



Kim Webber B.Sc. M.Sc.
Chief Executive
52 Derby Street
Ormskirk
West Lancashire
L39 2DF

Wednesday, 10 October 2018

**TO: COUNCILLORS M MILLS, D EVANS, I ASHCROFT, MRS P BAYBUTT,
T DEVINE, G HODSON, J HODSON, D O'TOOLE, G OWEN, E
POPE, A PRITCHARD, MRS M WESTLEY AND A YATES**

Dear Councillor,

A meeting of the **PLANNING COMMITTEE** will be held in the **COUNCIL CHAMBER - 52 DERBY STREET, ORMSKIRK, L39 2DF** on **THURSDAY, 18 OCTOBER 2018** at **7.30 PM** at which your attendance is requested.

Yours faithfully

A handwritten signature in black ink, appearing to be "Kim Webber", written over a horizontal line.

Kim Webber
Chief Executive

AGENDA
(Open to the Public)

- 1. APOLOGIES**
- 2. MEMBERSHIP OF THE COMMITTEE**

To be apprised of any changes to the membership of the Committee in accordance with Council Procedure Rule 4.

- 3. URGENT BUSINESS, IF ANY INTRODUCED BY THE CHAIRMAN**

Note: No other business is permitted unless, by reason of special

circumstances, which shall be specified at the meeting, the Chairman is of the opinion that the item(s) should be considered as a matter of urgency.

4. DECLARATIONS OF INTEREST 951 -
952

If a member requires advice on Declarations of Interest, he/she is advised to contact the Borough Solicitor in advance of the meeting. (For the assistance of members a checklist for use in considering their position on any particular item is included at the end of this agenda sheet.)

5. DECLARATIONS OF PARTY WHIP

Party Whips are not to be used by this Committee in respect of its functions concerning the determination of applications, approval of consents, the taking of enforcement action and the exercise of powers and duties with regard to highways, hedgerows, the preservation of trees and high hedge complaints. When considering any other matter which relates to a decision of the Cabinet or the performance of any member of the Cabinet, in accordance with Regulatory Committee Procedure 9, Members must declare the existence of any party whip, and the nature of it.

6. MINUTES 953 -
958

To receive as a correct record the minutes of the meeting held on the 6 September 2018.

7. PLANNING COMMITTEE MEETINGS - PROPOSED CHANGE OF TIME FOR FUTURE MEETINGS

To consider changing the time of future Planning Committee Meetings to commence at 7.00pm.

8. PLANNING APPLICATIONS 959 -
964

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

8a 2018/0728/FUL - Hughes Mushroom, Farm , Course Lane, Newburgh 965 -
To consider the report of the Director of Development and 974
Regeneration.

8b 2018/0721/FUL - Gibbons Barn, Plex Lane, Halsall 975 -
To consider the report of the Director of Development and 980
Regeneration.

8c 2017/1265/FUL - Tanpit Farm House, Broad Lane, Downholland 981 -
To consider the report of the Director of Development and 994
Regeneration.

9. PLANNING CODE OF GOOD PRACTICE

995 -
1008

To consider the report of the Borough Solicitor.

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

FIRE EVACUATION PROCEDURE: Please see attached sheet.

MOBILE PHONES: These should be switched off or to 'silent' at all meetings.

For further information, please contact:-

Jill Ryan on 01695 585017

Or email jill.ryan@westlancs.gov.uk

**FIRE EVACUATION PROCEDURE FOR:
COUNCIL MEETINGS WHERE OFFICERS ARE PRESENT
(52 DERBY STREET, ORMSKIRK)**

PERSON IN CHARGE: Most Senior Officer Present
ZONE WARDEN: Member Services Officer / Lawyer
DOOR WARDEN(S) Usher / Caretaker

IF YOU DISCOVER A FIRE

1. Operate the nearest **FIRE CALL POINT** by breaking the glass.
2. Attack the fire with the extinguishers provided only if you have been trained and it is safe to do so. **Do not** take risks.

ON HEARING THE FIRE ALARM

1. Leave the building via the **NEAREST SAFE EXIT**. **Do not stop** to collect personal belongings.
2. Proceed to the **ASSEMBLY POINT** on the car park and report your presence to the **PERSON IN CHARGE**.
3. **Do NOT** return to the premises until authorised to do so by the **PERSON IN CHARGE**.

NOTES:

Officers are required to direct all visitors regarding these procedures i.e. exit routes and place of assembly.

The only persons not required to report to the Assembly Point are the Door Wardens.

CHECKLIST FOR PERSON IN CHARGE

1. Advise other interested parties present that you are the person in charge in the event of an evacuation.
2. Make yourself familiar with the location of the fire escape routes and inform any interested parties of the escape routes.
3. Make yourself familiar with the location of the assembly point and inform any interested parties of that location.
4. Make yourself familiar with the location of the fire alarm and detection control panel.
5. Ensure that the zone warden and door wardens are aware of their roles and responsibilities.
6. Arrange for a register of attendance to be completed (if considered appropriate / practicable).

IN THE EVENT OF A FIRE, OR THE FIRE ALARM BEING SOUNDED

1. Ensure that the room in which the meeting is being held is cleared of all persons.
2. Evacuate via the nearest safe Fire Exit and proceed to the **ASSEMBLY POINT** in the car park.
3. Delegate a person at the **ASSEMBLY POINT** who will proceed to **HOME CARE LINK** in order to ensure that a back-up call is made to the **FIRE BRIGADE**.
4. Delegate another person to ensure that **DOOR WARDENS** have been posted outside the relevant Fire Exit Doors.

5. Ensure that the **ZONE WARDEN** has reported to you on the results of his checks, **i.e.** that the rooms in use have been cleared of all persons.
6. If an Attendance Register has been taken, take a **ROLL CALL**.
7. Report the results of these checks to the Fire and Rescue Service on arrival and inform them of the location of the **FIRE ALARM CONTROL PANEL**.
8. Authorise return to the building only when it is cleared to do so by the **FIRE AND RESCUE SERVICE OFFICER IN CHARGE**. Inform the **DOOR WARDENS** to allow re-entry to the building.

NOTE:

The Fire Alarm system will automatically call the Fire Brigade. The purpose of the 999 back-up call is to meet a requirement of the Fire Precautions Act to supplement the automatic call.

CHECKLIST FOR ZONE WARDEN

1. Carry out a physical check of the rooms being used for the meeting, including adjacent toilets, kitchen.
2. Ensure that **ALL PERSONS**, both officers and members of the public are made aware of the **FIRE ALERT**.
3. Ensure that **ALL PERSONS** evacuate **IMMEDIATELY**, in accordance with the **FIRE EVACUATION PROCEDURE**.
4. Proceed to the **ASSEMBLY POINT** and report to the **PERSON IN CHARGE** that the rooms within your control have been cleared.
5. Assist the **PERSON IN CHARGE** to discharge their duties.

It is desirable that the **ZONE WARDEN** should be an **OFFICER** who is normally based in this building and is familiar with the layout of the rooms to be checked.

INSTRUCTIONS FOR DOOR WARDENS

1. Stand outside the **FIRE EXIT DOOR(S)**
2. Keep the **FIRE EXIT DOOR SHUT**.
3. Ensure that **NO PERSON**, whether staff or public enters the building until **YOU** are told by the **PERSON IN CHARGE** that it is safe to do so.
4. If anyone attempts to enter the premises, report this to the **PERSON IN CHARGE**.
5. Do not leave the door **UNATTENDED**.

	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.

Agenda Item 6

PLANNING COMMITTEE

HELD: Thursday, 6 September 2018

Start: 7.00 PM

Finish: 8.00 PM

PRESENT:

Councillor: M Mills (Chairman)
D Evans (Vice-Chair)

Councillors: I Ashcroft
Mrs P Baybutt
S Evans
J Gordon
N Hennessy
G Hodson

J Hodson
G Owen
A Pritchard
Mrs M Westley
D Westley

Officers: Director of Development and Regeneration – Mr J Harrison
Assistant Director of Development and Regeneration – Mr I Gill
Head of Development Management – Mrs C Thomas
Strategy Planning and Implementation Manager – Mr P Richards
Legal and Member Services Manager – Mr M Jones
Principal Planning Officer – Mr R Hitchcock
Member Services/Civic Support Officer – Mrs J A Ryan

36 APOLOGIES

There were no apologies for absence received.

37 MEMBERSHIP OF THE COMMITTEE

In accordance with Council Procedure Rule 4, the Committee noted the termination of Councillors Devine, O'Toole and Yates and the appointment of Councillors S Evans, D Westley and Hennessy for this meeting only, thereby giving effect to the wishes of the Political Groups.

38 URGENT BUSINESS, IF ANY INTRODUCED BY THE CHAIRMAN

There were no urgent items of business.

39 DECLARATIONS OF INTEREST

In relation to Agenda Item 8 Councillor J Hodson wished to make members of the public aware that as well as being a Planning Committee Member he is also the Portfolio Holder for Planning and in that role, and as a member of Cabinet, he would be considering the Local Plan Review – Proposed Local Plan Preferred Options Consultation report again at a meeting of Cabinet on the 11 September 2018.

In accordance with the Members' Planning Code of Good Practice he considered he was able to contribute to the debate at Planning Committee but would keep an open mind when the matter comes before Cabinet and would take into account all the representations received, including those comments agreed by Planning Committee, prior to taking a decision as a Cabinet member

40 DECLARATIONS OF PARTY WHIP

There were no Declarations of Party Whip.

41 MINUTES

RESOLVED: That the minutes of the meeting held on the 26 July 2018 be approved as a correct record and signed by the Chairman but noting that Councillor J Hodson was in attendance at the meeting as the Portfolio Holder for Planning.

42 PLANNING APPLICATIONS

The Director of Development and Regeneration submitted a report on planning applications (all prefixed 2018 unless otherwise stated) as contained on pages 295 to 352 of the Book of Reports and on pages 943 to 947 of the Late Information Report and on pages 949 to 950 of the Additional Late Information Report.

43 2018/0401/OUT - 67 GAW HILL LANE, AUGHTON

RESOLVED: That planning application 0401/OUT relating to 67 Gaw Hill Lane, Aughton be refused for the reason below:-

The proposed development would conflict with Policies EC1, EC2 and GN4 of the West Lancashire Local Plan (2012 - 2027) DPD and National Planning Policy Framework in that it has not been robustly demonstrated that the site is unsuitable for an on-going viable employment use.

44 2018/0275/FUL - 50 ST. HELENS ROAD, ORMSKIRK

RESOLVED: That planning application 0275/FUL relating to 50 St. Helens Road, Ormskirk be approved subject to the conditions as set out on pages 316 to 317 of the Report.

45 2018/0618/FUL - ELM TREE COMMUNITY PRIMARY SCHOOL, ELMERS WOOD ROAD, SKELMERSDALE

RESOLVED: That planning application 0619/FUL relating to Elm Tree Community Primary School, Elmers Wood Road, Skelmersdale be approved subject to the conditions as set out on pages 324 to 325 of the Report.

46 2018/0251/FUL - WRIGHTINGTON HOSPITAL, HALL LANE, WRIGHTINGTON

RESOLVED: That in respect of planning application 0251/FUL relating to Wrightington Hospital, Hall Lane, Wrightington:-

1. The proposed development is considered to be acceptable in principle and therefore it is recommended that the decision to grant planning permission be delegated to the Director of Development and Regeneration in consultation with the Chairman or Vice-Chairman of the Planning Committee subject to the confirmation of no objections from the Secretary of State under the terms of the Town and Country Planning (Consultation) (England) 2009 Direction.
2. That any planning permission granted by the Director of Development and Regeneration pursuant to recommendation 1 above be subject to the conditions as set out on pages 338 to 342 of the Report but with the amendments to Conditions 20, 23 and 24 as set out on pages 946 to 947 of the Late Information Report and with the amendment of Condition 2 as set out on page 949 to 950 of the Additional Late Information Report.

47 **2018/0300/FUL - WRIGHTINGTON HOSPITAL, HALL LANE, WRIGHTINGTON**

RESOLVED: That the Listed Building Consent application number 0300/FUL relating to Wrightington Hospital, Hall Lane, Wrightington be approved subject to the conditions as set out on pages 347 to 348 of the Report and with the amendment of Condition 2 as set out on page 950 of the Additional Late Information Report.

48 **2018/0702/FUL - 21 MANSE AVENUE, WRIGHTINGTON**

RESOLVED: That planning application number 0702/FUL relating to 21 Manse Avenue, Wrightington be approved subject to the conditions as set out on pages 351 to 352 of the Report.

49 **LOCAL PLAN REVIEW - PROPOSED LOCAL PLAN PREFERRED OPTIONS CONSULTATION**

Consideration was given to the report of the Director of Development and Regeneration as set out on pages 353 to 941 of the Book of Reports the purpose of which was to seek Cabinet's authorisation to publicly consult on the Council's Preferred Options for a new Local Plan and for Planning Committee to refer any agreed comments to Cabinet.

In addition to the agreed comments moved and seconded as detailed at (A) and (B) below, the following comment (C) was moved and seconded:

"That Planning Committee have serious concerns over the Local Plan Preferred Options as it considers the Local Plan Review Cabinet Working Group has exceeded its remit. It was set up to carry out the planned 5 yearly review of the Adopted Local Plan 2012/27 and to make recommendations to the Cabinet. Instead, it has exceeded its remit and put forward Preferred Options for a completely new Local Plan.

The Preferred Options recommend scrapping the existing Local Plan that still has 9 years to run yet it is meeting local housing need, has delivered the planned number of new homes and continues to provide the necessary 5 year supply of housing land. It has also withstood legal challenges in respect of rogue developments and proved to be robust.

The proposal for a new 30 year Local Plan 2020/50 is unprecedented and it is felt impractical to accurately forecast that far ahead, the future housing and employment needs of the Borough. The proposal to plan for 15,992 new homes can only be a very rough estimate given the official population forecast only project to 2041 and even the Treasury has difficulty forecasting medium term economic growth.

It is also proposed to stop the established practice of safeguarding sites identified for future development. This would mean the Council abdicating its responsibility to manage the release of sites and allow developers, or "market", to decide which sites should be developed first. It would also mean that all the sites needed for the next 30 years would be made available for development from 2020/21.

Apart from wanting a huge increase in the annual target for both housing building and commercial development, the Preferred Options propose to provide land to meet the future housing and commercial development needs of Merseyside – 6,256 new homes and hundreds of acres for employment use.

The proposed release of up to 1,500 acres from the Greenbelt or Safeguarded land is cause for considerable concern. The need to take such drastic action is a direct consequence of the issues detailed above.

The Planning Committee urge Cabinet to reject the Preferred Options and instruct the Local Plan Review Cabinet Working Group to prepare new proposals that are in line with the original remit i.e. to review the existing Local Plan 2012/27 and make suitable recommendations to update, amend and perhaps extend it for a further 5 or 7 years. "

A vote was taken on the comment (C) at the request of a Member which was recorded as follows:

FOR: Councillors Ashcroft, Mrs Baybutt, Gordon, Mrs M Westley and D Westley **(FIVE)**

AGAINST: Councillors D Evans, S Evans, Hennessy, G Hodson, J Hodson, Mills, Owen, Pritchard **(EIGHT)**

Comment (C) was therefore LOST.

AGREED: That the following agreed comments be referred to Cabinet:-

A. That Planning Committee wished it to be emphasised that the

public consultation on the Preferred Options document will allow members of the public and other stakeholders to put forward suggestions/observations for consideration by Officers and Members before a final draft of the Local Plan is produced.

- B. That consideration be given to holding one additional event to be held outside of Skelmersdale in the South Eastern Parishes.

.....
- CHAIRMAN -



PLANNING COMMITTEE
18 OCTOBER 2018

Report of: Director of Development and Regeneration

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

SUBJECT: PLANNING APPLICATIONS

Background Papers

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

Equality Impact Assessment

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

Human Rights

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from Article 8 (the right to respect for private and family life, home and correspondence) and Article 1 of Protocol 1 (the right of peaceful enjoyment of possessions and protection of property).

CONTENT SHEET

<u>Report No</u>	<u>Ward</u>	<u>Appn No</u>	<u>Site Location & Proposal</u>	<u>Recommendation</u>
1	Newburgh	2018/0728/FUL	<p>Hughes Mushroom Farm Course Lane Newburgh Wigan Lancashire WN8 7UB</p> <p>Construction of seven residential dwellings following the demolition of the existing commercial premises and a single dwelling.</p>	Planning permission be granted.
2	Halsall	2018/0721/FUL	<p>Gibbons Barn Plex Lane Halsall Ormskirk Lancashire L39 7JZ</p> <p>A 1.8 metre tall wooden fence abutting the party wall along the boundary line, to separate the gardens of Gibbons Barn and Gibbons Farm (Retrospective).</p>	Planning permission be refused.
3	Aughton And Downholland	2017/1265/FUL	<p>Tanpit Farm House Broad Lane Downholland Ormskirk Lancashire L39 7HS</p> <p>Demolition of 6 former agricultural buildings, conversion of 7 former agricultural buildings to create 12 dwellings with associated garaging, improvements to the existing access and associated landscaping works.</p>	Planning permission be refused.



PLANNING COMMITTEE

18th October 2018

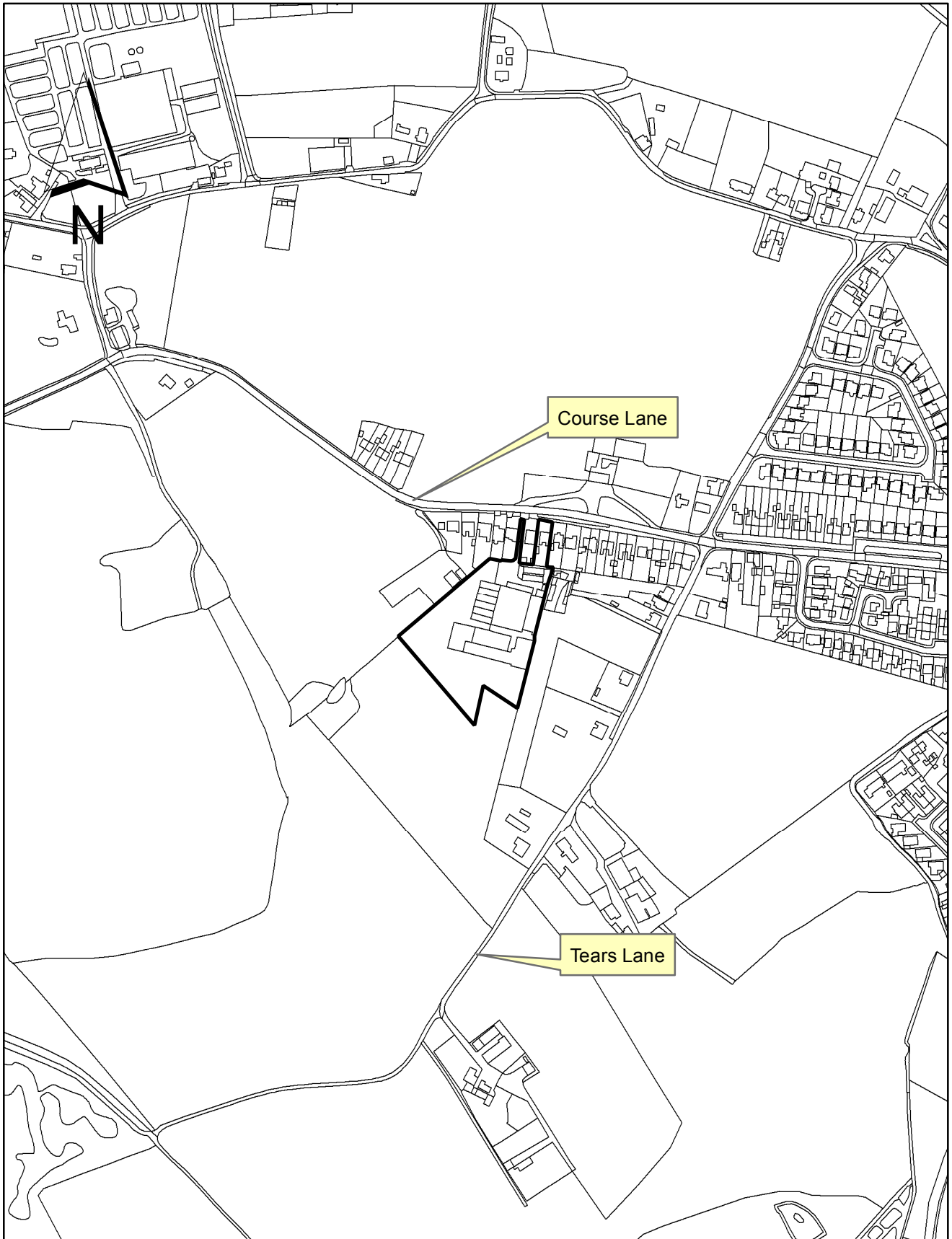
(Agenda Item 7)

PLANNING APPLICATION ITEMS

LOCATION PLANS

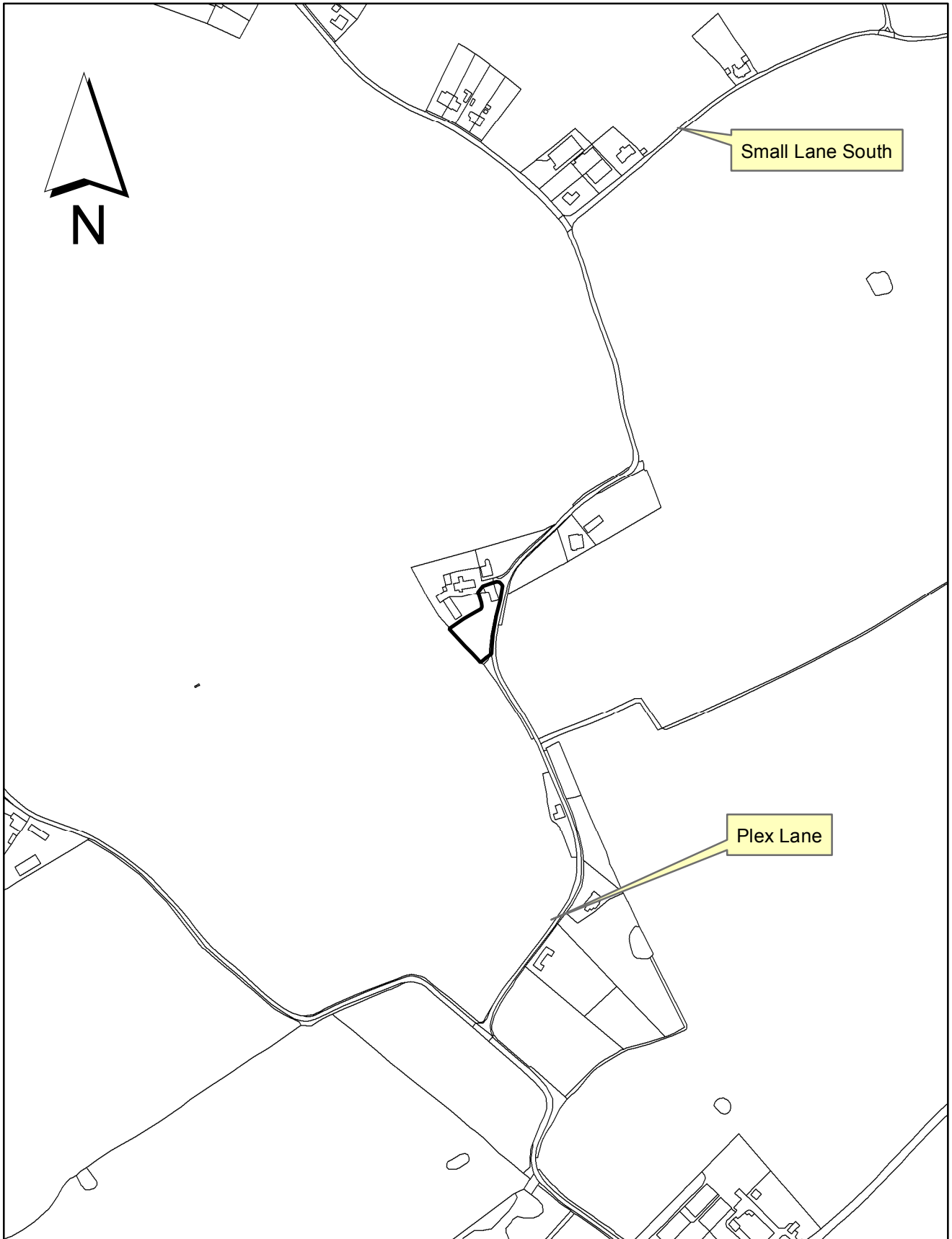


Hughes Mushroom Farm, Course Lane, Newburgh, Wigan
WN8 7UB



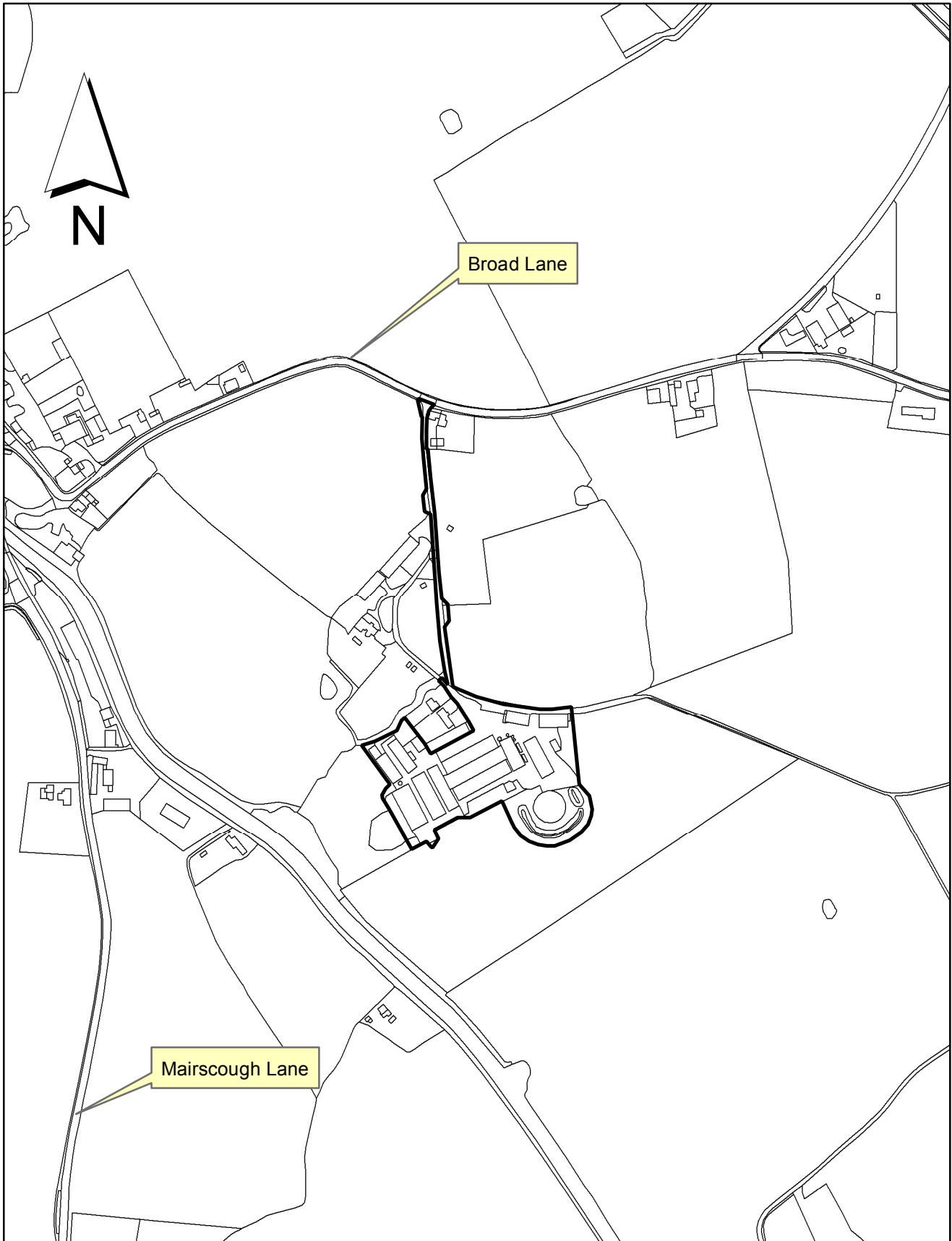


Gibbons Barn, Plex Lane, Halsall, Ormskirk L39 7JZ





Tanpit Farm, Broad Lane, Downholland, Ormskirk L39 7SH



Agenda Item 8a

No.1	APPLICATION NO.	2018/0728/FUL
	LOCATION	Hughes Mushroom Farm Course Lane Newburgh Wigan Lancashire WN8 7UB
	PROPOSAL	Construction of seven residential dwellings following the demolition of the existing commercial premises and a single dwelling.
	APPLICANT	Mr Woodman
	WARD	Newburgh
	PARISH	Newburgh
	TARGET DATE	14th September 2018

1.0 REFERRAL

- 1.1 This application was to be determined under the Council's delegation scheme; however, Councillor Pope has requested it be referred to Planning Committee to consider the impact of the development upon the green belt and amenity of the local residents.

2.0 SUMMARY

- 2.1 This is an application for the demolition of existing commercial buildings and the erection of 7 detached dwellings. The proposed design, layout and appearance is considered to be acceptable. The development will not have a detrimental impact on highway safety and adequate parking has been provided. Satisfactory interface distances have been achieved in order to protect neighbouring residential amenity. I consider the proposal complies with the relevant policies of the Local Plan and is acceptable in principle.

3.0 RECOMMENDATION: APPROVE WITH CONDITIONS

4.0 THE SITE

- 4.1 The site is located on the south side of Course Lane in Newburgh, behind a row of houses. It contains a number of vacant agricultural/ industrial buildings all single storey but of various heights. The site previously operated as a mushroom farm and more recently part of the site was used as a B8, storage and distribution use. The site itself is industrial in appearance. Access into the site is via a narrow path between two residential properties on Course Lane. It is located in the Green Belt, however immediately to the north of the site the row of residential dwellings fronting Course Lane are located in the rural settlement area of Newburgh.

5.0 THE PROPOSAL

- 5.1 This application seeks planning permission to redevelop the site for 7 detached dwellings. The existing commercial buildings on the site as well as a bungalow known as 'Windy Ridge' located on Course Lane will be demolished to allow the creation of a new vehicular access to the site off Course Lane. The existing access will be permanently closed.

Site History

- 5.2 For many years the site was utilised as a mushroom farm (an agricultural use). When this business vacated the site, the premises were left unoccupied for a number of years. In 2010 planning application 2010/0921/FUL was refused and dismissed at appeal for the demolition of the buildings and the erection of four detached dwellings and garages. The

reasons for refusal related to the negative impact the development would have upon the openness of the Green Belt and the character of the area. Subsequently, planning application 2013/1192/COU granted planning permission for the change of use of the site to a B8 use. In 2014 the B8 use was implemented by the occupation of one of the buildings by a tenant storing goods. This tenant vacated the premises in January 2015 and the buildings have remained vacant ever since. In 2016 outline planning consent was obtained for the redevelopment of the site for 7 detached bungalows.

6.0 PREVIOUS RELEVANT DECISIONS

- 6.1 2016/0497/OUT GRANTED Outline - Construction of seven dwellings following the demolition of the existing commercial premises, including the creation of a new highway access following the demolition of an existing dwelling (including details of access, layout and scale).
- 6.2 2013/1192/COU GRANTED - Change of use of former mushroom farm buildings to Use Class B8.
- 6.3 2010/0921/FUL REFUSED (DISMISSED ON APPEAL) - Demolition of existing mushroom farm and erection of four detached dwellings and garages.
- 6.4 2009/1100/FUL WITHDRAWN - Demolition of existing mushroom farm and erection of 4 detached dwellings with garages.
- 6.5 2005/1008 WITHDRAWN – Outline - Erection of 9 Bungalows.
- 6.6 2000/1121 REFUSED - Provision of turning area for wagons and car park.

7.0 OBSERVATIONS OF CONSULTEES

- 7.1 Environmental Health (31.08.18 & 06.09.18) – No Objection; Recommend conditions
- 7.2 Lead Local Flood Authority (LLFA) (04.09.18 & 01/10/18) No Objections
- 7.3 LCC Highways (08.08.18) – No Objections subject to conditions
- 7.4 United Utilities (03.08.18) – No Objections subject to conditions

8.0 OTHER REPRESENTATIONS

- 8.1 I have received 3 letters of objection from 2 neighbouring properties, who raise the following concerns:

Doesn't preserve the integrity of the rural location;

Large 4/5 bedroomed properties are proposed which is a massive divergence from the original proposal for bungalows;

Height of the proposed dwelling exceed the height of the bungalows and is not in keeping with the environment and village location and is dominant;

Style of houses too modern and out of keeping with the village;

Results in overlooking of my property, a bungalow, causing significant detriment to my privacy. If bungalows were proposed the loss of privacy would be minimal;

Results in a loss of sunlight in my garden;

The land regularly floods and has a negative impact on my garden. The drainage systems for the mushroom farm and neighbouring properties are interconnected in several places. The drainage systems are outdated. The new development must have fully updated and

efficient drainage systems;

The area is frequented by pipistrelle bats and barn owl regularly hunts over the open ground surrounding the buildings.

- 8.2 Newburgh Parish Council (27.09.18) – Continue to support the development of the derelict site on the existing footprint provided neighbour amenity is preserved.

9.0 SUPPORTING INFORMATION

- 9.1 Planning Statement
Design & Access Statement
Ecology Report
Flood Risk Assessment
Phase 1 Preliminary Risk Assessment
Sketch Concept Document

10.0 RELEVANT PLANNING POLICY

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

The site is located within Green Belt as designated in the West Lancashire Local Plan 2012-2027 DPD

West Lancashire Local Plan 2012-2027 DPD

Policy SP1 – A sustainable Development Framework for West Lancashire
Policy GN1 – Settlement Boundaries
Policy GN3 – Criteria for Sustainable Development
Policy RS1 – Residential development
Policy IF2 – Enhancing Sustainable Transport Choice
Policy EN2 – Preserving and Enhancing West Lancashire’s Natural Environment

Supplementary Planning Advice

SPD – Design Guide (January 2008)

11.0 OBSERVATIONS OF DIRECTOR OF DEVELOPMENT AND REGENERATION

Principle of Development

- 11.1 The principle of development has been established by the granting of outline planning permission (2016/0497/OUT) as detailed above. That permission remains valid.

Impact on Green Belt

- 11.2 Paragraph 145 of the NPPF advises that the construction of new dwellings in the green belt in inappropriate development subject to various exceptions. Bullet point (g) allows the complete redevelopment of previously developed land providing that it would not have a greater impact on the openness of the Green Belt than the existing development.

- 11.3 A site assessment has been carried out which has been useful to make a direct comparison between the existing and proposed built development. Presently, the site is occupied by buildings with a total volume of 15,881m³, the total volume of the proposed

dwellings amounts to 6,627m³ resulting in a 58% reduction in built volume on site. The proposed development would also have a smaller overall footprint (63% reduction) than the existing built development. This would therefore constitute a considerable reduction in terms of the actual built development on the site and an overall gain in terms of the openness of the Green Belt.

- 11.4 The spread of development across the site also needs to be considered. The proposal would confine the built form within the areas of the site where the existing buildings are located. However, the plots in the southern area of the site would utilise land (which is currently free from built form) to have extensive rear garden areas. This issue has previously been considered under the outline application and it was agreed that if this land was omitted from the site layout it is likely that it would become land locked and of no real use. Therefore, it was considered that the incorporation of this land into the garden areas of the proposed units is a reasonable proposition, and subject to the removal of permitted development rights for the erection of outbuildings and extensions, the openness of the Green Belt should be maintained.
- 11.5 The plans submitted indicate that the tallest building existing on the site is 7.4m high, with the majority of the buildings ranging between 3.6m – 4.7m high. The proposed dwellings would have a maximum height of 6.1m. Steps have been taken to minimise the impact of the development upon the green belt since this application was first submitted, all of the bulky dormers have been removed including the elongated windows with boxy flat roofs, the eaves and ridge height reduced by 0.2m and the garages reduced in height by 0.7m and re-orientated to create a sense of space between the buildings. I am also mindful that the proposed development will have a smaller overall footprint than the existing built development and is sited generally where existing built development exists. Therefore, I am satisfied that the development will not have a greater impact on the openness of the Green Belt in comparison to the existing development, and therefore the proposed redevelopment of the site complies with the NPPF in this regard.

Principle of Development – Isolated Homes

- 11.6 Paragraphs 78 and 79 of the NPPF are considered to be relevant to the proposed development given the nature of the site location. This advises that *“local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances”*. It was determined under the previous application that the proposed development would not result in the creation of isolated homes given that the site is within reasonable walking distances of local services and is located close by to a main bus route.

Layout, Scale and External Appearance

- 11.7 The layout of the site allows for an access to be taken directly off Course Lane which leads to a courtyard with a central 'green' area surrounded by seven detached two storey dwellings. Each dwelling will be either an 'L' or 'T' shape footprint generally measuring 13m by 13m / 16m with an eaves height of 3.8m and a ridge height of 5.7m to 6.1m. Each dwelling would have five bedrooms (with the exception of plots 5 and 6 which will have 4 bedrooms). Each dwelling will also have a detached or integral double garage.
- 11.8 Concern was initially raised with the applicant that the dwellings appeared too regimental and contemporary with modern flat boxed 'dormers' which would be at odds with the semi-rural environment in which they would be situated. In response the scheme has been amended and a more traditional rural approach has been taken by removing the 'boxy' modern 'dormers' and elongated windows so the dwellings appear more like converted barns and timber effect cladding has been introduced on the garages to reflect the rural

location. Overall, I consider that the design of the dwellings now relate well to the local area in general.

- 11.9 In terms of the level of amenity afforded to residents of the development, I am satisfied that the private rear gardens accord with the standards advised in the Council's Design Guide SPD. The proposed development would provide adequate interface distances between the proposed and existing dwellings and therefore should not result in a detrimental loss of residential amenity for the surrounding occupants.

Impact on Residential Amenity

- 11.10 In terms of the relationships between the proposed dwellings, I am satisfied that the proposed layout accommodates the required interface distances. With regards to amenity for existing residents, I note that concern has been expressed from a neighbour about the loss of privacy. However, there will be at least 35m between the rear elevation of the proposed dwellings and dwellings along Course Lane which significantly exceeds the standards set out within in the Council's Design Guide SPD. Therefore, I am satisfied that suitable interface distances have been provided.
- 11.11 As approved under the previous outline application, a new access to the site is proposed off Course Lane. This will be created by the demolition of an existing property (Windy Ridge) fronting onto Course Lane. As a result, the site access will sit between two other residential properties (Rose Heath and Quarry View) along Course Lane. Whilst use of the access will create some additional noise and disturbance to these neighbouring properties, given the small scale of the development, I do not consider the location of the proposed new access would be unacceptable on neighbouring amenity grounds. Overall, the proposed development would satisfy the requirements of Policy GN3 in respect of neighbouring amenity.

Highway Safety and Car Parking

- 11.12 The existing access to the site is very narrow and unsuitable to support a residential development when assessed against modern day standards. This will be permanently closed and a new access will be created by the demolition of Windy Ridge which is located approximately 15m to the east of the existing access. I consider that this will result in a much improved site access than the existing access arrangements. The County Highways Surveyor concurs with this view and has raised no objections to the proposed new access.
- 11.13 The Local Plan sets out parking standards for residential developments. Each plot meets the required standards. I am satisfied that vehicles can manoeuvre safely within the site and that adequate parking provision has been made within the site. On this basis the proposed development is considered to be compliant with Policies GN3 and IF2 in the Local Plan.

Drainage

- 11.14 The site is located in flood zone 1 an area considered to have the lowest probability of fluvial and tidal flooding. A Flood Risk Assessment (FRA) and Drainage Strategy accompanies the application which embraces the concept of sustainable drainage and recognises that flood risk is an important aspect of the development proposals. It is proposed to use a soakaway drainage system for surface water drainage as the porosity tests indicate satisfactory soil infiltration rates. Foul water will discharge via the existing site connection pipework at the existing manhole. The LLFA are content with the FRA and

Drainage Strategy and the use of infiltration in principle, subject to a detailed design which can be secured by imposition of planning conditions.

Ecology & Protected Species

11.15 An Ecological Assessment and Bat Emergence Survey has been undertaken of the site and buildings. Bats were observed moving in a southerly direction across the site but no bats were detected foraging around the site or within the buildings. The survey did find nests within the buildings associated with birds. No evidence of barn owls was found. The survey recommends that bird and bat boxes are installed on the site prior to the removal of the buildings. The recommendations within the ecology survey will be secured via planning condition.

Conclusion

11.16 In summary, the proposal is in accordance with policies RS1, EN2, GN3 and IF3 of the West Lancashire Local Plan and the SPD Design Guide. I therefore recommend that planning permission be granted.

12.0 **RECOMMENDATION**

12.1 That planning permission be GRANTED subject to the following conditions:

Conditions

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby approved shall be carried out in accordance with details shown on the following plans:-
Plan reference Location Plan 001 received by the Local Planning Authority on 9th July 2018.
Plan reference Landscape General Arrangement 001 Rev B received by the Local Planning Authority on 18th September 2018.
Plan reference 201 Rev E, 202 Rev E, 203 Rev E, 204 Rev E, 205 Rev E, 206 Rev F, 207 Rev E received by the Local Planning Authority on 2nd October 2018.
Plan reference Proposed Site Plan 200 Rev E & 211 Rev A received by the Local Planning Authority on 4th October 2018.
3. No development above slab level shall take place until full details and samples of the external brickwork, cladding 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. No development shall commence until details of the design, based on sustainable drainage principles, and implementation of an appropriate surface water sustainable drainage scheme have been submitted to and approved in writing by the local planning authority.
Those details shall include, as a minimum:
 - a) Information about the lifetime of the development, design storm period and intensity (1 in 30 & 1 in 100 year + allowance for climate change).
 - b) Detail design of the proposed infiltration system.
 - c) A plan of overland flow routes and or flood water exceedance routes, both on and off site.The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

5. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment and Drainage Strategy (CFA, reference CFC18009, September 2018) and the mitigation measures detailed within the FRA.
6. No dwelling shall be occupied until visibility splays measuring 2.4 metres by 78 metres in both directions are provided, measured along the centre line of the proposed new road from the continuation of the nearer edge of the existing carriageway of Course Lane, to the satisfaction of the Local Planning Authority. The land within these splays shall be maintained thereafter, free from obstructions such as walls, fences, trees, hedges, shrubs, ground growth or other structures within the splays in excess of 1.0 metre in height above the height at the centre line of the adjacent carriageway.
7. No dwelling shall be occupied until the existing access is physically and permanently closed and the existing footway and kerbing of the vehicular crossing is reinstated in accordance with the Lancashire County Council Specification for Construction of Estate Roads.
8. The new estate road/access between the site and Course Lane shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any development takes place within the site.
9. 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.
10. 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, porches, garden sheds, out buildings, greenhouses, swimming pools, hardstandings or means of enclosure shall be erected or undertaken without the express written permission of the Local Planning Authority.
11. A contaminated land investigation shall be carried out in respect of the proposed development site in order to identify whether there are substances in, on or under the land with potential to cause harm to human, ecological, environmental, structural or controlled water receptors, and to assess the degree of risk posed by those substances to each receptor.

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

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

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

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

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

Sample results shall be screened against Government Soil Guideline Values (SGV) where these are available. Where these are not available, the results must be screened using

clearance values that have been derived using best available toxicological data using a statistical model acceptable to the Local Planning Authority (LPA). In those cases where values are exceeded, more detailed site-specific risk assessments must be carried out to decide whether remediation is required. These assessments must be carried out using best toxicological data for the contaminant concerned, and by means of a statistical model acceptable to the LPA.

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

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

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

12. The recommendations made within Section 14 of the Ecology Report May 2018 received by the Local Planning Authority on 10th July 2018 shall be adhered to at all times during and following the development hereby approved.

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. To ensure that the site is properly drained and to ensure that there is no flood risk on or off the site resulting from the proposed development, in the interest of local amenity and that the development, and complies with the provisions of Policies GN3 & IF3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

Reason for pre-commencement conditions

Drainage is not only a material consideration but an early and fundamental activity in the ground construction phase of any development and it is likely to be physically inaccessible at a later stage by being buried or built over. It is of concern to all flood risk management authorities that an agreed approach is approved before development commences to avoid putting existing and new communities at risk.

The revised NPPF considers sustainable drainage systems to be important and states that they should be incorporated unless there is clear evidence that this would be inappropriate and, as such the LLFA needs to be confident that flood risk is being adequately considered, designed for and that any residual risk is being safely managed. To be able to do this the LLFA requires an amount of certainty either by upfront detail or secured by way of appropriate planning condition.

5. To ensure that the site is properly drained and to ensure that there is no flood risk on or off the site resulting from the proposed development, in the interest of local amenity and that the development, and complies with the provisions of Policies GN3 & IF3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
6. 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.
7. 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.

8. 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.
9. 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 adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
10. The character and location of the property are such that the Local Planning Authority wishes to exercise maximum control over future development to protect the openness of the Green Belt in order to comply with the provisions of Policy GN1(b) in the West Lancashire Local Plan 2012-2027 Development Plan Document and the NPPF.
11. To ensure that the development is adequately protected against potentially contaminated land and so complies with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.
12. In the interests of nature conservation and to ensure compliance with the provisions of Policies GN3 & EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

Notes

1. The applicant is advised that the new site access, 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 and search for "278 agreement".
2. The applicant is advised that the proposed arrangements for future management and maintenance of the proposed street within the development will need to be agreed with the Highway Authority. The street shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established. The applicant is advised to contact the Environment Directorate before works begin on site.

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:

Policy SP1 - A sustainable Development Framework for West Lancashire

Policy GN1 - Settlement Boundaries

Policy GN3 - Criteria for Sustainable Development

Policy RS1 - Residential development

Policy IF2 - Enhancing Sustainable Transport Choice

Policy EN2 - Preserving and Enhancing West Lancashire's Natural 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.

No.2	APPLICATION NO.	2018/0721/FUL
	LOCATION	Gibbons Barn Plex Lane Halsall Ormskirk Lancashire L39 7JZ
	PROPOSAL	A 1.8 metre tall wooden fence abutting the party wall along the boundary line, to separate the gardens of Gibbons Barn and Gibbons Farm (Retrospective).
	APPLICANT	Kirsty Breakell
	WARD	Halsall
	PARISH	Halsall
	TARGET DATE	17th September 2018

1.0 REFERRAL

- 1.1 The application was to be determined under delegated powers, however, Cllr Mrs Mills has requested it be considered at planning committee to consider the implications of removal of permitted development rights at the site and issues of privacy.

2.0 SUMMARY

- 2.1 The development is considered to result in harm to the Green Belt and be inappropriate in its setting and therefore conflicts with Policies GN1, GN3 and EN4 in the West Lancashire Local Plan, the NPPF and Design Guide Supplementary Planning Document.

3.0 RECOMMENDATION: REFUSE

4.0 THE SITE

- 4.1 The site consists of a traditional brick and slate former agricultural barn converted to residential accommodation. Vehicular access is provided to the immediate south of the barn with associated residential garden area to the west. A former orchard area exists to the south. The building forms part of a cluster of former farm buildings to the western side of Plex Lane.

5.0 THE PROPOSAL

- 5.1 The application seeks the retention of approx. 48 metres of 1.8 metre high horizontally-slatted fence located to the rear and south-west of the barn on or near the common boundary with Gibbon's Farm (the former farmhouse).

6.0 PREVIOUS RELEVANT DECISIONS

- 6.1 1995/0011 – GRANTED (16.03.1995) Change of use of office to dwelling including elevational changes.
- 6.2 1991/0624 – GRANTED (31.10.1991) Conversion of Barn into offices; associated car parking and alterations to access.

Adjacent property at Gibbon's Cottage

- 6.3 1995/0250 – GRANTED (12.05.95) Erection of conservatory at rear and new boundary wall/post and panelled fence, installation of septic tank, including biodisc effluent treatment system and soakaway. Siting of propane tank.

- 6.4 2013/0842/LDP – REFUSED (15.10.2013) Certificate of Lawfulness - Proposed new security wall to abut existing boundary wall. Allowed on appeal.

7.0 CONSULTEE RESPONSES

- 7.1 None applicable

8.0 OTHER REPRESENTATIONS

- 8.1 One letter has been received from an immediate neighbour objecting on the following grounds:

Scale disproportionate to surrounding development
Prominent feature
Inappropriate to rural setting
Fire risk
Bad neighbour development
Not in accordance with the Local Plan
In conflict with planning conditions attached to the property
Other works have taken place on the site
Development will exacerbate local surface water flooding issues
No consultation before works took place

9.0 SUPPORTING INFORMATION

- 9.1 The applicant has provided a statement in support of the retention of the fence raising the following issues/benefits:

Provides security and prevents unauthorised access
Is similar to other means of enclosure in the immediate vicinity and beyond
Views of the fence are limited or obscured
Provides mutual privacy benefit between neighbouring residents
An identical means of enclosure could be erected without planning permission by the neighbouring occupiers
Preventing retention of the fence would contravene Article 8 of the Human Rights Act

Additionally, concerns are expressed in respect to the disparity arising from adjacent properties having permitted development rights removed or retained.

10.0 RELEVANT PLANNING POLICIES

- 10.1 The National Planning Policy Framework (NPPF) 2018 and the West Lancashire Local Plan 2012-2027 DPD provide the policy framework against which the development proposals will be assessed.
- 10.2 The site is located within the Green Belt as designated in the West Lancashire Local Plan 2012-2027 DPD (WLLP) and a Mineral Safeguarding Area as defined in the Lancashire Site Allocation and Development Management Policies Local Plan.
- 10.3 Relevant Local Plan Policies:
GN1 – Settlement Boundaries
GN3 – Criteria for Sustainable Development
EN2 – Preserving and Enhancing West Lancashire's Natural Environment

11.0 **OBSERVATIONS OF DIRECTOR OF DEVELOPMENT AND REGENERATION**

Background

- 11.1 The development that has taken place would generally be permitted to a height of 2.0 metres under the provisions of the (now) Town and Country Planning (General Permitted Development) (England) Order 2015; however, as a converted rural building, these rights were removed from the property to protect the Green Belt locality and the heritage value of the former traditional agricultural barn. This approach is generally driven by planning policy requirements at the time of conversion and, indeed, is not an uncommon approach when considering equivalent proposals under current national and local planning policy requirements.
- 11.2 Of the group of three residential properties here the application site and Gibbon's Cottage (also a conversion) have the majority of their permitted development rights removed. The original farmhouse retains its rights under the Order.

Assessment

- 11.3 Planning condition 4 on the approval to convert the building to a residential unit removed some permitted development rights including the erection of means of enclosure at the site. The reason for that restriction is stated as: *The character and location of the property are such that the Local Planning Authority wish to exercise maximum control over future development.* For the reasons set out below I am satisfied that that restriction meets the current tests for planning conditions set out at para 55 of the NPPF and therefore its effect remains valid.

Principle of Development – Green Belt

- 11.4 Policy GN1 in the WLLP states that proposals in the Green Belt will be assessed against national policy and any relevant Local Plan policies. The NPPF sets out the types of appropriate development in the Green Belt at paras. 145 and 146. For the purposes of assessment, a fence is deemed to be a 'building' as section 336 of the 1990 Planning Act defines a 'building' as including "any structure or erection". The erection of new buildings in the Green Belt is considered inappropriate except for specified exemptions. The proposal would not fall within any of these categories and therefore is considered inappropriate development in the Green Belt.
- 11.5 Inappropriate development in the Green Belt is harmful by definition and should not be approved except in very special circumstances. The NPPF defines that *very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by any other considerations.* It also advises that any harm to the Green Belt should be afforded *substantial weight.*
- 11.6 In addition to the harm arising from inappropriateness, the presence of the fence will result in a loss of openness (generally defined as the absence of built form and development as opposed to any visual matter). In terms of the visual impact para. 141 requires, inter alia, that local planning authorities plan positively to retain and enhance landscapes and visual amenity of the Green Belt. This is assessed in the following paragraphs.

Design and Appearance

- 11.7 Policy GN3 of the West Lancashire Local Plan DPD 2012-2027 states that proposals for development should be of high quality design and have regard to visual amenity and complement or enhance any attractive attributes and/or local distinctiveness within its surroundings through sensitive design, including appropriate boundary treatment. The Design Guide SPD provides specific guidance in relation to boundary treatment. This states that: *Where new boundary walls are required, their design should match those used elsewhere locally and in particular comprise materials and detailing which relate to the context of the site.*
- 11.8 The principal views of the fence are obtainable from Plex Lane, though these are to some extent obscured by intervening hedging and the barn itself. The dark-coloured timber of the fencing is not particularly intrusive, however, the lighter treatment on the outer side (to Gibbons Farm) is more conspicuous. The fencing is viewed against the backdrop of the cluster of buildings. Whilst there are examples of panel fences erected under permitted development rights in the vicinity, the fencing is not of a type characteristic of a rural area generally or of this locality. The boundary treatment in the local area is characterised by soft landscaping such as hedgerow interspersed with trees. Fencing, where it occurs, is predominantly post and rail/wire style. The fence provides a degree of enclosure not generally found, for example, at a farmstead, and would be more in keeping with an urban or suburban location. On that basis the fencing causes some limited harm to the character and appearance of the Green Belt and locality generally and therefore conflicts with Policies GN1 and GN3 in the WLLP.

Very Special Circumstances

- 11.9 The applicant has outlined the benefits of the fence in terms of privacy, security, limited visual impact and the disparity due to the fact the neighbour could erect such a fence on the boundary without planning permission. In terms of the disparity arising from the removal of permitted development rights, this is a consequence of previous (and current) policy in relation to permitting the change of use of the building in a Green Belt location and where the building in question is a character building of some historic interest (non-designated heritage asset). Current Green Belt policies and Policy EN4, which maintains a presumption in favour of the protection and enhancement of existing non-designated heritage assets, still require the protection to the Green Belt and the aesthetic of the building and its setting that justifies the removal of the permitted development rights. This and the remaining circumstances taken individually or cumulatively are not considered to constitute very special circumstances – whilst some of the benefits stated might accrue, these could be equally achievable by other, more appropriate, means of boundary enclosure such as thorny hedging.
- 11.10 In summary, I consider the circumstances submitted would not constitute 'very special circumstances' and therefore the harm to the Green Belt by way of inappropriateness, loss of openness and impact on its visual amenity are not outweighed. The fence therefore fails to meet the requirements of Policies GN1 and GN3 of the WLLP

Impact on adjacent land uses

- 11.11 Whilst the development is not typical of the locality and therefore may visually impose to a greater degree than, say, an established hedge; given its height, position and distance from the neighbouring properties, I do not consider it results in any significant detrimental impact to residential occupiers of those properties. Concern has been expressed by the occupier of Gibbons Farmhouse in respect of fire risk and additional flood risk caused by

the fence, however, I consider this of very limited weight in the planning consideration. The fence, in itself, will cause flooding or displace flood storage capacity of any significance. The fence is as likely to catch fire as any vegetation in the locality. Other matters raised by the objector that have not been addressed above are not considered material to the consideration of the planning application.

Other Matters

- 11.12 Concern is stated that any requirement to remove the fence would breach the applicant's human rights to privacy under Section Article 8 of the Human Rights Act. In this particular case the applicant's right to privacy must be balanced against the Council's duty to protect the Green Belt and visual amenity of this rural area.

Summary

- 11.13 The proposed development is considered inappropriate development in the Green Belt that results in harm by virtue of its inappropriateness, loss of openness and impact on its visual amenity. The development therefore conflicts with Policies GN1 and GN3 in the WLLP, the NPPF and the West Lancashire Design Guide SPD.

12.0 **RECOMMENDATION**

- 12.1 That planning permission be **REFUSED** for the following reasons:

Reasons for Refusal

1. The development conflicts with the NPPF and Policies GN1 and GN3 in the West Lancashire Local (2012-2027) Development Plan Document in that it constitutes inappropriate form of development in the Green Belt and results in harm to the openness and visual amenity of the Green Belt. No very special circumstances have been demonstrated to outweigh the identified harm.
2. The fence conflicts with policy GN3 and EN4 of the West Lancashire Local Plan (2012-2017) Development Plan Document and Supplementary Planning Document - Design Guide in that it is an incongruous feature in the context of the setting of the traditional rural building and wider group of former farmstead buildings which results in a detrimental impact to the visual amenity and rural character of the area and the setting of a non-designated heritage asset.

Agenda Item 8c

No.3	APPLICATION NO.	2017/1265/FUL
	LOCATION	Tanpit Farm House Broad Lane Downholland Ormskirk Lancashire L39 7HS
	PROPOSAL	Demolition of 6 former agricultural buildings, conversion of 7 former agricultural buildings to create 12 dwellings with associated garaging, improvements to the existing access and associated landscaping works.
	APPLICANT	Upward Ltd
	WARD	Aughton And Downholland
	PARISH	Downholland
	TARGET DATE	17th April 2018

1.0 REFERRAL

- 1.1 This application was to be determined under the Council's delegation scheme, however, Councillor O'Toole has requested it be referred to Committee to consider the impact on residential amenity and development of the site in terms of its location.

2.0 SUMMARY

- 2.1 The development would result in isolated dwellings in the countryside and would therefore be contrary to paragraph 79 of the NPPF. The applicant has not clearly demonstrated that the existing buildings are of permanent and substantial construction and capable of conversion without major rebuilding works. The proposed development is found to be inappropriate development in the Green Belt and no very special circumstances have been identified to outweigh the harm that the scheme would cause. The applicant has also failed to demonstrate that the site is unsuitable for alternative agricultural uses and to effectively justify the loss of employment land. The scheme is therefore considered to be unacceptable in principle.

3.0 RECOMMENDATION: REFUSE

4.0 THE SITE

- 4.1 The site lies in open countryside approx. 250m south of Broad Lane (B5195), and east of the A5147 and the Leeds Liverpool Canal. It is accessed from Broad Lane via an unadopted single track road, which is also a public footpath. The site comprises of a number of vacant agricultural buildings of various sizes, types and materials with hardstanding between, and a number of other agricultural structures (silos, tanks, etc.). The approximate site area is 1.86 hectares.
- 4.2 Trees screen the west and north western parts of the site. A ditch runs along the northern boundary.
- 4.3 The site was last in use as a significant and intensive piggery enterprise but this closed in 2016 when the operator decided to rationalise their business and move to a purpose built pig facility in Derbyshire. All buildings on the site have now been vacated.

5.0 THE PROPOSAL

- 5.1 This application seeks planning permission for the demolition of 6 former agricultural buildings and conversion of 7 former agricultural buildings to create 12 dwellings with

associated garaging. Improvements to the existing access and associated landscaping works are also proposed.

- 5.2 The dwellings would comprise a mixture of terraced, semi-detached and detached dwellings of varying sizes, both two-storey and single storey in height. There would be 6 no. 4 bedroom dwellings, 5 no. 5 bedroom dwellings and 1 no. 6 bedroom dwelling.
- 5.3 One of the proposed dwellings would have an integral garage (plot 10), two properties a detached garage (plots 1 and 2) and all properties would have external parking and associated hardstanding areas.
- 5.4 Since first submission of this planning application, significant amendments have been made and proposals to create an additional unit at Plot 13 have been removed from the scheme.
- 5.5 In terms of access to the site, it is proposed to improve the existing junction with Broad Lane and provide two passing places along the existing lane.

6.0 PREVIOUS RELEVANT DECISIONS

- 6.1 1998/0335 (GRANTED) Erection of sow house.

7.0 CONSULTEE RESPONSES

- 7.1 Lancashire County Council Highways
(30/01/2018) – No objection in principle. Recommends planning conditions.
(05/03/2018)- A note has been added for the passing places indicating the correct dimensions however there is no indication of the visibility splays on the plan provided.
- 7.2 MEAS (12/03/2018) –
Application doesn't warrant a detailed Habitat Regulations Assessment;
Application requires a Natural England European Protected Species Licence;
The development must be assessed against three tests set out in Habitats Regulations;
Recommend mitigation and additional measures are carried out.
- 7.3 Canal and River Trust (07/02/2018) – No comment.
- 7.4 United Utilities (13/02/2018) – No objections subject to conditions being attached on any approval.
- 7.5 Environment Agency (20/02/2018) and (14/05/2018) – No objection in principle however makes comments which need to be addressed re non mains drainage.
- 7.6 Environmental Health
(14/02/2018) – No objections subject to planning conditions with regard to noise and air quality.
(14/03/2018) – Requests planning condition for contaminated land investigation.
- 7.7 Lead Local Flood Authority (LCC) (11/09/2018) – No objections to proposed development subject to planning conditions.
- 7.8 Lancashire County Council Education (31/01/2018) – Requests developer contribution for education.
- 7.9 Natural England (09/04/2018) – No objections.

7.10 Lancashire County Council Minerals Planning and Environment (15/05/2018) – No comments.

8.0 OTHER REPRESENTATIONS

8.1 Two neighbour representations, comments:

Will directly affect family home;
Development has been designed sympathetically with rural surroundings;
The surveys provided are thorough and approved;
Redevelopment will provide a welcome change from the existing derelict buildings;
Ask Council to restrict works to daylight hours and speed limit imposed on track / road leading to development;
Requests Council ensures a bat licence and mitigation is secured;
One representation fully supports this development;
Buildings no longer suitable for animal farming.

8.2 Downholland Parish Council (14/02/2018) – Comments:

Council is concerned about the proposed size of the development and intrusion into the Green Belt;
If granted suggest conditions are included regarding noise levels, times of working, dust, pollution;
Impact upon bats;
A Public right of Way crosses the land and a condition of any development should be that the existing footpath should be maintained or at least sympathetically re-routed.

9.0 SUPPORTING INFORMATION

9.1 Design and Access Statement

9.2 Preliminary Ecological Appraisal (October 2016)

9.3 Bat Surveys and Method Statement (August 2017)

9.4 Planning Statement (November 2017)

9.5 Structural Appraisal Report – REFA Consulting Engineers (June 2017) and additional supporting letter (05/06/2018).

9.6 Flood Risk Assessment

9.7 Transport Statement

9.8 Landscape Proposal Plan, Specification and Planting Schedules (Rev B, August 2018)

9.9 Tree Survey Plan

9.10 Tree Protection Plan

9.11 Flood Risk Assessment & Detailed Drainage Strategy V06 (September 2018)

9.12 Supplementary Planning Statement (June 2018)

9.13 Mineral Assessment, Curtins (April 2018)

10.0 RELEVANT PLANNING POLICIES

- 10.1 The National Planning Policy Framework (NPPF) (July 2018) and the West Lancashire Local Plan 2012-2027 DPD (WLLP) provide the policy framework against which the development proposals will be assessed.
- 10.2 The site is located within the Green Belt as designated in the West Lancashire Local Plan 2012-2027.

National Planning Policy Framework

Delivering a sufficient supply of homes
Promoting healthy and safe communities
Promoting Sustainable Transport
Making effective use of land
Achieving well – designed places
Protecting Green Belt Land
Meeting the challenge of climate change, flooding and coastal change
Conserving and enhancing the natural environment
Conserving and enhancing the historic environment

West Lancashire Local Plan 2012-2027 DPD

Policy SP1 - A Sustainable Development Framework for West Lancashire
Policy GN1 - Settlement Boundaries
Policy GN3 - Criteria for Sustainable Development
Policy GN4 – Demonstrating Viability
Policy EC2 – The Rural Economy
Policy RS1 – Residential Development
Policy RS2 – Affordable Housing
Policy IF2 - Enhancing Sustainable Transport Choices
Policy EN1 - Low Carbon Development and Energy Infrastructure
Policy EN2 – Preserving and Enhancing West Lancashire’s Natural Environment
Policy EN4 - Preserving and Enhancing West Lancashire’s Cultural and Heritage Assets
Policy IF4 – Developer Contributions

Supplementary Planning Document (SPD), Development in the Green Belt (Oct 2015)

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

Natural Areas and Areas of Landscape History Importance (Aug 2007)

11.0 OBSERVATIONS OF DIRECTOR OF DEVELOPMENT AND REGENERATION

- 11.1 The main areas of consideration in determining this application are:
- Principle of Development
 - Design and External appearance
 - Impact upon residential amenity
 - Visual impact (Green Belt)
 - Impact upon Listed Building
 - Highway considerations
 - Ecology
 - Trees and Landscaping

Principle of Development - Sustainability and Location

- 11.2 The NPPF at paragraph 79 states that planning policies and decisions should avoid the development of isolated homes in the countryside unless there are special circumstances as listed in criteria a-e:
- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
 - b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
 - c) the development would re-use redundant or disused buildings and enhance its immediate setting;
 - d) the development would involve the subdivision of an existing residential dwelling; or
 - e) the design is of exceptional quality, in that it:

is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.
- 11.3 The word 'isolated' is not defined within the NPPF, however, in a High Court judgement (Braintree District Council v Secretary of State for Communities and Local Government, Grey read Limited and Granville Developments Ltd, 2017), it was clarified that 'isolated' should be given its ordinary dictionary meaning of 'far away from other places, buildings or people; remote'. The matter was then further considered by the Court of Appeal in 2018 who considered that "isolated" means physically separated from a dwelling or village.
- 11.4 The site is located within land designated as Green Belt surrounded by open fields with surrounding scattered farmsteads and dwellings. Therefore, whilst the site is not remote from other built forms it is physically separate from the nearest village, settlement or community.
- 11.5 The site can only be accessed via an unadopted single track road of approx. 250m. Downholland has very few and sparse facilities and services which would mean that occupants of the development would, more than likely, need to travel by means other than foot / bicycle, to the nearest facilities and services (i.e. the site is an unsustainable location). The site has poor transport links, the bus routes on Broad Lane comprises of two school bus routes and an infrequent public service from Ormskirk to Southport. The nearest bus stop is some distance from the proposals at approx. 750m, close to the junction with the A5147. More extensive facilities such as shops, medical centres, railway station and secondary schools are located in Ormskirk or Aughton, which are at a considerable distance from the site.
- 11.6 Therefore it is my conclusion that for the purposes of paragraph 79 of the NPPF, that the development would result in twelve isolated dwellings in the countryside.

- 11.7 As isolated dwellings should be avoided, unless there are special circumstances, the conversion of farm buildings to residential use in this location would only be acceptable if the buildings were judged to have a heritage value (criteria b) or other special circumstance such as the development would re-use redundant or disused buildings and enhance the immediate setting (criteria c) or the scheme's design is considered to be of exceptional quality (criteria e) as listed in paragraph 79.
- 11.8 In terms of the site having any heritage value, Paragraph 5.18 of the applicant's Planning Statement states that none of the existing buildings display any architectural merit in terms of arrangement or detailing, however the site does contain a number of building typologies which reflect how farming and the construction of agricultural buildings have changed over the last century. It is considered by the applicants that utilising the existing buildings will conserve the manner in which this farm has historically developed and in this context it is argued that some of the buildings have heritage value and the proposal would represent the optimal viable use to secure their future.
- 11.9 It is not confirmed within the supporting documentation which buildings are considered by the applicant to have heritage value or the background to how the site has historically developed. Generally, it would be expected that a heritage statement is submitted with any application to confirm this detail. Many of the buildings that are proposed to remain on site are to have alterations including fenestration modifications and additional cladding. It is also unclear if the removal of numerous buildings on the site would fail to conserve the manner in which the farm has developed. Therefore, without a heritage statement, I am unable to judge whether these alterations would have a significant impact upon any potential heritage asset on the site.
- 11.10 In relation to criteria c, in that the development would re-use redundant or disused buildings and enhance its immediate setting, the applicant states that in this case, the development would result in a reduction of footprint and volume of built development on the site and that parts of the site being returned to grazing land and a comprehensive landscaping scheme would result in substantial benefit to the Green Belt. A number of appeal cases have been brought to my attention which state that the re-use of redundant agricultural buildings for residential purposes does not necessarily mean there will be an enhancement of the immediate setting on account of the domestic paraphernalia that would accompany such a conversion, and that vacant agricultural buildings are not an unusual sight in rural areas. The site at present whilst vacant is not untidy. Although returning land to grazing land is beneficial, in my view this small benefit would not outweigh the harm to the site in terms of its domestication. The domestication of the site, including the creation of curtilages, boundary treatment, hardstanding and other domestic paraphernalia would be to the detriment of the rural setting.
- 11.11 Lastly, criteria e of paragraph 79 relates to design that is of exceptional quality. The applicant has not put forward a case to meet criteria e, however although I do not object to the design of the development in general as it is not uncommon to see conversions of buildings of this nature, it is my view that the design of the development cannot be considered of exceptional quality.
- 11.12 As no other special circumstances are apparent I am therefore of the opinion that the development would fail to comply with paragraph 79 of the NPPF, and that isolated dwellings should be avoided as a compelling case for special circumstances has not been made.

Principle of Development – Green Belt

- 11.13 Policy GN1 of the Local Plan advises that development proposals within the Green Belt

will be assessed against national policy and any relevant Local Plan policies.

- 11.14 The NPPF, at paragraph 133, confirms that the *“fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”*. Paragraph 134 sets out the five purposes of Green Belt land and paragraph 141 of the NPPF advises that within the Green Belt opportunities should be taken to retain and enhance landscapes, visual amenity and biodiversity and to improve damaged or derelict land.
- 11.15 Paragraph 146 of the NPPF states that certain forms of development are not inappropriate development provided they preserve openness and do not conflict with the purposes of including land in the Green Belt. The re-use of buildings is one such form of development, provided the buildings are of permanent and substantial construction. This is re-iterated by Policy GB2 of the Councils SPD for development in the Green Belt (criteria 1 (a)) which confirms the building should be capable of conversion without major change, demolition or extension.
- 11.16 In terms of whether the existing buildings are of permanent and substantial construction and therefore capable of conversion, a Structural Appraisal Report (June 2017) and further addendum (05/06/2018) has been submitted with the planning application.
- 11.17 The initial Structural Appraisal Report (June 2017) survey in my view does not provide sufficient and clear information to allow an informed decision as to whether the buildings meet the requirements of paragraph 146. My main concerns from this report centres around building 8 (Plot 10); building 9 (Plots 11 and 12) and building 10 (Plots 3, 4 and 5).
- 11.18 The addendum report submitted by REFA Consulting Engineers provides additional information on the works which are required to each of these buildings to bring them to habitable use. Works to building 9 indicate re-building of less than 10% of the overall structure which is acceptable. However, in terms of Building 8 (Plot 10) and Building 10 (Plots 3, 4 and 5) works such as the provision of new elevations, new external cladding systems and requirements to provide internal supporting structure in my opinion go beyond what can be reasonably be described as 're-use'. In my view these works would largely suggest that the buildings are not capable of conversion but would require substantial re-building to support a residential use. The development would therefore be in conflict with paragraph 146 of the NPPF.
- 11.19 I note the submitted Planning Statement makes reference to Policy GB2 of the Council's SPD on Green Belt development, second criteria (1) (b), which states that the proposal must maintain and enhance the character and wider landscape setting and site features. It is advised that the proposals would result in a 47.2% reduction in footprint and 41.2% reduction in volume on site, land would be returned to grazing and a comprehensive landscaping scheme is proposed. The proposals will see buildings 1, 2, 11, 13, 14 and 16 being demolished.
- 11.20 Although it is agreed that the removal of some of the existing buildings would undoubtedly result in a more open site, they will be replaced by areas of roads, paths, parking areas, gardens and boundary treatments. This would give rise to a significant change in character with the site showing significant domestication and the surrounding land appearing more typical of a suburban location due to its formalisation, its domestic use and associated paraphernalia. This would conflict with the rural character of the Green Belt and the locality generally and therefore conflict with Policies GN1 and GN3 of the WLLP.
- 11.21 The final criteria of Policy GB2 (1) (c) requires the proposal to improve the external

appearance of the buildings. In terms of converting rural buildings, the Council encourages the character of the farm buildings to be maintained and the conversions should cause minimum disruption to the architectural character of the building. Significant amendments have been made since first submission which see the removal of car port structures, ornate features such as planters and front canopies – proposals to building 17 have also been removed from the planning application. Fenestration has also been re-considered, with new openings reduced and the introduction of roof lights to ensure that the alterations are kept to the absolute minimum. Criteria c has been met.

11.22 However I consider that from the information provided, the applicant has failed to demonstrate that the development would comply with paragraph 146 of the NPPF. The buildings have not been shown to be of permanent and substantial construction and therefore the scheme represents inappropriate development that would create harm to the Green Belt. Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green belt and should not be approved except in very special circumstances. No very special circumstances have been demonstrated.

Principle of Development – passing places

11.23 Paragraph 90 of the NPPF is relevant and states that certain other 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. One form of development listed is engineering operations.

11.24 The plans show improved junction works onto Broad Lane and the creation of two passing places along the length of the private road leading to Tanpit Farm, such works will result in a small loss of openness and therefore should only be supported where very special circumstances exist.

11.25 The improvements to the junction and passing places as well as improving visibility will also allow for manoeuvring and allow larger vehicles / refuse vehicles and cars to pass safely. The works would have a beneficial impact to highway safety.

11.26 Therefore, it is my view as the works have been kept as small as possible (to ensure minimum encroachment onto the green belt) and have demonstrated an improvement to highway safety I consider them to be acceptable. Any impact on openness would be offset by removal of built form within the site.

Principle of Development – Loss of agricultural facilities

11.27 West Lancashire Local Plan (WLLP) Policy EC2 'The Rural Economy' is applicable. This policy aims to protect the continued employment use of existing employment sites, including agriculture. The site therefore must be recognised as being an employment opportunity site within this rural area. Policy EC2 of the Local Plan advises that employment opportunities in rural areas of the Borough are limited, and therefore the Council will seek to protect the continued employment use of existing employment sites.

11.28 I note the applicant's agent disputes the use of Policy EC2 in assessing the proposals and considers that the policy is more relevant to B class uses or similar and not agricultural uses. Policy EC2 does state that this should include any type of employment use, including agriculture and farming. In order to consider alternative uses on such sites, Policy EC2 confirms that that it must be robustly demonstrated that the site is unsuitable for on-going viable employment use in accordance with the requirements of Policy GN4 of the Local Plan.

- 11.29 The applicant has put a case forward to the LPA in line with Policy EC2 and Policy GN4 section 1(b) of the Local Plan. This seeks to demonstrate that the site is unsuitable for ongoing viable employment use because access/ highway issues and the physical constraints of the site make it unsuitable. The applicant indicates that the site has substandard access arrangements and due to its location is unsuitable for large scale commercial purposes. The applicant asserts that the continued commercial use of site, would attract significantly more vehicle movements from staff and deliveries including HGV movements and would have a greater impact on the residential amenity of nearby properties through increased noise and disturbance.
- 11.30 The applicant states there would be no loss of employment at the site given the agricultural activities at the site (intensive pig rearing) ceased in 2016. It is advised that the owner of Owens Farm (adjacent to the site) owns and controls the land which provides direct access to the application site and the land either side. The owners of Owens Farm oppose any commercial re-use of the site and have confirmed they would not permit access or road improvements to any such uses over this land. The owners of Owens Farm have agreed to two passing places and access improvements as part of a residential development only.
- 11.31 Policy EC2 in the Local Plan requires applicants to robustly demonstrate that sites are unsuitable for ongoing viable employment use. In this particular case whilst I accept that the site is not suitable for commercial uses, little information has been submitted to indicate that Tanpit Farm could not be used for other agricultural purposes. The site was used for intensive pig production as recently as 2016 and no information has been submitted to show that it has been unsuccessfully marketed for alternative agricultural purposes. Whilst some of the buildings on site (e.g. sow house) have been designed specifically for pig production, there are several other forms of agricultural building on the site which could be potentially re-used for agricultural purposes.
- 11.32 Whilst I note the information regarding rights of access to Tanpit Farm, this is a civil matter. On balance, I cannot conclude that it has been robustly demonstrated that the site is no longer suitable for agricultural use. Therefore taking the above into consideration, I consider the development would fail to comply with policy EC2 of the WLLP.

Impact upon residential amenity

- 11.33 Policy GN3 of the Local Plan requires new development to “retain or create reasonable levels of privacy, amenity and sufficient garden/outdoor space for occupiers of the proposed and neighbouring properties”.
- 11.34 The nearest residential properties to the site are Tanpit Farm House and Tanpit Farm Cottage. There is a large agricultural building to the south of Tanpit Farm House which partially screens the development from views to the south. The proposed dwellings are at a satisfactory interface distance from these properties not to result in any overlooking, loss of privacy or amenity.
- 11.35 It is also important to consider the amenity of the occupants of the proposed properties. Careful consideration has been given to window location in order to prevent any undue overlooking concerns. The layout of the development is satisfactory and meets with minimum interface distances as recommended within the Councils SPD to avoid any amenity issues. Notwithstanding the principle of the development, the garden areas are commensurate with the sizes of the plots.

Impact upon Listed Building

11.36 Owens Farm is a Grade II Listed Building. Owens Farm is approximately 120m north-west of the application site. In my view taking this distance into consideration and the nature of the works, I would not foresee a detrimental impact upon the Listed Building, therefore the requirements of Policy EN4 and the Council's duty under own Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 to ensure preservation or enhancement of character and appearance or historic assets in considered to be met.

Highways and public rights of way

11.37 Broad Lane (B5195) is a classified road of approx. 6m carriageway width at the access and a footway on the southern side only. There is a speed limit of 60mph fronting the site. The proposed development will be accessed off Broad Lane via an existing private single lane access road.

11.38 The plans submitted indicate that the existing junction with Broad Lane is to be improved to provide a 5.5m wide carriageway extending 10m into the site with 2m wide footway on the western side and 6m radii and the construction of 2 additional passing places along the length of the private road.

11.39 The proposed passing places have an 18m length and minimum carriageway width of 5.5m. This is satisfactory to allow large vehicles/ refuse vehicles and cars to pass safely.

11.40 In terms of access visibility, the sight line requirement requested by LCC Highways for a 60mph road is 2.4m x 201m. A traffic study has been submitted by the applicant and the results indicate that the 85 percentile speeds are 30.3mph for vehicles travelling eastbound and 36.2mph for vehicles travelling westbound. This will require visibility splays of 2.4m x 65m to the west of the access and 2.4m x 86m to the east of the access. The submitted plans show that these splays can be achieved and their implementation could be secured via planning condition.

11.41 As this site is rural in location with low accessibility, it is likely that most journeys to and from the site would be made by car. The previous use of the site was as an intensive piggery operation which would have had levels of traffic to the site in terms tractor movements, feed deliveries and the delivery in and out of pigs. The submitted Transport Statement gives an estimated trip generation of 8 two-way vehicle movements in the week day AM peak and 4 two-way movements on the week day PM peak hours. The Transport Statement demonstrates that the proposed housing development would have a negligible impact on highway capacity within the immediate vicinity of the site and vehicles for the proposed housing would consist of cars/LGV's which would replace the tractor/HGV movements associated with the former use. The Highway Authority raises no objections and considers there would be no detrimental impact on highway safety or capacity.

11.42 The submitted plans display adequate off road parking provision for the size and type of development and meet with the requirements of Policy IF2 of the WLLP.

11.43 The track leading off Broad Lane to the site is also a public right of way (F/P 16 Downholland). This extends for approx.127m in a southerly direction from the junction with Broad Lane where it then turns in a south easterly direction toward Owens Farm, it then links in to Footpath 10 which runs in a north easterly/south westerly direction toward Tanpit Farm House and the southern end of the access road at which point the footpath links in to Footpath 21 which runs immediately behind Plots 10, 11 & 12.

- 11.44 The Footpaths Officer (LCC) has been consulted on the planning application and has advised that the rights of way should not be obstructed during or after construction. Any diversion or closure should be applied for and certified.
- 11.45 The Highway Authority has been consulted on the proposals and raise no objection in principle to the proposed development and is of the opinion that the level of traffic generated by this proposal would not have any material impact on highway capacity within the immediate vicinity of the site.

Ecology

- 11.46 Policy EN2 of the WLLP states that where there is reason to suspect that there may be a priority species, or their habitat, on or close to a proposed development site, planning applications should be accompanied by a survey assessing the presence of such species and, where appropriate, making provision for their needs. This allows the LPA to screen the project against the Habitats Regulations and relevant national and local policy.
- 11.47 A Preliminary Ecological Appraisal (October 2016) and a Bat Survey and Method Statement (August 2017) has been submitted with the planning application. Advice has been sought from MEAS in relation to the information provided.
- 11.48 The surveys have confirmed that the proposals involve roof works to a structure containing a bat roost (which are protected). The development will therefore require the developer to obtain the relevant European Protected Species License authorising the specified development to go ahead. Mitigation and additional measures required will be secured by planning condition on any approval. The Local Planning Authority is required to assess the proposed development against the three tests set out in Regulation 53 of the Habitats Regulations –

The three tests are:

Test 1: Regulation 53(2)(e): “*preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment*”

Test 2: Regulation 55(9)(a): “*that there is no satisfactory alternative*”

Government guidance on protected species licensing states that a reasoned statement, which includes the supporting evidence and statements on how the proposals meet test 1 and 2, is not required in support of an application for an EPS licence in the following circumstances:

- a Housing developments of less than 1 hectare, including:
 - i. Existing buildings and associated structures that may need to be demolished before redevelopment takes place (whether domestic dwellings or other types of buildings); or
 - ii. Barn conversions for domestic dwellings (not including conversion for commercial use, such as holiday lets).

The assessment of the proposals against the three tests is to ensure that the proposals are likely to be granted a licence prior to determination of the planning application. As the proposals in this case meet one of the criteria above, and satisfy test 3, a licence is likely to be granted.

Test 3: Regulation 55(9)(b): “*that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range*”

The proposals affect a roost used by small number of common pipistrelle and acceptable mitigation for disturbance of the roost has been included in section 6 of the survey report. If this mitigation is implemented there will be no detrimental effect on the population of the species or its favourable conservation status. This test has been satisfied.

- 11.49 Subject to securing the appropriate licenses and implementing the detailed mitigation proposals the development is acceptable under the terms of Policy EN2 of the WLLP in respect to protecting biodiversity interest.

Trees and Landscaping

- 11.50 Policy EN2 of the West Lancashire Local Plan states that development involving the loss of, or damage to, woodlands or trees of significant amenity, screening, wildlife or historical value will only be permitted where the development is required to meet a need that could not be met elsewhere and where the benefits of the development clearly outweigh the loss or damage.
- 11.51 A Tree Survey and Protection Plan has been submitted with the application together with a landscape proposal plan, specification and planting schedule.
- 11.52 The Councils Arboricultural Officer has been consulted on the development. In relation to protecting existing trees on site, an area of surfacing is required within some of the root protection area (RPA) of G10. There appears to be no details on the construction of the surface. Therefore the Councils Arboricultural Officer recommends that a planning condition for a method statement for the construction of the surface within the RPA is included with any approval of the application.
- 11.53 In terms of landscaping, the choice of planting material is appropriate for the site with structure planting and layout suitable for the setting of the site. However the proposed planting to the, eastern, southern and western boundaries consists of mostly shrub planting with few trees. This would provide some limited screening but would still allow open views into the surrounding countryside and therefore the development would not be enclosed from the surrounding Green Belt. It is considered that additional landscaping details would be subject to a planning condition on any approval to ensure a greater screen to this Green Belt site.

Drainage

- 11.54 It is indicated that foul sewage will be disposed of via a package treatment plant and surface water via a sustainable drainage system. A Flood Risk Assessment and detailed Drainage Strategy has been submitted for assessment.
- 11.55 The application and submitted drainage information has been reviewed by the Lead Local Flood Authority who have advised that they have no objections in principal to the proposal. The submitted FRA adequately addresses the flood risk in relation to the site. The LFFA recommend that if the Local Planning Authority is minded to grant planning permission conditions are imposed to ensure development is carried out in accordance with FRA and that infiltration testing takes place to establish a drainage scheme that complies with the hierarchy of preferred site drainage options. Therefore I am satisfied that the site can be adequately drained in accordance Policy GN3 of the WLLP.

Minerals Safeguarding Area

- 11.56 The Lancashire County Council Minerals and Waste Site Allocation and Development Management Policies DPD was adopted in 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, 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. As such, a Minerals Assessment is required which identifies what, if any, minerals lie beneath the ground and whether they are worthy of extraction.

11.57 A Minerals Assessment (Curtins, April 2018) has been submitted. This report concludes that the site is not viable for the recovery of minerals and the proposed development is not considered to be sterilizing potential future recovery. LCC Minerals have responded to a consultation and raise no comments.

Other Matters

11.58 LCC Education have requested via an Education Contribution Assessment a contribution of £42,846.56 for two secondary school places. This could be secured by a section 106 Agreement in the event that the application were recommended for approval.

12.0 CONCLUSION

12.1 The scheme would result in isolated dwellings in the countryside. The applicant has not demonstrated the buildings are capable of conversion without major rebuilding works. The proposed development is inappropriate development within the green belt and the applicant has failed to robustly demonstrate that the site could not be brought back into viable agricultural use. Therefore I consider the proposal to be unacceptable in principle.

13.0 RECOMMENDATION

13.1 That planning permission be REFUSED for the following reasons:

Reasons for Refusal

1. The proposal is contrary to paragraph 79 of the National Planning Policy Framework and Policies GN1 and RS1 of the West Lancashire Local Plan (2012-2027) DPD in that the development would result in new isolated homes in the countryside and delivery of market housing outside of a settlement in a non-sustainable location. Insufficient special circumstances have been identified to support the development in this context.
2. The proposed development is contrary to paragraph 146 of the National Planning Policy Framework and Policy GN1 of the West Lancashire Local Plan (2012-2027) DPD in that it has not been demonstrated that the buildings are of permanent and substantial construction and capable of conversion to residential use without major change, demolition or extension and the scheme therefore results in the construction of new buildings in the Green Belt. No very special circumstances have been identified to outweigh the harm by inappropriateness.
3. The proposed development constitutes inappropriate development in the Green Belt that detracts from the visual amenity of the Green Belt and involves urbanising encroachment in the countryside, thereby conflicting with one of the purposes of including land in the Green Belt aimed at safeguarding the countryside from encroachment by inappropriate uses. This would be contrary to Policies GN1 and GN3 of the West Lancashire Local Plan (2012-2027), the National Planning Policy Framework (NPPF) and the Supplementary Planning Document 'Development in the Green Belt' (Oct 2015). No very special circumstances have been identified which would outweigh the harm caused.

4. The proposed development fails to comply with the National Planning Policy Framework, Policies EC2 and GN4 in the West Lancashire Local Plan 2012-2027 DPD in that the applicant has failed to robustly demonstrate that the site is unsuitable for on-going viable agricultural use.



PLANNING COMMITTEE: 18 October 2018

Report of: **Borough Solicitor**

Contact for further information: **Mr M E Jones (Extn. 5025)**
(E-mail: matthew.jones@westlancs.gov.uk)

SUBJECT: PLANNING CODE OF GOOD PRACTICE

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To update the Planning Code of Good Practice to reflect current good practice and recent case law.

2.0 RECOMMENDATIONS

2.1 That the updated Planning Code of Good Practice, attached at Appendix 1, be adopted.

3.0 BACKGROUND

3.1 Members will recall that at the February meeting of Planning Committee members considered a report of the Borough Solicitor recommending adding additional wording to paragraph 10 of the Planning Code of Good Practice, in the form of a checklist, to reflect current good practice and recent case law, when dealing with motions contrary to officer recommendation.

3.2 Members considered that it would be helpful to discuss the proposed update at the annual planning training session and accordingly resolved:

That the item be deferred until the next available meeting following the Members' planning training session, due to be held in Summer 2018.

3.3 The planning training session was held on 10 July 2018 and was well attended by Planning Committee members. The training session was led by a representative of the Planning Officers' Society and part of the training day focussed on decision making at planning committees and the proposed update to the Code (see Appendix 1 – additional wording/changes shown in highlighted italics).

4.0 PROPOSED UPDATE – DECISION MAKING – CHECKLIST

4.1 The recent Supreme Court decision in the case of *Dover* endorses the long standing practice of Planning Committee to provide reasons for all its decisions, particularly in circumstances where members wish to determine a planning application in a different way to officer recommendation. This is consistent with the Council's Members' Code of Conduct which provides that members must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council (paragraph 7.2).

4.2 Several key points emerged from the Supreme Court's decision:

- Where there is a legal requirement to give reasons, an adequate explanation of the ultimate decision is needed, leaving no room for genuine doubt as to what has been decided and why.
- Committees of elected members of local authorities are to be held to the same standard as is applicable to others (such as inspectors or the Secretary of State).
- Where a defect in reasons goes to the heart of the justification for planning permission, the only appropriate remedy is to quash the permission.
- Local authorities are already under a statutory duty to give reasons where a planning application is refused. Although there is no statutory duty to give reasons where permission is granted, fairness under the common law will often require reasons to be given.
- The Court emphasised the importance of open justice and transparency, particularly in a decision where there is significant public interest.

4.3 The proposed update is designed to build upon the safeguards already existing at paragraph 10 of the Code to help to ensure that decisions of Planning Committee can withstand legal scrutiny. Accordingly, a new final bullet point to paragraph 10 is proposed reflecting current good practice (in the form of a checklist) to ensure no important matters are overlooked when members wish to determine an application contrary to officer recommendation.

4.4 Adopting the checklist will help to ensure that members have the benefit of professional officer advice regarding the implications of taking a decision contrary to officer recommendation and that members' reasoning is transparent and clearly explained to members of the public present at the meeting and recorded within the minutes. In addition, where the proposal is to approve the application, the checklist helps to ensure that arrangements are put in place to secure the imposition of all necessary planning conditions and that Section 106 community benefits can be delivered.

4.5 At the planning training session members were supportive of the checklist and considered that it would assist them during the decision making part of their

deliberations. With regard to situations where the Committee are considering approving an application contrary to officer recommendation one former member did express a preference for any necessary planning conditions to be considered at a future meeting of Planning Committee, rather than being delegated to officers (in consultation with the Chairman or Vice-Chairman). It is important to note that the checklist is designed to ensure that important matters are not overlooked in the decision making process and would not prevent, in appropriate circumstances, Committee resolving to consider planning conditions recommended by the Director of Development and Regeneration at a future meeting. However, the expectation would be that this would be reserved to more complex matters, rather than being as a matter of routine, given the need to ensure that planning applications are determined in accordance within the challenging statutory timescales.

- 4.6 Minor amendments (also shown in highlighted italics at page 2 of Appendix 1) are also suggested to the Code to reflect changes in personnel/planning terminology since the Code was last considered.
- 4.7 It is usual to report any updates of the Planning Code of Good Practice to Standards Committee. The next meeting is due to be held in Spring 2019 and a report will be prepared for that meeting noting the decision of Planning Committee with regard to the updated Code.

5.0 SUSTAINABILITY IMPLICATIONS

- 5.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder.

6.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 6.1 There are no significant financial or resource implications arising from this report.

7.0 RISK ASSESSMENT

- 7.1 The adoption of an updated Planning Code of Good Practice that provides a checklist for members when taking decisions contrary to officer recommendation will help to ensure that decisions reached by members are robust and able to withstand legal scrutiny.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

The adoption of an updated Planning Code of Good Conduct to reflect current law and good practice does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

1. Updated Planning Code of Good Practice

Constitution 16.3: Planning Code of Good Practice



MEMBERS' PLANNING CODE OF GOOD PRACTICE

Background

The Members' Planning Code of Good Practice is derived from an existing national model code recently revised by Lawyers in Local Government (LLG), in order to promote best practice in the planning process.

The drafting of the original model code was subject to consultation and comment from a number of local authorities through the machinery of the Association of Council Secretaries and Solicitors (now LLG), the Local Government Association, the Local Government Ombudsman, Audit Commission and from firms of solicitors or counsel acting on their behalf.

The Code takes into account the changes to the Seven Principles of Public Life (the 'Nolan principles') and commentary from the Committee on standards in public life, the changes in the approach to codes of conduct and also to predetermination introduced by the Localism Act 2011 and the guide on 'Openness and transparency on personal interests' published by the Department for Communities and Local Government in 2013.

For further reading please refer to 'Probity in Planning' issued by the Local Government Association.

Introduction

The aim of this Code: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

When the Code applies: this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and

consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his staff, and preferably well before any meeting takes place.

1. Relationship to the Members' Code of Conduct

- **Do** apply the rules in the Members' Code of Conduct first, which must always be complied with, namely the rules on Disclosable Pecuniary Interests, Pecuniary Interests, Non-Pecuniary Interests and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- **Do** then apply the rules in this Members' Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct and the law on decision making for the purposes of **development management**. If you do not abide by this Members' Planning Code, you may put:
 - the Council at risk of proceedings on the legality of the related decision or maladministration; and
 - yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the interest provisions of Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

2. Development Proposals and Interests under the Members' Code of Conduct

- **Do** disclose the existence and nature of your interest as required by the Members' Code of Conduct.
- **Do take into account when approaching a decision** that the Principle of Integrity is defined in terms that

*"Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships**".*

It is therefore advisable that you:

- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have an interest under the Members' Code of Conduct, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
- **Do** note that you are not prevented from seeking to explain and justify a proposal in which you have an interest to an appropriate officer, in person or in writing, but that your role as a councillor may place additional limitations on you in representing the proposal in which you have an interest.

- **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest (for instance if you are an applicant for planning permission) or other personal conflict of interest and note that:
 - you should send the notification no later than submission of an application where you can;
 - where an application has been submitted by you, your spouse, or by a member of your close family it will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
 - you must not get involved in the processing of the application; and
 - it is advisable that you consider the appointment of an agent to act on your behalf in respect of the proposal when dealing with officers and in circumstances where you are eligible to address Committee under the Council's public speaking rules in the same way that an ordinary member of the public would.

3. **Fettering Discretion in the Planning Process** (natural justice, predisposition and predetermination)

- **Don't** fetter your discretion by approaching the decision with a closed mind.
- **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.
- **Do** keep at the front of your mind that, when you come to make the decision, you
 - are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;
 - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice as well as the arguments from all sides;
 - are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;
 - are only entitled to take into account material considerations and must disregard considerations irrelevant to the question and legal context at hand; and
 - are to come to a decision after giving what you feel is the right weight to those material considerations,
- **Do** be aware that you may be perceived to be biased where the Council is the landowner, developer or applicant if you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership

of, for example, both Cabinet and Planning Committee, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

- **Do** consider yourself able to take part in the debate on a proposal at Planning Committee where you are also a member of a consultee body (for instance where you are a member of a parish council) provided:
 - you do not have a disclosable pecuniary interest, or pecuniary interest in the proposal (which may arise for instance in circumstances where an application is made by the consultee body itself) and
 - you made it clear at the consultee stage (in circumstances where you chose to comment on the proposal, for instance at a Parish Council meeting), that:
 - your views are expressed on the limited information before you only and these views do not commit yourself as to how you or others may vote when the proposal comes before Planning Committee;
 - you reserve judgement and the independence to make up your own mind on the proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Planning Committee and you hear all of the relevant information; and
 - you inform the Planning Committee, during its consideration of the proposal, of any prior involvement by you at the consultee stage

- **Do** consider yourself able to take part in the debate on a proposal at Planning Committee where the Council is a consultee on a matter to be determined by another body in circumstances where you serve on the decision making committee of that other body (for instance where the proposal relates to a planning matter to be determined by the County Council and you serve on both the Planning Committee and the County Council's Development Control Committee) provided:
 - you do not have a disclosable pecuniary interest, or pecuniary interest in the proposal
 - you make it clear to Planning Committee that
 - your views are expressed on the information before you and these views do not commit yourself as to how you or others may vote when the proposal comes before you for consideration by the decision making body;
 - you reserve judgement and the independence to make up your own mind on the proposal, based on your overriding duty to the whole community served by the decision making body as and when the proposal comes before that body and you hear all of the relevant information; and
 - you inform the decision making body, during its consideration of the proposal, of any prior involvement by you at the consultee stage”

- **Do** alternatively explain that you do not intend to speak and vote as a member of the Committee because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- **Do** consider taking the opportunity where you have fettered your discretion but do not have a disclosable pecuniary interest, pecuniary interest or other personal conflict of interest to exercise any separate speaking rights as a Ward Member that you may have, in accordance with the Regulatory Committee Procedure Rules.

4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Don't** agree to any formal meeting requests from applicants, developers or groups of objectors. Where you feel that a formal meeting would be useful in clarifying the issues, you should not seek to arrange that meeting yourself but should request the Director of Development and Regeneration to organise it. Planning officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:
 - follow the rules in paragraph 5 on lobbying;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted with a meeting request; and
 - report to the Director of Development and Regeneration any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition in respect of public presentations by applicants/developers:

- **Do** attend formal planning presentations by applicants/developers where you feel that this will assist you in understanding planning proposals.
- **Do** ask relevant questions for the purposes of clarifying your understanding.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application.
- **Do** be aware that a presentation is a form of lobbying. You must take great care when expressing any views on the merits or otherwise of the proposal presented not to fetter, or give the appearance of fettering, your discretion on any subsequent application.

5. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to make any sort of promise to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. (An offer of hospitality of a bare minimum, such as a tea or coffee may be accepted where this is appropriate in the circumstances of the engagement).
- **Do** copy or pass on any lobbying correspondence you receive to the Director of Development and Regeneration at the earliest opportunity.
- **Do** promptly refer to the Director of Development and Regeneration any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
 - listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind when it comes to making the decision);
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion of others in your role as a Ward Member.

6. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby, promote or oppose planning proposals unless you notify the Director of Development and Regeneration of your involvement in the organisation and are prepared to step away from the Committee when it comes to make its decision.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian

Society, CPRE, Ramblers Association or a local civic society), but do consider whether you should seek to disclose your membership to aid transparency where the organisation has made representations on a particular proposal.

- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- **Don't** decide or discuss how to vote on any application at any political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

7. Site Visits/Inspections

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
 - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
 - you feel it is essential for you to visit the site other than through attending the official site visit,
 - you have first spoken to the Director of Development and Regeneration about your intention to do so and why (which will be recorded on the file) and

- you can ensure you will comply with these good practice rules on site visits.

8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.

9. Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Director of Development and Regeneration, which may be incorporated into any committee report).
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation that you set out your planning reasons in writing. This will then be referred to in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- **Do** ensure you have sound planning reasons for a request to defer any proposal.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. Where you propose a decision contrary to officers' advice you should state clearly and precisely your reason(s) specifying all matters, policies and proposals relevant to your reason(s) including why you disagree with the reasoning in the officer's report which

led to that recommendation. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

- **Do ensure that you co-operate with the following procedures:**

Where a motion is to be put to a meeting, which if successful would result in the overturning of the recommendation of the Director of Development and Regeneration, with regard to the determination of an application, the Chairman will ensure the following steps have been taken before putting the motion to the vote:

1. *Officers have been given the opportunity to explain the reasons why the application has been recommended for refusal/approval.*
2. *That the motion includes:*
 - a) *A summary of the reasons why the mover of the motion considers the application should be approved/refused ideally by reference to the Development Plan, local and national planning policies (including the NPPF) and all other relevant material planning considerations.*
 - b) *Where necessary, a summary of the reasons why the mover of the motion disagrees with the reasoning in the officer report which led to the recommendation, ensuring, where appropriate, all relevant policy tests are considered.*
 - c) *Where the motion is to approve - appropriate delegation to the Director of Development and Regeneration (in consultation with the Chairman or Vice Chairman) in order to ensure that appropriate planning conditions can be drawn up and/or a section 106 planning obligation is entered into (or other matters dealt with) prior to approval.*
3. *That the motion has been recorded by the Member Services Officer in writing and subsequently read out so members of the Committee and all relevant parties (including members of the public present) are clear as to what has been proposed.*

12. Training

- **Do** make every effort to attend the planning training sessions provided by the Council.
- **Do** endeavour to attend any other relevant training sessions provided by the Council.

MEMBERS' PLANNING CODE OF GOOD PRACTICE