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Wednesday, 21 June 2017

TO: COUNCILLORS **G DOWLING, A YATES, I ASHCROFT, MRS P BAYBUTT, C COOPER, T DEVINE, D EVANS, C MARSHALL, D MCKAY, M MILLS, D O'TOOLE, R PENDLETON, E POPE, A PRITCHARD AND MRS M WESTLEY**

Dear Councillor,

LATE INFORMATION 22 JUNE 2017

Please find attached a report containing details of Late Information prepared by the Director of Development and Regeneration, relating to items appearing on the agenda for the above-mentioned meeting.

Yours faithfully

A handwritten signature in black ink, appearing to be "Kim Webber". The signature is stylized and written in a cursive-like font.

Kim Webber
Chief Executive

7. PLANNING APPLICATIONS - LATE INFORMATION

323 -
340

To consider the report of the Director of Development and Regeneration.

We can provide this document, upon request, on audiotape, in large print, in Braille and in other languages.

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For further information, please contact:-

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Agenda Item 7

AGENDA ITEM:

PLANNING COMMITTEE:
22ND JUNE 2017



Report of: Director of Development and Regeneration

Contact: Mrs. C. Thomas (Extn.5134)
Email: catherine.thomas@westlancs.gov.uk

SUBJECT: LATE INFORMATION

1.0 INTRODUCTION

The information below has been received since compilation of your Agenda. The following also includes suggested adjustments to the recommendations further to the receipt of late plans and/or information.

2.0 ITEM 7 – PLANNING APPLICATIONS

REPORT NO. 3 – SITE OF FORMER GREAVES HALL HOSPITAL, GREAVES HALL AVENUE

ADDITIONAL REPRESENTATIONS

I have received the following additional representations since the agenda report was written:

1. Governors of St Stephen's CE Primary School have commented that as a school, we are for the development of the site, the only concern is the traffic flow along Greaves Hall Avenue and the subsequent safety risks to children, parents and staff. Governors attended the committee meeting and noted several concerns were raised regarding the routing of commercial/HGV's along Greaves Hall Avenue. It was suggested that the road be re-routed along Aveling Drive as existing. This has not been addressed in the amended layout. Wish to express disagreement with this decision and again raise concerns as Aveling Drive should be the preferred route. If this application is successful, Governors request strict vigilance in ensuring all the proposed traffic calming measures are in place prior to commencement of development and also request careful monitoring throughout the entire project and if any further measures are required, that they are put in place immediately.

2. Greaves Hall Action Group have commented that, whilst not objecting in principle to a development for more housing, the detail in this proposal is unacceptable to residents without modification for the following reasons:

- Residents will not accept a major change to documented approval for use on the long standing rights of traffic users to the industrial units (in particular HGV traffic) which is required to use the Aveling Drive access. At 'change of use' planning approval in 1994, HGV traffic was restricted to Aveling Drive with light traffic from Greaves Hall Avenue. At 'Outline' planning approval, there was no mention of re-directing HGVs and no assessment in the Road Traffic Assessment for HGV use via Greaves Hall Avenue – re: safety issues. At reserved matter stage the plan shows a major change of arrangement from Outline stage to force HGV's to use Greaves Hall Avenue. This appears to have been slipped in at the latest stage and is unacceptable to most residents on all sides of the proposed development especially those who have school children at St Stephens;
- If the application is approved, somebody needs to be held accountable for any future accidents and the commercial interests and solutions to resolve other planning issues or conditions should not be given a higher priority over health and safety;
- A simple solution would be to continue to use Aveling Drive for access by HGV's by joining up the existing road end to the proposed new residential road with a short link road about 3m in length at the NW corner of the Granite House boundary.

3. Neighbouring resident - one letter has been received from a neighbouring resident who objects to the proposed development on the grounds of HGV's visiting Granite House using Greaves Hall Avenue in the interests of children's safety.

4. Nigel Robinson, Planning Consultant acting on behalf of the owners of Granite House, makes the following comments on the revised scheme:

- It is contended that the on-going general industrial operations at Granite House, internally and externally, are pivotal to a decision upon the approval of 'layout' in this application and the Committee Members need to be fully informed of the established industrial operations at the premises. This would best be achieved by an organised committee site visit. It is contended that to make any decision upon this application, detached from being made familiar (visually and aurally) with the working practices at Granite House would be premature, ill-informed and incorrect. Granite House, under the scope of the revised scheme, would effectively become an 'island' development surrounded by housing, apart from the 2 remaining proposed B1 units - should they even get built. It in effect makes Stone Masters operation at Granite House amount to a non-conforming, alien use in juxtaposition to a new housing use through no fault of their own. But however it remains a perfectly acceptable use given its establishment and longevity. Good planning practice in site development and management though, irrespective of land ownership, should never result in a part of encompassed site for redevelopment being left undeveloped and in isolation from and at odds with the principal intended use. Even at the outset of the application submissions, no B2 General Industrial Uses were ever intended in the site layout, with B1 uses in any event being those regarded as being compatible with a housing land use, and as such leaving Granite House in isolation physically and being incompatible with its new neighbours, again through no fault of that existing established user. An

approval of the reserved matters as it is currently presented would undoubtedly constrain a successful existing local business and that situation ought not to be allowed to prevail;

- The layout still results in the re-routing of the existing long standing vehicle access to the site for deliveries, with the intended new access not making adequate provision for the unloading and manoeuvrability of HGV's;
- The location of a number of proposed residential properties may be adversely affected by the existing, longstanding business activities at Stone Masters Ltd;
- The site layout immediately to the north from Granite House would restrict the company operatives from being able to park adequately and properly, over which they have a legal right;
- The proposed development would result in significant harm to the undertaking of the Stone Masters business in terms of its ability to operate and grow and create jobs and would inevitably lead to a reduction in the likely scale of activities possible from the site influencing their business;
- The deferment of the application sought for the elected members to be informed of the claimed pitfalls of the Greaves Hall Avenue route and why Aveling Drive cannot continue to be utilised to serve as access to the Stone Masters site as well for the construction traffic involved in building out a 128 dwelling estate. One would expect these matters to have been resolved before the application was returned back to Committee;
- Lack of affordable houses at odds with deficiency nationally of affordable homes;
- Given the issues previously referred to in Stone Master's having a right of access and servicing to their premises, as well as concerns about the site servicing HGV's, there was a clear opportunity to address this matter by encouraging the applicants to revisit the site layout in the northern portion of the site to facilitate maintaining vehicular access to Granite House as existing;
- The reduction in proposed B1 units will not make much difference to the amount of potential HGV's using Greaves Hall Avenue as these will come mainly from the existing Granite House business and this element of the proposed scheme has not changed;
- Proposed houses now to the south of Granite House are closer than those originally proposed to the north and with no acoustic barrier in between and the proposed houses to the west are closer than those were to the north, at 28m and closer to the side servicing door. It is questioned, therefore, what improvements have been secured in terms of safeguarding the amenity of the adjacent residential properties;
- The proposed noise buffer incorporating a 3m high acoustic fence appears to represent an extreme measure and one akin to next to a motorway, main road, or main rail line and would question whether this is visually acceptable;
- The design of noise insulation measures incorporated into the nearest dwelling facades appear a similarly extreme measure and member concern was expressed at the previous meeting about residents not being able to open windows because of the nature of the general industrial activity of Granite House;
- There can be no certainty to the Council that the objectives of the noise mitigation measures will be successful;
- The layout now proposes an unrealistic length of mounding/landscaping to the north of Granite House in a position where Stone Masters enjoy longstanding rights to park vehicles;
- The recently granted Certificate of Lawfulness application (2017/0240/LDC) is highly relevant in that it means that no enforcement action can be taken against

the authorised use of the external areas of the Granite House site being used for outside working and storage and this fact needs to be highlighted to Members;

- The applicant has failed to meet the requirements of conditions 15 and 22 of the outline permission – condition 15 requires constant vehicular access to be maintained to the existing businesses surrounding the development, including Granite House and this means of access was already deemed by the 1994 planning application. The proposed layout would mean HGV's access from the south, which is unacceptable and unworkable in a very tightly defined area;
- Condition 22 required a noise assessment to be submitted prior to submission of reserved matters and using information from the current occupiers of the existing businesses as to their current and likely future activity levels. This has not been done. The condition attached to the outline is somewhat convoluted and imprecise requiring the input of a 3rd party, which now appears unachievable. A report has been written in advance of such information having been ascertained;
- With reference to an important supreme court judgement in *Coventry & Others v Lawrence (& another)* (2014) it is important that the Council ascertain a clear understanding of their operations and gauge a baseline of the existing working noise levels at the site boundary at various times and over a range of weather conditions. This is because the future householders should not enjoy the same rights to make complaints in being aware of, and after the noise source activity has commenced;
- Meeting of Officers only took place after the agenda was written and after EHO had made representations, which appears belated;
- The current business at Stone Masters operates generally from 6am to 1am with flexible working patterns to meet peak demands and current employee contracts support 24hr working. Machine time can only be increased through extending operating hours. Forecasted growth predicts continued requirement for 24hr working – from 2013 to the current time, number of employees has increased from 22 to 37 (23%), number of worktops made per week has increased from 10 to 40 and both these figures are expected to rise to 48 employees by 2019 and 70 work tops per week. In the last six months alone in excess of £650,000 has been invested in the business;
- Current traffic flow to Granite House includes 3-5 daily HGV's between 7am and 4pm; 24hr daily employee cars; up to 22 daily vans between 6am to late; up to 22 daily customers between 8am and 5pm;
- The Council have not taken their own noise measurements or ascertained the true nature of the business in concluding their recommendation;
- Stone Masters @ Granite House are a high profile local & regional company with an excellent reputation and with a wide range of clients and who currently trade internationally in producing high quality surface materials & associated merchandise for residential and commercial use that bring substantial benefits to the West Lancs economy. Similarly there is a skilled workforce, currently at 37 employees whose jobs are important to the local economy and to the national economy. There has been much recent investment in new equipment for the business to be able to continue to enjoy growth. As it stands however there appears to be a distinct lack of support for this on-going, successful and longstanding business operation at Greaves Hall Industrial Estate. It has been the mainstay and kingpin of an employment estate that never really materialised in the main;
- The NPPF and the Local Plan advises of the commitment to securing economic growth. Local Planning Authorities should meet the demands of business to support an economy for the 21c. In the context of Stone Masters Ltd, the Council must consider the needs of the company in regard to supporting it to continue to

operate successfully and contribute to the local and national economy, and to enable it to continue to meet its commitment towards its employees. Making a decision to approve the reserved matters application as it stands without further discussions in regard to the factor of pressure being placed upon the company through noise implications, the proposed altered access arrangements to the site, the vehicle servicing arrangements for delivery access to the premises and potential control over times of access for heavy service vehicles, would have a resultant significantly detrimental impact of a nature that would make it difficult for Stone Masters to continue to be able to trade successfully - entirely against & contrary to the objectives of the NPPF and other national domestic economic policy initiatives. Any such decision to approve, with an impact upon Stone Masters working & trading capacity, would undoubtedly have employment implications, with potential job losses, again contrary to national employment objectives;

- The District Council are urged to take full account of the representations made herein. Irrespective of the outline approval that was granted, and what the indicative site layout plan then identified, all the points related herein are considered to be valid and material to: [1] whether a decision should or could yet be made upon the reserved matters application as it has been argued that such a decision would be premature, [2] and if such a decision is to be made contrary to that view - upon what basis it is to be made. This is the reserved matters application and the District Council will be mindful that the 2014 outline permission was the actual planning permission upon the principle of the residential development, and at which stage conditions were attached dictating how that development had to be undertaken and laying down the basis for details of the development that had to be incorporated into the reserved matters submission. There is no prescription, in determining the reserved matters application, for the re-routing of HGV vehicles. The Aveling Drive route has been used successfully for the past 11 years for HGV service deliveries to Granite House for Stone Masters;

- As it continues to stand, the Council still remain in the unenviable position whereby they face significant outstanding representations. It is suggested that the Council put any consideration upon a decision on the application into abeyance. It is felt that granting permission for the reserved matters would be premature until the issues raised have been resolved. In regard to the existing business at Greaves Hall Industrial Estate, there needs to be clarity with current and future certainty for the business to continue to be able to trade at its current level without restriction and any unwarranted attached impediments under a granted reserved matters approval. It is not considered that the revisions to date achieve any satisfactory resolution of all matters and detailed to a degree that would satisfy the concerns of the Committee Members.

5. Mr Patel, owner of Granite House has commented that the Supreme Court "Coventry" case clarifies that when planning permission is granted and there is an existing level of noise that is not deemed a nuisance, it is not therefore possible for that noise to become a nuisance once the proposed dwellings become occupied, providing the noise level does not significantly differ or increase from the original level. It would be impossible for planning permission to be granted without this noise level established as a baseline as it would be impossible to ascertain whether or not an "unreasonable" level of noise had occurred without first establishing the level of noise currently produced. When EH Officer attended a site meeting they were surprised at the level of noise, which was the same on that occasion as any other day would be during the hours of operation. This

illustrates the problem with the Council failing to conduct their own independent investigation to establish a correct base level of noise and by the applicant failing to liaise on noise levels. This issue must be addressed prior to determining the application to avoid the problems that may arise in the future.

OBSERVATIONS OF DIRECTOR OF DEVELOPMENT AND REGENERATION

I would like to clarify that at paragraph 7.46 of the report, the first sentence should read: *At the outline stage of considering development on the site, the site itself fell within Flood Zone 2 and 3 and as such a Flood Risk Assessment was undertaken in order to demonstrate a site specific exceptions test and that there would not be flood risk on or off-site as required by the NPPF.*

Since compilation of the agenda report, further correspondence has been submitted. Having scrutinised and given due weight to all representations, I remain satisfied that this scheme represents sustainable development on an allocated site with outline planning permission and complies with the NPPF, the Local Plan and is acceptable in principle. The Council have a duty to deliver a 5 year housing land supply and the former Greaves Hall Hospital site provides a significant contribution to the supply.

I have had regard to the comments from Governors of St Stephen's CE Primary School, Greaves Hall Action Group and the owners of the Granite House regarding the use of Greaves Hall Avenue as an access to the existing and proposed commercial units but I remain convinced that this road, when upgraded to provide footways and a crossing, is safe. The Highway Authority has been engaged throughout the application process at both outline and Reserved Matters stage and shares this view. Furthermore, the Highway Authority are satisfied that the development will not have a significant impact on highway safety or the free flow of traffic in the vicinity of the site.

In terms of the use of Greaves Hall Avenue, I would refer Members to paragraphs 7.30 to 7.32 of the main report. The 1994 planning permission for use of the site for industrial purposes included both Greaves Hall Avenue and Aveling Drive within the application site boundary, therefore, both access points could be used by commercial traffic. The outline planning permission 2013/0104/OUT also included the potential to utilise both Aveling Drive and Greaves Hall Avenue and LCC Highways provided their comments on this basis. In fact LCC commented on 27th July 2013 that *"The Developer Support Section original comments provided on the 18th June 2013 did take into account that some large HGV movements are currently going to and from the existing industrial units and they could potentially be relocated along Greaves Hall Avenue from the existing site access from Aveling Drive but it is envisaged that the number of large HGV vehicle movements would not be significant to warrant a further widening of Greaves Hall Avenue above the proposed 5.5m."* There was therefore a clear understanding that current HGV movements to existing businesses on the site could be relocated along Greaves Hall Avenue.

The NPPF advises at P32 that *"development should only be prevented or refused on transport grounds, where the residual cumulative impacts of development are severe"*. The owner/occupier of Granite House has confirmed that at present, only 3-5 HGV's visit the site daily, which in my opinion, is not significant. As such, I consider the impact of the proposed development on Greaves Hall

Avenue will not be “severe” and I am satisfied that the refusal of planning permission on highways grounds would not be warranted.

In terms of concerns of the owners and representatives of Granite House relating to noise, many of the issues raised have been addressed in the main report. It is claimed that the use of Granite House and associated noise levels cannot be properly considered without agreeing a baseline and by collaborative meetings. However, a substantial amount of information relating to noise has been submitted by the applicant and representatives of Granite House which has been carefully considered by EHO who is satisfied that they have sufficient information to conclude that the proposed development is considered to be acceptable, provided the necessary mitigation is put in place.

The Council is fully aware of the Supreme Court case of Coventry et al and EHO has had regard to this case when considering the proposed development. Details of the hours of operation, noise levels created and usage of the site have been gathered through documents submitted in consideration of the current planning application and site visits undertaken to the site by Planning Officers as well as EHO. Therefore, I am satisfied that sufficient information has been provided to ascertain how the current business operates, which the EHO has had regard to. I acknowledge the important contribution the existing business on the site make to the local economy and am satisfied that the Granite House businesses would not be unduly restricted as a result of the proposed development. In addition, land has been provided to the north of Granite House that is presently outside the ownership of Granite House, to aid parking and manoeuvring

CONDITIONS

Amend Condition 1 to read:

The development hereby approved shall be carried out in accordance with details shown on the following plans:-

Plan reference 1470SHW/GHB/SL01 Rev V (site layout) received by the Local Planning Authority on 20th June 2017;

Plan reference 1470SHW/GHB/B101 Rev A (industrial units) received by the Local Planning Authority on 4th July 2016;

Plan reference 1986-MAR-01 (Marsden plans overview) received by the Local Planning Authority on 28th June 2016;

Plan reference 1986-MAR-02 (Marsden elevations overview) received by the Local Planning Authority on 28th June 2016;

Plan reference 1986-LAW-01 (Lawton plans and elevations overview) received by the Local Planning Authority on 28th June 2016;

Plan reference 1986-ADE-01 (Adel plans and elevations overview) received by the Local Planning Authority on 28th June 2016;

Plan reference 1986-CLG-01 (Carron with large garage plans overview) received by the Local Planning Authority on 28th June 2016;

Plan reference 1986-CLG-02 (Carron with large garage elevations overview) received by the Local Planning Authority on 28th June 2016;

Plan reference 1986-BOW-01 (Bowland plans and elevations overview) received by the Local Planning Authority on 28th June 2016;

Plan reference 1986-BOW1-01 (Bowland 1 plans and elevations overview) received by the Local Planning Authority on 21st March 2017;

Plan reference 1986-BRE-01 (Brearley plans overview) received by the Local Planning Authority on 21st March 2017;
Plan reference 1986-BRE-02 (Brearley elevations overview) received by the Local Planning Authority on 21st March 2017;
Plan reference 1986-BRE2-01 (Brearley 2 plans and elevations overview) received by the Local Planning Authority on 21st March 2017;
Plan reference 1986-FIR-01 (Firgrove plans and elevations overview) received by the Local Planning Authority on 21st March 2017;
Plan reference 1986-FIR-02 (Firgrove plans and elev overview with bay) received by the Local Planning Authority on 21st March 2017;
Plan reference 1986-ELT-01 (Elton apartment plans and elevations overview) received by the Local Planning Authority on 3rd May 2017;
Plan reference 1986-WGA-01 (Double garage plans and elevations overview) received by the Local Planning Authority on 8th June 2017;
Plan reference 5188.05 Rev C (Landscape proposals 1 of 6) received by the Local Planning Authority on 20th June 2017;
Plan reference 5188.06 Rev D (Landscape proposals 2 of 6) received by the Local Planning Authority on 20th June 2017;
Plan reference 5188.07 Rev C (Landscape proposals 3 of 6) received by the Local Planning Authority on 15th June 2017;
Plan reference 5188.08 Rev D (Landscape proposals 4 of 6) received by the Local Planning Authority on 15th June 2017;
Plan reference 5188.09 Rev C (Landscape proposals 5 of 6) received by the Local Planning Authority on 15th June 2017;
Plan reference 5188.10 Rev C (Landscape proposals 6 of 6) received by the Local Planning Authority on 15th June 2017;

Amend Condition 4 to read:

No construction works shall be commenced until a Landscaping Phasing and Completion Plan has been submitted to and approved in writing by the Local Planning Authority. The Landscaping Phasing and Completion Plan shall set out the development phases and the extent to which the landscaping that relates to each phase of the development will be completed. Development shall proceed in accordance with the approved plan. 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.

Amend Condition 7 to read:

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (Ref: ELLUC-CD-526-090616-FRA-F2) received by the Local Planning Authority on 15th June 2017, and the following mitigation measures detailed within the FRA:

1. Finished floor levels shall be set no lower than 3.64mAOD.
2. The culverted main river Watercourse 22 (Back Lane Drain Watercourse) shall be replaced with the same culvert (600mm diameter) along the boundary of the application site.

The mitigation measures shall be fully implemented prior to occupation and subsequently 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.

Amend Condition 8 to read:

The development shall be carried out in accordance with the AIA and Method Statement for tree protection specified in the TBA "Arboricultural Impact Assessment and Method Statement Revision B" received by the Local Planning Authority on 20th June 2017 and the Tree Protection Plans Sheet 1 of 2 and 2 of 2 drawing refs: 5188.03 Rev B and 5188.04 Rev B received by the Local Planning Authority on 20th June 2017.

REPORT NO. 4 – THE RETREAT, 4 COBBS BROW LANE

Newburgh Parish Council – 14.06.2017

No comments

REPORT NO. 5 – LAND REAR OF 153 TO 167A BLAGUEGATE LANE, FIRSWOOD ROAD

Since the compilation of the agenda I have received further correspondence in relation to this matter from Councillor Cotterill, the South Lathom Residents Association, Counsel opinion submitted by the applicant in relation to Councillor Cotterill's comments and a response from the applicant's Planning and Highway Advisors with regard to the comments made by the Residents' Association. The comments are summarised as follows. A further neighbour representation has also been received.

Comments made by the ward Councillor (15.06.17)

Procedural issues

Councillor Cotterill comments that he has had difficulty in contacting the Highway Engineer with regard to the Firswood application. Councillor Cotterill disputes that fact that the questions which Curtins have responded to were not made available well in advance of the May meeting. He comments that the questions were set out in his speech to Planning Committee at the April meeting.

Comments on Curtins report

Councillor Cotterill remains concerned about the accessibility scoring. Further to Curtins review Councillor Cotterill disputes the scoring allocated in relation to distance to a town centre, nearest business park, basic service provision, and accessibility to a play area or park. Councillor Cotterill is of the view that the town centre of Skelmersdale is more than 4km away; the nearest business park is more than 1 km away and the idea that the open space constitutes a play area or park is rejected. Councillor Cotterill considers that in this regard reference should be made to the open Space Study which he considers indicates that a play area or park should include play equipment.

Councillor Cotterill considers that in view of these factors the application should have more in the way of mitigation. Councillor Cotterill considers lack of

accessibility to be grounds for refusal. Councillor Cotterill also expresses significant concerns regarding the visibility splays and the accuracy of the submitted drawings. Further concerns are expressed regarding traffic growth by 2021 and that the number of trips at that point would be approximately 74 and that over time the number of vehicles likely to use the site access will increase. Councillor Cotterill also considers that single storey dwellings, in keeping with the area should be provided and disagrees with the officers' view that visual amenity for nearby residents is satisfactory.

Proposed Solution

Councillor Cotterill suggests that access off Firwood Road creates highways and accessibility issues and suggests that the Council should CPO the land adjoining Neverstitch Road. Planning permission could then be granted for the Bellway development but on completion of the CPO, Bellway would be required to close off the Firwood Road access to part of the site so that a proportion of the site is accessed off Nerverstitch Road.

South Lathom Residents Association (19.06.2017)

Comments in relation to the transport impacts and information supplied by Curtins

SLRA make reference to the Highway comments of December 22nd and Curtin's recent submission on behalf of the applicant in relation to their consideration of the highway impacts of the proposed development. SLRA remain concerned that issues relating to site access and sustainability referred to in the Highway comments of 22nd December have not been fully addressed. They query why a direct link from Firwood Road to the linear park cannot be provided through the Bellway site and why the current landowner has retained land outside of the Bellway site which may be used as a ransom strip to prevent access to the linear park.

Further comments are made about the accessibility questionnaire and Curtins comments in relation to it which are included in the agenda report. SLRA question the scoring system used by Curtins and the assumption that the onsite open space can be classed as a park or play area and query the site accessibility score. An extract from Cycling England guidance has been provided and SLRA indicate that they consider that the Bellway scheme does not comply with the guidance.

In relation to visibility splays SLRA question whether the site lines are fully achievable over land within the applicant's control or land within the ownership of the Highway Authority. SLRA query the submitted plans and do not consider that they are accurate. SLRA have carried out an onsite survey and submitted photographs which they indicate show that visibility cannot be provided in a southerly direction as they would have to cross land not in the ownership of Bellway or the Highway Authority. SLRA query whether additional lamp posts will need to be relocated.

Further comments are raised regarding the internal road layout and refer back to the Highway comments of 22nd December in relation to designing the internal spine road as a 20mph road. SLRA query why road 5 does not have traffic

calming measures along its length. SLRA remain concerned that although there have been no recorded accidents in the vicinity; existing residents are not able to utilise the pavement on Firswood Road in a safe manner because it is too narrow in places.

SLRA query the information from Curtins regarding trip generation but consider that given the location of the site, people will be deterred from travelling by foot or by bicycle so people are more likely to use private cars. SLRA query the traffic growth forecasts and disagree that Curtins conclusions are valid and express concern that with the predicted growth in traffic by 2021, the number of trips in peak hours would exceed 60.

SLRA comment that they are not satisfied that Bellway have fully pursued obstacles to improving sustainability and accessibility of the site they have not adequately explored access to the linear park or access to Blaguegate Lane or to other phases of development.

SLRA refer to paragraph 35 of the NPPF which states that development should protect and exploit opportunities for the use of sustainable transport modes and be designed where practical to give priority to pedestrian and cycle movement and have access to high quality public transport facilities. SLRA indicate that in their view the scheme is not compliant with the NPPF as it does not give priority to pedestrians and cyclists.

Comments in relation to the Development Brief

SLRA does not consider the development accords with the Development Brief and will not complement the existing residential area adjacent to the site as the development does not contain a mix of properties as are present on Blaguegate Lane and Firswood Road. SLRA does not consider the scheme accords with the Development Brief and finds that the principles of the Development Brief have not been upheld. SLRA comment that the development does not provide the level of affordable or specialist housing indicated in the Brief or deliver adequate access to public transport, walking or cycling provision. SLRA consider opportunities for more direct links should be pursued now and not at some point in the future. SLRA comment that the possibility of providing an access onto Blaguegate Lane has not been pursued with vigour and that the proposed access does not protect the safety and amenity of existing residents as required by the Brief.

SLRA consider that the design principles in the Brief have not been followed. They consider that the scheme is not sensitively designed and does not bring forward the mix, density and type of housing envisaged by the Brief and that bungalows along the Firswood Road frontage would aid the transition into green belt. Opportunities for walking and cycling are not increased because the route northwards is hazardous and the route southwards has only one pavement of poor quality. The development does not include an access to the Linear Park from Neverstitch Road. Insufficient thought has been given in the scheme to sustainable design and construction methods. In relation to the phasing of development SLRA comment that the "initial" access for phase 1 has been converted into the permanent access. SLRA believe that vehicular access to Neverstitch Road should be provided for around half of stage 1, in order to confirm Neverstitch Road as the primary access and to take traffic demand pressures off Firswood Road. This would seal off phase 1 from phase 2 for

vehicles and possibly also for pedestrians and cyclists. SLRA are also concerned that the views of the community have not been sought or taken into account.

Comments in relation to the Local Plan

SLRA comment that the proposal does not comply with a raft of Local Plan Policies for the following reasons.

GN3 – the development does not integrate well with its surroundings, prioritise pedestrians over car users or provide safe pedestrian and cycle access.

RS1- the scheme lacks adequate provision for the elderly.

IF2- the scheme doesn't provide access to the linear park.

IF4- the S106 does not provide a financial contribution to allow travel plan monitoring.

Comments in relation to the NPPF

SLRA consider the proposal is not compliant with the NPPF as the scheme does not give priority to pedestrian and cycle movements.

Counsel advice received from the applicant in response to Councillor Cotterill's comments

The applicant has sought Counsel's advice in respect of the matters raised by the ward Councillor in his e-mail of 15th June. Counsel advises that there is nothing in the Local Plan or the Development Brief which prevents different parts of the wider Firswood site coming forward at different times. Counsel considers that the supporting evidence indicates that the development is consistent with the Local Plan and Development Brief in terms of the quantum of development being accessed from Firswood Road. The proposal clearly accords with the Development Brief in terms of the number of trips to be generated on Firswood Road. The junction capacity assessments indicate that there would be ample remaining capacity if the application scheme were to go ahead. Counsel draws attention to the fact that the NPPF at section 32 provides that planning permission should only be refused where there would be a severe impact on highway safety.

Counsel is of the opinion that at both the Highway Authority and the Council have scrutinised plans of the proposed visibility splays and without robust evidence that they are inaccurate they should be accepted as being achievable. The Highway Authority considers the sight lines are achievable. There is no requirement imposed as a matter of policy or guidance that would require Bellway to provide an access onto Neverstitch Road. The application shows that an access onto Firswood Road would be safe and satisfactory and there is no sound evidence for coming to the opposite conclusion.

In Counsel's opinion, the allocation of the site in the Local Plan for residential purposes means that minimal weight should be afforded to the accessibility questionnaire. Counsel indicates that the Local Plan process was the time to assess the sustainability of the site, not just in accessibility terms, but in all three elements of sustainability, economic, environmental and social. The allocation was found sound, as paragraphs 82-86 of the Local Plan Inspector's report make

clear. It was no part of the Inspector's findings that the allocation would only be sound in accessibility terms if the site was comprehensively developed or access taken otherwise than from Firwood Road. Counsel reiterates the advice from Curtins that it would be inappropriate to rely on the questionnaire as it does not sit well with current policy and guidance on accessibility and is no longer required by the Highway Authority.

Counsel comments on the suggestion by the ward Councillor that it might be possible to word a condition to allow Bellway to gain an approval, to start on site but requiring that if the land to the east becomes available via CPO that the eastern part of the site should take access from Neverstitch Road. Counsel advises that such a condition would not meet the policy tests for a planning condition. Planning conditions must be necessary, relevant to planning and the application to be permitted, enforceable, precise and reasonable in all other aspects. Counsel advises that the condition would not be necessary as there is no evidence that the current proposal would result in unacceptable highway or transportation impacts. Such a condition would not be reasonable as it is not supported by any provisions in the Local Plan, Development Brief or the NPPF. Furthermore the applicant would be at the mercy of the CPO process, the outcome of which is far from certain. If it were to fail, the access onto Firwood serving the application site would remain in place to serve the whole site demonstrating that the condition cannot be necessary and its imposition would not be reasonable.

Counsel concludes that if the Planning Committee were not to accept the advice of officers on the highways and transportation issues then they would have to have robust evidence to show why the applicant is wrong and identify what "severe " residual highway impacts would be created by the scheme. Counsel is of the opinion that no such evidence has been presented that would allow planning permission to be reasonably refused on highways and transportation grounds.

Response to SLRA's comments from the applicant's planning advisors-Pegasus Group (19.06.17)

Pegasus have reviewed the information submitted by SLRA and comment that the main objections to the site from SLRA appear to revolve round the accessibility/ sustainability of the site and its accordance with the NPPF, Local Plan and Development Brief. Pegasus comments may be summarised as follows:

The position of the Adopted Local Plan

Pegasus advise that paragraph 14 of the NPPF confirms that there is a presumption in favour of sustainable development and that for decision taking this means "approving development proposals that accord with the development plan without delay" Section 38 (6) of the Planning and Compulsory Purchase Act 2004 indicates that the application must be determined in accordance with the development plan, unless material considerations indicate otherwise. Pegasus comment that the site is allocated in the Local Plan for the delivery of up to 400 dwellings. Pegasus advise that during its production the Local Plan was supported by a sustainability assessment and the sustainability of this site for housing was fully assessed by the Local Plan Inspector who deemed the site a suitable location for residential development.

Pegasus comment that policy RS1 in the Plan allocates the wider Firswood site for housing and does not stipulate how it should come forward. Whilst it is the position of Pegasus that the development accords with the various policies in the Local Plan, should the Planning Committee determine that there is some discrepancy in some areas, the courts have held in the case of R v Rochdale Borough Council ex parte Milne, that a proposal does not need to accord with each and every policy in the adopted development plan for it to be deemed in general accordance with the development plan.

The Development Brief

Pegasus suggest that unlike the Local Plan, the Development Brief is a non-statutory planning policy document. It is a material consideration and must be weighed in the balance with all other material considerations. They advise that the Development Brief indicates that a minor secondary access may be located on Firswood Road, the main access should be off Neverstitch Road and if possible a secondary access off Blaguegate Lane would be preferred, however no landowners have offered land to Bellway to provide a link off Blaguegate Lane. Pegasus indicate that this is only the first phase of development so it is anticipated that once the wider site is developed, the aims of the Brief to deliver access off Neverstitch Road will be realised. At no point does the Brief indicate that a planning application for the wider site will be required. Therefore Pegasus conclude that it is inevitable that a single developer will not be able to address all the aspirations set out in the Brief and does not mean that the Council's aspirations as a whole will not be achieved once the whole site is developed. Notably the layout provides a pedestrian access up to the boundary of the neighbouring land to enable the Council to ensure full cycling and pedestrian connections on the wider site.

Lancashire County Council's Response

Pegasus comment that the Local Plan and Development Brief and the site's allocation were informed by discussions with LCC when access arrangements would have been given full consideration. Pegasus draw attention to the fact that the Highway Authority do not object to the current application.

NPPF Considerations regarding Accessibility

Pegasus comment that SLRA make reference to paragraph 35 of the NPPF which initially relates to the plan making process, rather than the decision making process and goes on to confirm that development should be located where practical to give priority to pedestrian and cycle movements and have access to high quality public transport. Pegasus point out that paragraph 36 indicates that a key tool to facilitate this will be a Travel Plan which has been provided by the applicant and indicate that in their view the key paragraph in the NPPF is actually paragraph 32 which states that decisions should take account of whether the opportunities for sustainable transport have been taken, depending on the nature and location of the site, whether safe and suitable access can be achieved and whether improvements can be undertaken within the transport network which limit the significant impacts of the development. Paragraph 32 also indicates that development should only be prevented or

refused on transport grounds where the residual cumulative impacts of development are severe.

Pegasus comment that a travel plan has been submitted which will support the use of public transport and the overall development of the allocation will lead to sustainable walking and cycling routes through the site for new residents. The site has been found to be sustainable through the plan making process and Pegasus comment that there should not be over reliance on the LCC Accessibility Questionnaire as this document is no longer required by LCC and is not a policy requirement. Pegasus comment that the site can be accessed safely as confirmed by LCC. Whilst Pegasus note comments from SLRA regarding visibility splays, Pegasus disagree with the conclusions. If an additional street light has to be relocated this will be dealt with under a Section 278 Agreement with the Highway Authority. Pegasus offer a response to the SLRA comment regarding the internal road layout and indicate that a horizontal speed restriction is provided and the layout has been endorsed by LCC.

Pegasus conclude by stating that a refusal on highway grounds could only be supported where the cumulative impacts of a development are severe. No such conclusion has been reached by the Highway Authority. Therefore Pegasus see no compelling reason to divert from national and local policy which confirms that the proposals accord with the development plan and should be approved.

Response from Curtins (20.06.17)

Curtins have responded to the comments from South Lathom Residents Association made in their e-mail of 19th June. Curtins confirm that the development will be safe and have no significant impact on the adopted highway. Indeed they note that LCC have raised no objection to the scheme on these grounds.

Curtins have advised that the accessibility score should be given little weight in the assessment of the application. Many of the questions and the scoring structure do not sit well with the current national policy/ guidance and the questionnaire should only be used a part of a wider more in depth accessibility review. The site has already been found to be sustainable through the Local Plan allocation process. Curtins maintain that cycling does provide a potential option for residents should they wish to travel by this mode.

Curtins comment that the SLRA response appears to suggest that visibility splays are not achievable at the site access. However Curtins indicate that it is not clear why the photos have been taken at the specific locations and what the measurements actually refer to. Curtins comment that they do not appear to accord with the Manual for Streets. Curtins indicate that the photographs cannot be relied upon and point out that the visibility splays have been reviewed by LCC who have visited the site and undertaken speed surveys. LCC have confirmed that the splays are achievable and acceptable. If there are any obstructions to the visibility splay that sit within the adopted highway they would be relocated as part of the Section 278 works.

Curtins indicate that SLRA appear to indicate that one of the internal; roads is not safe because there is a length of road with no traffic claiming. Curtins point out

that this stretch of road contains sharp bends which act as a horizontal traffic calming measure.

Curtins advise that an assessment of highway safety and the accident record over a 5 year period has been carried out in accordance with national guidance on the preparation of Transport Assessments and is an appropriate way of considering what may happen in the future.

Curtins indicate that the SLRA response states that development traffic should be subject to background traffic growth. Curtins advise that this is factually incorrect as it does not accord with the guidance on Transport Assessments. Curtins indicate the correct approach is to test the impact of the development to the horizon year of 2021. The existing highway network background traffic flows will increase (hence the growth factor) but the development related traffic remains constant. Curtins point out that LCC as the Highway Authority have confirmed this approach to be acceptable.

Curtins indicate that whilst SLRA have referred to paragraph 35 of the NPPF this refers to the plan making process and that the NPPF encourages priority for pedestrian and cycle movements where practical. Curtins conclude that the plan making process has taken place and the Inspector found the allocation to be sound with regards to sustainability.

Additional Neighbour Representation

An additional neighbour representation has been received objecting to the development on the grounds that the proposal would be detrimental to the amenities of the residents of 32 Firwood Road by virtue of being overbearing and resulting in loss of light and privacy.

OBSERVATIONS OF DIRECTOR OF DEVELOPMENT AND REGENERATION

Since compilation of the agenda report a significant amount of information has been submitted. Having scrutinised and given due weight to all representations, I remain satisfied that this scheme represents sustainable development on an allocated site and complies with the NPPF, the Local Plan, the aims and ambitions of the Development Brief and is acceptable in principle. The Council has a duty to deliver a 5 year housing land supply and the Firwood site provides a significant contribution to the supply.

I have had regard to the correspondence from the South Lathom Residents Association and the ward Councillor but I remain convinced that the site access is safe and that adequate visibility splays can be achieved. The Highway Authority has been fully engaged at the site allocation stage and throughout the planning application process and shares this view. Furthermore the Highway Authority is satisfied that the development will not have a significant impact on highway safety or the free flow of traffic in the vicinity of the site.

Were Members to refuse this application on its highway impact, they would need to demonstrate that the development would have a “severe” impact on highway safety. There is no evidence to support this view and should the application be refused on highway impact grounds, the applicant would undoubtedly submit an

appeal which the Council would struggle to defend, risking a substantial award of costs against the Authority.

I remain satisfied that the site is sustainable and where possible appropriate linkages are made to deliver further improvements to sustainability as the wider site is developed out. I am of the opinion that the site layout itself will provide an acceptable environment for future residents without compromising the safety or amenity of existing residents nearby. Matters pertaining to the impact on residential amenity are addressed in the agenda report.

In terms of suggestions by the ward Councillor that the Council should seek to CPO the remaining allocated site and through the imposition of a condition provide for that parts of the application site to be accessed from Neverstitch Road in the future, I, and the Borough Solicitor agree with the applicant's Counsel that this approach would clearly fail the tests for the imposition of planning conditions set out at paragraph 206 of the NPPF.

I consider the current scheme to be acceptable in principle, and that the agenda report clearly identifies why planning permission should be granted.

Condition number 2 should be amended to read:

In the light of minor revisions to the site layout plan and the submission of a further plan of the visibility splays condition number 2 is amended as follows:

Development hereby approved shall be carried out in accordance with details shown on the following plans:-

Plan reference 'Planning Layout – PL01H' received by the Local Planning Authority on 15.06.17.

Plan reference 'Affordable Housing Plan – AF01A' received by the Local Planning Authority on 16.06.17.

Plan reference 'Location Plan – LP01' received by the Local Planning Authority on 29.09.16.

Plan reference 'Fencing Layout – FL02C' received by the Local Planning Authority on 27.02.17.

Plan reference 'Materials Layout – ML01D' received by the Local Planning Authority on 27.02.17.

Plan reference 'Schematic Drainage Layout Sheet 1 – 15073/01/1L' received by the Local Planning Authority on 27.02.17.

Plan reference 'Schematic Drainage Layout Sheet 3 – 15073/01/3L' received by the Local Planning Authority on 27.02.17.

Plan reference 'Substation – GTC-E-SS0011_R1-8_1_of_1' received by the Local Planning Authority on 29.09.16.

Plan reference 'Topographical Survey – 7022/01A' received by the Local Planning Authority on 29.09.16.

Plan reference 'Topographical Survey – 7022/02A' received by the Local Planning Authority on 29.09.16.

Plan reference 'Housetype Range' received by the Local Planning Authority on 29.09.16.

Plan reference 'Fence and Wall Elevations' received by the Local Planning Authority on 29.09.16.

Plan reference 'Planting Plan 1 of 3 – EA/5314/100/01D' received by the Local Planning Authority on 10.04.17.

Plan reference 'Planting Plan 2 of 3 – EA/5314/100/02D' received by the Local Planning Authority on 10.04.17.

Plan reference 'Planting Plan 3 of 3 – EA/5314/100/03E' received by the Local Planning Authority on 10.04.17.

Plan reference 'Clarification of the proposed site access junction arrangement – BHNW-01' received by the Local Planning Authority on 07.06.17.

REPORT NO. 6 – THE COCKBECK TAVERN, 58 TOWN GREEN LANE

Variation of Condition No. 4 imposed on planning permission 2016/0668/FUL to permit trading between 0700 and 2300 Monday to Saturday and 0800 and 2300 on Sundays and Public/Bank Holidays.

I have received a further letter of objection from a neighbouring property in response to the re-notification of the amendment to the application. The main points of concern are summarised below:

The amendment does not address local concerns about the late night opening of the proposed store;

The store is located in a quiet residential area and will have far later opening times than any other store in the local area;

These later opening times would attract activity at 11pm when most people would be preparing for bed or actually trying to sleep;

It appears from comments made by the Environmental Health department the fact that the previous use of this location as a public house somehow supports the case for longer and later opening hours of a retail establishment. It is true that the Cockbeck Tavern was granted extended opening hours under the 2003 Licensing Act but not before residents had raised strong objections and taken the matter to appeal with several pages of signatures against the proposals. The early Sunday opening time of 0800 granted to the pub was rarely if ever in operation but the fact that the pub was open later into the evening did create disturbance.

OBSERVATIONS OF DIRECTOR OF DEVELOPMENT AND REGENERATION

Matters pertaining to the impact of the development on the amenities of nearby residents are fully addressed in the agenda report.