards the enhancement of existing and/or the creation of new areas of public open space within the locality
- A financial contribution towards sustainable transport measures/highway improvements within the vicinity of the site.

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. 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:-  
Drawing nos. 100, 101, 102, 104, 105, 106, 107, 5110:500:1:1, received by the Local Planning Authority on 12th September 2013  
Drawing nos. 203 Rev B, 206 Rev A, 207 Rev B, 210 Rev B, 211 Rev B, 213 Rev B, 214 Rev B, 215 Rev B received by the Local Planning Authority on 19th September 2013
3. No development on the construction phase shall take place 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. 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 these Orders no garages, extensions, alterations, hardstandings or means of enclosure shall be erected or undertaken without the express written permission of the Local Planning Authority.
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 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.
6. Within plot 1 the east facing first floor bathroom window shall at all times remain obscure glazed and top hung or non-opening.
7. 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.

8. 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.
9. Notwithstanding the approved plans no development on the construction phase shall take place until details of the proposed screen walls and/or fences have been submitted to and approved by the Local Planning Authority. Such walls and/or fences shall be erected as an integral part of the development and completed to each dwelling before that dwelling is first occupied.
10. No development shall take place until a Method Statement detailing measures to be taken during construction to protect the health of the existing trees has been 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.
11. No development on the construction phase shall take place until a scheme for protecting the proposed dwellings from noise from the Saracens Head Public House Car Park has been submitted to and approved by the Local Planning Authority and all works which form part of the scheme shall be completed before any of the permitted dwellings is occupied.
12. No development shall take place until full details for a surface water regulation scheme and means of disposal (inclusive of how the scheme shall be maintained and managed after completion and any necessary infrastructure) based wholly on sustainable drainage principles, has been submitted to and approved by the local planning authority in writing. The surface water drainage scheme shall demonstrate the surface water run-off shall not exceed 5 l/s. No surface water shall discharge into the public sewerage system, directly or indirectly, in accordance with the application submission. The development shall be completed, maintained and managed in accordance with the approved details.'
13. No development shall take place until full details of the foul drainage scheme including full details of connections to the foul sewer network has been submitted to and approved in writing by the local planning authority. No housing or other development shall be occupied until the approved foul drainage scheme has been completed in accordance with the approved details and written notice of this fact has been sent to the Local Planning Authority.
14. No development shall take place until any surface water connection to the public foul sewer from the existing site has been disconnected from the public foul sewer and re-routed via the surface water scheme required by condition 12. The details for, and means of undertaking, any disconnection shall be submitted to the local planning authority and agreed in writing prior to the commencement of development.

15. All private paths, driveways and other private hardstanding areas shall be constructed of permeable surfaces. The details for these permeable surfaces shall be submitted to the local planning authority and approved in writing prior before any development on the construction phase takes place. The development shall be constructed in accordance with the approved details.
16. For the full period of 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
17. The car parking and manoeuvring areas shall be provided in accordance with the approved plan before the dwellings are occupied and permanently maintained thereafter
18. No development on the construction phased shall take place until all the highway works within the adopted highway have been constructed in accordance with a scheme that shall be 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
19. No development shall take place until a Code for Sustainable Homes pre-assessment or interim certificate demonstrating how compliance with Code Level 3 (rising to level 4 and 6 in line with increases to Part L of Building Regulations) can be achieved is submitted to, and approved in writing by the Local Planning Authority. Prior to any of the hereby approved dwellings' first occupation, a Final Certificate issued by a DCLG approved certification body shall be submitted to and approved in writing by the Local Planning Authority for each dwelling.
20. The development hereby approved shall proceed in accordance with the recommendations made in Sections 10 of the submitted Ecological Scoping Survey entitled '114 Summerwood Lane, Halsall, Lancashire Ecological Scoping Survey (The Tyrer Partnership, 29th July 2013)

### **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 GN3 in the adopted 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 GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
4. For the avoidance of doubt and to ensure compliance with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

5. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
6. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
7. For the avoidance of doubt and to ensure compliance with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
8. To assimilate the proposed development into its surroundings and to ensure that the development complies with the provisions of Policy EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
9. To assimilate the proposed development into its surroundings and to ensure that the development complies with the provisions of Policy EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
10. 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 Policies GN3 & EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
11. To safeguard the amenity of the dwellings hereby approved and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
12. 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 GN3 & IF3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
13. 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 GN3 & IF3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
14. 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 GN3 & IF3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
15. 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 GN3 & IF3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
16. To prevent stones and mud being carried onto the public highway to the detriment of road safety.
17. To allow for the effective use of the parking areas.
18. In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site and to enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users.

19. To ensure compliance with Policy EN1 in the West Lancashire Local Plan 2012-2027 Development Plan Document
20. To safeguard a protected species and so ensure that the development complies with the provisions of Policy EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

### **Notes**

1. The alterations to the existing highway as part of the new works may require changes to the existing street lighting at the expense of the client/developer.
2. The new site access and associated off-site works, will need to be constructed under a section 278 agreement of the 1980 Highways Act. The Highway Authority hereby reserves the right to provide the highway works within the highway associated with this proposal. Provision of the highway works includes design, procurement of the work by contract and supervision of the works. The applicant is advised to contact the Environment Directorate before works begin on site. Further information and advice can be found at [www.lancashire.gov.uk](http://www.lancashire.gov.uk) and search for 278 agreement.
3. It is assumed that Lancashire County Councils Highways Maintenance (Area South) will be consulted regarding the approval of street works details.

### **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 adopted West Lancashire Local Plan 2012-2027 Development Plan Document:  
SP1 – A Sustainable Development Framework for West Lancashire  
RS1 – Residential Development  
RS2 – Affordable and Specialist Housing  
IF2 – Enhancing Sustainable Transport Choice  
IF3 – Service Accessibility and Infrastructure for Growth  
IF4 – Developer Contributions  
EC1 – The Economy and Employment Land  
EC2 – The Rural Economy  
EN2 – Preserving and Enhancing West Lancashire’s Natural Environment  
GN3 – Design of Development  
GN4 – Demonstrating Viability

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.

<b>No. 3</b>	<b>APPLICATION NO.</b>	2013/1011/FUL
	<b>LOCATION</b>	Hesketh Out Marsh East Guide Road Hesketh Bank Lancashire PR4 6XS
	<b>PROPOSAL</b>	Upgrade of the existing inner flood defence embankment and breaches in the outer embankment to enable the creation of intertidal saltmarsh habitat, including the excavation of lagoons and creeks. Construction of access ridges through the site, installation of bird hide, extension to existing car park, improvements to the footpath along the crest of the embankment and reprofiling of existing access ramps into the site.
	<b>APPLICANT</b>	Environment Agency, Natural England & The RSPB
	<b>WARD</b>	Hesketh-with-Becconsall
	<b>PARISH</b>	Hesketh-with-Becconsall
	<b>TARGET DATE</b>	18th December 2013

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## **1.0 DEFERRAL**

- 1.1 This matter was deferred at the December planning committee to allow the applicant to continue negotiation with the Canal and Rivers Trust and local aviation operators with a view to overcoming holding objections in place at that time.

## **2.0 PREVIOUS RELEVANT DECISIONS**

- 2.1 2013/0372/SCO - Scoping Opinion (16.05.2013) - Restoration of up to 154ha of inter-tidal habitat.
- 2.2 2006/0357 GRANTED (01.08.2006) Change of use of Hesketh Out Marsh West from agriculture to nature reserve with ancillary grazing; remodelling and establishment of new embankments; re-creation of water channels leading to formation of salt marsh and other inter-tidal habitats; provision of associated visitor facilities (car park and viewing platforms); change of use of associated farm buildings (agricultural storage building to storage, processing and packaging of agricultural produce) at Ribble Hall Farm and removal of agricultural worker dwelling conditions from agricultural dwelling on the site to residential dwelling house; improvements to Dib Road, creation of new section of public footpath and creation of a new direct footpath link between Shore Road and the site. (Western Outmarsh).



### **3.0 OBSERVATIONS OF CONSULTEES**

- 3.1 LCC (Highways) (24.10.13) The Developer Support Section does not have any objections in principle to the proposed upgrade of the intertidal saltmarsh habitat, providing Guide Road is not used by site traffic.

Conditions are recommended.

- 3.2 LCC (Archaeology) (03.10.13) – A programme of archaeological mitigation has, as stated and outlined in section 12.4, p. 118 of the Environmental Statement, been agreed with Lancashire County Archaeology Service (LCAS). Request condition.

- 3.3 Environment Agency (15.10.13) – no objections

- 3.4 LCC Public Rights of Way (25.10.13) – Development may have implications for Public Footpath Nos. 1, 2 and 3 Hesketh-With-Beaconsall including temporary stopping up – further discussions will be required in respect to this matter. The applicant will be expected to make good any damage to the use of other rights of way proposed to be used for site access.

- 3.5 MoD Defence Infrastructure Organisation (12.11.13) - principal concern of the MOD with respect to this scheme relates to its potential to attract and support populations of large and, or, flocking birds increasing the risk of birdstrike to aircraft using Warton Aerodrome. The resultant grassland may have potential to attract certain bird species (esp. gulls) that would potentially have a significant adverse impact on aviation safety. Proposals to monitor and manage the site are not considered sufficiently broad in terms of the types of bird, not frequent enough and the flocking tolerance to trigger action is too high. It is questionable whether the proposed measures to prevent flocking and roosting will be sufficiently effective and in doing so there would not be any conflict with the protection of the birds afforded by the SPA and SSSI status of the site.

The application does not adequately demonstrate that an effective and enforceable management plan can be legally implemented to maintain aviation safety requirements and prevent an increase in birdstrike risk to Warton Aerodrome. As such the MOD does not consider that it has sufficient information to discharge its responsibility as the statutory safeguarding authority for Warton Aerodrome in relation to this application.

- 3.6 Blackpool International Airport (31 October 2013) – development presents a hazard to the safe operation of aircraft in the vicinity of Blackpool Airport. Highlight the Town and Country Planning (Safeguarding of Aerodromes, Technical Sites, and Military Storage Areas) Direction 2002 requirements to re-notify if Council wishes to grant planning permission.

- 3.7 Natural England (28.10.13) - supports this project because it will recreate new areas of intertidal mudflat, saltmarsh and lagoons and will help to facilitate the sustainable management of the key notified features of the Ribble Estuary designated sites. This project will support key Biodiversity Action Plan species and habitats, and therefore support targets for priority habitat creation under the Government's Biodiversity 2020 strategy.

In accordance with Regulations 61 and 62 of the Habitats Regulations WLBC should check the Conservation Objectives in place for the Ribble and Alt Estuary Special Protection Areas (SPA) which explain how the site should be restored and/or maintained and undertake a Habitats Regulations Assessment. Natural England notes that the Environment Agency has carried out a Shadow Habitat Regulations Assessment; the assessment concludes that the proposal can be screened from further stages of assessment because the proposal will not result in adverse effects on the integrity of the site in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures incorporated within the planning application are undertaken.

In respect of the SSSI status – no objection. Natural England is satisfied that the proposed development being carried out incorporating the mitigation measures within the planning application, as submitted, will not damage or destroy the interest features for which the site has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application.

- 3.8 Canal and Rivers Trust (30.01.14) – No objection. The Environment Agency and the Canal & River Trust are in agreement that the risk of navigation being affected by the proposed development is low, but cannot be ruled out. Discussions have resulted in the preparation of heads of terms for a legal agreement between the Environment Agency and the Canal & River Trust, which has now been agreed and signed by both parties. The agreement will require the Environment Agency to monitor the effect of the development on patterns of sediment accumulation and to share the results with the Canal & River Trust. Based on the monitoring results, the agreement will require the Environment Agency to compensate the Canal & River Trust for any costs incurred in dredging and other works necessary to maintain navigation as a result of the proposed development.

On the basis that the Environment Agency has confirmed its agreement to the heads of terms, the Canal & River Trust is satisfied that any risk to navigation can be addressed outside of the planning process, as detailed above.

- 3.9 Hesketh-with-Becconsall Parish Council (03.02.14) – no objections; support the scheme.

#### **4.0 OTHER REPRESENTATIONS**

- 4.1 Two representations from boatyards in the vicinity expressing concerns and objecting on the following grounds:

Concerns in respect of potential sedimentation issues in the Douglas River and River Ribble channel potentially having a detrimental impact on navigation and subsequently the Douglas Boatyard and Preston Marina businesses. Submissions show effect likely to reduce tidal velocities thereby increasing the likelihood of sedimentation in the channel. Any further reduction of navigable channel could potentially have serious implications for these local businesses and the leisure value of the river.

- 4.2 BAE Systems (12.11.13) – Objects. The Environmental Statement identifies that the development will have a permanent minor adverse impact on bird strike risk in the vicinity of Warton Aerodrome. The applicant has failed to put forward appropriate and adequate mitigation to offset this identified risk.

The proposed passive and active mitigation measures may not be achievable or possible to enforce.

Concerned that despite attempts to provide habitat unsuitable for gull colonies there are existing colonies on Banks Marsh with similar habitat to that to be created; that the lagoon sizes are too large and designed in conflict with Aviation Authority guidelines and may attract feeding birds. Proposed intervention measures are questionable as to whether birds won't habituate to the majority of the proposals, or, won't adversely impact on species the development is supposed to benefit. The monitoring and intervention threshold suggested for gulls is excessive and needs more regular monitoring than proposed.

All measures may affect bird species outside the target populations i.e. qualifying species of the Special Protection Area. Additionally, with the intent of improving the land for certain species of birds and habitats generally it is likely that over time the site could be incorporated into the SSSI/SPA/Ramsar allocation. In both instances the Habitats Regulations would be invoked and it is highly likely that the mitigation proposals in themselves will require Appropriate Assessment. With likely significant effects on the gull populations it is questionable whether active measures could be implemented or be possible to guarantee.

## **5.0 RELEVANT POLICIES**

5.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan (2012-2027) provide the policy framework against which the development will be assessed.

5.2 The site lies within land designated as the Green Belt and the Coastal Zone.

5.3 Relevant West Lancashire Local Plan policies:

SP1 A Sustainable Development Framework for West Lancashire

GN1 Settlement Boundaries

GN3 Criteria for Sustainable Development

EC2 The Rural Economy

EN2 Preserving and Enhancing West Lancashire's Natural Environment

EN3 Provision of Green Infrastructure and Open Recreational Space

EN4

5.4 The following documents are also material considerations in respect of this application:

- The Conservation of Habitats and Species Regulations 2010 (as amended)
- The Wildlife and Countryside Act 1981 (as amended)
- The Natural Environment and Rural Communities Act
- Circular: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within The Planning System
- Water Framework Directive (WFD): North West River Basin Management Plan
- 'Making Space for Water' (Environment Agency)
- The North West England and North Wales Shoreline Management Plan (SMP2)
- Biodiversity 2020 Strategy
- Making Space for Nature (Defra)
- Douglas Catchment Flood Management Plan (CFMP)
- River Ribble CFMP
- Marine Policy Statement
- Circular 1/2003 (Advice to LPAs on Safeguarding Aerodromes and Military Explosives Storage Areas)
- CAP 772 (Bird Strike Risk Management for Aerodromes, 2008)

## **6.0 OBSERVATIONS OF ASSISTANT DIRECTOR PLANNING**

### The Site

- 6.1 The application site relates to an area of about 154 ha. located some 2 km north of Hesketh Bank village. The area consists of low lying, generally flat, reclaimed land bordered by an Outer Embankment formed in the 1980's. The land is used for agricultural crop production and grazing with some areas left in a semi-natural condition. The southern extent of the site is generally delineated by the Environment Agency managed Inner Embankment but also includes a visitor parking area formed at the head of Dib Road by the RSPB following the recent transition of the western outmarsh to intertidal habitat. The site can be accessed via Dib Road, Guide Road or the local footpath network.
- 6.2 To the north of the site lies the Ribble Estuary with Warton aerodrome beyond, to the north-east the confluence of the River Douglas and River Ribble, to the east the Douglas. To the west lies Hesketh Out Marsh West, separated from the site by a cross bank; that area was subject to a similar process as proposed under this application seeing some 168 Ha. being successfully returned to intertidal salt marsh. Land to the south of the site is predominantly low-lying, flat, arable agricultural land separated by the inner sea-defence embankment (height approx. 7.3 m AOD). The Ribble and Alt Estuaries are a Special Protection Area (SPA) and a Site of Special Scientific Interest (SSSI). The Estuary is one of the most important estuaries in Britain for birds particularly its over-wintering waterfowl.

### The Proposal

- 6.3 The proposed modification of Hesketh Out Marsh East (HOME) comprises managed realignment and the creation of an additional 154ha. of estuarine wetland habitat through the breaching of the outer embankment at four strategic locations. The proposal would involve the following works:
- Excavations to reinstate the historic creek pattern and former drainage channels.
  - Excavations to form additional creeks within the realignment area, to act as extensions to existing creeks in the present intertidal area.
  - Formation of nine saline lagoons to provide wader feeding habitat, each about 1ha in area.
  - The creation of approximately 154ha of intertidal marsh by enabling the passage of saline water through the sea wall and onto the marsh at high tides through the formation of four 100m wide breaches in the existing outer embankment.

- The won materials would be utilised to upgrade the existing inner embankment between Hesketh Out Marsh East and Hesketh New Marsh (land to the south), to act as the primary line of defence. The re-profiled embankment would measure 7.8 metres in height with a 5 metre widened crest to provide improved maintenance access. Access over-ramps will be improved to maintain accessibility.

6.4 Additionally, it is proposed to include enhanced accessibility for visitors through the formation of an extension to the existing car park area and a new hide on the cross bank. Subject to achieving the relevant consents, it is anticipated that development will commence in early 2014 for six months then recommence in autumn 2015 for completion in spring 2016. Working hours are proposed as 07.00 – 19.00 hrs in summer months reducing to 08.00-18.00 in winter. No Sunday working is proposed.

#### Background

6.5 HOME was converted to agricultural land by the riparian landowner in the 1980s through the construction of the Outer Embankment along the edge of the Ribble Estuary. The Environment Agency owned inner embankment is set to the rear (south) of HOME and is currently in poor condition and suffers design weaknesses making it difficult to maintain. The proposal is to create new inter tidal habitat in the area of HOME i.e. return it to its natural state, without affecting the existing standard of protection afforded to housing south and south west of HOME. The excavated materials will be utilised to refurbish the Inner Embankment. On breach of the outer embankment the intervening area will witness regular tidal inundation. The HOME area is not connected beyond the site and therefore inundation by the tide will not impact on drainage networks outside of HOME.

6.6 The refurbishment of the Primary Embankment will result in around 0.5m increase in crest level and will be around 1.5m above the current 1 in 200 (0.5%) AEP tide level. Furthermore, the crest level can be expected to remain above the 1 in 200 (0.5%) AEP tide level when taking account of foreseeable sea level rise due to global warming, whilst also allowing for a suitable freeboard. Thus, as a minimum, the existing standard of protection will be maintained for several decades into the future for 143 properties. However, wave overtopping *in extremis* for the future events cannot be discounted.

6.7 The refurbished embankment with saltmarsh represents the outcome of a risk based approach, in accordance with Defra policy, in that it strikes a balance between a precautionary approach and a managed adaptive approach i.e. one which requires successive interventions over time. Under the proposed HOME embankment refurbishment, consideration of further intervention will only be required in the long term whilst the designed improvements to the embankment will facilitate for the long term any further adaptation measures needed to manage future increases in flood risk through improved accessibility and ease of maintenance. The refurbishment of the Primary Embankment, will therefore as a minimum, maintain the existing standard of protection to property and land south of HOME. It will also improve access and maintenance, which in turn will reduce the chances of any breach occurring. In 2008 a similar scheme was completed for Hesketh Out Marsh West (HOMW).

6.8 The development is consistent with the emerging North West England and North Wales Shoreline Management Plan (SMP2) and is a key target action for the Ribble catchment in the North West River Basin Management Plan required under the EU Water Framework Directive. The Shoreline Management Plan is a Local Authority led policy document providing long-term sustainable and coordinated approach to projects combining with the Local Plan, other local policy aims and legislative requirements to manage future defence works and address the challenges of climate change, natural coastal processes and flood defence expectations in the context of increasing social, economic and environmental pressures.

#### Principle of Development

6.9 The development accords with the overarching aims of Policy SP1 seeking sustainable forms of development, addressing climate change, avoiding unnecessary flood risk and enhancing the biodiversity value of the Borough.

#### Principle of Development – Green Belt

6.10 The excavation works, works to the embankment and extension of the car park constitute engineering operations. Para. 90 of the NPPF states that *certain forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are* [inter alia]: engineering operations. Whilst a substantial amount of the engineering works will constitute works to reinstate natural features, reverse works previously undertaken to form the outer embankment or replicate natural features (lagoons & creek extensions), and therefore could not be interpreted as either adversely affecting the openness of the Green Belt or conflicting with the reasons for including land within it, the parallel works to the embankment will have an adverse impact on the openness by virtue of its increased height and greater width. Under those circumstances national policy dictates that only where very special circumstances exist and those circumstances outweigh the resultant harm to the Green Belt and any other harm arising should the development be allowed.

- 6.11 The proposed scheme is consistent with The North West England and North Wales Shoreline Management Plan (SMP2), which sets out policies to manage the risk of flooding to people and the environment in a sustainable manner. Its long term vision for the Ribble and Douglas estuaries is to continue to manage flood risk to nearby towns and their facilities, to high grade agricultural land and the extensive flood plain, and to create new habitat whilst reducing surge water levels in upstream areas. HOME is identified for managed realignment during the first 20 years of SMP2, with a vision of holding the new line of defence thereafter for the next 100 years. There is no economic justification for national expenditure on the current front line defences, whereas the proposal to hold the line of the inner embankment, which is a shorter and a more sustainable alignment is economically justified. This adopted strategic approach is consistent with the NPPF's aim to achieve sustainable development serving an economic, social and environmental role, protection from flood risk, planning to adapt to the impacts of climate change and enhancing biodiversity. Additionally, the development will result in significant biodiversity enhancement of the site in accordance with a stated aim of the NPPF and contribute to the Ribble Coast and Wetlands Regional Park. In combination these circumstances constitute very special circumstances.
- 6.12 The extent of the works and scale of the resultant embankment are significant, however, it is only the *additional* height and width that are under consideration here. Given the scale of the existing embankment and its wider landscape context the perception of additional harm will be limited; that is not to say harm to the openness of the Green belt does not result but, given the gravity of, and the reasons for, the circumstances around the development the harm is considered to be outweighed by those circumstances and therefore acceptable in principle.
- 6.13 The proposed extension of the car park also constitutes an engineering operation, however, this will be limited to a non-permanent surface treatment only and is not considered to give rise to any significant harm to the openness of the Green Belt. This element of the proposals is also considered to be acceptable in principle.
- 6.14 The provision of a bird hide in association with the existing western site and the proposed site is consistent with paragraph 89 of the NPPF in relation to new buildings in the Green Belt which states that new buildings should not be permitted with the following exceptions (inter alia): appropriate facilities for outdoor recreation as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. The principle of the hide is therefore considered acceptable.



## Principle of Development – Coastal Zone

- 6.15 The proposed development is consistent with Policy EN2 in respect of being associated with and meeting the needs of flood protection. (It does not impact on the secondary embankment referred to in that policy). Although restoration of intertidal habitat does necessitate the loss of agricultural land for cultivation of crops, that land is of lower quality (Grade 4) than the surrounding area and will continue to be used for low intensity grazing for the foreseeable future. Moreover the strengthened inner embankment will protect adjacent higher grade agricultural land from flooding in accordance with Policies EN2 and EC2 and the regional Shoreline Management Plan. The loss of the low grade agricultural cropland will not adversely affect the management of the farm holding on which it exists or the overall viability of the adjacent high grade land.

### Flood Risk

- 6.16 The embankment refurbishment will allow vehicular access and make inspection and maintenance easier, which together with an annual inspection regime appropriate to the primary embankment status, will reduce the risk of the embankment being breached. Moreover, the new area of intertidal habitat will help dissipate tidal energy and reduce the physical forces on the embankment during storm surges, thereby constituting the refurbished flood defence system. The works will also address the reduced effectiveness of the existing protection that has, and will, result from climate change.
- 6.17 The existing drainage system in HOME will be incorporated into the landscaping for the creation of the intertidal habitat as discussed above and will cease to operate as a drainage system. There is no evidence that HOME drainage is connected to New Marsh drainage, and therefore the inundation of HOME will not impact on drainage outside of the site.

### Infrastructure Project

- 6.18 The scheme is defined as an 'Infrastructure Project' within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England) Regulations 2011 (as amended). The site is adjacent to the Ribble and Alt Estuaries Special Protection Area (SPA), which is defined as a 'sensitive area' in the EIA Regulations. An EIA has therefore been undertaken and the application is accompanied by an Environmental Statement. This statement also covers information required under the Marine Works (EIA) Regulations 2007.

- 6.19 The Environmental Statement covers a large number of issues to establish whether the development will result in any likely significant impacts and, if so, whether these can be limited, mitigated or remain as a residual impact of the development. Having completed this exercise the main likely significant effects identified are:
- Impacts on the designated nature conservation sites and changes to habitat;
  - The risk to aviation safety at Warton Aerodrome and Blackpool International Airport due to the increased risk of bird-strike;
  - The potential impacts of the proposed breaches on navigation along the Millennium Ribble Link which runs along the River Douglas and Ribble Estuary.

#### Ecological Impacts

##### Impact on Special Protection Area

- 6.20 The site is adjacent to a European designated site known as the Ribble and Alt Estuaries Special Protection Area (SPA) designated under the EU Birds Directive. As part of this directive, European member states are required to take appropriate steps to avoid deterioration of habitats and species within these sites. This is translated into UK law by The Conservation of Habitats and Species Regulations 2010 (as amended). Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) states that a competent authority (WLBC in this instance), before deciding to permit a plan or project which (a) is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications for that site in view of that site's conservation objectives; must consult the appropriate nature conservation body and have regard to its representations; and should agree to the plan or project only having ascertained that it will not adversely affect the integrity of the European site.
- 6.21 In carrying out this assessment WLBC has had regard to the shadow Habitat Regulation Assessment submitted by the applicant and has consulted with the relevant conservation bodies. In concluding on the Council's Appropriate Assessment in respect of impacts on the SPA the Council is satisfied that, subject to conditional controls on timing of certain works and the implementation of mitigation and management measures, there will be no adverse effects on the integrity of the SPA site.

## Impact on SSSI

- 6.22 Similarly, it is not envisaged that the proposed development will damage or destroy the interest features of the SSSI – invertebrate rich, intertidal sand-silt flats, saltmarsh and greenmarsh with associated diverse waterfowl, waders, and other bird life. This view is supported by Natural England.

## Protected Species and Priority Habitats

- 6.23 The submitted surveys identify that Water Vole is present in parts of the site. These will require translocation to alternative suitable habitat in the vicinity under licence from NE. Given that the Environment Agency is the lead authority for water vole conservation and that NE is a statutory nature conservation organisation, the receptor land owner and the licensing body it is considered appropriate to accept this element of the proposals to conserve the population of this protected and priority species.
- 6.24 Works are programmed in order to prevent impacts on nesting birds during the works. Subject to the implementation of the detailed approach I do not consider there will be any adverse impact to nesting birds.
- 6.25 Mitigation measures for Species of Principal Importance and other biodiversity interests in the site are included within the detailed submissions and will be secured by planning conditions. On this basis it is envisaged that the proposals will result in a significant increase in the biodiversity value of this area.

## Aviation

- 6.26 There is a clear link with the proposed development and potential to increase the risk of bird-strike with aircraft operating in the area – most notably Warton Aerodrome and Blackpool International Airport. Representatives of both of these airfields and, additionally, the MoD in respect of Warton Airfield have objected to the proposals on the grounds of increased air-strike risk.
- 6.27 Clearly the creation of greater areas of habitat suitable for birds is likely to attract greater numbers of birds to the area. However, it is noteworthy that it is not all birds that cause elevated risk. The main concerns arise from flocking birds but, in particular, large flocking birds including gulls. The design of the proposed development can ensure the resultant habitat favours certain types of birds over others. For instance the scheme has sought to limit the size and form of the proposed lagoons and introduce initial management of the grassland to deter a gull roost from establishing. Nevertheless, it is suggested that despite habitats not being the ideal for any particular species there are large numbers of gulls within the SPA (indeed the site is recognised for certain types of gulls), and nearby in the sub optimal habitat of Banks Marsh. Subsequently, there is likely to be a high reliance on management and intervention to avoid escalated risk.

- 6.28 Mitigation schemes have been provided by the applicant and ongoing discussions are taking place with the relevant authorities, however, at the time of writing those three organisations have not formally lifted their objections to the proposals. Whilst those objections remain WLBC is unable to approve the development without giving further return notice and reasons for overturning any objections submitted by the MoD and Blackpool Airport, or, must refer the matter to the Secretary of State under the terms of Planning Circular 1/2003. This is not the intention here. The Environment Agency has indicated that the discussions taking place have been fruitful and it is anticipated that by the date of the Planning Committee the aviation safety matters will be satisfactorily resolved and I hope to have written confirmation of removal of the objections reported through the late information appendix. It is envisaged that a suitable mitigation and maintenance schedule that would give the appropriate reassurances to these authorities by limiting the potential for increased risk of bird-strike could be secured by planning condition.

#### River Navigation and Sedimentation

- 6.29 There is some concern in respect of the potential impact on the river channels as a possible result of increased sedimentation following the breach of the outer embankment. Sedimentation within the river channels could impede the ability to navigate the channels for recreational and commercial boat users, supporting commercial interests (boatyards and docks) and the ability to maintain the Ribble Link subsequent to the project's implantation. The Ribble Link is currently subject to significant tide limitations meaning the number of boats able to make the trip between the Douglas and Savick Brook linking the Leeds-Liverpool Canal with the Lancaster Canal may be prejudiced.
- 6.30 From detailed analysis, and the information provided by the Canal and River Trust, the EA believe there is no firm evidence that the development would cause sedimentation that would impede navigation, indeed the evidence provided suggests the development will provide a substantial future benefit to navigation interests as the development will act as a "sediment sink" - sediment accretion is an inherent characteristic of saltmarsh. The most recent evidence suggests that a conservative estimate of the amount of accretion is approx 100,000 to 150,000 m<sup>3</sup> every five years on an indefinite basis. i.e., this is sediment that otherwise would be deposited in the Douglas & Ribble estuaries. If sedimentation were to arise this is most likely for a short term immediately after the breach of the outer embankment until the accretion rate overtakes the initial output.

- 6.31 Despite this the EA and Canal and Rivers Trust (CRT) have agreed a clear compensation mechanism under the Water Resources Act 1991 should there be any damage caused to waterways from the scheme. The EA have and will continue to make clear that any need for CRT to carry out dredging works as a result of siltation attributable to the development would come within the scope of this statutory compensation scheme. The Canal and Rivers Trust have subsequently removed their objection to the proposals. The agreement between these parties should provide sufficient comfort for those businesses and recreational users that rely on navigation of the river.

#### Other Impacts

##### Landscape Impact

- 6.32 The proposals will have an impact on the current landscape character, seeing a greater naturalisation of the low lying area north of the embankment to a character more consistent with the recently reclaimed land to the west and those areas lying outside the outer embankment. Perception of these changes will be largely limited to those utilising the RSPB facility and those using the footpath network – other views are more limited due to the existing embankments. As described above the enlargement of the inner embankment will be significant in its scale but in comparison to the existing structure and in the wider landscape context is unlikely to result in any significant harm to the visual amenity of the area or detract further from the local landscape character. On that basis I am satisfied the proposals will not adversely impact on the visual amenity of the area.

##### Siting, Design and Appearance of Development

- 6.33 Design of the hide is considered acceptable and fitting of its purpose; however, the siting is poor due to the obtrusive position atop the embankment in an area where it would be very prominent with little ability to suitably screen it from surrounding viewpoints. Therefore, whilst I consider the proposed hide acceptable in principle and design I consider the final detail should be secured by planning condition to reduce its impact on the visual amenity of the locality and Green Belt.
- 6.34 The extension of the car park to the east of the existing car park is considered acceptable and benefits from existing and recently enhanced hedge planting. Surfacing will be appropriate to the rural character of the locality.

- 6.35 The proposed works are substantially designed to replicate and reinstate natural features within the main site area; the breach points utilise relic channels still visible within and outside the outer embankment and provide enhanced linkages between the former channels to accelerate the reclamation process across the whole area. The works will help in quickly reinstating the former condition of the land. The works to the embankment are driven by appropriate design and functional requirements; whilst not of a natural appearance the embankment will benefit from increased height, form and easier maintenance to fulfil its protective role.

#### Impact on Surrounding Land Uses

- 6.36 During construction, the main impacts on surrounding land uses are likely to be additional traffic arriving and departing the site and potential dust and noise creation during earthworks.
- 6.37 Traffic associated with the development is not considered to be significant. The project is devised to minimise the requirement for the import or export of materials to/from the site. This will mean that once heavy vehicles are at the site they will substantially remain for the duration of the works i.e. only personnel vehicles will make daily trips (estimated at 20 per day). Only fuel supplies and limited importation of stone for formation of the vehicle ramps and bog mat delivery (up to 95 loads at the start of the project and 20 at the end) are anticipated. Given the proposed times of works, relatively limited use of Dib Road and recent installation of passing places along the length of Dib Road I do not consider this aspect of the development is likely to give rise to any significant detrimental impact on surrounding land uses.
- 6.38 In respect of dust creation, it is proposed to utilise dust suppression measures – dampening and carrying speed restrictions to ensure material is not wind blown onto nearby agricultural fields or local residential properties. In terms of noise, the majority of the works will take place on the seaward side of the inner embankment thereby benefitting from the screening effect of the embankment; works to form access ramps will occur but at some distance to the nearest residential dwellings. Access for farm vehicles will be retained through the works.
- 6.39 The completed development is likely to attract higher numbers of visitors to the site; the impact associated with this will be substantially be limited to additional vehicular traffic on Dib Road which passes one residential property. Eventually it is anticipated that up to 15,000 visitors could visit the site annually (approx. 290 visits per week) However, it is not envisaged that the proposals will result in such significant visitor numbers or high peak volumes as to cause any significant adverse impact on local residential or other amenity in the vicinity and therefore the proposals are consistent with the requirements of Policy GN3 in the Local Plan.

## Local Footpaths

- 6.40 Temporary closure of footpaths 1, 2 & 3 which run through the car park and along the crest of the inner embankment will be required during the works, however, footpath users will be able to utilise footpaths 5 & 6 running parallel but landward of the inner embankment. Ultimately, the bank top footpaths will be reinstated and benefit from a wider, level and more accessible pathway. Footpaths 34, 35, 36 and 37 on Dib Road will remain open and be subject to condition survey, any degradation will be remedied on completion of the main works. On that basis I have no objection to this aspect of the proposals subject to the applicant seeking the relevant temporary diversion orders.

## Summary

- 6.41 The combined proposals offer a unique opportunity to improve flood defences in an environmentally sustainable manner and result in the opportunity to restore wetland and estuarine habitats and to extend the area under conservation management within the Ribble Coast and Wetlands Regional Park resulting in a substantial environmental gain. It accords with the aims of the NPPF which promotes the restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations. In accordance with Policy GN3, and the aims of Policies EN2 and EN3, the HOME scheme will contribute to the provision of green infrastructure whilst enhancing flood risk protection in the short to medium term.

## 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 MoD (on behalf of BAE Systems) and Blackpool Airport raising no objections.
- 7.2 That any planning permission granted by the Assistant Director Planning pursuant to recommendation 7.1 above be subject to the following conditions in addition to any further conditions required to secure the agreed mitigation and/or management regime for the site.

## **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 unless otherwise agreed in writing by the Local Planning Authority:-  
109453- 10006 Rev. A; 10008 Rev. A; 15001 Rev. A; 15002 Rev. A; 15003 Rev. A; 15004 Rev. A; 15005 Rev. A; 15006 Rev. A; 15007 Rev. A; and, 15008 Rev. A received by the Local Planning Authority on 17 September 2013.

3. With the exception of the mitigation proposals in respect of methods for reducing bird strike and proposed mitigation for any impediment to navigation of the nearby river channels, all mitigation measures as set out in the Hesketh Outmarsh East Managed Realignment Environmental Statement (September 2003) received by the Local Planning Authority on 18 September 2013 and measures in the Environmental Action Plan of the same document shall be implemented before, during and subsequent to the construction phase of the development as applicable.
4. No development shall take place until a joint survey has been carried out between the developer in conjunction with the highway authority to determine the condition of Shore Road within 100m of the Dib Road the results of which shall be submitted to the Local Planning Authority. A similar survey shall be carried out within six months of the completion of the works, and the developer shall make good any damage to Shore Road to return it to the pre-construction situation.
5. No development shall take place until a joint survey has been carried out between the developer in conjunction with the Public Rights of Way Officer to determine the condition of the Definitive Footpaths 8-10-FP 2, 8-10-FP 3, 8-10-FP 35, 8-10-FP 36, 8-10-FP 37, the results of which shall be submitted to the Local Planning Authority. A similar survey shall be carried out within six months of the completion of the works, and the developer shall make good any damage to Definitive Footpaths 8-10-FP 2, 8-10-FP 3, 8-10-FP 35, 8-10-FP 36, 8-10-FP 37 to return it to the pre-construction situation.
6. No development shall take place until a Traffic Management Plan for the construction vehicles and staff accessing the site during the construction works, has been approved in writing by the Local Planning Authority. Thereafter the works shall proceed in accordance with the agreed Traffic Management Plan. For the avoidance of doubt no construction traffic should be permitted to utilise Guide Road.
7. Notwithstanding the details on the approved plans no bird viewing hide shall be erected until full details of the siting, construction and design of the hide have been submitted to and agreed in writing with the Local Planning Authority. Thereafter the hide shall only be provided in accordance with the agreed details.
8. There shall be no works within 5 metres of the ditches supporting Water Voles until the trapping and translocation of water voles is complete.
9. The trapping and translocation of water voles shall not take place until a copy of the requisite Natural England licence has been submitted to the Local Planning Authority.
10. The monitoring methodologies specified within the Hesketh Outmarsh East Managed Realignment Environmental Statement (September 2003) received by the Local Planning Authority on 18 September 2013 and detailed in Appendix F of that document shall be carried out in accordance with the stated methodologies and timescales. Any subsequent revisions to mitigation measures set out in the Report shall be submitted to and agreed in writing with the Local Planning Authority and be completed in accordance with the agreed details.



## **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 GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
3. In order to achieve a sustainable form of development and comply with the requirements of the following policies in the West Lancashire Local Plan (2012-2027) Development Plan Document:  
SP1 A Sustainable Development Framework for West Lancashire  
GN1 Settlement Boundaries  
GN3 Criteria for Sustainable Development  
EC2 The Rural Economy  
EN2 Preserving and Enhancing West Lancashire's Natural Environment  
EN3 Provision of Green Infrastructure and Open Recreational Space  
EN4 Preserving and Enhancing West Lancashire's Cultural and Heritage Assets and the requirements of the NPPF.
4. To maintain the construction of Shore Road in the interest of highway safety .
5. To maintain the construction of Definitive Footpaths 8-10-FP 2, 8-10-FP 3, 8-10-FP 35, 8-10-FP 36, 8-10-FP 37 in the interest of highway safety.
6. To safeguard the safety and interests of the users of the highway and to ensure that the development complies with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
7. In order to avoid conflict with the Local Planning Authority's policy of strict control of development in the Green Belt and to ensure compliance with Policies GN1 and GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document and the National Planning Policy Framework.
8. To safeguard a protected species and so ensure that the development complies with the provisions of Policy EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
9. To safeguard a protected species and so ensure that the development complies with the provisions of Policy EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
10. In order to achieve a sustainable form of development and comply with the requirements of the following policies in the West Lancashire Local Plan (2012-2027) Development Plan Document:  
SP1 A Sustainable Development Framework for West Lancashire  
GN1 Settlement Boundaries  
GN3 Criteria for Sustainable Development  
EC2 The Rural Economy  
EN2 Preserving and Enhancing West Lancashire's Natural Environment  
EN3 Provision of Green Infrastructure and Open Recreational Space  
EN4 Preserving and Enhancing West Lancashire's Cultural and Heritage Assets and the requirements of the NPPF.

## **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 adopted West Lancashire Local Plan 2012-2027 Development Plan Document:

SP1 A Sustainable Development Framework for West Lancashire

GN1 Settlement Boundaries

GN3 Criteria for Sustainable Development

EC2 The Rural Economy

EN2 Preserving and Enhancing West Lancashire's Natural Environment

EN3 Provision of Green Infrastructure and Open Recreational Space

EN4 Preserving and Enhancing West Lancashire's Cultural and Heritage Assets

together with Supplementary Planning Guidance and all relevant material considerations. Whilst the Local Planning Authority recognises that the proposal does not fully comply with Policy/Policies GN1 in the West Lancashire Local Plan 2012-2027 DPD it feels that special circumstances exist, namely the significance of securing ongoing flood risk protection in compliance with national and regional programming and the extent of biodiversity enhancement. It is considered that these special circumstances justify approval of the application as set out in the Officer's report. This report can be viewed or a copy provided on request to the Local Planning Authority.

<b>No. 4</b>	<b>APPLICATION NO.</b>	2013/1182/FUL
	<b>LOCATION</b>	Land Adjacent To 207 Hesketh Lane Tarleton Lancashire
	<b>PROPOSAL</b>	Modification of condition no. 2 imposed on planning permission 2012/0265/FUL for erection of detached dwelling and garage to accurately reflect the revised position of the dwelling on the plot.
	<b>APPLICANT</b>	Mr B Morgan
	<b>WARD</b>	Tarleton
	<b>PARISH</b>	Tarleton
	<b>TARGET DATE</b>	7th January 2014

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### **1.0 REFERRAL**

- 1.1 This application was to be determined under the Councils delegation scheme; however, Councillor Kay has requested it be referred to the Committee to review the impact on the neighbouring property.

### **2.0 PREVIOUS RELEVANT DECISIONS**

- 2.1 1993/1223 - Outline – Residential: Approved
- 2.2 2012/0265/FUL: APPROVED (3.5.2012) – Erection of detached dwelling and garage.
- 2.3 2013/0983/CON: APPROVED (4.11.2013) - Approval of Details Reserved by Condition No's 3, 4 & 5 of planning permission 2012/0265/FUL relating to walling and roofing materials, visibility splays and car park details.

### **3.0 CONSULTEE RESPONSES**

- 3.1 NONE

#### **4.0 OTHER REPRESENTATIONS**

4.1 2 letters from neighbours raising the following concerns

- Dwelling is very intrusive on neighbouring property.
- Development also includes an unauthorised extension to the rear.
- Inaccurate and ambiguous plans submitted.
- Development is closer to the boundary with No 207 Hesketh Lane than shown on plan.
- Dwelling is set further back in plot than original plan
- Side windows should be obscurely glazed due to invasion of privacy (difference in floor levels between application site and neighbouring property).
- Roof should be hipped to reduce impact on outlook for neighbours.
- Development is too large for the site.
- Development is overbearing and will overshadow neighbouring property.
- Mass of wall on side elevation is not acceptable.

#### **5.0 SUPPORTING INFORMATION**

5.1 NONE

#### **6.0 LOCAL PLAN ALLOCATION**

6.1 The site is located within the Key sustainable village of Tarleton with Hesketh Bank as designated in the West Lancashire Local Plan DPD (2012-2027)

##### **West Lancashire Local Plan DPD (2012-2027)**

GN1 Settlement boundaries

GN3 Criteria for sustainable development

**Supplementary Planning Document, Design Guide (Jan 2008)**

#### **7.0 SUMMARY OF ISSUES**

##### **Site Description**

7.1 The application site is located to the east of Hesketh Lane. Planning permission was granted for the erection of a dwelling on the site which is currently under construction. However, the dwelling has not been constructed in the position shown on the approved plans.

7.2 The surrounding area is characterised by dwellings of differing types and styles, with no particular building line adjacent to Hesketh Lane.

## **Proposal**

- 7.3 This application seeks permission for variation of Condition 2 which relates to the approved plans. The amendments to the approved proposal include the dwelling sited 30cm further back in the site (west) of the approved position and 3. cm closer to the boundary with 207 Hesketh Lane.

## **Assessment**

- 7.4 The main considerations for the determination of this proposal are;
- (i) Impact upon neighbouring properties
  - (ii) Impact on streetscene

### Impact on neighbouring properties

- 7.5 The siting of the dwelling is 30cm further back into the site (west) of the siting approved as part of planning permission 2012/0265/FUL and is 330 mm closer to the boundary with 207 Hesketh Lane Tarleton.
- 7.6 With regards to the siting of the dwelling further back into the site, this results in the front wall of the main dwelling under construction being approximately in line with the rear elevation of 207 Hesketh Lane. Given the difference in floor levels between the two properties, the revised siting does have implications for the relationship between the new dwelling and the neighbouring property at 207 Hesketh Lane. I have concerns that this raises privacy issues in relation to the window and door on the side elevation of the proposed dwelling as the angle of view onto the rear elevation of 207 Hesketh Lane is less oblique. I consider that on balance the siting further back into the plot is acceptable subject to an additional condition requiring this window and door to be obscurely glazed.
- 7.7 The dwelling has also been constructed slightly closer (3.3cm) to the boundary than the approved layout. Whilst there are some issues in relation to the actual position of the boundary fence, I do not consider that the siting of the dwelling 3.3cm closer to the boundary has any further effect on the neighbouring property (207 Hesketh Lane) over and above that created by the dwelling as approved.
- 7.8 I am satisfied that the amendments to the siting of the dwelling are acceptable subject to the imposition of additional conditions. Given the orientation and distances to party boundaries I do not consider the proposed dwelling will be so overbearing in relation to neighbouring properties or result in a reduction of sunlight/daylight to the adjacent properties sufficient to warrant a refusal of planning permission.

### Impact on Streetscene

- 7.9 The proposed dwelling is two-storey and set back approximately 17.5 metres from the footpath as opposed to its approved siting of 17.2 metres, with a single storey garage projecting forward of the main dwelling. As stated in the assessment of planning application 2012/0267/FUL, the surrounding area is characterised by differing house styles and types with no specific front building line. Given the nature of the area I do not consider the design and siting of the proposal to be out of keeping in the streetscene and on balance consider the amended position to be acceptable and in accordance with Policy GN3 of the West Lancashire Local Plan DPD (2012-2027).

### Other Issues

- 7.10 The neighbouring occupier has concerns in relation to the distances to the boundary being incorrect on the submitted plan. Further information submitted by the agents has clarified this issue. The dwelling under construction has been built to the ordnance survey plan, which raises issues as to the actual positioning of the boundary fencing. The position of the boundary fencing is a civil matter between the two adjacent landowners. I am satisfied that the dwelling has been constructed in the position as submitted on drawing No 1203/01 Revision E.
- 7.11 As the dwelling is set further back into the site, any future rear extensions are likely to have a greater impact on the amenity of the neighbouring occupants. I consider an additional condition withdrawing permitted development rights is appropriate in order for the Council to assess any future impact of any further development through the submission of a planning application.

### Summary

- 7.12 I consider the proposed dwelling to be in accordance with Policy GN3 of the 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 hereby approved shall be carried out in accordance with the application form, design and access statement and details shown on the following plans:-  
Plan reference Location plan received by the Local Planning Authority on 12th March 2012.  
Plan reference 1203/01 Revision E received by the Local Planning Authority on 30th January 2014.

2. Before the access is used for vehicular purposes the visibility splays measuring 2.0 metres by 43 metres in both directions, measured along the centre line of the access road for the new dwelling from the continuation of the nearer edge of the existing carriageway of Hesketh Lane shall be provided. 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.
3. The car parking spaces and manoeuvring areas shall be provided in accordance with the approved plan before the dwelling is occupied and shall be permanently retained thereafter.
4. 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 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.
5. The ground floor window and utility door on the south elevation facing 207 Hesketh Lane shall be fitted with obscure glass prior to occupation and shall be retained as such thereafter. The window shall be non-opening below 1.7 metres above internal floor level and shall thereafter so be retained.
6. 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 these Orders no garages, extensions, or out buildings shall be erected or undertaken without the express written permission of the Local Planning Authority.

### **Reasons**

1. For the avoidance of doubt and to ensure compliance with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
2. 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 Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
3. To allow for the effective use of parking areas and to ensure that the development complies with the provisions of Policies GN3 & IF2 in the adopted 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 GN3 in the adopted West Lancashire Local Plan DPD 2012-2027.
5. To protect the privacy of adjacent residential properties and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

6. To safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy GN3 in the adopted 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 adopted West Lancashire Local Plan 2012-2027 Development Plan Document:

GN1 Settlement boundaries  
GN3 Criteria for sustainable 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.





**AGENDA ITEM: 8**

**PLANNING COMMITTEE:  
13<sup>th</sup> February 2014**

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**Report of: Assistant Director Planning**

**Relevant Managing Director: Managing Director (Transformation)**

**Contact for further information: Mrs C. Thomas,  
Email: [catherine.thomas@westlancs.gov.uk](mailto:catherine.thomas@westlancs.gov.uk)**

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**SUBJECT: ENFORCEMENT ITEMS**

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**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 Assistant Director Planning be authorised to enter the land and take those steps. In the event of the Assistant Director Planning 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 Reports 4 and 5 give details of alleged breaches of planning control. In both cases, I consider it is not expedient to take further action. Report 6 details an alleged breach 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.

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<b>ENFORCEMENT No.</b>	<b>E/2011/0153/UBW</b>
<b>LOCATION</b>	<b>LAND ADJACENT TO STYLES BAR, 15 THE STILES, ORMSKIRK</b>
<b>ALLEGED BREACH</b>	<b>WITHOUT PLANNING PERMISSION THE CONSTRUCTION OF AN OUTSIDE DECKING AREA</b>

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- 4.1 The premises comprises of a Grade II Listed Building located within the Ormskirk Town Centre Conservation Area. The building is currently being used as a public house known as Styles Bar. At present screens enclose an external seating area with tables at the front of the building, which was granted planning permission in 2006 (2006/0218).
- 4.2 To the east of the outside seating area in between raised beds the owners have constructed a timber decking area which measures 3.06 metres long and 3.8 metres wide. At the western end corners the decking is 0.17 metres and 0.31 metres high and at the eastern end it is 0.26 metres and 0.31 metres high. The decking is secured to the ground and at the eastern end is dovetailed into the outside screens. An umbrella holder has been fixed in the centre of the decking.
- 4.3 Following the receipt of a complaint about the decking area the owner of Styles Bar was advised of the need for planning permission as the decking is a permanent structure. To date no planning application has been submitted and the decking has not been removed.
- 4.4 The complainant has indicated that in his opinion part of the decking, the southern end has been built on land not within the ownership of Styles Bar. A check of the planning history for the site identifies that when planning application 8/96/0679 was approved for the change of use to wine bar/function room, and new fire escape from first floor, the applicant signed Certificate A to confirm that they owned the land marked within the red edge on the site plan. There is also a photograph with this application which shows the boundary of the outside seating area of the premises. The decking area has been constructed within the red line of the site plan and also within the boundary of the outside seating area.
- 4.5 Planning Application 1996/0680 for the approval of Listed Building Consent – new fire escape has a site plan approved which is identical to that in application 1996/0679. Planning application 1991/0489 which was granted for the proposed alterations and extension to form nine shops and offices and restaurant at 25–27 Burscough Street also mentions the provision of the planter outside the premises and the walkway alongside, known as Swan Alley.
- 4.6 The evidence gathered from the above planning applications indicates that the decking area constructed has been sited on land which is within the ownership of Styles Bar. I am of the opinion that the decking although requiring planning permission does not detract from the character or appearance of the conservation area. Should a planning application have been submitted to retain the structure, it would be assessed in relation to policies GN3 and EN4 in the

Council's adopted Local Plan and against relevant policies in the NPPF. I am satisfied that the decking would in principle comply with these policies.

4.7 Given the above, I consider it is not expedient to take enforcement action in this matter.

4.8 **RECOMMENDATION OF THE ASSISTANT DIRECTOR PLANNING:  
No further action to be taken.**

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**ENFORCEMENT No. E/2013/0268/BC**

**LOCATION SCARISBRICK BUSINESS PARK, SMITHY LANE,  
SCARISBRICK**

**ALLEGED BREACH BREACH OF PLANNING PERMISSION CONDITION 7  
OF 2007/1261/COU - OUTSIDE STORAGE**

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5.1 Planning permission 2007/1261/COU was granted for Scarisbrick Business Park in March 2008. This was for a *change of use of buildings and extension at rear to provide four office units and nine light industrial units (Class B1, B2 and B8). Provision of car parking and two turning areas.* Condition 7 of this permission reads as follows:

*“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.”*

5.2 The reason for imposing this condition was to *safeguard the amenity of adjacent properties and the area generally and so comply with the provisions of Policy DS2 (should have been DE6) in the West Lancashire Replacement Local Plan.*

5.3 The Council has received complaints over the use of skips rather than bins outside some of the industrial units for the storage of waste materials. The occupants of two of the units have been responsible for this and breach of condition notices were issued in March 2012 for Regal Care (E/2011/0158/BCN) and in November 2012 for Kitchen Kraft (E/2012/0342/BCN) with a one month compliance date. The requirement being to cease storing materials or equipment outside the buildings and/or in skips, except for those kept in bins for removal periodically. Kitchen Kraft has ceased trading at the business park, but Regal Care continues to use skips for the purposes of the storage of waste materials. Therefore, a legal opinion was sought on whether or not further enforcement action (i.e. prosecution) should be taken.

5.4 The Council has been advised that whilst a skip can not be regarded as a bin, the wording of the condition does not place a restriction on the size, location or whether the bin must be covered or not. Furthermore as the site is used for commercial purposes, the waste it generates and the bins used to hold the waste differ significantly from non-commercial properties. On this basis the Council has concluded that the use of a skip as a waste receptor does not have a significantly greater impact on the visual amenity of the area than an alternative container which could be defined as a ‘bin’.

5.5 Discussions have been on-going with the site owner to agree measures to reduce the visual impact of the skips and this has led to the creation of a ‘dedicated skip area’ within Hurlston Court which means that the skip(s) are located as far away from Smithy Lane as possible. Due to land ownership complications within Heaton Court, it has not been possible to reach such an agreement within this part of the commercial site.

5.6 Whilst the use of a skip may technically be a breach of the planning condition, for the reasons set out in paragraph 5.4 above, I do not consider it to be expedient to take further action to secure the cessation of the use of skips for the collection of

commercial waste generated by the occupants of the units at Scarisbrick Business Park.

**5.7 RECOMMENDATION OF THE ASSISTANT DIRECTOR PLANNING:  
No further action to be taken.**

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**ENFORCEMENT No. E/2013/0164/UBW**

**LOCATION 60 SCHOOL LANE, UP HOLLAND**  
**ALLEGED BREACH WITHOUT PLANNING PERMISSION THE**  
**INSTALLATION OF A UPVC DOOR AND UPVC**  
**WINDOWS IN THE FRONT ELEVATION OF 60**  
**SCHOOL LANE, UP HOLLAND**

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- 6.1 The site is an end of terrace two-storey dwelling that is located on School Lane at the junction with Brooklands Road, Up Holland. The site is located within the Up Holland Conservation Area.
- 6.2 The Up Holland Conservation Area, reviewed in 2001, identified that the loss of traditional features was eroding the area's character, so additional controls, in the form of an Article 4 (2) Direction, were imposed in August 2001 and confirmed in January 2002. This means, amongst other things, that any alteration to that part of a dwelling facing a highway now requires planning permission.
- 6.3 The Council received a complaint that the site owner had installed a UPVC door and two UPVC windows on the front elevation of the property without planning permission.
- 6.4 A site visit confirmed that two brown coloured UPVC windows and a brown coloured UPVC door had been installed on the front elevation, which faces onto School Lane, Up Holland.
- 6.5 The site owner was informed of the restrictions put in place by the Article 4 (2) Direction and was advised that the UPVC windows and UPVC door on the front elevation of the property were not considered to be traditional features.
- 6.6 The site owner chose to submit a planning application to retain the two UPVC windows and UPVC door and the application was found to be invalid on receipt. The site owner subsequently failed to provide the required documentation within the timescale set and the application was considered to be withdrawn.
- 6.7 Along School Lane a number of properties were altered before the controls came into force and it is now important to prevent any further loss of character. Enforcement action has consistently been taken on other dwellings in the locality that have introduced non-traditional materials to the frontages and a number of cases have been successfully defended at appeal. Conservation Area and local design policies seek to protect and enhance historic assets – including Conservation Areas. Therefore, it is imperative to ensure this incremental loss is stopped in order to preserve and enhance the character of the locality and to comply with Policies GN3 and EN4 in the West Lancashire Local Plan and advice given in the NPPF. This can only be achieved by taking enforcement action to ensure the windows and front door are replaced by ones of traditional materials and design.
- 6.8 Policy GN3 requires development to *'have regard to the historic character of the local landscape and/or townscape'*. Policy EN4 includes a *presumption in favour*

*of the conservation of designated heritage assets. This is applied in this instance through the stated requirements:*

*development affecting the historic environment should seek to preserve or enhance the heritage asset and any features of specific historic, archaeological, architectural or artistic interest; and*

*in all cases there will be an expectation that any new development will enhance the historic environment in the first instance, unless there are no identifiable opportunities available*

6.9 Given the above, it is considered expedient to pursue enforcement action to remedy this breach of planning control.

6.10 Type of notice - Enforcement notice under Section 172.

Compliance period – Four months.

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

1. Remove the UPVC windows and door from the front elevation of 60 School Lane, Up Holland.
2. Install traditionally styled painted wooden mock sash windows and a timber panelled door in the front elevation of 60 School Lane, Up Holland.
3. Remove from the site all the materials resultant from step 1.

6.11 Reason for issuing the notice:

The retention of the UPVC windows and door conflicts with advice contained with the National Planning Policy Framework and Policies EN4 and GN3 of the West Lancashire Local Plan 2012-2027 DPD in that the two windows and door are detrimental to the historic character and appearance of the Conservation Area due to their design, non-traditional materials and appearance.