



Jacqui Sinnott-Lacey  
Chief Operating Officer

52 Derby Street  
Ormskirk  
West Lancashire  
L39 2DF

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Tuesday, 7 March 2023

**TO: COUNCILLORS D O'TOOLE, J FINCH, M ANDERSON, A BLUNDELL, A FENNELL, A FOWLER, P HOGAN, J HOWARD, G JOHNSON, G OWEN, E POPE, J THOMPSON, MRS J WITTER AND 1 VACANCY (INDEPENDENT MEMBER)**

Dear Councillor,

A meeting of the **PLANNING COMMITTEE** will be held in the **COUNCIL CHAMBER - 52 DERBY STREET, ORMSKIRK, L39 2DF** on **THURSDAY, 16 MARCH 2023** at **7.00 PM** at which your attendance is requested.

Yours faithfully

A handwritten signature in black ink, appearing to be 'JS', written over a light blue circular stamp.

Jacqui Sinnott-Lacey  
Chief Operating Officer

**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** 429 - 430  
If a member requires advice on Declarations of Interest, he/she is advised to contact the Legal and Democratic Services Manager 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** 431 - 434  
To receive as a correct record the minutes of the meeting held on the 16 February 2023.
- 7. PLANNING APPLICATIONS**  
To consider the report of the Corporate Director of Place and Community.
- 7a 2022/0642/FUL - LAND TO THE SOUTH OF CHANCEL WAY, BURSCOUGH 435 - 458
- 7b 2022/0916/FUL - 2 GREYSTOKES, AUGHTON 459 - 474
- 7c 2022/1164/FUL - 10 MIDDLEWOOD ROAD, AUGHTON, ORMSKIRK, LANCASHIRE 475 - 490
- 7d 2022/0769/FUL - BUNGALOW FARM, HEATONS BRIDGE ROAD, SCARISBRICK 491 - 516
- 7e 2022/1154/FUL - ELLAN VANNIN, LONG HEYS LANE, DALTON 517 - 526
- 7f 2022/0109/FUL - COPELANDS FARM, DRUMMERSDALE LANE, SCARISBRICK 527 - 536
- 7g 2021/0507/ARM - SITE OF FORMER YEW TREE FARM, HIGGINS LANE, BURSCOUGH 537 - 552
- 7h 2022/1167/FUL - CO-OP FOOD, 1 HOOLE LANE, BANKS 553 - 560
- 7i 2023/0008/FUL - OLD GORE BARN, ALTCAR LANE, GREAT ALTCAR, LIVERPOOL 561 - 572

**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](mailto: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**.



# Agenda Item 4

## MEMBERS INTERESTS 2012

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

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

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

Please tick relevant boxes

Notes

	General		Notes
1.	I have a disclosable pecuniary interest.	<input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 below</i>
2.	I have a non-pecuniary interest.	<input type="checkbox"/>	<i>You may speak and vote</i>
3.	I have a pecuniary interest <b>because</b> it affects my financial position or the financial position of a connected person or, a body described in 10.1(1)(i) and (ii) <b>and</b> the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest or it relates to the determining of any approval consent, licence, permission or registration in relation to me or a connected person or, a body described in 10.1(1)(i) and (ii) <b>and</b> the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest	<input type="checkbox"/>          <input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i>          <i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i>
4.	I have a disclosable pecuniary interest (Dispensation 20/09/16) or a pecuniary interest but it relates to the functions of my Council in respect of:  (i) Housing where I am a tenant of the Council, and those functions do not relate particularly to my tenancy or lease.  (ii) school meals, or school transport and travelling expenses where I am a parent or guardian of a child in full time education, or are a parent governor of a school, and it does not relate particularly to the school which the child attends.  (iii) Statutory sick pay where I am in receipt or entitled to receipt of such pay.  (iv) An allowance, payment or indemnity given to Members  (v) Any ceremonial honour given to Members  (vi) Setting Council tax or a precept under the LGFA 1992	<input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>	<i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>
5.	A Standards Committee dispensation applies (relevant lines in the budget – Dispensation 15/09/20 – 14/09/24)	<input type="checkbox"/>	<i>See the terms of the dispensation</i>
6.	I have a pecuniary interest in the business but I can attend to make representations, answer questions or give evidence as the public are also allowed to attend the meeting for the same purpose	<input type="checkbox"/>	<i>You may speak but must leave the room once you have finished and cannot vote</i>

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

### Interest

Employment, office, trade, profession or vocation

Sponsorship

### Prescribed description

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

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

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

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

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

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

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

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

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

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

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

**'a connected person'** means

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

**'body exercising functions of a public nature'** means

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

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

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



# Agenda Item 6

## PLANNING COMMITTEE

**HELD:** Thursday, 16 February 2023

Start: 7.00 pm

Finish: 7.35 pm

### PRESENT:

Councillor: D O'Toole (Chairman)

Councillors:	A Blundell	A Fennell
	A Fowler	J Howard
	G Owen	E Pope
	J Thompson	J Witter
	P Burnside	A Owens

Officers Steve Faulkner, Planning Services Manager  
Kate Jones, Planning Services Team Leader  
David Delaney, Legal Assistant (Planning)  
Julia Brown, Democratic Services Officer

### 62 APOLOGIES

There were no apologies received.

### 63 MEMBERSHIP OF THE COMMITTEE

In accordance with Council Procedure Rule 4, the Committee noted the termination of Councillors J Finch and G Johnson and the appointments of Councillor P Burnside and A Owens for this meeting only, thereby giving effect to the wishes of the Political Groups.

### 64 URGENT BUSINESS, IF ANY INTRODUCED BY THE CHAIRMAN

There were no urgent items of business received.

### 65 DECLARATIONS OF INTEREST

There were no Declarations of Interest received.

### 66 DECLARATIONS OF PARTY WHIP

There were no Declarations of Party Whip.

### 67 MINUTES

RESOLVED: That the Minutes of the meeting held on the 19 January 2023 be approved as a correct record and signed by the Chairman.

(Note: The Planning Services Manager referred to Minute 58 – 2021/0684/FUL – South West Lancs Pistol Club, Farley lane, Roby Mill, Up Holland, Skelmersdale to update Members of the withdrawal of this item following its deferral in January)

**68 PLANNING APPLICATIONS**

Consideration was given to the report of the Corporate Director of Place and Community as contained on pages 341 to 423 of the Book of Reports and on pages 425 to 427 of the Late Information Report).

**69 2022/0769/FUL - BUNGALOW FARM, HEATON'S BRIDGE ROAD, SCARISBRICK**

The Corporate Director of Place and Community submitted a report on planning application number 2022/0769/FUL relating to Bungalow Farm, Heaton's Bridge Road, Scarisbrick.

At the request of Officers this application was deferred to review further information and representations pending bringing to the next Committee.

**RESOLVED** That planning application 2022/0769/FUL relating to Bungalow Farm, Heaton's Bridge Road, Scarisbrick be deferred by Officers at request of the applicant for further information on highways/access arrangements.

**70 2019/0366/FUL - PENNYLANDS HOUSE, HIGH STREET, SKELMERSDALE**

The Corporate Director of Place and Community submitted a report on planning application number 2019/0366/FUL relating to Pennylands House, High Street, Skelmersdale.

**RESOLVED** That planning application 2019/0366/FUL relating to Pennylands House, High Street, Skelmersdale be approved subject to conditions as set out in pages 380 to 388 of the Book of Reports, as amended by late information/verbal update and following requests from Members to clarify delivery hours and reasons for lighting condition. Subject to completion of Section 106 Planning Agreement.

**71 2022/1174/FUL -33 HALL ROAD, SCARISBRICK,**

The Corporate Director of Place and Community submitted a report on planning application number 2022/1174/FUL relating to 33 Hall Road, Scarisbrick.

**RESOLVED** That planning application 2022/1174/FUL relating to 33 Hall Road, Scarisbrick be approved subject to the conditions and reasons as set out on pages 408 to 411 of the Book of Reports and verbal condition on Construction Management update to include additional condition.

**72 2022/1219/FUL - LAND ADJACENT TO 5 COLINMANDER GARDENS,  
ORMSKIRK**

The Corporate Director of Place and Community submitted a report on planning application number 2022/1219/FUL relating to Land Adjacent to 5 Colinmander Gardens, Ormskirk.

It was noted that this application had been withdrawn by the applicant and was therefore not considered.

**RESOLVED:** That planning application 2022/1219/FUL relating to 5 Colinmander Gardens, Ormskirk had been withdrawn by the applicant and was therefore not considered.

.....  
**Chairman**





PLANNING COMMITTEE: 16<sup>th</sup> March 2023

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**Report of:** Corporate Director of Place & Community

**Contact for further information:**

Paul Roberts (Extn. 583462) (E-mail: [paul.roberts2@westlancs.gov.uk](mailto:paul.roberts2@westlancs.gov.uk))

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**SUBJECT:** PLANNING APPLICATION REF. 2022/0642/FUL

**PROPOSAL:** Erection of Retirement Living Village comprising Retirement Living Housing (Category II type accommodation), bungalows, associated communal facilities, landscaping and car parking.

**APPLICANT:** McCarthy & Stone Retirement Lifestyles Ltd.

**ADDRESS:** Land to The South of Chancel Way, Burscough.

**REASON FOR CALL IN:** Councillor Clandon: Concern that the proposed development does not adequately address the localised flood risk, as evidenced by recent flooding of properties on Liverpool Road South. The scheme fails to deliver the 35% affordable housing requirement as set out in policy RS2.

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**Wards affected:** Burscough West

## 1.0 PURPOSE OF THE REPORT

- 1.1 To advise Planning Committee on an application which seeks to secure planning permission for the development of 48 Retirement Living Apartments and 19 Retirement Living bungalows, associated communal facilities, landscaping and car parking.
- 1.2 The proposed development, subject to legal agreement, is considered to accord with the aspirations of the Local Plan, the Burscough Neighbourhood Plan and the approved Yew Tree Farm Masterplan Supplementary Planning Document. The site is specifically allocated for residential development and the development conforms to the masterplan which states that this is a site suitable for elderly housing.
- 1.3 It is considered that subject to planning conditions that the proposed development is acceptable in terms of design, access, landscaping, layout and scale and will safeguard neighbouring amenity. The proposed development is compliant with the NPPF and the Local Plan in respect of drainage, highways, ecology and other relevant matters.

## **2.0 RECOMMENDATION TO PLANNING COMMITTEE**

### **2.1 Approve subject to conditions & S.106 Legal Agreement.**

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## **3.0 THE SITE**

3.1 The site is a rectangular shaped parcel of land extending to approximately 0.6 hectares and comprises open grassland bound by trees and hedgerows. The parcel of land extends south of a large drainage basin adjacent to Chancel Way. To the east lie of the site are the rear gardens to residential dwellings facing Liverpool Road South (A59) with a mix of hedgerows and fences along the boundary. To the south is a small, grassed area bound by trees and a grassed opening onto Liverpool Road South formerly used as a field access. To the west the site is bound by a watercourse, beyond which is a recently approved residential development much of which has now been completed, the wider site including residential development phases comprising the strategic site, Yew Tree Farm.

## **4.0 PROPOSAL**

4.1 The proposed development is for the construction of a single block of 29 one bedroom and 19 two bedroom Retirement Living apartments together with 19 two bedroom bungalows for sale to older people. The units are for open market sale to be occupied by persons over 60 years, or in the case of a couple one of the occupants is over the age of 60 years and the other is over the age of 55 years.

4.2 Access to the site is proposed off Chancel Way just north of an existing electricity substation and south of a large drainage basin. The internal road splits in two to provide access to the car parking for the apartment building which occupies the northern part of the site and the cul-de-sac of bungalows located to the south.

4.3 The apartment building is L-shaped with the largest flank facing onto the drainage basin and Chancel Way and is predominantly three storey reducing to two storeys at each end. This building is finished in white render and red brick with grey roof tiles, has a series of external balconies and is set with an area of landscaping. It contains within it as well the flats, a resident's lounge, guest suite and office space. The bungalows are mainly semi-detached with one terrace of three possessing parking to the front and rear gardens and are finished in red brick and grey roof tiles. formed of a mixture of detached, semi-detached and terraced buildings. Existing trees and hedges located close to the boundaries are to remain as is the boundary treatment to the east.

## **5.0 PREVIOUS RELEVANT DECISIONS**

5.1 2015/0171/OUT - Demolition of the existing buildings, and outline planning permission (including details of access) for the erection of up to 580 dwellings (C3); Extra Care or Care Accommodation (C2); a Local Centre (comprising up to 500m<sup>2</sup> of A1, A2, A3, A4 and A5 floorspace; and community uses); the construction of 4.6 hectares of Employment Development (up to 13,800m<sup>2</sup> of B1, B2 and B8 floorspace); the provision of open space and associated recreation facilities (including parkland, allotments, play areas, a linear park, cycle and pedestrian facilities); together with the provision of related infrastructure including the construction of drainage works (including sustainable urban drainage systems), roads, services and related utilities; and associated works. APPROVED

- 5.2 2017/0431/ARM - Approval of Reserved Matters for 146 dwellings with associated car parking and landscaping for phases 1a & 1b (denoted as 1 & 1a on the Outline approved master plan). The reserved matters for which consent is sought on these two phases are appearance & scale, layout and landscaping. Discharge of Condition No. 27 (foul and surface water drainage strategy) and Condition No. 35 (updated noise assessment) of planning permission 2015/0171/OUT. APPROVED
- 5.3 2019/0962/CON - Approval of Details Reserved by Condition No. 4 of planning permission 2015/0171/OUT relating to a phasing programme for the whole of the site. APPROVED
- 5.4 2019/0947/ARM - Proposed re-plan of plots 74-88 and 116-131 of reserved matters 2017/0431/ARM to provide 16 no. detached houses (net loss of 15 dwellings). APPROVED
- 5.5 2019/1182/ARM - Approval of Reserved Matters - Phased development of 267 dwellings including details of appearance, landscaping, layout and scale. Discharge of Condition Nos. 5, 8, 14, 16, 18, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 35 from outline planning permission 2015/0171/OUT. APPROVED
- 5.6 2021/0518/ARM - Reserved Matters approval (appearance, landscaping, layout and scale) for the erection of 169 dwellings, with associated vehicular access and parking, private amenity space and landscaping, pursuant to outline planning permission 2019/1093/FUL and the discharge of Conditions 26 and 34. APPROVED

## **6.0 OBSERVATION OF CONSULTEES**

- 6.1 Lead Local Flood Authority (09.11.22) Following the submission of further information, earlier objections (19.10.22; 20.09.22 & 15.08.22) are withdrawn subject to conditions.
- 6.2 Merseyside Environmental Advisory Service (MEAS) (07.09.22) – No objections subject to conditions.
- 6.3 United Utilities (18.08.22) – No objections subject to condition.
- 6.4 LCC Highways (10.11.22) – No objections subject to conditions following earlier request for information (15.08.22).
- 6.5 Housing Strategy (05.08.22) – No objections. The main need for the development of an Extra Care scheme in West Lancashire is in Skelmersdale.
- 6.6 Natural England (20.02.23) – No objections.

## **7.0 OTHER REPRESENTATIONS**

- 7.1 Burscough Parish Council (07.08.22) – Support the planning application. Burscough does need this type of development but have raised the following concerns:

- Drainage ditch between houses on Liverpool Rd and the site, could cause flooding into the gardens of the houses
- Flood waters/sewerage/drainage is this adequate enough

- Building height and its impact on the surrounding area/houses
- Elevators in the building (are there any?)
- Local amenities being inadequate, e.g., Doctors, Dentists, health/primary care etc.
- Footpath access from Retirement Living Village to Burscough Village local shops and amenities for people with mobility issues using mobility scooters etc.
- Lack of pre-application consultation with Burscough Town Council and residents by West Lancs

7.2 In response to the public consultation exercise 8 responses supporting the application, raising the following points:

- What the area needs given aging population
- Good architecture
- Bungalows are required in area

Comments were made from 5 separate objectors. A summary of the responses is below:

- Increase in traffic on already busy road
- Noise from traffic movements
- Lack of information regarding local flooding incidents, particularly land to rear of Liverpool Road
- Concerns regarding wastewater and sewage capacity
- Site was previously farmland not brownland
- Homes would be devalued
- Loss of privacy within neighbouring houses
- Add to urban sprawl
- No development should be approved near drainage channel
- Impact on wildlife
- Impact on light and sunlight to neighbouring houses
- Lack of local infrastructure
- No amenities locally for older people to walk to
- Loss of local wildlife
- Inaccuracies in submission
- Lack of street lighting
- Lack of lifts in building
- Concern regarding flooding – Area is subject to existing pressures and there's no on-site attenuation
- No account of mobility scooters in highway assessment

## **8.0 SUPPORTING INFORMATION**

8.1 Assessment of demand for a retirement living villages scheme  
 Design and Access Statement  
 Phase I and II Geo-environmental Ste Assessment  
 Model Planning Conditions Report  
 Planning Statement  
 Statement of Community Involvement  
 Transport Statement  
 Drainage Summary Statement  
 Flood Risk Assessment  
 Preliminary Ecological Appraisal Report  
 Tree Survey  
 Visually Verified Montages  
 Viability Report



Supporting documents concerning health, economic, housing choice and sustainable benefits of retirement

## **9.0 RELEVANT PLANNING POLICIES**

- 9.1 The National Planning Policy Framework (NPPF), National Planning Policy Guidance (NPPG), the West Lancashire Local Plan (2012-2027) DPD and the Burscough Neighbourhood Plan provide the policy framework against which the development will be assessed.
- 9.2 The site is allocated as SP3 – Yew Tree Farm, Burscough – A Strategic Development Site
- 9.3 Relevant West Lancashire Local Plan (2012-2027) DPD policies:  
SP1 – A Sustainable Development Framework for West Lancashire  
GN1 – Settlement Boundaries  
GN3 – Criteria for Sustainable Development  
RS1 – Residential Development  
RS2 – Affordable and Specialist Housing  
EC1 – The Economy and Employment Land  
IF2 – Enhancing Sustainable Transport Choice  
IF3 – Service Accessibility and Infrastructure for Growth  
IF4 – Developer Contributions  
EN1 – Low Carbon Development and Energy Infrastructure  
EN2 – Preserving and Enhancing West Lancashire’s Natural Environment  
EN3 – Provision of Green Infrastructure and Open Recreation Space  
EN4 - Preserving and Enhancing West Lancashire’s Built Environment

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

- 9.4 Relevant Burscough Parish Neighbourhood Development Plan policies:  
Policy BP11 Development and Infrastructure  
Policy BP12 Surface water drainage  
Policy BP13 Foul water drainage  
Policy BPH1 New residential development  
Policy BPH2 Housing mix  
Policy BDP2 Detailed design elements  
Policy BDC1 Community Infrastructure
- 9.5 Additionally the following supplementary planning documents are relevant:  
SPD – Yew Tree Farm Masterplan (Feb 2015)  
SPD - Open Space (July 2014)  
SPD – Design Guide (Jan 2008)

## **10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY**

- 10.1 The main considerations for this application are:
- Principle of development
  - Affordable Housing for the Elderly
  - Layout, Design and Appearance
  - Impact on Residential Amenity

- Access, Traffic and Highways
- Trees/Landscaping
- Drainage and flooding
- Biodiversity
- Coal Mining

### Principle of development

- 10.2 This piece of land is covered by Policy SP3 of the WLLP, being part of the Yew Tree Farm, Strategic Development Site. The policy lists suitable uses on the site, including residential development. It states that the layout of the site will be defined through a separate masterplan and development will be required to conform to this masterplan and planning permission will not be granted until the comprehensive master planning exercise has taken place. In that regard, a Yew Tree Farm Supplementary Planning Document was prepared in 2015 setting out a masterplan for the wider 74 hectare Yew Tree Farm site, including potential land earmarked for specialist housing for the elderly, the quantum of which is not prescribed.
- 10.3 The development site has since been split into several parcels of land in association with the 2015 outline planning permission (2015/0171/OUT), with subsequent reserved matters residential and employment schemes having been permitted, implemented and occupied. The outline consent specifically granted consent for Extra Care/Care Accommodation (Planning Use Class C2), the location of which was specified in the later phasing plans, the last of which (2019/0962/CON) identified this site as the location for this use
- 10.4 This proposal is not for the presumed use. Whilst there is an element of care provided along with communal facilities, the units are self-contained and function as private accommodation and are regarded as Use Class C3 (dwellings) Consequently, the proposal is not in accordance with the outline planning permission and the full application submitted is the required approach.
- 10.5 The Masterplan SPD states that: "A hierarchical approach should be applied to delivery of elderly housing as follows:
1. Extra Care / Assisted Living Scheme
  2. Sheltered Housing
  3. Bungalows and smaller scale apartment developments".

This proposal is considered to represent a combination of points 2 and 3 with a low level of support provided to residents who are required to be aged 55 and over.

- 10.6 The Housing Strategy & Development Programme Manager has been consulted and is of the opinion that based upon current housing needs and trends the main need for the development of an Extra Care scheme in West Lancashire is in Skelmersdale. Although the masterplan aims to prioritise the principle of an extra care / assisted living scheme on the Yew Tree farm site, from a housing strategy and housing need perspective, the delivery of such a facility in Skelmersdale is prioritised not within Burscough, where it is thought any current extra care need is serviced by the existing 111 unit Extra Care scheme in Ormskirk known as 'Brookside'. Given this, the development of this form of housing in this location is considered to be consistent with the Masterplan and Policy SP3 in use terms and will deliver a form of housing that is clearly suited to the current and future aging profile of the Borough.

### Affordable and Specialist Housing for the Elderly

- 10.7 To accord with the Masterplan and Policy RS2 of the Local Plan, 35% of the units across the whole site must be affordable. The Council will take account of viability when assessing individual schemes and if a level of affordable housing is lower than those set out above is proposed for a specific scheme, the Council expects robust information on viability to be provided by the applicant. In that regard, a Financial Viability Assessment was submitted to accompany the application. This concluded that the proposed scheme would produce a deficit and therefore no contribution could be made available to the Local Authority for Section 106 contributions including a commuted payment in lieu of onsite Affordable Housing.
- 10.8 The Council has employed an independent viability expert (CP Viability Ltd) to review and report on the applicant's assessment. Following a review, deficiencies were identified with the applicant's approach to benchmark land value which suggested that an off-site affordable housing contribution could in fact be provided. Further discussions have been undertaken and CP Viability Ltd have updated their appraisal on viability which shows an affordable housing contribution of £118,000 and a CIL payment of £173,283 is deliverable. This has been agreed by the applicant. The provision of an off-site contribution is considered appropriate given the limited amount of deliverable affordable units that could be provided on-site, and the specialist nature of provision. The scheme is therefore considered to accord with the National Planning Policy Framework and Local Plan Policy RS2. A condition is attached to ensure the development continues to operate as older persons accommodation.
- 10.9 Both Policy RS1 and Policy RS2 along with the Masterplan require that at least 20% of the total number of residential units on the site should be designed specifically to accommodate the elderly. This development is 100% for elderly people and in that sense significantly exceeds this requirement.
- 10.10 Policy BPH2 Housing Mix of the Burscough Neighbourhood Plan requests the submission of a "Local Housing Provision Statement" alongside developments of 10 or more dwellings that assess how the proposed development meets local housing need. Such a statement has been submitted which notes the changing demography of the area with significant increases in the proportion of the population being aged over 65 and the consequent need for more private older people housing which this proposal will serve to contribute towards.
- 10.11 Alongside the above, Policy BPI1 Development and Infrastructure, requires the submission of a statement outlining the infrastructure requirements, provision and delivery associated with the development including what is going to be provided by an infrastructure provider. The applicant's statement notes the delivery of utilities, drainage, highways and open space along with a school associated with the wider Yew Tree site. The development is located at the eastern edge of the site as proposed in the masterplan and as such is close to the facilities on offer in Burscough.

#### Layout, design and appearance

- 10.12 Policy GN3 of the WLLP together with the Council's SPD Design Guide is relevant in assessing the design and external appearance of the development and states that new development should be of a scale, mass and built form, which responds to the characteristics of the site and its surroundings. Buildings should not disrupt the visual amenities of the street scene because of their height, scale or roofline. The Yew Tree Masterplan SPD sets out that it is crucial that new developments

complement the context within which they will grow and that we build high quality homes that will provide visually pleasing environments where people will want to live and work. The SPD also states that the tallest building heights would most acceptable along the primary road frontages with a maximum of three storeys.

- 10.13 The application is comprised of two elements, the single two/three storey block located at the northern edge of the site overlooking the balancing pond and behind it a series of bungalows laid out formally in groups of semi-detached units with one group backing onto existing housing on Liverpool Road South. The apartment building is situated at the eastern side of the wider Yew Tree site at a prominent entrance point to the wider Yew Tree Farm development. The scale of the building at three storeys is one taller than neighbouring two storey housing however is set well off the public highway because of the drainage pond and as such is afforded a generous setting, reflecting its scale. As noted in the Masterplan SPD, three storey buildings are considered appropriate along primary road frontages and have been consented elsewhere along Chancel Way. The appearance of the building is distinctly residential, formed of brick with projecting gable ended elements finished in render and with a prominent feature of the design. The building is set within an area of hard and soft landscaping including a communal courtyard which faces towards the main road. The two wings of the building are two-storey reflecting the scale of neighbouring two storey housing. The 19 bungalows are of standard type formed of brick with grey roof tiles matching the finish of the apartment block. Each property is formed of two beds and comprises front vehicle parking and rear gardens.
- 10.14 The apartment block incorporates 48 flats, 29 x 1-bed and 19 x 2-bed. The majority have access to private balcony or ground floor external amenity alongside communal landscaped gardens to the front of the building incorporating a large area of hardstanding to facilitate external seating. The flats will also benefit from an internal communal space, internal mobility store and there are lifts to each floor. The flats and the housing will be designed to be fully accessible and to serve the needs of the occupiers.
- 10.15 The density and layout of the proposed development is commensurate with the size of the site having regard to the established housing and that associated with the recent Yew Tree residential permissions. The proposed design, size and mix of dwellings respects the character of the area and meets the needs of the intended elderly population. This palette of design and materials reflects housing within the wider area and are therefore consistent with the aims of the NPPF and Policy GN3.
- 10.16 In terms of open space, the Council's Public Open Space in New Residential Developments Supplementary Planning Document (2014), sets out that developers of new residential developments will be required to provide public open space on-site. For residential developments over 39 and below 290 dwellings, developers are required to provide 13.5 square metres of public open space per bedroom developed. This public open space should typically take the form of informal amenity green space. If the developer proposes not to meet the requirement on-site, they must provide clear and robust justification why. In this instance, the outline consent associated with the wider site incorporated open space, including the creation of a 'Linear Park', the delivery of which has subsequently been commenced. Development on this site of older persons accommodation was factored into this overall provision hence the delivery of further space is not considered necessary. It is noted that there is communal provision within the site in the form of the landscaped gardens adjoining the apartment block. The applicant

has confirmed that this would be accessible to all residents including those occupying the bungalows.

#### Impact on Residential Amenity

- 10.17 The presence of accommodation in this location backing on to housing was established via the outline planning permission in 2015. This proposal provides for a three storey building that lowers to two storeys towards the rear of established housing on Liverpool Road South. Due to the layout and orientation, the primary aspects of the new flats would be north south and as such at an angle away from the rear windows of neighbouring housing. Some oblique views into rear garden views would be possible but not to an extent that would likely prejudice privacy given the distances involved. The nearest habitable room window to an existing window is in excess of 25 metres and is not facing, hence the privacy of neighbours in this regard would be safeguarded. A perception of overlooking within gardens could be associated with the flats at upper levels closest to existing residential boundary, however even then the distances and viewing angle preclude significant impacts. The one area where amenity could be prejudiced, concerns the presence of balconies within 15 metres of the nearest garden (at its closest). As the balconies are projecting more direct overlooking could be possible into neighbouring private amenity to the east. With that in mind a condition is recommended that the nearest balconies have privacy screens fitted to 1.6m to restrict views. In a similar vein, the introduction of opaque glazing is thought appropriate to the stairwell windows at the rear which are the closest openings to neighbouring property.
- 10.18 The three storey element is at least 25 metres west of neighbouring housing and the two storey over 22 metres away. This means that any overshadowing and loss of light associated would not prejudice amenity to any significant degree and would be primarily limited to late evening during summer months. As stated, the principle of development on it is established and subject to condition the harm of it is limited and not significantly prejudicial to neighbouring amenity.
- 10.19 Internally future residential amenity will be preserved given the proposed layout and scale. The bungalows by their nature will not present overlooking opportunities given the 1.8m high boundary treatment and are set sufficiently away from neighbouring housing not to present other amenity issues.
- 10.20 A number of residents have identified issues arising from construction noise and activity. Such harm is inevitable but short lived and can be addressed through planning condition and other relevant environmental protection legislation.
- 10.21 Whilst the development will result in the loss of some openness and limited light and overshadowing impacts, overall, the design is thought to be well considered and subject to conditions it is considered that the proposed development would satisfy the requirements of Policy GN3 of the Local Plan in respect of neighbouring amenity.

#### Access, Traffic and Highways

- 10.22 Lancashire County Council as Highway Authority consider that highway safety and capacity in the surrounding area will not be compromised as a result of the increased traffic generated by the proposal. The Transport Statement indicates that the development would generate approx. 4 two-way vehicle movements per hour during am peak hours and approx. 6 two-way vehicles movements per hour during

evening peak hour. This is less than the extra care accommodation would have created.

- 10.23 The applicant proposes that the internal road and footways/footpaths serving the development will remain private and will not be offered for adoption as a public highway, although it is expected that the internal roads and footway should still be constructed to LCC Specification for the Construction of Estate Roads. The Highways Authority initially raised concern with the details of the new junction onto Chancel Way which was considered short on width and lacked a footway on both sides of the road. Subsequent amendments have been made and the scheme is now in line with requirement subject to details to be later submitted under section 278 of the 1980 Highways Act.
- 10.24 In terms of parking provision there is sufficient off-street parking for the bungalow accommodation. In respect of the apartment units, the provision of 30 spaces to serve 48 apartments, represents a parking provision of 0.625 spaces per apartment. This falls shy of the Local Plan policy requirement of 57 spaces for the mix proposed. There is however a recognition that the nature of the occupiers and this accessible location means that the shortfall in this case is justified. The applicant has provided parking survey detail on a number of comparable schemes and shown that the ratio of parking to flats proposed is in keeping with the peak parking numbers for these other sites. It is also recognised that the type of user of this form of accommodation is less likely to have a private vehicle particularly in later years. The Highways Authority have raised no objections to parking numbers and the scheme is not considered to prejudice highway safety or create congestion in this regard.
- 10.25 The car parking includes 3 accessible spaces and 2 electric vehicle charging points with ducting being provided to the remainder of the parking spaces so that further electric vehicle charging points can be provided based on demand in the future. Such an approach is considered appropriate and in line with recent West Lancashire planning decisions. A condition on this is recommended, alongside one in respect of cycle storage for both occupiers and visitors to the site.
- 10.26 Subject to conditions the proposed development is acceptable and would not lead to a detrimental impact on highway safety, in accordance with Policy GN3 and IF2 of the Local Plan.

#### Trees/Landscaping

- 10.27 A Tree Survey was submitted alongside the application. It highlights that there are no Tree Preservation Orders associated with the site. The proposal will provide for at least 40 new trees alongside hedging and shrub planting. The level of planting is welcomed. It will enhance the scheme visually and provide additional benefits such as screening. Overall, subject to condition the proposal accords with Policy EN2 of the Local Plan.

#### Drainage and Flooding

- 10.28 A Flood Risk Assessment (FRA) was submitted following an objection raised by the Local Lead Flood Authority (LLFA). The FRA highlighted that the site is located within Flood Zone 1, which indicates that the site is at low risk of fluvial or tidal flooding. In addition, Environment Agency records state that the site is at very low risk of surface water and/or Groundwater flooding.

- 10.29 In relation to the control of surface water, the FRA sets out that the surface water run-off from the undeveloped greenfield site currently discharges by overland flow across the existing ground contours to an existing drainage ditch along the west site boundary. Paragraph 169 of the NPPF requires that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. Policy GN3 and the Masterplan SPD require the use of SuDs on this site and identify that due to fragmented ownership across the site, a comprehensive strategy is unlikely and therefore a series of safeguards in respect of phasing of development will be required.
- 10.30 The Planning practice guidance sets out the approach to the types of sustainable drainage system which it may be considered. Where possible, preference should be given to multi-functional sustainable drainage systems, and to solutions that allow surface water to be discharged according to the following drainage hierarchy:
1. into the ground (infiltration);
  2. to a surface water body;
  3. to a surface water sewer, highway drain, or another drainage system;
  4. to a combined sewer.
- 10.31 As mentioned, development on this site has been subject to a recent consent which was the subject of an FRA. A detailed geotechnical survey carried out at the Yew Tree Farm site in 2011, identified that there is a boulder clay sub soil strata over the entire area and that consequently, the use of any ground infiltration techniques within the SuDS design may be limited to only partial infiltration at best. Hence, in relation to this site, given the ground conditions the appropriate mechanism for addressing surface water drainage was to discharge surface water existing streams and watercourses. This method has already been determined and constructed in the form a balancing Pond A and the associated flow controlled discharge (5 litres per second), a result of the drainage strategy submitted in connection with the Redrow scheme opposite this site. The proposed surface water drainage system will discharge to the constructed Pond. The applicant has accounted a 40% Climate Change Allowance (CCA) in their modelling. The LLFA have advised that due to recently updated guidance the CCA for sustainable drainage were updated to 45% for peak flow control and volume control for the 1% (1 in 100-year) annual exceedance probability event, and a 40% allowance to be applied for the 3.3% (1 in 30-year) annual exceedance probability event. A pre-commencement condition in that regard is recommended alongside others concerning construction surface water and long term sustainable drainage management.
- 10.32 The proposed foul water discharge will connect to a new Private Pumping Station and rising main, discharging into the adopted public foul sewer in Chancel Way to the north of the site. This foul sewer flows east and connects to the public combined water sewer in Liverpool Road South. United Utilities have raised no objections.
- 10.33 The drainage strategy for this greenfield site is established. The Lead Local Planning Authority has been consulted and have raised no objections to the proposal subject to planning conditions requiring the submission of full surface water drainage strategy details prior to commencement and other conditions in respect of drainage management. Consequently, it is considered that an appropriate drainage strategy can be implemented in accordance with Policy GN3 of the Local Plan.

#### Biodiversity

- 10.34 Policy EN2 in the Local Plan requires that development proposals must seek to avoid impacts on significant ecological assets and protect and improve the biodiversity value of sites. If significant impacts on biodiversity are unavoidable, then mitigation or as a last resort, compensation, is required to fully offset impacts.
- 10.35 The applicant submitted an Ecology Report alongside the application. The site is close to agricultural land which may provide functionally linked habitat to the international and national designated natural sites. MEAS have reviewed the submission and advised that there are no likely significant effects on the national and international sites and the proposals do not warrant a Habitats Regulations Assessment. The proposed site comprises partly of arable land; however, it is enclosed on all sides with housing to the east, housing development to the west, wooded area to the south, and the balancing pond, roads, and further housing to the north. Being enclosed reduces the likelihood of species such as pink-footed goose and whooper swan using a site like this for feeding. The proposed development lies within the Natural England SSSI Impact Risk Zone (IRZ) (August 2022). As such Natural England needed to be consulted. In response, Natural England raised no objections.
- 10.36 In terms of existing ecology, Montbretia, an Invasive Species as listed on Schedule 9 of the Wildlife and Countryside Act, has been identified as present. In that regard a pre-commencement condition requiring details and methods associated with its disposal is recommended.
- 10.37 There are no evidence of bats present on the site. A condition in respect of lighting is recommended to safeguard roosting, foraging and commuting habitats. The PEA provides for a series of suggested biodiversity enhancements associated with the scheme. In that regard conditions concerning bird and bat boxes and other measures are recommended. These conditions plus those others referred to will ensure that the proposal complies with policy EN2 of the Local Plan.

### Coal Mining

- 10.38 The Lancashire County Council Minerals and Waste Site Allocation and Development Management Policies DPD Policy M2 identifies the site as falling within a Minerals Safeguarding Area. A Mineral Assessment was submitted with the original outline application. This concluded that the future extraction of the silica sand from the site was unlikely, due to the very small thickness of the deposit which is too thin to be worth extracting. The principle of residential development on this site is established and as such the proposal is in compliance with Policy M2 of the Minerals and Waste Site Allocations DPD.

## **11.0 CONCLUSION**

- 11.1 The development of a residential development for older persons on this site is considered to accord with the aspirations of the Yew Tree Masterplan SPD and deliver a form of housing in need locally. The scheme will deliver a valuable affordable housing contribution and is acceptable in terms of design, highway safety, residential amenity, drainage and ecology. Subject to appropriate conditions and a legal agreement it is considered that the proposals accord with relevant policies in the NPPF and Local Plan.

## **12.0 RECOMMENDATION**

- 12.1 That the decision to grant planning permission be delegated to the Director of Place and Community in consultation with the Chairman or Vice Chairman of the Planning



Committee subject to the applicant entering into a planning obligation under S106 of the Town and Country Planning Act 1990 to require:

McCarthy and Stone, on implementation of the new planning permission (or subsequent s73 (if applicable):

- Make a contribution of £118,000 towards off-site affordable housing

If the Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as outlined above) is not completed within 3 months of the date of the Committee resolution, the Director of Place and Community be given delegated authority to REFUSE the application.

12.2 That any planning permission granted by the Director of Place and Community pursuant to recommendation 12.1 above be subject to the following conditions:

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

NO-2788-3-AC-0001 Rev A Location Plan  
NO-2788-3-AC-0002 Rev B Proposed Site Plan  
NO-2788-3-AC-0003 Rev A Proposed Boundary Treatment Plan  
NO-2788-3-AC-0005 Streetscene A – A  
NO-2788-3-AC-1001 Proposed Floor Plans  
NO-2788-3-AC-1002 Proposed Roof Plan  
NO-2788-3-AC-2001 Proposed Elevations 1 of 2  
NO-2788-3-AC-2002 Proposed Elevations 2 of 2  
NO-2789-3-AC-2000 Bungalow B4 Triple, Floor Plan and Elevations  
NO-2789-3-AC-2001 Bungalow B7 Semi, Floor Plan and Elevations  
NO-2789-3-AC-2002 Bungalow B4 Semi, Floor Plan and Elevations  
NO-2788-03-LA-101 Rev A Landscape Layout  
McC&S-CW-H-DEV-100-001 Rev B Proposed External Levels Layout 1 of 2  
McC&S-CW-H-DEV-100-002 Rev B Proposed External Levels Layout 2 of 2  
McC&S-CW-H-DEV-100-003 Rev B Proposed Drainage Layout 1 of 2  
McC&S-CW-H-DEV-100-004 Rev B Proposed Drainage Layout 2 of 2

Reason: 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. The occupation of each of the Retirement Living apartments and bungalows shall be restricted at all times to people of 55 years and above.

Reason: To safeguard the provision of older persons accommodation in accordance with the Yew Tree Farm Masterplan Supplementary Planning Document and Policies RS1 and RS2 of the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

4. Notwithstanding any description of materials in the application, no above ground construction works shall take place until samples and / or full specification of materials to be used externally on the building(s) have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials and should be reflective of those within the surrounding area, unless otherwise agreed in writing by the Local Planning Authority. The development shall be carried out only in accordance with the agreed schedule of materials and method of construction.

Reason: 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.

5. All hard and soft landscape works shall be carried out in accordance with the approved details shown on NO-2788-03-LA-101 Rev A Landscape Layout. The works shall be carried out before any part of the development is occupied or in accordance with a programme to be agreed in writing with the Local Planning Authority prior to any development commencing. Any trees / shrubs which are removed, die, become severely damaged or diseased within 7 years of their planting shall be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the site is satisfactorily landscaped having regard to the character of the area and the nature of the proposed development and to comply with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

6. The works should be undertaken in full accordance with the Tree Survey (Keen Consultants, November 2021) and Tree Constraints Plan.

Reason: Required to safeguard and enhance the character and amenity of the site and locality and to avoid any irreversible damage to retained trees in accordance with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

7. The building shall not be occupied/brought into use until details of the number and location of bird nesting boxes, bat boxes, hedgehog highways and other biodiversity enhancements to be incorporated into the scheme have been submitted to and approved in writing by the Local Planning Authority. The boxes and other enhancements shall be installed in accordance with the approved details prior to the first occupation of the building and shall be retained at all times thereafter.

Reason: In the interests of biodiversity and conservation and to comply with GN3 & EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

8. No external lighting shall be installed at the site until a scheme detailing the proposed lighting to be installed on the site has been submitted to and approved in writing by the local planning authority. All external lighting shall be installed and maintained in accordance with the agreed scheme.

Reason: In the interests of biodiversity conservation and to comply with Policies GN3 & EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

9. No development shall take place, including any works of demolition or site clearance, until a Construction Management Plan (CMP) or Construction Method Statement (CMS) has been submitted to, and approved in writing by the local planning authority. The approved plan / statement shall provide:
- 24 Hour emergency contact number;
  - Details of the parking of vehicles of site operatives and visitors;
  - Details of loading and unloading of plant and materials;
  - Arrangements for turning of vehicles within the site;
  - Swept path analysis showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available and maintained, including any necessary temporary traffic management measures;
  - Measures to protect vulnerable road users (pedestrians and cyclists);
  - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - Measures to deal with dirt, debris, mud or loose material deposited on the highway as a result of construction;
  - Measures to control the emission of dust and dirt during construction;
  - Details of a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - Construction vehicle routing;
  - Delivery, demolition and construction working hours.

The approved Construction Management Plan or Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: In the interests of the safe operation of the adopted highway during the demolition and construction phases and to comply with policies GN3 and IF2 of the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

10. Prior to the commencement of development, the applicant should submit a method statement on the removal of Montbretia, an invasive species, which includes the following information:
- A plan showing the extent of the plant(s).
  - The method(s) that will be used to prevent the plant/s spreading further, including demarcation.
  - The method(s) of control that will be used, including details of post-control monitoring.
  - How the plants will be disposed of after treatment/removal.

Reason: To remove an invasive species as listed under Schedule 9 of the Wildlife and Countryside Act (1981) and ensure the protection of the native natural environment in accordance with Policy EN2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

11. No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway mitigation has been submitted to, and approved by, the Local Planning Authority in consultation with the Highway Authority.

Reason: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site and to comply with policies GN3 and IF2 of the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

12. Prior to the commencement of any part of the development details of a scheme to prevent mud, stones and debris being carried onto the highway shall be submitted to and approved in writing by the Local Planning Authority. Provision to sweep the surrounding highway network by mechanical means shall be available and the roads adjacent to the site shall be mechanically swept as required during the full construction period.

Reason: To prevent stones, mud and debris being carried onto the public highway to the detriment of road safety and to ensure compliance with the criteria of Policy GN3 of the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

13. No part of the development hereby approved shall be occupied until all the highway works have been constructed and completed in accordance with a scheme that shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.

Reason: In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway scheme/works and to ensure compliance with the criteria of Policy GN3 of the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

14. The new estate road / access between the site and Chancel Way shall be constructed in accordance with Lancashire County Council's Specification for Construction of Estate Roads to at least base course level before any development takes place within the site.

Reason: To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative and to comply with Policy GN3 of the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

15. The parking provision shown shall be provided prior to first occupation of the building hereby approved. The parking area shall be hardsurfaced and shall be made available for its intended use at all times thereafter unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of highway and pedestrian safety and to ensure that the development complies with the provisions of Policy GN3 and IF2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

16. Prior to first occupation, details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the users of the highway and the visual amenities of the locality.

17. The development permitted by this planning permission shall be carried out in accordance with the principles set out within the flood risk and surface water drainage assessment (October 2022, Ref: 16079 – FRA\_PHASE 3, Rutter Johnson). The measures shall be fully implemented prior to the first use of the development and in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority in consultation with the lead local flood authority.

Reason To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 167 and 169 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

18. No development shall commence in any phase until a detailed, final surface water sustainable drainage strategy for the site has been submitted to, and approved in writing by, the local planning authority. The detailed sustainable drainage strategy shall be based upon the site-specific flood risk assessment and indicative drainage strategy submitted and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems and no surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly.

The details of the drainage strategy to be submitted for approval shall include, as a minimum;

a) Sustainable drainage calculations for peak flow control and volume control (1 in 1, 1 in 30 and 1 in 100 + 40% climate change) for the whole site, including all existing and proposed surface water drainage systems.

b) Where existing on site surface water drainage systems are to be reused, evidence is required to confirm that these systems are in sufficient condition to accept additional surface water runoff generated from the development.

c) Final sustainable drainage plans appropriately labelled to include, as a minimum:

- i. Plan identifying areas contributing to the drainage network, including surface water flows from outside the curtilage as necessary;
- ii. Surface water sustainable drainage layout plan showing all pipe and structure references, dimensions and design levels, to include all existing and proposed surface water drainage systems up to and including the final outfall;
- iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
- iv. Drainage plan showing flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
- v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building and connecting cover levels to confirm minimum 150 mm+ difference for FFL;
- vi. Details of proposals to collect and mitigate surface water runoff from the development boundary;

- vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;

The sustainable drainage strategy shall be implemented in accordance with the approved details.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 167 and 169 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

19. No development shall commence until a Construction Surface Water Management Plan, detailing how surface water and stormwater will be managed on the site during construction, including demolition and site clearance operations, has been submitted to and approved in writing by the local planning authority. The details of the plan to be submitted for approval shall include for each phase, as a minimum:
  - a) Measures taken to ensure surface water flows are retained on-site during construction phase(s), including temporary drainage systems, and, if surface water flows are to be discharged, they are done so at a restricted rate that must not exceed the equivalent greenfield runoff rate from the site.
  - b) Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

The plan shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water during each construction phase(s) so it does not pose an undue flood risk on-site or elsewhere during any construction phase in accordance with Paragraph 167 of the NPPF.

20. The commencement of use of the development shall not be permitted until a site-specific Operation and Maintenance Manual for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority. The details of the manual to be submitted for approval shall include, as a minimum:
  - a) A timetable for its implementation;
  - b) Details of SuDS components and connecting drainage structures, including watercourses and their ownership, and maintenance, operational and access requirement for each component;
  - c) Pro-forma to allow the recording of each inspection and maintenance activity, as well as allowing any faults to be recorded and actions taken to rectify issues;
  - d) The arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme in perpetuity;
  - e) Details of financial management including arrangements for the replacement of major components at the end of the manufacturer's recommended design life;
  - f) Details of whom to contact if pollution is seen in the system or if it is not working correctly; and
  - g) Means of access for maintenance and easements.

Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the sustainable drainage system is subsequently maintained pursuant to the requirements of Paragraph 169 of the National Planning Policy Framework.

21. The commencement of use of the development shall not be permitted until a site-specific verification report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority.

The verification report must, as a minimum, demonstrate that the sustainable drainage system has been constructed in accordance with the approved drawing(s) (or detail any minor variations) and is fit for purpose. The report shall contain information and evidence, including photographs, of details and locations (including national grid references) of critical drainage infrastructure (including inlets, outlets and control structures) and full as-built drawings. The scheme shall thereafter be maintained in perpetuity.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with the requirements of Paragraphs 167 and 169 of the National Planning Policy Framework.

22. Prior to the occupation of development hereby permitted full details (including elevations and materials) of cycle stores for occupiers and visitors shall be submitted to and approved in writing by the Local Planning Authority. The covered cycle stores shall be constructed in accordance with the approved details prior to the first use of the building.

Reason: In the interests of residential amenity and to encourage more sustainable methods of transport in accordance with Policies GN3 and IF2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

23. Notwithstanding the approved plans a minimum of 10% of the approved car parking spaces associated with the apartment building shall be marked out for use by electric vehicles, together with an adequate charging infrastructure and cabling for each marked bay, in accordance with a timetable to be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the buildings hereby permitted. The spaces shall be made available for electric vehicle charging in accordance with the approved timetable at all times thereafter.

Reason: In the interests of residential amenity and to encourage more sustainable methods of transport in accordance with Policies GN3 and IF2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

24. At least 1 electric vehicle charging point should be provided for each bungalow hereby approved prior to occupation.

Reason: To encourage more sustainable methods of transport in accordance with Policies GN3 and IF2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

25. Notwithstanding the approved plans details of the effective privacy screening of windows within the east stairwells of south facing elevation and the east facing balconies of the flats nos. 29 and 44 (as shown on approved drawing: NO-2788-3-AC-1001 Proposed Floor Plans) shall be submitted to and approved by the Local Planning Authority prior to the occupation of the apartment building. The approved details shall be installed and retained as such at all times thereafter.

Reason: To protect the privacy and amenity of adjacent residential properties and to comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

### **13.0 SUSTAINABILITY IMPLICATIONS**

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

### **14.0 FINANCIAL AND RESOURCE IMPLICATIONS**

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

### **15.0 RISK ASSESSMENT**

- 15.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.

### **16.0 HEALTH AND WELLBEING IMPLICATIONS**

- 16.1 There are no health and wellbeing implications arising from this report.

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## **Background Documents**

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**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

## **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).

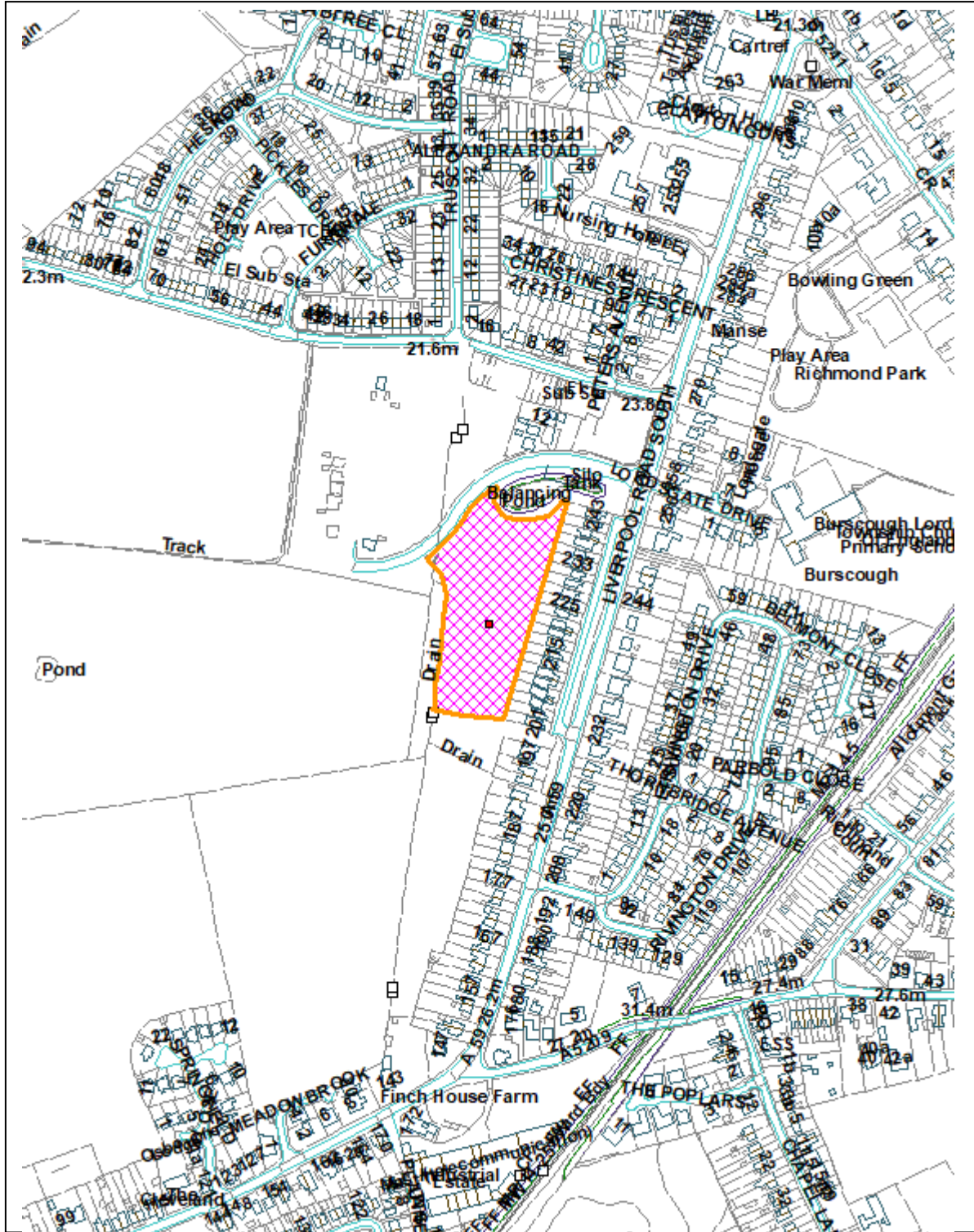
## **Appendices**



None.



# Land To The South Of, Chancel Way, Burscough, L40 7RE.







PLANNING COMMITTEE: 16<sup>TH</sup> MARCH 2023

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**Report of:** Corporate Director of Place & Community

**Contact for further information:**

**Case Officer:** Paul Roberts (Extn. 583462) (E-mail: paul.roberts2@westlancs.gov.uk)

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**SUBJECT:** PLANNING APPLICATION REF. 2022/0916/FUL

**PROPOSAL:** Demolition of Existing Dwelling and erection of New Detached Dwelling

**APPLICANT:** Mr & Mrs Bell

**ADDRESS:** 2 Greystokes, Aughton, Ormskirk, Lancashire, L39 5HE

**REASON FOR CALL IN:**

Councillor Marilyn Westley - Possible overdevelopment and impact on the streetscene. Following revised submission, concerns about loss of amenity to neighbouring residential property. Requests Committee site visit.

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**Wards affected:** Aughton Park

## **1.0 PURPOSE OF THE REPORT**

1.1 To advise Planning Committee on an application which seeks to demolish the existing detached house on the site with a two-storey detached property and attached garage.

## **2.0 RECOMMENDATION TO PLANNING COMMITTEE**

2.1 That the application be GRANTED subject to conditions.

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## **3.0 THE SITE**

3.1 The application site consists of a two-storey detached dwelling with attached side and rear single storey element, located on the southern side of Greystokes at the corner of Prescott Road.

3.2 The dwelling is accessed off Greystokes, a cul-de-sac of six detached properties set within large grounds. The boundary treatment consists of a low wall with fencing above along Prescott Road with the wall continuing along the Greystokes frontage

save for the vehicle entrance space, fencing and hedging borders residential boundaries. The existing site has a number of mature trees and hedges around the site, notably along Prescott Road.

- 3.3 The site is located within the Key Service Centre of Aughton as designated in the West Lancashire Local Plan and there are a number of trees on site subject to a Tree Preservation Order, primarily along the Prescott Road frontage.

#### **4.0 PROPOSAL**

- 4.1 The application proposes the demolition of the existing building and the erection of a replacement two storey house. The orientation of the property matches that of the existing with the principal elevation facing onto Greystokes.
- 4.2 The replacement house will be wider than the current property, extending towards the Prescott Road frontage by approximately 4.7 metres whilst otherwise broadly reflecting the existing footprint, save for closer proximity to the boundary with the neighbouring house (4 Greystokes) at both ground floor and first floor level. Finished in brick with concrete roof tiles, the property would have a twin gabled frontage plus single storey entrance feature with a two-storey bay window to one side and has part single/part two storey central additions at the rear. In addition, a garage is proposed to be attached to the side, set back off the front elevation. Windows are shown in each elevation save for the one adjoining 4 Greystokes which is blank.
- 4.3 The application proposes the addition of a second vehicle access on Greystokes and the creation of a terraced area at ground floor to the rear plus planting along the boundary with no. 4 Greystokes. All trees on-site are proposed to be retained.
- 4.4 The proposal was amended during the course of the application to reflect concerns raised by the Council's Tree Officer in order to protect one of the on-site trees from the construction works.

#### **5.0 PREVIOUS RELEVANT DECISIONS**

- 5.1 2022/0204/FUL - First floor side extension over the existing study/kitchen with a two-storey side extension to the opposite side of the dwelling. Part two-storey and part single storey rear extension. WITHDRAWN

#### **6.0 OBSERVATION OF CONSULTEES**

- 6.1 LCC Highways (07.11.22) - No objections.
- 6.2 Aughton Parish Council (23.11.22) – Objects. An organised site visit would be desirable to allow members of the Planning Committee the opportunity to view the corner plot location, consider 'over-development', proper protection of the trees on site in the interests of visual amenity, and to ensure compliance with the provisions of Local Plan Policy GN3, to protect the privacy and amenities of adjacent residents. Greystokes is a narrow cul-de-sac of just 6 detached dwellings and if the Local Planning Authority is mindful to approve planning permission in any form, conditions must be imposed with regard to contractors' working hours, off-road parking including skips whenever possible and no obstruction of driveways.
- 6.3 Lead Flood Engineer (26.10.22) – No objection subject to condition.

- 6.4 United Utilities (21.10.22) – No objection. Comments made in respect of the adoption of drainage if approved.
- 6.5 Tree Officer – (20.02.23) No objections subject to tree protection measures and method statement. This followed an earlier objection (14.12.22) in respect of the construction being within the rot protection zone of a Lime tree which is subject to a Tree Preservation Order.

## **7.0 OTHER REPRESENTATIONS**

7.1 In response to the public consultation exercise a total of 3 responses from the same address objecting to the scheme, covering the following matters

- Loss of privacy to neighbouring amenity
- Scheme would be overbearing and overshadow neighbouring property
- Overdevelopment of the site
- A redeveloped house should be sited further away from shared boundary
- Garages and outbuilding should be detached from the house as per the Council's Design SPD
- The planning application form has a number of inaccuracies. Some aspects of the proposed works have commenced including removal of existing conservatory, internal walls removed, garden excavated. The site is not vacant. The application does incorporate a new access point. There are trees and hedges on the site and adjacent to it, including listed trees and others that have been subject to work/removed.
- Any increase in property size particularly above ground floor in a northerly, southerly or easterly elevation will have a significant impact on neighbouring visual amenity and light.
- Neighbouring outlook would be impaired by vegetation on the boundary.
- Proposed plans and elevation drawings give a false impression that the two properties sit side by side when actually built at different angles to give privacy.
- Single storey element would create a brick wall just 6.4 metres off the boundary fence, with serious impact on neighbouring visual amenity and privacy.
- Existing vegetation is not being maintained.
- Insufficient details provided regarding materials and size of new driveway
- There will be an increase in height and area of roof which will impair visual amenity and overshadow neighbours.
- Larger footprint than existing building.
- The planning precedents shown in the D& A statement to not have similar site characteristics to this due to alternative siting, proximity, boundary treatment.
- Existing "No trespassing" signs need to be removed from the site. An eyesore.
- Demolition of the property will have a serious negative impact on the local environment due to noise and dust pollution and the number of large industrial vehicles required.
- Construction vehicles and material could obstruct road. Steps should be taken to avoid this is approved.
- Conditions requested on working hours. No weekend working skips on road. The roadway should always kept clean and clear of spilled/waste materials.

In response to the revised submission 2 objections were received setting out the following additional matters:

- The amended plans are actually worse than the initial proposal as they are proposing to move the two storey development even closer to us by another 1.4 meters causing significant overshadowing to property and would be overbearing due to the proposed development size, position within the plot and its close proximity to our home.
- The amended plans also show the development 1 meter further forward in the plot which will result in loss of privacy to the property opposite due to the closer proximity of the proposed second storey build and the bay windows.
- There is no need for a demolition of a fairly modern house. It should be extended tastefully towards Prescott Road and not nearer other property on Greystokes
- If a demolition is approved by the Committee, any development must be on the existing footprint and no further forward by 1 meter and 1.4 meters towards other property.
- Loss of residential amenity and loss of privacy to neighbouring property.

## **8.0 SUPPORTING INFORMATION**

- 8.1 Arboriculture Impact Assessment & Method Statement Revision A (09.12.22 - MPTrees)
- 8.2 Inspection & Assessment in relation to Bats & Breeding Birds (29.09.22 -Tyrer Ecological Consultants Ltd)
- 8.3 Design & Access Statement, August 2022 (09.12.22 - Keith Davidson Partnership)
- 8.4 Drainage Strategy Report (12.10.22 - C2C Consulting Engineers Ltd)
- 8.5 Revised streetscene drawing (23.01.23)

## **9.0 RELEVANT PLANNING POLICIES**

- 9.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan 2012-2027 Development Plan Document provide the policy framework against which the development proposals will be assessed.
- 9.2 **The National Planning Policy Framework (NPPF)** relevant sections are:  
Achieving well-designed places  
Promoting sustainable transport  
Meeting the challenge of climate change, flooding, and coastal change  
Conserving and enhancing the natural environment
- 9.3 **West Lancashire Local Plan 2012-2027 DPD**  
Policy SP1- A Sustainable Development Framework for West Lancashire  
Policy GN1 – Settlement Boundaries Policy  
Policy GN3 – Criteria for Sustainable Development Policy  
Policy RS1- Residential Development  
Policy IF2 – Enhancing Sustainable Transport Choices  
Policy EN2 – Preserving and Enhancing West Lancashire's Natural Environment  
Policy IF2 – Enhancing Sustainable Transport Choices  
Supplementary Planning Document – (SPD) Design Guide (Jan 2008)



## **10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY**

10.1 The main considerations for this application are:

- Principle of Development
- Design and Appearance
- Impact upon Residential Amenity
- Highways
- Ecology
- Drainage
- Trees/ Landscaping

### **Principle of Development**

10.2 Policy RS1 of the Local Plan states that residential development will be permitted within the Borough's settlements on brownfield sites, and on greenfield sites not protected by other policies. The site is located within the Key Service Centre of Aughton as designated in the West Lancashire Local Plan and as such the principle of residential development is acceptable subject to the proposal complying with other planning policies and material considerations set out below.

### **Design and Appearance**

10.3 Policy GN3 along with the Council's SPD Design Guide requires that new development should be of a scale, mass and built form, which responds to the characteristics of the site and its surroundings.

10.4 The application proposes the demolition of the existing house and seeks to replace it with a larger two storey house, orientated in a comparable position facing onto Greystokes. The principal elevation will be formed of a two-storey gable element flanking a central portion with a single storey entrance. The left side of the front of the property would have a two-storey bay feature and the building will be formed of brick with dark grey roof tiles and have a garage attached to the side. Only the ground floor entrance and bay window would project further towards the street than the existing property.

10.5 The building would be marginally taller but significantly larger than the house it would replace. The additional space is created largely by adding two storeys over the footprint of the existing side extension and the single storey attached garage on the side elevation towards the boundary with no. 4 Greystokes whilst also adding built form (approx. 5 metres) towards the Prescott Road frontage. The extension of the footprint to the rear is primarily at ground floor level.

10.6 The immediate area is characterised by detached residential houses set within large grounds. Properties in the vicinity are individually designed with variety displayed in scale and form, most being finished in red or dark red brick. The existing building proportionally to overall plot size is smaller than many other residential addresses in the vicinity. notably the two properties immediately opposite. In particular no. 1, which like this house is at the junction of Greystokes and Prescott Road but is of greater scale, footprint and site coverage. In that regard, it is considered that given the generous size of the plot and the immediate context, an enlarged home would not be out of keeping with the local character and would retain an appropriate setting. Moreover, it is noted that there a number of larger properties in the vicinity including the adjoining, no. 4 Greystokes, hence, any

suggestion that this represents over-development of this plot is afforded limited weight. The two-storey form, connected garage, overall height and appearance of the proposal would be in keeping with neighbouring character. Subject to conditions concerning the choice of materials, the proposal would be accordant with Policy GN3 of the Local Plan and the West Lancashire Design Guide.

### **Impact upon Residential Amenity**

- 10.7 Policy GN3 allows development provided it retains or creates reasonable levels of privacy, amenity, and sufficient garden/outdoor space for occupiers of the neighbouring properties.
- 10.8 This redevelopment provides for a replacement two storey residential dwelling in the same location (with larger footprint) than the existing property. The main impact of the proposed development is potentially on the occupiers of the adjoining house, no. 4 Greystokes, other dwellings being set at sufficient distance so that their amenity would be preserved. Number 4 sits close to the party boundary and has a long single storey extension which runs along a significant part of it. The boundary currently consists of a tall hedge and residential fencing.
- 10.9 At present the single storey attached garage is some 7.2 metres north east of the nearest part of the adjoining property with the second storey of the existing house being at a minimum over 12 metres from the extensive ground floor extension of no. 4, and approximately 15 metres off the flank wall second floor bedroom window. This proposal would shorten some of those distances, the latter measurement (first floor window no.4 to second storey new house) would reduce to approximately 13 metres at the closest point, and to approximately 10.5 metres from the second storey to the ground floor addition at no. 4. In terms of the single storey elements of the proposal, the distance between this and the neighbouring house would reduce to just over 6 metres at its nearest point.
- 10.10 The reduced proximity of built form is noted and the new relationship will have some impact on outlook from neighbouring property however it is not considered that harm on neighbouring living conditions would be significant. The main impacts would be limited to those north/north eastern windows within the flank elevation of the neighbouring house including the northern front of the large ground floor extension. This latter element is built very close to the boundary and as such has limited opportunities for aspect in any case, facing as it does a garden fence and hedging less within 2 metres of its northern edge whilst benefitting from an unimpeded southerly aspect.
- 10.11 In terms of the second storey flank bedroom window at no. 4, this will be affected to a limited degree by this proposal which brings the second storey built form just over two metres closer. However, the shortened distance will not prejudice aspect and there would be negligible impact on access to light given the window's north east facing orientation. It is also noted that this property comprises at least another 3 other bedrooms which are not affected at all by this proposal. Consequently, it is not considered that this scheme would result in any dominance or overshadowing to neighbouring property plus it is set sufficiently away from neighbouring windows or rear garden space so as not to be overbearing.
- 10.12 In terms of privacy, the application provides for no windows within the flank elevation facing onto no.4 at all. The windows to the rear at ground and first floor reflect an established situation and do not pose greater perceived overlooking opportunities than that experienced at present. There is no issue in this regard. A

condition is recommended removing the permitted development rights in respect of extensions so that the amenity of neighbouring residents, the health of the TPO trees and the appearance of the property can be safeguarded according to planning policy in future. In respect of the housing opposite, this property is placed broadly in line with what it proposes to replace, and amenity will not be materially affected to any significant degree.

10.13 Comments have been made in respect of the disruption caused through construction. This is recognised as temporary and is also covered by other legislation. A condition requiring the submission and approval of a Construction and Environmental Management Plan prior to works commencing is recommended. This document will incorporate measures to mitigate environmental and biodiversity effects during the construction phases of the proposed development to mitigate as much as possible the temporary construction impacts. In addition, 3<sup>rd</sup> party comments raise matters that sit outside the scope of the planning application assessment such as the no trespass signs and works to existing landscaping as such, limited weight is afforded in this regard.

10.14 Having regard to the above considerations, the proposals will not adversely impact the living conditions of neighbouring occupiers to any significant degree and therefore the development is considered to comply with the requirements of local plan policy GN3.

## **Highways**

10.15 Policy GN3 of the West Lancashire Local Plan 2012-2027 DPD states that development should incorporate suitable and safe access and road layout design in line with latest standards. Parking should be provided in accordance with Policy IF2.

10.16 The application drawings detail the creation of additional access point to the property along Greystokes. This has been reviewed by the Highway Authority who raise no objection. The proposed level of off-road parking is in line with West Lancashire Borough Council's parking policy. Details of electric vehicle charging have not been provided. A condition in this regard alongside those recommended by the Highway Authority would be attached to any approval in order to preserve highway safety and to accord with Policy IF2.

## **Ecology**

10.17 Policy EN2 (1) 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.

10.18 The applicant has submitted an 'Inspection & Assessment in relation to Bats & Breeding Birds' document. This sets out that survey work was undertaken on the current site in September 2022. The survey found no evidence of bat activity or presence within the building and considers it and the vegetation currently on site, to have negligible bat roost potential. In terms of breeding birds, no evidence of nesting was found although the potential for it does exist on the site because of the mature trees and shrubs located on it. The document sets out recommendations in terms of lighting to not discourage bats and a condition in respect of works so that nesting is not negatively affected is also recommended. Moreover, suggested

biodiversity benefits are made including bat and bird boxes and integral bee bricks. In order to provide biodiversity improvements/net gain a condition in this regard is attached.

- 10.19 Subject to appropriate conditions it is considered that the proposed development would not adversely impact on protected species or their habitats and on that basis the proposal complies with the requirements of local plan policy EN2.

### **Drainage**

- 10.20 The planning submission was accompanied by a drainage plan, a drainage strategy report and accompanying drawings. These have been reviewed by the Council's Drainage Engineer and it is not agreed that infiltration is an appropriate method on this site for dealing with surface water drainage. The WLBC Level 2 Strategic Flood Risk Assessment (SFRA) has been reviewed by the Engineer and ground water levels appear to be too high for infiltration to work effectively. To address this concern, a condition is recommended requiring the submission and approval of a surface and foul water strategy, this would need to accord with the requirement of a 30% reduction in existing surface water runoff from the site as outlined in Policy GN3 of the Local Plan.

### **Trees/Landscaping**

- 10.21 Within the site boundary there are a number of trees protected by a Tree Preservation Order. These mainly fall on the boundary with Prescott Road plus there is one close to the development site within the grounds of no. 4. Policy EN2 of the Local Plan requires appropriate surveys to be submitted as part of an application submission to ensure that the Council can assess the effects on trees. The application is supported by an Arboricultural Impact Assessment and Method Statement (AIA) which has been subject to revision in line with the slightly re-located dwelling.
- 10.22 The Council's Tree Officer raised concerns with the original proposal. The former built footprint overlapped the root protection area of an on-site TPO protected Lime tree to a degree that risked detrimental impacts to its health and longevity, during construction and post-development. The revised submission has significantly addressed this matter and whilst the construction will partially overlap the root protection area it will not be significant enough to prejudice its longevity and has been accepted by the Tree Officer. The revised AIA sets out working methods to safeguard the tree during construction works including working by hand within the RPA. This will serve to protect the tree and these methods are recommended to be secured by condition. Otherwise, the AIA confirms that no trees will be lost as a result of this development. Tree protection fencing should also be put in place to protect the roots of this tree and others on site. The pruning of another TPO tree on site (semi mature Magnolia) is considered to have a limited impact on its amenity value.
- 10.23 On the basis of the above and that no objections are raised by the Council's Tree Officer, the proposals are considered accordant with Policy EN2 of the Local Plan.

## **11.0 CONCLUSION**

- 11.1 The proposed replacement dwelling is materially larger than the building it replaces. However, the scale of the proposal and its associated landscaping is considered to be in keeping with the established character of the area and acceptable in principle.

Subject to planning conditions, the new build would likewise preserve residential amenity, highway safety, local drainage and the ecological status of the site with further enhancement. The proposed development is considered therefore to be compliant with the NPPF and Policies EN2, GN1, GN3 and IF2 of the West Lancashire Local Plan 2012-2027 DPD and the application is recommended for approval.

## **12.0 RECOMMENDATION**

12.1 That planning permission be approved subject to the following conditions and reasons:

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2002.

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

Proposed Plans and Elevations, Drawing No. 101 Rev M  
Proposed Site Plan, Drawing No. 103 Rev D;  
Existing & Proposed Streetscenes, Drawing No. 102 rev. B  
Site Location Plan, Drawing No. LP  
Arboricultural Impact Assessment and Method Statement Rev A (MPTrees)

Reason: 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. No development shall take place until a strategy for the separate foul and surface water drainage of the development is, including any necessary infiltration measures, attenuation measures, points of discharge and maintenance management proposals, approved in writing by the Local Planning Authority. The surface water drainage strategy must take account of the relevant provisions of the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement standards and achieve a reduction in surface water run-off of at least 30% on previously developed land. The drainage scheme must be completed in accordance with the approved details and, if applicable, the approved phasing of the scheme. The Micro Drainage mdx file, if available, is required to aid the checking of design calculations.

Reason: To ensure that the site is properly drained in the interest of local amenity and the development complies with the provisions of Policies GN3 and IF3 of the West Lancashire Local Plan 2012-2027 DPD.

4. No development shall commence until a Construction Environment Management Plan (CEMP) Has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall propose measures to mitigate environmental and biodiversity effects during the construction phases of the proposed development, including noise reduction measures and visual screening and timing restrictions for construction activities, plus measures to prevent mud and stones being carried onto

the highway. The development shall be implemented in accordance with the approved CEMP.

Reason: These details are required prior to the commencement of development to as the proposed development may result in the loss of ecological habitat and to protect neighbouring amenity, as such precautions are required during the construction phase in order to comply with the provisions of Policies GN3 & EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

5. No vegetation management, ground clearance or building works is to take place during the period 1 March to 31 August inclusive. If it is necessary to undertake works during the bird breeding season, then all buildings and vegetation are to be checked first by an appropriately experienced ecologist to ensure no breeding birds are present. If present, details of how they will be protected are required to be submitted for approval.

Reason: To safeguard protected species and so ensure that the development complies with the provisions of Policy EN2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

6. Notwithstanding any description of materials in the application no above ground construction works shall take place until samples and / or full specification of materials to be used externally on the building has been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour, and texture of the materials.

The development shall be carried out using only the agreed materials and method of construction.

Reason: 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 West Lancashire Local Plan 2012-2027 Development Plan Document.

7. No above ground construction works shall take place until a plan indicating the positions, height, design, materials, and type of all means of enclosure/boundary treatment including walls, fences, and gates to be erected has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment(s) means of enclosure shall be completed as approved before the development is occupied, or in accordance with a timetable agreed in writing with the Local Planning Authority.

Reason: To safeguard and enhance the character of the area and to protect residential amenity in accordance with the provisions of Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

8. The development hereby permitted shall be implemented in full accordance with the recommendations set out in sections 4 and 5 of submitted document: Arboricultural Impact Assessment and Method Statement Rev A (MPTrees) Received by the Local Planning Authority on 23<sup>rd</sup> January 2023.

Reason: To ensure that the proper protection of trees has been carried out in the interests of visual amenity and to comply with Policies GN3 and EN2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

9. The building shall not be occupied until details of the number and location of bird nesting boxes, bat boxes and bee bricks to be incorporated into the scheme (minimum 1 of each) shall be submitted to and approved in writing by the Local Planning Authority. The bird and bat boxes shall be installed in accordance with the approved details prior to the first occupation of the dwellings and shall be retained at all times thereafter.

Reason: In the interests of biodiversity conservation and to comply with Policies GN3 & EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

10. Notwithstanding the details shown on the approved drawings, the building shall not be occupied until full details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority.

The details shall include, hard surfaced areas and materials, planting plans (to include native species) and existing plants / trees to be retained. The approved landscaping works shall be implemented and completed prior to the occupation of the dwelling to which it relates unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the site is satisfactorily landscaped having regard to the character of the area and the nature of the proposed development and to comply with Policy GN3 and EN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

11. Before the access is used for vehicular purposes, that part of the access extending from the highway boundary to the property shall be appropriately paved in tarmacadam, concrete, block pavements, or other hard material to be approved by the Local Planning Authority.

Reason: To prevent loose surface material from being carried on to the public highway thus causing a potential source of danger to road users and to comply with Policy GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document.

12. The building shall not be occupied until drop kerbs (for the additional vehicular access) have been installed at the carriageway edge and a vehicle cross-over constructed across the footway (and/or verge) fronting the site in accordance with the approved plans the Lancashire County Council Specification for Construction of Estate Road, to be retained in that form thereafter for the lifetime of the development.

Reason: In the interests of pedestrian safety and accessibility and to comply with Policy GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document.

13. Prior to the first occupation of dwelling hereby approved, details of the provision of an electrical supply suitable for charging an electric motor vehicle shall be provided to and approved in writing by the local planning authority and fully installed. The supply shall be thereafter retained.

Reason: To support sustainable transport objectives and to contribute to a reduction in harmful vehicle emissions and to comply with Policy IF2 of the West Lancashire Local Plan 2012-2027 Development Plan Document.

14. No external lighting shall be installed at the site until a scheme detailing the proposed lighting has been submitted to and approved in writing by the local planning authority. All external lighting shall be installed and maintained in accordance with the agreed scheme.

Reason: In the interests of biodiversity conservation and to comply with Policies GN3 & EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

15. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) Schedule 2, Parts 1 A - F and 2 A - B, or any amendments made to that Order, shall not apply:

- (i) no extensions shall be carried out to the dwelling(s)
- (ii) no garages or carports shall be erected within the curtilage of the dwellings
- (iii) no vehicle standing space shall be provided within the curtilage of the dwellings
- (iv) no buildings, greenhouses, swimming pools, gates, walls, fences or other structures shall be erected within the curtilage of the dwellings
- (v) no means of access shall be constructed to the curtilage of the dwellings
- (vi) no windows or dormer windows shall be added to the dwelling

unless on application to the Local Planning Authority, planning permission for such development has been granted.

Reason: The character and location of the property are such that the Local Planning Authority wish to exercise control over future development in order to protect residential and visual amenity and to safeguard the health and longevity of on-site TPO trees in accordance with Policies GN3 and EN2 of the West Lancashire Local Plan 2012-2027 Development Plan Document.

#### Reason for Approval

1. The Local Planning Authority has considered the proposed development in the context of the Development Plan including, in particular, the following Policy/Policies in the 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 Choices

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

Policy IF2 – Enhancing Sustainable Transport Choices

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.

### **13.0 SUSTAINABILITY IMPLICATIONS**

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

### **14.0 FINANCIAL AND RESOURCE IMPLICATIONS**

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

### **15.0 RISK ASSESSMENT**

15.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.

### **16.0 HEALTH AND WELLBEING IMPLICATIONS**

16.1 There are no health and wellbeing implications arising from this report.

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### **Background Documents**

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**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

### **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).

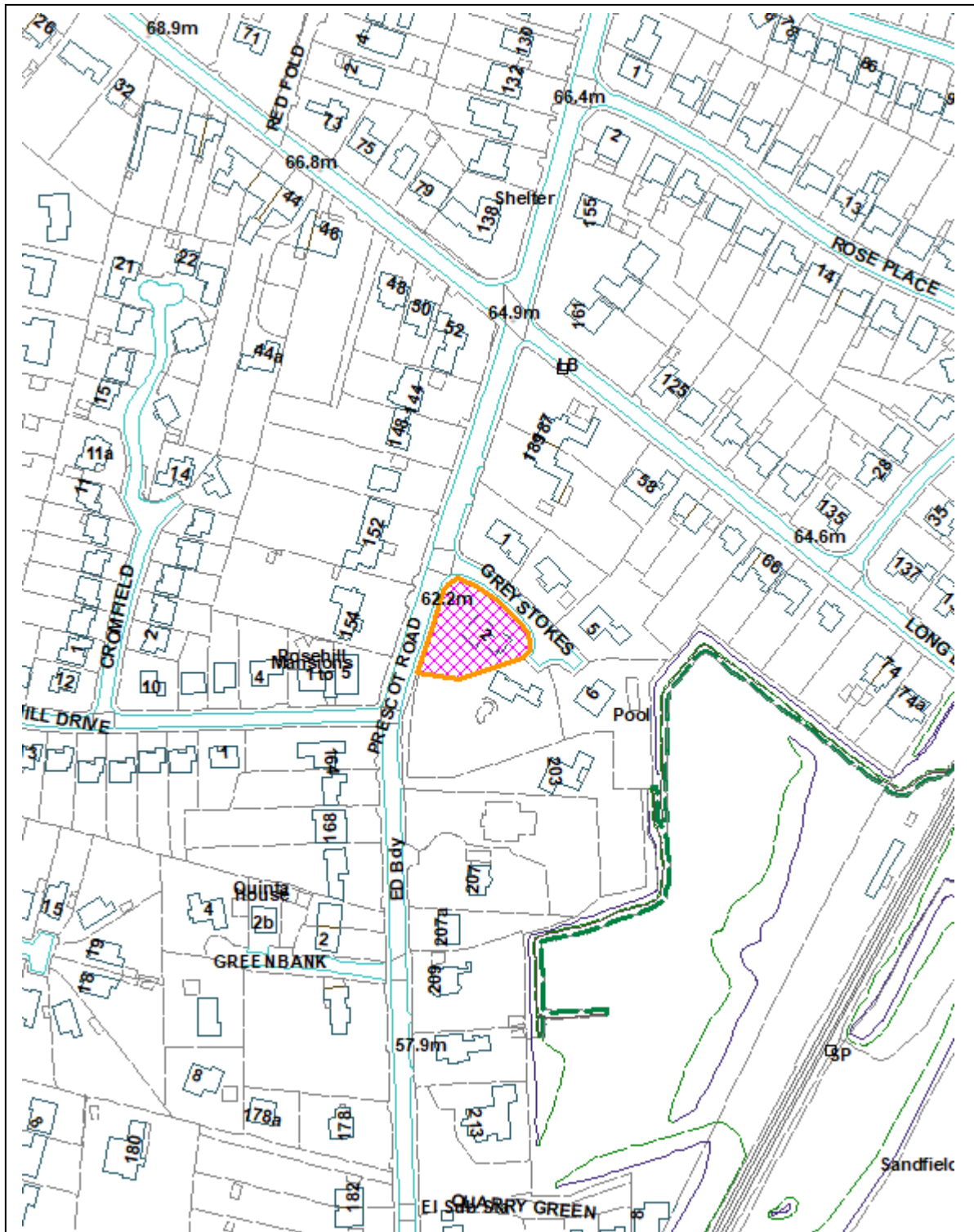
### **Appendices**

None.



2022/0916/FUL

2 Greystokes, Aughton, L39 5HE.







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**Report of:** Corporate Director of Place & Community

**Contact for further information:**

**Case officer:** Debbie Walkley (Extn. 5342)

**E-mail:** [debbie.walkley@westlancs.gov.uk](mailto:debbie.walkley@westlancs.gov.uk)

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**SUBJECT:** PLANNING APPLICATION 2022/1164/FUL

**PROPOSAL:** Erection of a detached dwelling house and detached garage. Relocation of rear bedroom window from side elevation to rear elevation on existing dwelling.

**ADDRESS:** 10 Middlewood Road, Aughton, L39 6RG

**REASON FOR CALL IN:** Councillor O'Toole – raises concerns in relation to impact on residential amenity of neighbouring properties.

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**Wards affected:** Aughton and Downholland

## **1.0 PURPOSE OF THE REPORT**

1.1 The report advises Planning Committee on an application which seeks permission for the subdivision of the garden associated with No 10 Middlewood Road in Aughton to facilitate the construction of a single two storey four-bedroom dwelling and detached garage. In addition, it is proposed to relocate the rear bedroom window on the side gable to the rear elevation of the existing property (No.10 Middlewood Road) to prevent impact upon the living conditions of the proposed dwelling.

## **2.0 RECOMMENDATION TO PLANNING COMMITTEE**

2.1 That planning permission be GRANTED subject to conditions

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## **3.0 THE SITE**

3.1 The application relates to the side garden of No 10 Middlewood Road which is a two-storey semi-detached Victorian dwelling house, The property is located to the western side of Middlewood Road and beyond the western boundary of the site is the Liverpool to Ormskirk Railway line. The application site sits within an established residential area of Aughton which comprises a varied mix of property styles.

## **4.0 THE PROPOSAL**

- 4.1 Planning permission is sought for subdivision of the existing residential plot to create a new two storey detached dwelling with single detached garage, plus the relocation of an existing bedroom window from side elevation to rear elevation on original dwelling, No. 10 Middlewood Road.
- 4.2 The site has an extensive planning history including previous refusals and appeal decisions for the construction of a new dwelling at the site. The most recent of which under planning reference 2022/0405/FUL was refused for the following reason(s)
- i) *The design of the proposed development would be out of character and detrimental to the visual amenities of the street scene along Middlewood Road. As such the proposal would not accord with Policy GN3 of the West Lancashire Local Plan 2012-2027 DPD and the Council's Supplementary Planning Document 'Design Guide'*

It is also noted that whilst not a reason for refusal, if all other matters had been considered acceptable, a condition was required to address previous concerns relating to the residential amenity of the future occupants of the new dwelling. The relocation of an existing first floor bedroom window on No 10 to the rear facing elevation was considered sufficient mitigation against overlooking to the proposed dwelling and is consistent with the Planning Inspectors view provided under Appeal Reference APP/P2365/W/21/3287216.

- 4.3 This new application has been submitted following pre application engagement and the proposed dwelling has been amended in terms of its scale and design to overcome the previous reason(s) for refusal. The repositioning of the bedroom window on the original property was also included in the original description of development however during the application the applicant has notified the Local Authority that this element of the proposal has now been undertaken.
- 4.4 During the current submission, the site ownership boundaries have been amended on the layout plan to incorporate the original residential dwelling of No 10 within the blue edge of the site. Furthermore, following initial consultation and representations, the ownership certification for the application has also been changed to reflect the joint ownership of the vehicular access way to the rear of the site shared by No's 10 and 12 Middlewood Road. Formal re-consultation on the changes has been completed with the affected parties.

## **5.0 PREVIOUS RELEVANT DECISIONS**

- 5.1 **2022/0405/FUL** - Erection of a detached dwelling house and detached garage. REFUSED 01.07.2022
- 5.2 **2021/0372/FUL** Erection of a detached dwelling house and detached garage REFUSED 20.08.2021 (APPEAL REF APP/P2365/W/21/3287216 DISMISSED)
- 5.3 **2020/0663/FUL** Erection of a detached dwelling house and detached garage REFUSED 25.09.2020 (APPEAL REF Appeal B, APP/P2365/W/20/3261193 DISMISSED)
- 5.4 **2020/0544/FUL** Erection of a detached dwelling house and garage REFUSED

- 5.5 **2019/0989/FUL** Single storey extension to the rear of the property (Retrospective) GRANTED 14.11.2019.

## 6.0 **CONSULTEE RESPONSES**

### 6.1 **United Utilities (01.12.2022)**

- National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) advise that surface water from new developments should be investigated and delivered in accordance with the drainage hierarchy outlined above. Sustainable Drainage Condition recommended
- Informative(s) provided in relation to Connection for Surface Water to public Sewer, Waste-water assets for adoption, Water and Waste-Water Services, UU Property, Assets and Infrastructure

### 6.2 **LCC Highways (13.12.2022)**

- Middlewood Road (U2573) is an unclassified road which has been classified as a Local Access Road with a speed limit of 20mph fronting the site. There are no Public Rights of Way affected by this application.
- The proposed property will be accessed off a private access/ drive which currently serves No 10 and 12 Middlewood Road
- The proposed layout plan (BEE\_229\_(90)\_A100 Rev P-01) submitted indicates the erection of a new garage with 2 additional block paved parking spaces to the side. Based on the WLLP recommended parking the applicant has provided adequate parking for the size of property proposed.
- LCC Highway Development Control has no objection in principle to this application and is of the opinion that the proposed development should have a negligible impact on highway capacity and highway safety within the immediate vicinity of the site

### 6.3 **National Rail (29.11.2022)**

Raises no objection to the principle of development subject to the imposition of conditions and advisory notes.

## 7.0 **OTHER REPRESENTATIONS**

### 7.1 **Aughton Parish Council (30.12.2022)**

- Members noted the application without comment having viewed LCC Highways response in respect of parking and access arrangements

- 7.2 4 no. neighbour representations have been received in respect of the proposal, a summary of which are outlined below:

#### ***Revised Ownership Certificate/ Shared Access***

- The shared access that runs behind No 2 Middlewood Road and to the front of 10 and 12 is assumed for use of vehicles. I object as the surface is mainly soil and floods in heavy rain and is therefore not suitable for larger vehicles
- I envisage an erosion affecting the border of garden at No 2 Middlewood Road. There has been previous damage to a tree due to delivery vans using

- the access. It is narrow and vehicles would have to reverse in or out with possibility of damaging No 2 as it is not possible to turn vehicles on the track
- The access would cause disturbance if in regular use and exacerbated by another property

### ***Impact on Highways/ Local Parking Issues***

- Concerns about the safety of the shared access; vehicles have to reverse out onto the road creating potential road hazards
- Increase in parking pressure within the locality due to displacement of residents parking at Arnian Court. Combined with inadequate parking provision at Town Green Station results in additional pressures for parking
- Objection to the garage being sited half-way along the rear driveway at present there are 5-6 car parking spaces which would be reduced to 3 spaces between 3 properties.
- The land of both driveways is jointly owned and maintained by No10 & 12. Would a new property have a legal right to use these driveways?
- Highways are ignoring parking issues with the possibility of having more cars parked on the street

### ***Impact on Amenity***

- The privacy of the west side of my property & garden (No2) would be impacted negatively by the new dwelling
- I strongly object to the rear bedroom window of no 10 being relocated from overlooking the building plot to look directly over my own rear garden resulting in a loss of privacy
- As advised in previous 4 representations I object to a large structure being built so close to No 2. The latest plan is a rehash of the original. Moving a window off the end elevation does not reduce the massive size of the structure- it is still a two storey house with large roof space and out of keeping
- It will overlook a garden and home which has been there for 61 years- obscure windows are not sufficient
- The front garden alongside No2 is not usable as outdoor space- it is not private as its directly by the road
- The kitchen/ lounge of the adjacent bungalow is the most frequently used and the planned structure will curtail the light. Anything that rises above the border hedge will be overbearing
- The proposal is contemporary in style and not in keeping with the surrounding properties which are older properties
- There are two trees at the boundary if these are removed the north facing wall will dominate my garden and its outlook
- The inspectors decision referred to the outbuilding blocking the view however they haven't accounted for the kitchen being higher than the back yard making views over the garage easily visible

### ***Asbestos***

- I trust the Council has investigated the previously reported burning of asbestos waste on site which is a contravention to HPA guidelines

### ***Re-siting of window at No 10 Middlewood***

- The moving of the side window on the original dwelling has already been completed prior to the issue of any planning decision

## **8.0 SUPPORTING INFORMATION**

### **8.1 Drainage Strategy Report & Micro Drainage File: Dated July 2020 (30.10.2022)**



- 8.2 Design and Access Statement (30.10.2022)  
8.3 Artists Impressions- Proposed Development (30.10.2022)  
8.4 Correspondence with Applicant. Acceptance of Pre-commencement Conditions (01.02.2023)

## **9.0 RELEVANT PLANNING POLICIES**

- 9.1 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.
- 9.2 The site is located within the Key Service Centre of Aughton as designated within the West Lancashire Local Plan.
- 9.3 **National Planning Policy Framework**  
Building a strong and competitive economy  
Protecting green belt land  
Conserving and enhancing the natural environment
- 9.4 **West Lancashire Local Plan (WLLP) 2012-2027 DPD**  
Policy RS1- Residential Development  
Policy GN1 – Settlement Boundaries  
Policy GN3 – Criteria for Sustainable Development  
Policy EN2 – Preserving and Enhancing West Lancashire’s Natural Environment  
Policy IF2 - Enhancing Sustainable Transport Choices
- 9.5 **Supplementary Planning Document**  
Design Guide (2008)  
Development within the Green Belt (2015)

## **10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY**

- 10.1 The main considerations for this proposal are as follows:

- Principle of Residential Development
- Siting, Layout and Design
- Impact upon Residential Amenity
- Parking Provision/ Highways
- Drainage

### **Principle of Residential Development**

- 10.2 At the core of the National Planning Policy Framework is the presumption in favour of sustainable development and this is reflected in Policy SP1 of the Local Plan. The application site is located within the Key Service Centre.
- 10.3 Policy GN1 in the Local Plan goes on to confirm that within settlement boundaries, development on brownfield land will be encouraged, subject to other relevant Local Plan policies being satisfied.
- 10.4 As such, the principle of residential development is acceptable on this site subject to its compliance with all other relevant planning policy and material planning considerations which are assessed below.

### **Siting, Layout and Design**

- 10.5 Policy GN3 of the Local Plan states that new development should add to the distinctive character and visual amenity of the area. Proposals should consider the scale of new development and ensure that the height and massing is appropriate in relation to the neighbouring properties and the surrounding environment, and that the importance of spaces between buildings is recognised.
- 10.6 Guidance DP5 within the Council's SPD Design Guide states that new development should be of an overall scale, mass and built form which responds to the characteristics of the site and its surroundings. Care should be taken to ensure that a building's height, scale and form including roofline do not disrupt the visual amenities of the street scene and impact on any significant wider landscape views.
- 10.7 The proposed dwelling house would sit adjacent to a pair of Victorian semi-detached properties to the south and a detached bungalow to the north and would measure approximately 12.5m long x 9.6m wide with a ridge height of 7.65m. It would be viewed largely in the context of the pair of Victorian semis, which are set back from the road frontage and are back-to-front, with the principal elevation fronting the railway line.
- 10.8 The most recent application reference 2021/0405/FUL was refused on the basis that the design of the proposed dwelling would be out of character and detrimental to the visual amenities of the street scene. Specifically, the rear elevation design which included contemporary glazed openings of a bold square form which spanned into the roof slope, alongside decorative panelling and brickwork features which as a result appeared out of character with the surrounding properties. This view was primarily taken by officers due to the rear elevation fronting Middlewood Road as the active frontage, and in this context would be more readily visible and at odds with the wider vernacular.
- 10.9 The applicant has sought to overcome the most recent reason for refusal by simplifying the design of the rear elevation which no longer contains any of the previous decorative features. The first-floor fenestration designs have been amended for a more simplistic and traditional pitched roof pedestal dormer(s) and a central velux roof light, taking similar forms to that of the immediate properties. Furthermore, the ridge height of the building would be 7.65m with eaves of 4.45m. Overall I am satisfied the revised dwelling is more in keeping with the varying designs on Middlewood Road and would not appear unduly incongruous or discordant in this location.
- 10.10 In respect of the proposed garage, this will be located to the eastern boundary of the site, closest to Middlewood Road, and positioned behind mature vegetation that encloses part of the site frontage. Given the existing screening, the single storey nature of the building and its position fronting onto a vehicular access, I am satisfied the proposed garage would not cause significant harm to the visual amenity of the local area.
- 10.11 Following the subdivision of the original plot of No 10, I am satisfied there would be sufficient remaining garden space for the original dwelling. In respect of the proposed new dwelling, the length of the rear garden is approx. 8.5m long, which is acknowledged as being less than the guidance figure of 10m outlined in the West Lancashire Design Guide. Nevertheless, its overall width is 12.5m and on balance, I consider these dimensions provide sufficient amenity space for the future occupants and is furthermore consistent with the scale and grain of development of other residential plots within the immediate locality.

10.12 Overall, I consider the proposal is in accordance with Policy GN3 of the Local Plan in respect of its design and appearance.

### **Impact upon Residential Amenity**

10.13 In relation to an assessment of the proposed development to neighbouring uses, Policy GN3, criterion iii of the West Lancashire Local Plan (2012-2027) DPD states that any development should retain reasonable levels of privacy, amenity and sufficient garden / outdoor space for occupiers of the neighbouring and proposed properties.

#### Living conditions for no.2 Middlewood Road

10.14 In historical applications at the site, concern has been raised regarding the impact of a new dwelling in this location in relation to the amenity of number 2 Middlewood Road, this being the detached bungalow to the north of the site boundary. Similar representations have been raised in respect of the current application. Nevertheless, it is a material consideration that under the last application 2022/0405/FUL which amended the overall scale and footprint of the development and in turn increased the interface distances to the adjacent dwelling (approx. 13m) the Council concluded that the amendments had addressed the previous concerns relating to poor outlook and loss of light.

10.15 The current application proposes a ridge height uplift of the new dwelling from 7.3m to 7.65m however the footprint and scale remains as previously submitted. In this respect the minimum separation distances between the main window to gable elevations are retained and on balance it is considered that the modest increase of 0.35m would not result in any significant additional harm to the neighbouring property in respect of overbearing or overshadowing.

#### Living conditions for no.10 Middlewood Road

10.16 No 10 Middlewood Road is currently under the same ownership as the applicant. The layout plans indicate that the new proposed dwelling would be built close to the existing property and with a broadly consistent building line and overall length. In this respect I do not consider the new dwelling will result in any significant overshadowing or sense of overbearing. Whilst there are a number of side facing windows on the gable elevation of the original house, two of these serve non habitable rooms and the third bedroom window is proposed to be relocated. On this basis I do not consider the proposed development would harm the amenity of the existing occupants of No 10.

#### Living conditions for future occupants of the proposed new dwelling

10.17 It is noted that within previous applications for the site, a secondary reason for refusal was based upon the proposed development failing to provide adequate standard of living conditions for future occupiers of the proposed dwelling. This specifically related to overlooking issues from the existing bedroom window on the gable elevation of No 10 which was considered to result in an unreasonable loss of privacy to the most private part of the garden of future occupiers of the proposed dwelling.

10.18 The Planning Inspector(s) comments in consecutive appeals were consistent with the most recent (Ref: APP/P2365/W/21/3287216) stating that :

*"A first floor bedroom window exists in the side elevation of the rear outrigger of No 10, which would enable direct close range overlooking of the proposed dwellings' private patio area. This would severely limit the privacy of the future occupiers of the proposed dwelling. As with the previous Inspector (appeal reference 3261193), the blocking up of this window could be secured via a planning condition, were I minded to allow the appeal, given that No 10 is within the same ownership as the appeal site".*

- 10.19 On the basis of the above, the current development proposal includes the re-siting of this window from the side gable to the property's rear elevation. The Council has received notification (and photographic evidence) from the owner since validation that this element of the submission has already been completed. As such it is considered this element of mitigation to protect the amenity of the future occupants of the new dwelling has been satisfied. It is nevertheless considered appropriate to remove permitted development rights for the inclusion of any further windows being installed to the gable and this can be secured by way of condition.
- 10.20 In addition to the above, the Councils Environmental Health Officer reviewed the previous application(s) and noted that due to the position of the application site which is in very close proximity to the railway line, there is potential for noise and vibration. On this basis a Noise Assessment Report is required to evaluate the impact of the noise from the railway line and propose suitable mitigation to ensure that guideline levels of noise can be met in both internal and external (recreation) areas of the site. A vibration survey is also required, and this should determine the vibration dose value for the proposed dwelling in accordance with BS6472-1:2008.
- 10.21 In the absence of any noise assessment or vibration reports being submitted with this or previous applications, it is therefore considered necessary that any subsequent approval of permission should be subject to a condition securing the submission of this detail prior to commencement of any works on site.
- 10.22 Subject to the conditions described, I am satisfied the proposals would be in accordance with Policy GN3 of the West Lancashire Local Plan in respect of the living conditions of adjoining properties.

### **Parking Provision/ Highways**

- 10.23 The proposed dwelling would have 4 bedrooms and Policy IF2 of the West Lancashire Local Plan recommends that residential properties of this scale are required to provide three off street parking spaces per dwelling. The submitted layout plans show two off street parking spaces alongside a detached garage which would have internal measurements of 3.8m x 5.42m. Lancashire County Council Highways recommend that a garage should have internal measurements of 3m x 6m to be a viable car parking space. Whilst the proposed garage is slightly less than these requisite dimensions, there is additional width to allow for cycle storage. On this basis LCC have not raised objections to the parking provision for either this or previous applications, which they consider to be accordant with Policy IF2 of the West Lancashire Local Plan. Provision of an electrical vehicle charging point would also be required given the construction of the new dwelling and this can be secured by way of condition.
- 10.24 Middlewood Road (U2573) is an unclassified road which has been classified as a Local Access Road with a speed limit of 20mph fronting the site. There are no Public Rights of Way affected by this application. The proposed dwelling will be

accessed off a private access/ drive which currently serves the existing dwellings of No's 10 and 12. LCC Highways have raised no objections to the proposed access arrangements as shown on the layout plans and remain of the view that the proposed development would have a negligible impact on highway capacity and safety within the immediate vicinity of the site.

### **Drainage/ Flood Risk**

- 10.25 It is a requirement of Policy GN3 of the West Lancashire Local Plan that any new dwelling does not result in unacceptable drainage problems. The application site is located in Flood Zone 1 and classified as at negligible risk of flooding. The current application is accompanied by a Drainage Strategy and Micro Drainage Data Report that has also been submitted for previous applications and upon which the Councils Principal Engineer has made comments and raised no objections. These remain relevant to the current application and are outlined below.
- 10.26 The site appears to be at low risk of flooding from all sources and the disposal of the foul sewage to the nearby public foul sewer is considered acceptable. It is considered positive that the applicant is intending to use a pervious paving system which employs infiltration to dispose surface water run-off. Based on the submitted percolation test the ground permeability is suitable, however groundwater levels are known to be elevated in this area and no information has been provided with the peak seasonal groundwater level.
- 10.27 In principle no objections have been raised for the development of a new dwelling on the site in respect of drainage, nevertheless in the absence of the full details as outlined above, it is considered appropriate to require the applicant to submit a full Drainage and SuDS Maintenance Strategy for approval prior to commencement of any works on site and this can be secured by condition.
- 10.28 Subject to the conditions described, the proposal is considered accordant with Policy GN3 of the Local Plan.

### **Other Matters**

- 10.29 The application has received 3<sup>rd</sup> party representations, with those relevant to planning matters having been considered above. For completeness however, comments have raised the issue of the use of the shared access/driveway, this being unadopted, therefore it's use, and maintenance is the responsibility of those properties to which it serves and therefore access it. Matters concerning the burning of asbestos does not fall within the remit of the planning regime and therefore limited weight is afforded, in addition, damage to private property is a civil matter and again limited weight is afforded in this regard.

## **11.0 Conclusion**

- 11.1 The proposed development is considered compliant with the NPPF and Policies EN2, GN1, GN3 and IF2 of the West Lancashire Local Plan 2012-2027 DPD as such the application is recommended for approval.

## **12.0 Recommendation**

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

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Ground Floor Plan Dwg: BEE\_229(2) A101 Received by the Local Planning Authority on 30th October 2022

First Floor Plan Dwg: BEE\_229(2) A102 Received by the Local Planning Authority on 30th October 2022

Front Elevation Dwg: BEE\_229(2) A201 Received by the Local Planning Authority on 30th October 2022

Rear Elevation Dwg: BEE\_229(2) A202 Received by the Local Planning Authority on 30th October 2022

RHS Elevation Dwg: BEE\_229(2) A203 Received by the Local Planning Authority on 30th October 2022

LHS Elevation Dwg: BEE\_229(2) A204 Received by the Local Planning Authority on 30th October 2022

Garage Elevation Dwg: BEE\_229 A901 Received by the Local Planning Authority on 30th October 2022

Garage Floor Plan Dwg: BEE\_229 A900 Received by the Local Planning Authority on 30th October 2022

Site Plan as proposed Dwg: BEE\_229 (90)\_A102 Received by the Local Planning Authority on 31st January 2023

Proposed Location Plan Dwg: BEE\_229 (90) A100 Received by the Local Planning Authority on 31st January 2023

Reason: 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. The materials to be used on the external surfaces of the dwelling hereby permitted shall match those shown on

First Floor Plan Dwg: BEE\_229(2) A102 Received by the Local Planning Authority on 30th October 2022

Front Elevation Dwg: BEE\_229(2) A201 Received by the Local Planning Authority on 30th October 2022

Rear Elevation Dwg: BEE\_229(2) A202 Received by the Local Planning Authority on 30th October 2022

RHS Elevation Dwg: BEE\_229(2) A203 Received by the Local Planning Authority on 30th October 2022

LHS Elevation Dwg: BEE\_229(2) A204 Received by the Local Planning Authority on 30th October 2022

Garage Elevation Dwg: BEE\_229 A901 Received by the Local Planning Authority on 30th October 2022

Garage Floor Plan Dwg: BEE\_229 A900 Received by the Local Planning Authority on 30th October 2022

Materials Section of the Planning Application Form Received by the Local Planning Authority on 30th October 2022

Reason: 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. No part of the development hereby permitted shall be used or occupied until the ground and first floor windows on the Right Hand Side Elevation and the First Floor Window and Ground Floor glazed door on the Left Hand Side Elevation as drawings

RHS Elevation Dwg: BEE\_229(2) A203 Received by the Local Planning Authority on 30th October 2022

LHS Elevation Dwg: BEE\_229(2) A204 Received by the Local Planning Authority on 30th October 2022

have been glazed with obscure glass to a degree sufficient to conceal or hide the features of all physical objects from view (level 4). The windows shall be fixed top hung and shall be retained as such with level 4 obscure glazing at all times thereafter.

Reason: To protect the privacy and amenity of adjacent residential properties and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any subsequent Orders or statutory provision re-enacting the provisions of these Orders no window or openings shall be added to the property in the Left and Right Hand Side Elevations unless details of the positioning, size and design have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the privacy and amenity of adjacent residential properties and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

6. Prior to the development hereby approved being brought into use, a three pin 13 amp external electrical socket which is also suitable for outdoor use shall be installed at the residential property. The socket shall be located in a suitable position to enable the charging of an electric vehicle within the garage or on the driveway using a 3m length cable. The socket shall comply with BS1363, or an equivalent standard, Building Regulations and be suitable for charging electric vehicles. It shall also have a weatherproof cover and an internal switch in the property to enable the socket to be turned off.

Reason: To promote sustainable transport through the provision of recharging facilities for electric vehicles. To promote the use of low emission vehicles on the site in accordance with paragraph 35 of the National Planning Policy Framework and Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

7. A detailed noise assessment shall be undertaken to encompass noise measurements throughout the day and night-time periods and the results shall be used to define a scheme for protecting the dwellings from railway and road traffic noise which shall be submitted to and approved in writing by the local planning

authority prior to first occupation. All works which form part of the scheme shall be completed before the dwelling are occupied and retained thereafter.

Reason: To safeguard the future occupants amenity and to comply with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document

8. Prior to the commencement of development a vibration survey shall be carried out in accordance with BS6472-1:2008 and this should determine the vibration dose value for the proposed dwellings and if necessary should define a scheme for protecting the dwellings from railway vibration which shall be submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before the dwelling is occupied and retained thereafter.

Reason: To safeguard the future occupants amenity and to comply with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document

9. Prior to the commencement of development a strategy for the separate foul and surface water drainage of the development, including any necessary infiltration measures, attenuation measures, maintenance management proposals, and phasing of delivery if applicable, has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage strategy must take account of the relevant provisions of the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement standards. The drainage scheme must be completed in accordance with the approved details and, if applicable, the approved phasing of the scheme. The MicroDrainage mdx file, if available, is required to aid the checking of design calculations.

Reasons: In the interest of providing a suitable drainage system to minimise the risk of flooding on or off site and its maintenance for the lifetime of the development in compliance with the provisions of Policies GN3 & IF3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

10. Prior to the commencement of development details of a scheme to prevent mud, stones and debris being carried onto the highway shall be submitted to and approved in writing by the Local Planning Authority. Provision to sweep the surrounding highway network by mechanical means shall be available and the roads adjacent to the site shall be mechanically swept as required during the full construction period.

Reason: To prevent stones, mud and debris being carried onto the public highway to the detriment of road safety and to ensure compliance with the criteria of Policy GN3 of the adopted West Lancashire Local Plan 2012-2027 Development Plan Document

11. Prior to the commencement of development, a method statement and risk assessment shall be submitted to and approved in writing by the Local Planning Authority in conjunction with Network Rail. The development shall be implemented in accordance with the approved details thereafter.

Reason: To ensure that the construction and subsequent maintenance of the proposal can be carried out without adversely affecting the safety, operational needs or integrity of the railway.



12. A scheme for the boundary treatments including a suitable trespass proof fence adjacent to the railway boundary shall be submitted and to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the occupation of the proposed dwelling.

Reason: To protect the adjacent railway from unauthorised access.

13. Details of scaffolding works within 10m of the railway boundary, shall be submitted to and approved by the Local Planning Authority council in conjunction with Network Rail.

Reason: In the interests of protecting the railway and its boundary from over-sailing scaffolding.

14. Prior to the commencement of the development full details of ground levels, earthworks and excavations to be carried out near to the railway boundary shall be submitted to and approved by the Local Planning Authority in conjunction with Network Rail.

Reason: To protect the adjacent railway and its boundary.

#### 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 RS1- Residential Development  
Policy GN1 – Settlement Boundaries  
Policy GN3 – Criteria for Sustainable Development  
Policy EN2 – Preserving and Enhancing West Lancashire’s Natural Environment  
Policy IF2 - Enhancing Sustainable Transport Choices

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.

### **13.0 SUSTAINABILITY IMPLICATIONS**

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

### **14.0 FINANCIAL AND RESOURCE IMPLICATIONS**

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

### **15.0 RISK ASSESSMENT**

- 15.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.

### **16.0 HEALTH AND WELLBEING IMPLICATIONS**

16.1 There are no health and wellbeing implications arising from this report.

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### **Background Documents**

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**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

### **Human Rights**

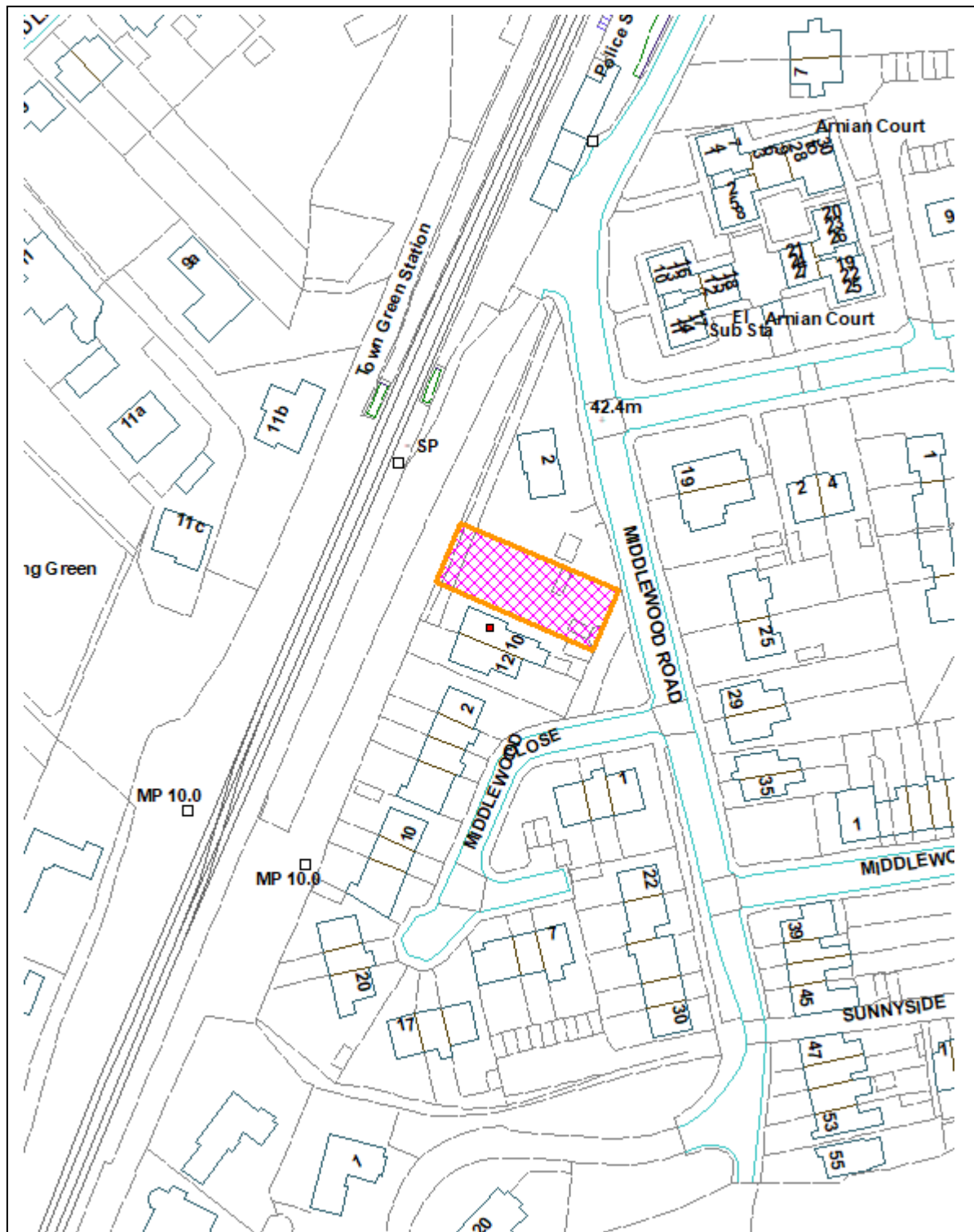
The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from Article 8 (the right to respect for private and family life, home and correspondence) and Article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

### **Appendices**

None.

2022/1164/FUL

10 Middlewood Road, Aughton, L39 6RG.







**PLANNING COMMITTEE: 16<sup>TH</sup> MARCH 2023**

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**Report of: Corporate Director of Place & Community**

**Contact for further information:**

**Case Officer: Nicola Cook (Extn. 5140) (E-mail: [nicola.cook@westlancs.gov.uk](mailto:nicola.cook@westlancs.gov.uk))**

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**SUBJECT: PLANNING APPLICATION REF. 2022/0769/FUL**

**PROPOSAL: Variation of Conditions No. 2, 3, 5, 6, 8 and 18 imposed on planning permission 2019/0747/FUL to amend the growing and incubation rooms from portal framed buildings to polytunnels.**

**APPLICANT: Smithy Mushrooms (VAR)**

**ADDRESS: Bungalow Farm, Heatons Bridge Road, Scarisbrick**

**REASON FOR CALL IN:**

Councillor Fowler for the following reasons: To consider impact on greenbelt due to changes in buildings and impact the temporary new road will have on current highways and safety

Councillor Marshall for the following reasons: The highway entrance has not got the correct access and the road is very narrow at this point. They have piled the area without permission. Poly tunnels may leak noxious gas and smells into the air. There is no main sewage in the Area and no septic tank on plans.

The application was deferred following the Committee Meeting of 24 November 2022 and deferred by the Applicant in January 2023 and February 2023. The application description has been amended by the applicant and no longer includes the proposed retrospective permission for a temporary access at the site.

Consultees, Ward Councillors and neighbouring properties have been notified of the amendments. As such an update is provided at paragraphs 11.1-11.6 and 12.1 of the report.

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**Wards affected: Scarisbrick**

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To advise Planning Committee on an application which seeks a variation to planning conditions 2, 3, 5, 6, 8 and 18 approved under application ref: 2019/0747/FUL.

## **2.0 RECOMMENDATION TO PLANNING COMMITTEE**

- 2.1 That the application be **GRANTED** subject to conditions.
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## **3.0 THE SITE**

- 3.1 The application site is located to the south of the Leeds and Liverpool Canal, to the southeast of Heatons Bridge. Access to the site was formerly taken via a field access direct from Heatons Bridge Road however an area of hardstanding had been installed to create a temporary access (now no longer proposed). The site is currently open land and is located in part to the rear of existing agricultural buildings.
- 3.2 The site is located on the edge of the settlement of Heatons Bridge, which is sited around Heatons Bridge Road and Smithy Lane, with the main residential area being on the west side. The settlement includes commercial uses including a vehicle repair garage, public house, holiday-park, and a cluster of light industrial units on Smithy Lane. Heatons Bridge Farm is a distributor centre for the export of farm produce to the catering trade.
- 3.3 There are residential properties to the south east, south west and west of the site. The site is located to the east of the detached residential properties at 61a and 79 Heatons Bridge Road.

## **4.0 PROPOSAL**

- 4.1 The application is for the variation of Conditions No. 2, 3, 5, 6, 8 and 18 imposed on planning permission 2019/0747/FUL to amend the growing and incubation rooms from portal framed buildings to polytunnels. The application description has been amended by the applicant and no longer includes the proposed retrospective permission for a temporary access at the site. The revised description has been subject to further notification of third parties and Scarisbrick Parish Council.
- 4.2 Members will be aware that planning application ref: 2019/0747/FUL was previously recommended for approval to the Committee in November 2020. That recommendation was overturned by Members and the application was refused. The applicant subsequently appealed to the Planning Inspectorate.
- 4.3 The decision by the Inspector was to allow the appeal subject to several conditions. Although similar in content, the conditions imposed by the Inspector do not numerically match those initially recommended by officers as part of the original report.

## **5.0 PREVIOUS RELEVANT DECISIONS**

- 5.1 2022/0211/CON - Approval of details reserved by condition no's 6, 11, 12, 13, 18, 19, 21 and 23 of planning permission 2019/0747/FUL relating to; foul drainage; cycle and motorcycle parking; charging points; landscaping; lighting; biomass boiler details; an ornithological watching brief and a construction management plan - Details approved
- 5.2 2019/0747/FUL - Construction of a mushroom farm in conjunction with the agricultural business, Smithy Mushrooms Limited, to include portal frame buildings, car parking, hardstanding and sustainable drainage system - Refused (Allowed at appeal)

## **6.0 OBSERVATION OF CONSULTEES**

- 6.1 Natural England - 17/08/22

Natural England is not able to fully assess the potential impacts of this proposal on statutory nature conservation sites or protected landscapes or, provide detailed advice on the application.

- 6.2 Canal and River Trust - 22/08/22

General advice regarding the drainage strategy for the site. Would welcome clarification as to whether drainage ditches ultimately discharge into the canal. If this is the case, we would be concerned about potential secondary discharge of foul waste into the canal.

- 6.3 Canal and River Trust - 29/08/22

Note the additional information which confirms that the ditches which cross the site would appear to ultimately discharge into the canal via third party ownership. As this would be secondary discharge no further consent would be required from the Canal and River Trust. It is noted that the foul water would go through various stages to be treated before being discharge. This is a matter for the Environment Agency to satisfy themselves as the regulatory body.

In conclusion provided the Environment Agency are satisfied with the foul and surface water discharge then the Trust would have to accept the arrangements and monitor any issues that may occur in the area in terms of water quality.

- 6.4 MEAS - 31/08/22

Condition 2 - Approved plans - The applicant intends to alter the proposed design in relation to the incubation and growth rooms only, preferring the new proposal of polytunnels over the previously accepted steel frame design. Comparison of the size, scale and height of the two designs shows these variables will remain largely the same and as such there are no additional ecological or HRA impacts. I advise the variation of condition to be acceptable from an ecological perspective.

I advise the HRA does require updating to ensure the amended proposal is compliant with the Habitats Regulations.

Condition 3, 5, 6 and 7 - Both the original condition and this proposed variation have no ecological implications and no comment is required.

Condition 18 - Lighting scheme - The majority of the previously accepted lighting scheme will remain unchanged, with only the area now proposed as housing polytunnels requiring approval. Comparison of the new and previously accepted lighting schemes show the lighting types have changed at the SE perimeter but that expected spills and other lighting impacts will not be significantly increased. I advise the variation of condition to be acceptable from an ecological perspective.

#### 6.5 MEAS - 09/11/22

The applicant has submitted an updated shadow HRA in relation to the revised plans (*Smithy Mushrooms, Heatons Bridge Road, Scarisbrick, Shadow Habitats Regulations Assessment, TEP, 04/10/2022*). The shadow HRA includes the revised elements of the proposal and includes the same conclusions for Test Of Likely Significant Effects and Appropriate Assessment, including mitigation measures which have been secured by planning condition. I advise the shadow HRA is accepted, and the application remains HRA compliant.

#### 6.6 Environment Agency - 05/10/22

We have reviewed the updated drainage strategy report, prepared by The Environmental Protection Group (ref: EPG-8954-DS-RP-01, revision 5.0, dated 30 June 2022). We have no objection to the proposed variation of Conditions 6 (Foul drainage)

#### 6.7 LCC Highways - 19/08/22

The variation of conditions relates to the amendment to the construction of the proposed growing and incubation rooms from portal framed buildings to polytunnels and does not alter the previously agreed highway access details therefore LCC Highways have no objection to the variation of these conditions.

It would appear that the temporary access is already in use by the applicant. Whilst LCC Highways has no objection to the construction of a temporary vehicular access at this location, the construction of the access must be carried out under an appropriate legal agreement with the Highway Authority under the Highway Act 1980.

I have contacted the officers dealing with both s184 agreements and s171 licences and they can find no record of an application for a temporary access at this location. LCC Highways has no objection in principle to the proposed residential development and is of the opinion that the proposed development should have a negligible impact on highway capacity within the immediate vicinity of the site.

#### 6.8 Lead Local Flood Authority - 19/08/22

The Lead Local Flood Authority has no objection to the variation of conditions application. Recommend informative note.



## 6.9 Environmental Health Officer - 08/11/22

### Lighting

I have reviewed the submitted lighting assessment which includes a detailed lighting contour.

The submitted lighting contours adequately demonstrate that the vertical illumination of neighbouring premises is in accordance with the recommendations of the 'Institution of Lighting Professionals in the 'Guidance Notes for the Reduction of Obtrusive Light'. The details submitted for approval shows measures which prevent glare and sky glow by correctly using, locating, aiming and shielding luminaires. In light of this information, I am satisfied that the wording of the condition has been satisfied and may be discharged.

### Noise

From an Environmental Health perspective there is the potential for noise associated with the operation and use of the site to impact on the amenity of the area. A noise assessment has previously been provided by the applicant to support the previous application (2019/0747/FUL). The noise assessment titled "Smithy Mushroom Ltd, Heaton's Bridge Road, Scarisbrick, Ormskirk carried out by Miller Goodall Ltd, dated 17/7/2019, reference 101985\_V03" is deemed to be relevant to the current application, given the operations, movements and plant and equipment supporting the site have not altered significantly since the previous assessment was made.

The noise assessment provides a full assessment of the current background conditions and an assessment of the noise generated by the operation of the site. The assessment was carried out in accordance with the requirements of BS4142, BS8233 and WHO guidelines. The assessment acknowledges the overall noise impact of the operations of the proposed use are low. The predicted noise levels at the nearest residential dwellings when assessed to BS4142 detail the Rating Level to be 8dB below the prevailing background level. This indicates that minimal noise impacts will be perceived by the residents of the nearest noise sensitive properties. Several conditions were previously suggested to control noise from the proposed use, and it is deemed acceptable that these should be reimposed on any permission granted.

### Air Quality

There is the potential for air quality issues associated with the construction, operation and use of the site to impact on the locality. The operational phase of the proposed use details the need to install a biomass boiler for space heating. The operation of the boiler as well as other air quality/odour impacts associated with the proposed use are subject to review in an updated air quality assessment which has been submitted in support of this application. The air quality assessment titled "Smithy Mushroom Ltd, Heaton's Bridge Road, Scarisbrick, Ormskirk carried out by Miller Goodall Ltd, dated 4/7/22, reference 101986\_V03" is relevant to the current application, and assesses the site in terms of the national standards and guidance relating to fugitive and point sources of emissions and odours. The air quality assessment provides a full updated assessment of the current background air quality conditions prevalent at the

proposed development site and employs the correct methodology and assessment criteria when determining the potential impacts.

With respect to the construction phase the assessment details that with the implementation of mitigation measures, the dust impacts from the construction activity are not significant, when assessed in accordance with IAQM guidance. A condition requiring a construction environmental management plan is suggested to allow for the mitigation measures to be documented. The development shall be carried out in accordance with any detailed mitigation such as the inclusion of buffer zones etc.

Traffic emissions are reviewed in the assessment and are not expected to have a significant impact on local air quality when considered in accordance with IAQM Guidance. The odours associated with the development are reviewed in the assessment and again is not considered to have a significant impact on nearby residential receptors.

Target Emission Rates have been set for the proposed combustion (biomass) plant which will ensure that the risk of exceedance of the relevant air quality objectives for PM10 and NO2 is unlikely. A condition requiring full details of the biomass plant is suggested to ensure once finalised these can be reviewed to ensure they meet with the set target emission rates specified in the assessment.

## **7.0 OTHER REPRESENTATIONS**

### **7.1 Scarisbrick Parish Council - 18/01/23**

Councillors unanimously rejected the retrospective application for a temporary construction access at the last meeting. This was a responsible decision based on considerations of road safety and their local knowledge of the B5242. Officers advised that this approach would be indefensible at any subsequent appeal because the access would be constructed to the same standards of safety required by the planning inspector at the previous appeal, a process that would be secured by condition.

Your officers' intentions are understandable but we fear are based on a false hypothesis. The assumption they make is that the position of the access can be relocated along the site frontage whilst not impacting upon the standards of visibility splay and swept path radii considered appropriate by the planning inspector. We believe that this is not the case and the only location where the required splays and radii are possible is that which the planning inspector has approved but the applicant chooses not to develop. They are not possible elsewhere and this per se constitutes grounds for refusal and enforcement of the approved access. Please consider the following. Drawing SK.32.4: This is the only drawing of the temporary access that has been submitted with this application.

Please note: The position of the access approved by the planning inspector is shown in outline and labelled "site entrance location, etc". We henceforth refer to it as the definitive access. The position of the access for which retrospective permission is now sought is labelled "proposed temporary site entrance". This lies about 30m to the southeast of the currently undeveloped definitive access.

The drawing shows a side-by-side comparison of the swept path radii of both accesses. Those of the definitive access are just about contained within the applicant's curtilage, particularly towards the south-east. It would not be possible to reproduce this arrangement for the temporary access; its position ensures there is insufficient land available within the applicant's curtilage. As a result, the applicant is advocating significantly reduced swept path radii of 6m. The drawing does not include visibility splays for the proposed access but the effect of shifting the access to the south-east is illustrated below. The diagram is for illustrative purposes only, showing how the visibility splay of 160m required by the inspector becomes foreshortened as the access shifts towards the adjacent boundary hedge.

Estimating the degree of shortening requires the applicant to submit scaled drawings of the visibility splays which have not been supplied. However, as this is a retrospective application the access is already in situ and the visibility splay can be measured in reality. In response to residents' concerns we have measured it at an unacceptable 85m, which would already represent a breach of planning control under your officers' preferred approach.

Drawing VN81164-TR102: This forms part of the application you are now being asked to approve. Please note the following: The drawing was supplied by Vectos, the applicant's consultant. Vectos have illustrated the extent of the swept path radius necessary for an HGV to turn left out of the site without crossing the central white line and compromising road safety. The amount of land required to accommodate the swept path radius significantly influences the final position of the access road within the applicant's curtilage. The drawing shows that this access road and this swept path radius can be accommodated within the applicant's curtilage.

However, there is a significant problem. This is not a drawing of the proposed temporary access. It is, in fact, a drawing of the definitive access which was considered and approved at appeal but the applicant has chosen not to develop (in breach of planning control). VN81164-TR102 was submitted with the original application, not the current application. The applicant has NOT submitted drawings of visibility splays or swept path analysis of the proposed temporary access. The two will not be the same because the accesses are in completely different positions within the curtilage. What is achievable for one is not achievable for the other, we explain below. As we have seen from drawing SK.32.4, the proposal currently under consideration puts the access significantly to the RIGHT of that illustrated in VN81164-TR102.

Such are the constraints of the curtilage that any movement at all in this direction would require adjacent third party land to accommodate the prescribed swept path radius. The developer's inability to supply the required swept path radius for the temporary access within his own curtilage is already causing exiting construction traffic to cross the central white line of Heatons Bridge Road (see below). As this is a retrospective application the access is already in situ and the inadequacy of the swept path radius can be assessed in reality. There is little point in your officer's applying conditions with which the applicant can't comply. What drawing VN81164-TR102 demonstrates beyond doubt is that the ONLY position where an access can provide adequate swept path radii is where the planning inspector has already given approval – nowhere else. The same applies

to visibility splays as we have demonstrated above. (Your officers refer to drawing VN81 164-D104 as evidence that visibility splays can be achieved, but this is also a drawing of the access that has extant planning consent, not a drawing of the temporary access. It demonstrates that the only position in which visibility splays of 160m are possible is that which the inspector has given approval but the applicant chooses not to develop).

We are aware that planning officers will dismiss our evidence on the basis that LCC Highways have expressed no objection. This is the reason expert opinion commissioned and submitted by Scarisbrick Parish Council was also summarily dismissed. It is therefore important to look at what LCC actually wrote (original document rather than your supplied summary). They talk about having no objection, in principle, provided that details of the temporary access are submitted prior to commencement. It is clear that they are also short on detail and have asked for it to be supplied by means of a planning condition (which planning officers have neglected to include). This is hardly an endorsement that would fill one with confidence, surely such detail should be considered prior to planning permission being granted and give everyone the opportunity to comment.

Policy GN3 of the Local Plan makes establishment of safe access a planning issue. Responsibility lies with the local planning authority, not LCC Highways. It is not unreasonable to ask the developer to supply details of visibility splays and swept path radii before permission is granted. Indeed, as a retrospective application it is also possible for your officers to make this assessment on the ground. If the temporary access can be demonstrated to fulfil the planning inspector's stringent requirements then there is no issue. If it can't, then the access as originally approved should be enforced. To do otherwise invites a constant stream of enforcement action whilst an inadequate and unsafe access continues to be used.

As you are aware, the developer has already demonstrated a complete disregard for statutory regulation, licensing, or planning control. Finally, experience tells us that that the battle is won or lost on the opinion of LCC Highways. No other information is taken into account and once they have ruled their decision can never be challenged. The conditions that your officers apply to planning consent then become important as these will form the statement of standards to which the developer should comply, and the basis for enforcement when he can't (or won't).

The planning inspector showed considerable foresight in applying planning conditions. He insisted that the access he approved should be constructed to at least base course level before any other development took place. Unfortunately this continues to be flouted by the developer but was nonetheless a sensible and pragmatic decision.

Please compare this approach to that of your officers with particular reference to the access:

8. Prior to the first use of the hereby permitted development the access and road shall have been implemented in accordance with the Proposed Access Layout drawing numbers VN81 164-D104 (including visibility splays measuring 2.4m x 160m in both directions) and VN18 164-TR102 and constructed in accordance

with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level, and all construction vehicles shall enter and leave the site from the new site access. Reason: To safeguard the safety and interests of the users of the highway. SPC respectfully submits that this is a significant dilution of the inspector's intentions with regard to road safety which is not acceptable. It allows the developer to defer considerations of road safety (specifically, visibility splays and swept path radii) until the site is completed and producing mushrooms. It effectively gives permission for the entire construction phase to be completed before establishing safe access. We suggest replacing the underlined section with "No further development, other than works to implement the temporary access, shall commence until...". The inspector stated that his approach to conditions was to lend clarity and simplicity and the suggested wording closely follows his own in addressing the issue of road safety. It makes it completely clear that work has to halt until safe access is established, which was the inspector's intention in the first place.

## 7.2 Scarisbrick Parish Council - 04/09/22

This description does not correspond to the application that has been submitted. The applicant is applying for permission to vary conditions no. 2, 3, 5, 6, and 18 made in relation to the appeal decision notice (APP/P2365/W/21/3269788), not 2019/0747/FUL. No conditions were imposed in relation to "planning permission" 2019/0747/FUL because permission was refused, not granted.

This goes beyond pedantry. Whilst there is some overlap in the numbering system of conditions in the officer's report for 2019/0747/FUL and in APP/P2365/W/21/3269788 they are not identical. For instance, conditions 6 and 18 each refer to completely different topics depending on whether one chooses to read 2019/0747/FUL (as directed by the planning department) or APP/P2365/W/21/3269788 (which is, in fact, the extant planning consent to which the applicant refers).

In addition, the applicant makes no reference to a change in condition 8. This is at best confusing and at worst misleading. I'm sure that the public would appreciate clarification as to precisely what is being considered in relation to this application because this will clearly influence any comments.

## 7.3 Scarisbrick Parish Council - 26/09/22

Ongoing concerns with regard to the road safety implications of this development. We have commissioned a report by an independent expert on the retrospective application for a temporary construction access which should be read in conjunction with this objection. The report has been supplied by CBO Transport Ltd. Consider there to be a breach of planning control as works have begun in advance of the approved access being completed and the site continues to operate.

For reasons set out in the report by CBO Transport Ltd the Parish Council does not believe that the approved access can be delivered without third party land. Raise concerns that the access would be substandard.

Seek reassurance that the required visibility splays can be achieved as required by the Inspectorate

Object to the temporary access. Unclear why it is needed. No reference is made to visibility splays and the swept path is inferior to the access that has planning permission.

Consider the temporary access to be inappropriate development in the Green Belt without very special circumstances

The applicant's drainage strategy has NOT been revised to take into account the use of polytunnels and this increases the risk of downstream flooding due to unattenuated rainwater run-off.

The diverting and partial culverting of an ordinary watercourse was implemented without the benefit of land drainage consent. This has the potential to increase the risk of upstream flooding and further illustrates the applicant's disregard for statutory regulation (Land Drainage Act 1991).

Proposals for foul-water drainage involve the use of a non-mains foul drainage system. National planning practice guidance (PPG ref ID 34-020- 20140306) advises that such applications should be supported by sufficient information to understand the potential implications for the water environment. No assessment of the risks of pollution to surface waters has been provided nor has a case been submitted for not connecting to the public sewer.

The air quality report utilises outdated data in assessing baseline air quality contrary to advice from DEFRA. It should therefore be regarded as unreliable.

The impact of trackout dust from the site has been significantly misjudged due to erroneous data which underestimates the number of HDV movements. This impacts on local air quality and therefore residential amenity.

The applicant's air quality consultants identify a medium risk from earthworks in the construction phase. Good practice mitigation measures have been recommended but continue to be ignored with significant impact on residential amenity.

7.4 Letters of representation have been received which can be summarised as follows:

- Concerns regarding access to the site and impact on highway and pedestrian safety. Consider the temporary access should be subject to the same visibility requirements as a permanent access. Access should be constructed first as per Inspector's decision. Road is not suitable for large HGVs. There are no warning signs along the road about lorries turning.
- The buildings need to be as per the original planning permission. Concerns that the building is not sealed. The poly tunnels will leak spores and are a danger to health. Concerns regarding respiratory allergies in the growing of exotic mushrooms and reduction in air quality.
- Concerns regarding impact on neighbour amenity as a result of lorry movements, noise levels of refrigerated trailers and lighting from the polytunnels.

- No 79 Heaton's Bridge Road should not be referenced as the address of the site as it has no involvement with Smithy Mushrooms.
  - Concerns about loss of trees during nesting season
  - Conditions originally imposed in the appeal have been ignored. There is no guarantee that this would be adhered to in the future.
  - The development of this agricultural land to mass produce food is not appropriate in this residential location.
  - The application should be rescinded before everything is gone too far and the Green Belt is ruined forever.
  - The land was never appropriate for this development. The application should never have been approved.
  - Concern regarding drainage of foul water into the canal. Concerns about drainage into the ditch which is close to my home.
  - There is no screening to the NE and NW of the development.
  - Concerns regarding the construction methods of the sub base.
  - Concerns regarding the attenuation basin - its location and its impact on neighbouring land / potential for flooding. Consider the detention pond is on land outside the ownership of the applicant.
  - I would like to object to the draining system that is proposed for the Smithy Mushrooms development. It is causing problems on my site and measures the developers have taken have not resolved the problems.
  - I need assurances from yourselves that if you agree to pass this planning application that this flooding situation will not happen. You are quite aware of the serious flooding at Heaton's Bridge in the past. You have granted planning permission to take the water uphill to the canal. I am under the belief that they own all the land to the canal.
  - Drainage pumps were running day and night keeping myself and my wife awake at night until we complained to the environmental health department at WLBC. Concerns also regarding lighting being used at night
  - They still do not have the correct lines of sight at the entrance site and if passed it will create an increased danger to other road users. They do not own the land in the 160 metre sight lines either way
  - the council may consider that the applicant has satisfied the required highway conditions (especially visibility splays )based on their technical drawing the true test is when the access is physically laid out on the ground. A two dimensional plan does not show accurately the mass of my field hedgerow which may or may not form part of the required visibility splay.
  - Some of my crops have been lost as a result of the drainage that has been put in by the applicants
  - My land will flood as a result of this proposal
  - Concerns that the works continues within planning permission or compliance with planning conditions
- 
- I have no objections to the general principle of the application but ask that the Council address the potential drainage issues. I do not wish to see existing drainage issues exacerbated.

## **8.0 SUPPORTING INFORMATION**

- 8.1 Air Quality Assessment
- Lighting Assessment
- Planning Statement
- Drainage Strategy
- Flood Risk Assessment
- Drainage Strategy Response Letter
- Shadow Habitats Regulations Assessment
- Copy of letter to applicant from LCC Highways regarding the temporary works
- Letter from agent received 22nd February 2023

## **9.0 RELEVANT PLANNING POLICIES**

- 9.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan 2012-2027 Development Plan Document provide the policy framework against which the development proposals will be assessed.
- 9.2 The site is located within the Green Belt as designated in the West Lancashire Local Plan 2012-2027 DPD.
- 9.3 **National Planning Policy Framework**  
Promoting healthy and safe communities  
Achieving well-designed places  
Building a strong, competitive economy
- 9.4 **West Lancashire Local Plan Policies**  
SP1 - A Sustainable Development Framework for West Lancashire  
GN1 - Settlement Boundaries  
GN3 - Criteria for Sustainable Development  
EC2 - The Rural Economy  
IF2 - Enhancing Sustainable Transport Choice  
EN2 - Preserving and Enhancing West Lancashire's Natural Environment

Supplementary Planning Document - Design Guide (January 2008)

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

## **10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY**

*Background / Principle of development*

- 10.1 Smithy Mushrooms Limited (SML) has operated a mushroom farm at 229 Smithy Lane, Scarisbrick for over 25 years. SML specialises in the production of exotic mushrooms for the UK market. SML currently supply large retailers, such as Marks and Spencer and Tesco, and the food service market across the UK through the major food service wholesalers and food processors/ready meal companies.
- 10.2 The principle of the development of this site has been accepted via the grant of planning application ref: 2019/0747/FUL at appeal on 22nd November 2021. This application seeks to make a variation to that application.



- 10.3 The variation sought now comprises the replacement of the portal frame buildings, that would have been used as growing and incubation rooms, with polytunnels structures. The other portal frame buildings as originally approved would remain. The layout of the site will remain as approved with landscaping, parking, turning access roads and attenuation tank remaining in the same positions. The temporary access which former part of the original proposed has now been removed from the application description and is no longer part of the application.
- 10.4 The sole matter to be considered in this application now relates to whether the replacement of the portal framed building (growing and incubation rooms) with polytunnels is acceptable

*Impact on the Green Belt*

- 10.5 Policy GN1 of the West Lancashire Local Plan states that '*development proposals within the Green Belt will be assessed against national policy and any relevant Local Plan policies*'. Paragraph 149 in the National Planning Policy Framework states that '*a local planning authority should regard the construction of new buildings as inappropriate in Green Belt*'. There are 7 exceptions to this, including '*buildings for agriculture and forestry*'.
- 10.6 It has been accepted by the Planning Inspector that the process of growing mushrooms is considered to comprise agricultural development. The polytunnel structures that are proposed are required in connection with that use and have been justified as part of the current and previous submissions. On that basis the principle of the development to site polytunnels for mushroom growing on the land is considered to be acceptable.
- 10.7 The Council is not required to assess the impact of the development on the openness of the Green Belt. However, in addition to the principle of development being acceptable, it is noted that the structures proposed have a lower roof height than the previously approved buildings and therefore the impact on the openness of the Green Belt would be less than that of the approved scheme.
- 10.8 It is therefore considered that the proposal complies with the requirements of the NPPF and with local plan policy GN1.

*Design/Layout*

- 10.9 Policy GN3 along with the Council's SPD Design Guide requires that new development should be of a scale, mass and built form, which responds to the characteristics of the site and its surroundings.
- 10.10 Polytunnels are considered to be an appropriate form of development for the proposed use. Such structures are widely seen across the borough and in many rural locations. The polytunnels will be located on the site in replacement of previously approved portal frame buildings and, due to their height and positioning within the site, it is considered that there would be no additional impact on the character of the landscape than the approved scheme. On that basis the proposal complies with the requirements of local plan policy GN3.

### *Residential Amenity*

- 10.11 Policy GN3 of the Local Plan states that development should 'retain or create reasonable levels of privacy and amenity for occupiers of neighbouring and proposed properties.
- 10.12 Having regard to the existing approved scheme and the design, size and position of the proposed polytunnels it is considered that the development would not result in any additional harm to amenity of neighbouring properties as a result of overshadowing or loss of privacy.
- 10.13 A Noise Impact Assessment has been submitted with the application which has been considered by the Council's Environmental Health Officer. It is considered that conditions imposed by the Planning Inspector relating to noise limits and operation of the site remain relevant and are therefore recommended as part of this report.
- 10.14 An Air Quality Assessment has been submitted with the application which provides a review of existing air quality in the vicinity of the proposed development and an assessment of the impact of the proposed development on local air quality during both its construction and operation phases in terms of odour, road traffic emissions and operation of biomass plant. The AQA concludes that the impact on local air quality is considered to be insignificant. The Council's Environmental Health Officer has reviewed the information submitted and is satisfied that the methodology used is acceptable and agrees with the conclusion that the potential impact on air quality is low.
- 10.15 Concerns have been raised regarding the potential for lighting to have an impact on nearby residents. The Planning Inspector imposed a condition requiring details of lighting to be submitted for approval and the Applicant has submitted an external lighting layout with this submission. The Council's Environmental Health Officer considers the details provided are acceptable to discharge this condition.
- 10.16 I am satisfied that subject to the imposition of suitably worded planning conditions the development would not have any significant impact on neighbouring residents in accordance with Policy GN3 of the Local Plan.

### *Highways*

- 10.17 Policy GN3 of the West Lancashire Local Plan 2012-2027 DPD states that development should incorporate suitable and safe access and road layout design in line with latest standards. Parking should be provided in accordance with policy IF2.
- 10.18 The proposal would not create a requirement for any additional parking above that already approved and would not have an impact on the approved parking layout. I have consulted the Highway Authority in respect of the proposal who have indicated there is no objection in principle to the proposed development and is of the opinion that the proposed development should have a negligible impact on highway capacity within the immediate vicinity of the site.

10.19 As stated above, and as per section 11 below, the previously proposed temporary access has now been deleted from the application and the lowered kerb which had enabled this access has now been reinstated. Subject to recommended conditions I am satisfied the development would comply with the requirements of local plan policy GN3.

#### *Drainage*

10.20 The NPPF advises that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere, and that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate, and the systems used should take account of advice from the Lead Local Flood Authority(LLFA); have appropriate proposed minimum operational standards; have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and, where possible, provide multifunctional benefits.

10.21 Policy GN3 of the Local Plan advises that the Council will ensure development does not result in unacceptable flood risk or drainage problems by requiring development to demonstrate that sustainable drainage systems have been explored alongside opportunities to remove surface water from existing sewers.

10.22 The site is located within Flood Zone 1, meaning that the site is least susceptible to flooding. The application is accompanied by both a Flood Risk Assessment and a Drainage Strategy Report.

10.23 The submission has been assessed by the LLFA, Canal and River Trust and the Environment Agency. The Canal and River Trust raised some concerns regarding the drainage of water to the canal but recognised that this is a matter for the Environment Agency as the relevant regulatory body. No objection to the scheme has been raised by either the LLFA or the Environment Agency. Development in accordance with the drainage proposals put forward will be secured by planning condition and on that basis the proposal is considered to comply with the requirements of the NPPF and local plan policy GN3.

#### *Other matters*

10.24 Concerns have been raised in regard to the loss of trees that has previously occurred. Trees within the site are not protected by Tree Preservation Order and nor are they afforded protection by being located within a Conservation Area. In addition, the Inspector did not impose a condition requiring trees to be retained on site. Accordingly, whilst the loss of trees is regrettable, their removal is outside the control of the planning regime. It is noted that the approved landscaping scheme includes the planting of a large number of new trees and other plants which will mitigate the loss of the trees which have been removed.

10.25 Concern has also been raised about the potential for exotic mushrooms to cause respiratory allergies. This is not a matter for the Local Planning Authority, and not a material factor that can be taken into account in the assessment of the proposals.

10.26 Representations are noted which refer to ownership of the land and potential implications for the drainage scheme. The applicant has confirmed that all the land within the red line of the application site is within their ownership and that the outfall from the proposed 2m detention pond will run into the Applicant's ditch, which is in their ownership.

## **11. UPDATE FOLLOWING PREVIOUS PLANNING COMMITTEE MEETING**

11.1 The section acts to provide an update to members following their deferral of the application at planning committee held 24th November 2022. The application was deferred from the January 2023 and February 2023 meetings by the Applicant meeting to allow them time to await further correspondence from LCC Highways. Members will recall that the application was deferred for further consideration of issues relating to the main (permanent) access, temporary access and highway safety.

11.2 As detailed above, the applicant confirms that the use of the temporary access has now ceased and the approved access is now in place as per Condition 8, namely in accordance with the approved drawings and LCC Spec to at least base course level. The applicant also confirms that all obstructions greater than 1m in height within the visibility splay have also been cleared (Condition 10). On that basis permission is no longer sought for the temporary access, as this is no longer in use.

11.3 As detailed above the Council consulted the Highway Authority in respect of the current application. No objection was raised to the variation of these conditions. Comments were made in respect of the temporary access which no longer forms part of the proposal.

11.4 The applicant has advised that LCC are currently drawing up the required legal agreement for the main entrance and it is expected to be signed imminently. In respect of the main access proposed condition no. 8 is identical to that imposed by the Planning Inspector when appeal ref: APP/P2365/W/21/3269788 was determined. The plan referred to in condition 8 was assessed by the Highway Authority who stated "I am of the opinion that Visibility Splays of 2.4m x 160m as shown within drawing number VN81164-D109 Rev B are achievable. The splay falls within the applicants control and/or within the adopted highway."

11.5 It is the opinion of Officers that the applicants have provided adequate evidence to demonstrate an appropriate and safe access to the site can be provided in the form of the approved main entrance to the site under ref. 2019/0747/FUL. This has been agreed by the Highway Authority and the Planning Inspector.

11.6 The development now solely comprises the variation of conditions 2, 3, 5, 6, 8 and 18 of planning permission 2019/747/FUL which are needed as a result of the proposed change in some of the buildings from portal framed buildings to polytunnels.

## **12.0 CONCLUSION**

12.1 It is considered that the principle of agricultural development of a mushroom farm has been accepted by the granted planning permission 2019/0747/FUL at

appeal. The proposal comprising polytunnels to replace the approved portal framed buildings would not result in a detrimental impact upon the character of the area. It is considered that subject to relevant conditions the proposal would not adversely impact on residential amenity, drainage or highway safety in the area. On that basis the proposal is considered to be compliant with the NPPF and Policies SP1, EN2, EC2, GN1 and GN3 of the West Lancashire Local Plan 2012-2027 DPD and the application is therefore recommended for approval.

### **13.0 RECOMMENDATION**

13.1 That the application should be APPROVED subject to the following conditions:

1. The development must be begun not later than the expiration of three years from 22nd November 2021.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Site Location Plan drawing no. SK.32.3

Site Layout Plan - Proposed drawing no. SK.32.2F

Plan as Proposed drawing no. SK.0.1G

Proposed Site Access Plan drawing no. VN81164-D104

Swept Path Analysis, Articulated Vehicle drawing no. VN81164-TR102

Proposed external lighting layouts and lux plots drawing no. 019.040.E016 rev P2

received by the Local Planning Authority on 12th July 2022

Elevations as Proposed drawing no. Sk.0.2C received on 10th November 2022

Reason: 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. The materials to be used on the external surfaces of the hereby approved portal framed buildings (brickwork, cladding and roofing materials) along with materials used in any hard surface shall be as outlined on the planning application form submitted under reference 2019/0747/FUL.

Reason: To ensure that the external appearance of the buildings and wider site 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. Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution 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.

5. Prior to the buildings hereby approved being brought into use, surface water drainage shall be carried out in accordance with the submitted FRA & Below Ground Drainage Strategy received on 13th July 2022. Thereafter the drainage scheme shall be managed and maintained in accordance with the maintenance measures identified.

Reason: To prevent increased risk of flooding by ensuring the satisfactory storage of and disposal of surface water from the site and to comply with Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

6. Foul water shall be drained in accordance with the scheme approved under planning reference 2022/0211/CON. The scheme shall be implemented as approved, prior to the buildings being brought into use.

Reason: To secure proper drainage and to manage the risk of flooding and pollution 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. The development shall be implemented fully in accordance with the mitigation strategies described in: Revised SHRA (Version 2, TEP, May 2020, ref: 8076.002); Badger Survey- Land at Smithy Mushrooms, Pennine Ecological, 27th April 2020; and Water Vole Survey- Land at Smithy Mushrooms, Pennine Ecological, 27th April 2020.

Reason: To safeguard protected species and so ensure that the development complies with the provisions of Policy EN2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

8. Prior to the first use of the hereby permitted development the access and road shall have been implemented in accordance with the Proposed Access Layout drawing numbers VN81 164-D104 (including visibility splays measuring 2.4m x 160m in both directions) and VN18 164-TR102 and constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level, and all construction vehicles shall enter and leave the site from the new site access.

Reason: 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 and IF2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

9. The development hereby permitted shall not be brought into use until the areas for the movement, loading, unloading and parking of vehicles have been provided, constructed and surfaced in complete accordance with the approved plans. These areas shall be retained at all times thereafter.

Reason: In order that adequate on-site loading/unloading facilities are provided in the interests of highway safety and to comply with the provisions of Policy GN3 and IF2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

10. The development hereby permitted shall not be brought into use until the land between the existing highway boundary and the visibility splays indicated on the submitted plan VN81 164-D104 (visibility splays measuring 2.4m x 160m in both directions) has been cleared of all obstructions exceeding 1 metre in height. The land shall be so maintained thereafter at all times that the development is in use/operation.

Reason: 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 and IF2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

11. The development hereby permitted shall not be brought into use until the scheme for cycle and motorcycle parking as approved in writing by the Local Planning Authority under application ref: 2022/0211/CON has been implemented in accordance with the agreed details. Thereafter parking shall be maintained and retained for the life of the development.

Reason: To ensure that adequate provision is made for parking cycles and motorcycles on the site in accordance with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

12. The development hereby permitted shall not be brought into use until the scheme for Electric Vehicle Charging Points as approved in writing by the Local Planning Authority under application ref: 2022/0211/CON has been implemented in accordance with the agreed details. Thereafter it shall be maintained and retained for the life of the development.

Reason: In the interests of sustainability and air quality in accordance with Policy IF2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

13. The development hereby permitted shall not be brought into use until the landscaping scheme as approved in writing by the Local Planning Authority under application ref: 2022/0211/CON has been implemented in accordance with the agreed details.

Any trees or shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 7 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those original required to be planted.

Reason: To ensure that the site is satisfactorily landscaped having regard to the character of the area and the nature of the proposed development and to comply with Policy GN3 and EN2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

14. The rating level of noise from deliveries, internal activities and plant/machinery shall not exceed 41dB LAeq at the boundary of any nearby residential premises between the hours of 0700hrs and 2300hrs and 24 dB LAeq, between the hours of 2300hrs and 0700hrs on any day. All measurements and assessments shall be done in accordance with BS4142:2014+A1:2019 Method for rating and assessing industrial and commercial sound.

Reason: To safeguard local residents from noise and disturbance and to comply with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

15. There shall be no diesel powered vehicle/trailer mounted refrigeration units operated on stationary vehicles. Vehicle/trailer mounted refrigeration units must be connected to an electrical supply if required to power the unit. There shall be no vehicle/trailer mounted refrigeration units operated outside the hours of 0600hrs to 1900hrs on any day, whether or not on an electrical supply.

Reason: To safeguard local residents from noise and disturbance and to comply with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

16. Any sound produced by reversing alarms or indicators on vehicles on the site (other than delivery vehicles) shall not be clearly distinguishable above background noise at the boundary of any nearby residential premises.

Reason: To safeguard local residents from noise and disturbance and to comply with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

17. Heavy Goods Vehicles shall not enter or leave the site outside the hours of 0600hrs to 1900hrs on any day.

Reason: To safeguard local residents from noise and disturbance and to comply with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

18. The development shall be carried out in accordance with drawing no 019.040.E016 rev P2 Proposed external lighting layouts and lux plots received by the Local Planning Authority on 12th July 2022.

No additional external lighting shall be installed on the land and buildings without the prior approval in writing from the local planning authority. The development shall be carried out in accordance with any approved lighting scheme and retained as such thereafter.

Reason: To minimise the visual impact of light on nearby residential properties in accordance with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

19. The biomass boiler shall be installed in accordance with the scheme approved by the Local Planning Authority under planning reference 2022/0211/CON.



The approved scheme shall be fully installed and operating prior to the development hereby permitted being first brought into use. It shall thereafter be retained, maintained and operated to the approved specification

Reason: To safeguard local residents from noise and disturbance, and to comply with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

20. No manure or other based substrate not detailed in the planning application shall be used for the growing of mushrooms unless and until, a further odour assessment has been first submitted to and approved by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring occupiers, in respect of odour and to comply with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

21. The development shall be implemented in accordance with the Ornithological Watching Brief submitted to and agreed in writing with the Local Planning Authority under planning reference 2022/0211/CON.

Reason: To safeguard protected species and so ensure that the development complies with the provisions of Policy EN2 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

22. High disturbance works must be temporarily suspended if local temperatures (as recorded by nearest Met Office data and/or available site specific measurements) are below zero degrees centigrade for a period of 7 consecutive days and remain suspended until temperatures reach above zero degrees centigrade for a period of 3 consecutive days. The relevant nature conservation bodies should be informed of when works are suspended and re-commenced.

Reason: In the interests of biodiversity conservation and to comply with Policies GN3 & EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

23. The development shall be implemented in accordance with the Construction Management Plan submitted to and agreed in writing with the Local Planning Authority under planning reference 2022/0211/CON.

Reason: 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 West Lancashire Local Plan 2012-2027 Development Plan Document.

24. Only mushrooms grown at the application site hereby approved or at Smithy Mushrooms Limited, 229 Smithy Lane, Scarisbrick shall be packed on the application site.

Reason: To protect the amenity of adjacent residential properties and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

25. The development hereby permitted shall be carried out in accordance with the Air Quality Assessment (Miller Goodall Ltd report no. 101986V3) received by the Local Planning Authority on 12th July 2022.

Reason: To protect the amenity of adjacent residential properties and so comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

### **13.0 SUSTAINABILITY IMPLICATIONS**

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

### **14.0 FINANCIAL AND RESOURCE IMPLICATIONS**

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

### **15.0 RISK ASSESSMENT**

- 15.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.

### **16.0 HEALTH AND WELLBEING IMPLICATIONS**

- 16.1 There are no health and wellbeing implications arising from this report.

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### **Background Documents**

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**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

### **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).

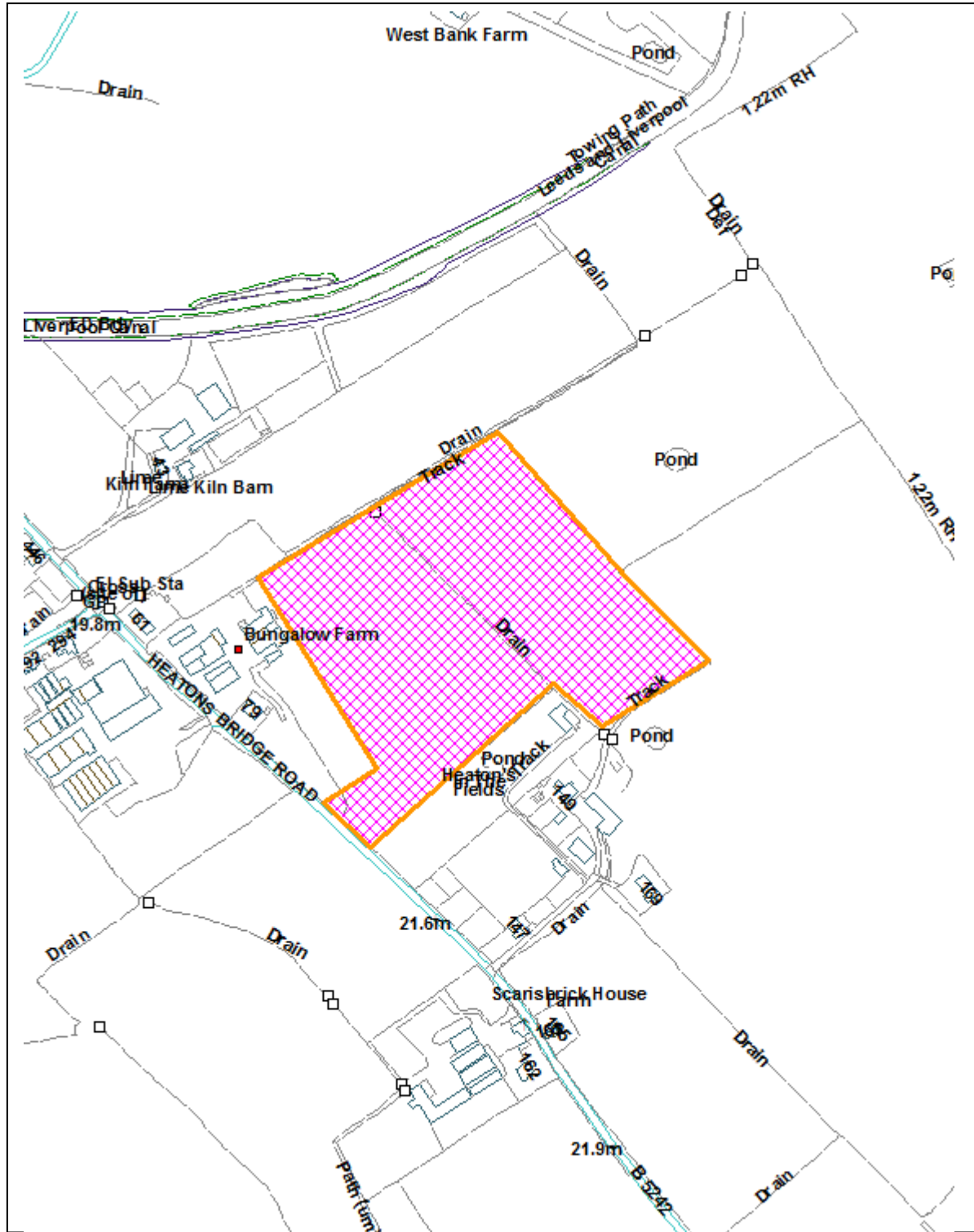
### **Appendices**

None.



2022/0769/FUL

Bungalow Farm, Heaton's Bridge Road, Scarisbrick, L40 8JQ,







PLANNING COMMITTEE: 16<sup>TH</sup> MARCH 2023

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Report of: Corporate Director of Place & Community

Contact for further information:

Case Officer: Kerry Webster (Extn. 5369)  
(E-mail: Kerry.webster@westlancs.gov.uk)

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SUBJECT: PLANNING APPLICATION REF: 2022/1154/FUL

PROPOSAL: Increase the ridge above the single storey living room to convert loft space for bedroom and ensuite, replacing the chimney and solar panels to the front and side roof slopes.

APPLICANT: Mr Stuart Smith

ADDRESS: Ellan Vannin, Long Heys Lane, Dalton

REASON FOR CALL IN:

Councillor Whittington to consider the overdevelopment of the site and the impact on the neighbouring property.

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Wards affected: Parbold

## 1.0 PURPOSE OF THE REPORT

1.1 To advise Planning Committee on an application which seeks to increase the ridge above the single storey living to convert loft space for bedroom and ensuite, replacing chimney and install solar panels to the front and side roof slope.

## 2.0 RECOMMENDATION TO PLANNING COMMITTEE

2.1 That the application be GRANTED subject to conditions.

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## 3.0 THE SITE

3.1 The application site comprises of a detached dwelling set within a large plot. The property is a replacement dwelling house which was granted permission in 1988

and was previously known as Kitchen Cottage. The driveway runs along the side of the property and leads to a large, detached garage to the rear of the site.

3.2 The site is located within the Green Belt as designated in the West Lancashire Local Plan.

#### **4.0 PROPOSAL**

4.1 Planning permission is sought to increase the ridge above the single storey living room and the addition of a front dormer to convert the existing loft space for a bedroom and ensuite. In addition, the proposal includes the replacement of the existing chimney and the installation solar panels to the front and side roof slopes.

#### **5.0 PREVIOUS RELEVANT DECISIONS**

5.1 2021/0482/FUL Proposed extension – Refused.

5.2 L/2007/1037/DET Erection of detached double garage – Permitted Development.

5.3 8/88/1041 – Detached house with garage – Granted.

#### **6.0 OBSERVATION OF CONSULTEES**

6.1 None received at the time of writing.

#### **7.0 OTHER REPRESENTATIONS**

7.1 Dalton Parish Council raise objections upon the following grounds:

- Concerns regarding inaccuracies within the Design and Access statement
- Concerns regarding overdevelopment in the Green Belt

7.2 2 no. Letters of objection received upon the following grounds:

- Concerns regarding the increase in both ridge and eaves height having a dominating effect on the neighbouring property
- Concerns that this application would result in an incongruous addition
- Concerns regarding inaccuracies within the planning application documents
- Concerns regarding the overdevelopment in the Green Belt

#### **8.0 SUPPORTING INFORMATION**

8.1 Green Belt Assessment – Mark Arrowsmith. Received by the Local Planning Authority on 27<sup>th</sup> October 2022.

#### **9.0 RELEVANT PLANNING POLICIES**

9.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan 2012 – 2027 Development Plan Document provide the policy framework against which the development proposals will be assessed.



- 9.2 The site is located within the Green Belt of Dalton as designated in the West Lancashire Local Plan 2012 – 2027 DPD.
- 9.3 **National Planning Policy Framework (NPPF)**  
Achieving well designed places  
Protecting green belt land
- 9.4 **West Lancashire Local Plan (WLLP) 2012 – 2027 DPD**  
Policy GN1 – Settlement Boundaries Policy  
Policy GN3 – Criteria for Sustainable Development Policy  
Policy IF2 – Enhancing Suitable Transport Choice  
Policy EN2 – Preserving and Enhancing West Lancashire's Natural Environment
- 9.5 **Supplementary Planning Document**  
Design Guide (2008)  
Development within the Green Belt (2015)

## **10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY**

- 10.1 The main considerations for this application are:  
*Principle of Development – Green Belt*
- 10.2 The National Planning Policy Framework (NPPF) is a key material consideration in assessing the principle of the development. Paragraph 149 in the National Planning Policy Framework states that "A local planning authority should regard the construction of new buildings as inappropriate in Green Belt" unless it falls within one of the 7 exceptions listed. One such exception is for 'The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building'.
- 10.3 The Council's 'Development in the Green Belt' SPD also states proposals for extensions (including domestic outbuildings) to existing buildings in the Green Belt should satisfy the specified criteria which include: the total volume of the proposal, together with any previous extensions, should not exceed 40% of the volume of the original building, and the design of the extension is in-keeping with the original form and appearance of the building and does not material harm the openness of the Green Belt and landscape.
- 10.4 The application property had full planning permission under reference 8/88/1041 to replace the dwelling as a detached house with an attached garage that sat underneath the ground floor. More recently, in 2007 there was an addition of a detached double garage under Permitted Development.
- 10.5 The Green Belt assessment submitted with this application calculates the existing building and detached garage, when taking into consideration the original volume. The submitted statement identifies that there would be a 6.63% increase following the proposed development. This is inaccurate, as the detached double garage was an additional outbuilding following the approved plans for the replacement dwelling in 1988 and is therefore not considered original. However,

when considering the total volume of the existing outbuilding and proposed development, the volume would equate to 39.35%.

- 10.6 Volume is only one aspect of assessing if the development is disproportionate. Other factors are scale, height, projection, site location/context and design. Openness is an essential character of the Green Belt that has both spatial and visual aspects.
- 10.7 The proposed site is located to the north of Long Heys Lane and other neighbouring properties. The application site sits within a large plot with a detached double garage to the rear of the site. The proposed development would not result in any further extension beyond the existing structures and footprint of the dwelling, however it would increase the ridge height and include an addition of a dormer to the front elevation. With consideration to the layout of the site and its immediate surrounding area, the scale and design of the proposed development is not considered to result in a disproportionate addition to the existing dwelling and would otherwise harmonise with its setting.
- 10.8 The proposed development, in combination with the detached double garage, is within the recommended 40% volume increase of the original dwelling and in this context is not inappropriate development in accordance with the National Planning Policy Framework (NPPF). With reference to recent appeals, when a proposal is considered to not amount to inappropriate development, an assessment on the impact of the openness is not warranted, however for completeness, it is not considered that the proposed additions by virtue of their design and scale would impact on the openness of the Green Belt.
- 10.9 Given the above, it is considered that the proposed development is not inappropriate development in compliance with the requirements of the NPPF, Policy GN1 of the West Lancashire Local Plan and the West Lancashire Development in the Green Belt SPD.

#### *Design and Layout*

- 10.10 Policy GN3 along with the Council's SPD Design Guide requires that new development should be of a scale, mass and built form, which responds to the characteristics of the site and its surroundings.
- 10.11 The proposed development includes an increase in the ridge height, with a front dormer, to convert the existing loft space into a bedroom and ensuite and replacing the chimney. The materials would include stone to the front and chimney, render to the rear, and slate roof, matching the existing materials already used. I am satisfied that the scale, design and form of the proposal is acceptable and harmonious for the location and existing property and would not result in harm to the host original building nor represent as overdevelopment.
- 10.12 The proposal also includes the addition of solar panels to the front and side roof slopes of the property. There are permitted development rights existing for the installation of domestic solar panels, however, the proposal would exceed the limit under permitted development and therefore requires full planning permission. The applicant property is neither a listed building or located within a conservation area where the character and appearance of the designation's

setting would be most important. Due to the siting of the proposed solar panels, only those to the front elevation will be visible from the street-scene. However, their attachment to the roof may almost level as to not be seen as incongruous and that overall, the existing property is already unique in its appearance and the addition of solar panels to the front and side roof slopes would not detract from the existing setting of the dwelling or surrounding area.

- 10.13 Given the above, there will be some proposed elements that will be visible from the street-scene. However, as front dormers are not uncommon in the immediate vicinity, and the ridge height increase will not appear out of keeping in relation to the neighbouring property at Wood Meadow and that the proposed installation of solar panels will not result in an incongruous addition, the proposed development will not result in an adverse impact on the character and appearance of the property and street-scene and is therefore considered to comply with Policy GN3 of the Local Plan.

#### *Impact on Residential Amenity*

- 10.14 Policy GN3 of the Local Plan states that proposed development should retain or create reasonable levels of privacy, amenity and sufficient garden/outdoor space for occupiers of the proposed and neighbouring properties. The Council's SPD Design Guide explains that extensions must have consideration for the amenity of the neighbouring properties in terms of overlooking, overshadowing and overbearing impact.
- 10.15 There is one direct neighbour (Wood Meadow) sitting to the southeast of the applicant site. The proposed development includes an increase in the ridge height and a dormer to the front elevation and replacing the chimney, the latter element being focused to the rear. There will be no further projection from the existing elevations and therefore the distance to the common boundary shared with Wood Meadow remains unchanged.
- 10.16 The ridge height will increase from approximately 5.35m to 6.15m, levelling up to the existing ridge height of Wood Meadow and there will be no further projection from the existing rear elevation. Considering the scale and siting of the applicant property, the proposed ridge height would not result in an overbearing or overshadowing impact but would sit in line with the existing built form.
- 10.17 The proposed development also includes the addition of a dormer to the front elevation, and the addition of three windows to the rear elevation. As the dormer is to the front, with no additional windows to the side elevations, there will be no risk of loss of privacy by way of direct overlooking. Furthermore, the rear will include two roof windows and one window to the centre of the rear elevation. The new windows to the rear elevation will comprise of high-level glazing, minimising the risk of privacy loss, with views remaining over the rear garden which is not dissimilar to the current situation.
- 10.18 With consideration to the above, it is considered that the proposal will not result in any detrimental impact on the living conditions of neighbouring properties and would therefore comply with Policy GN3 of the West Lancashire Local Plan.

## *Highways*

- 10.19 Policy GN3 of the West Lancashire Local Plan 2012 – 2027 DPD states that development should incorporate suitable and safe access and road layout design in line with the latest standards. Parking should be provided in accordance with Policy IF2.
- 10.20 The proposed development would increase the ridge height to be able to convert the loft space for a bedroom and ensuite. Following the development, the property would increase the total number of bedrooms from three to four. According to Policy IF2, a four+ bedroom dwelling has the requirement to be able to accommodate three on-site car parking spaces. The applicant dwelling has a large driveway that runs along the east side elevation and meets a double garage to the rear of the site. It is considered that the existing parking area can accommodate the required number of on-site car parking and that the development would comply with the relevant requirements of local plan policies GN3 and IF2 of the West Lancashire Local Plan.

## *Other Matters*

- 10.21 The application received several letters of objection, raising concerns of overdevelopment in the Green Belt and inaccuracies in relation to the volume calculations.
- 10.22 In 1988 the Council granted full planning permission to demolish the former dwelling and rebuild into the property it is today (excluding the detached double garage that was approved under Permitted Development in 2007). The Council accepts that the 1988 property is now considered as the original and existing dwelling in which original volumes are calculated from. As mentioned previously, the submitted volume calculations have some inaccuracies due to including the detached garage within the original volume, however, based on my own calculations, the proposed development would remain under the 40% threshold in volume when combining the proposed development with the existing detached garage. Furthermore, as the proposal sits within the 40% volume increase, and the proposal would not result in any further extension from the existing elevations, it is considered that the increase in height would not be creating an incongruous addition to the original dwelling.
- 10.23 The proposed increase in the ridge height would result in approximately a 0.8m increase, whilst the eaves to the rear elevation would increase to a maximum height of approximately 5.6m. The increases in height would result in the same ridge height level as the neighbouring property Wood Meadow, although the height of the eaves would sit higher to the rear. The proposed development does not include any further extension than the height increases and sits along the side elevation of Wood Meadow. Therefore, it is not considered that there would be a dominating effect on the neighbouring property.

## **11.0 CONCLUSION**

- 11.1 It is considered that the principle of development in the Green Belt at this site is acceptable. The design and layout of the development would be in keeping with the existing dwelling and would not have any significant adverse impact on

neighbour amenity or highway safety. The proposed development is therefore considered to be compliant with the NPPF and Policies EN2, IF2, GN1 and GN3 of the West Lancashire Local Plan 2012 – 2027 DPD. As such, the application is therefore recommended for approval.

## **12.0 RECOMMENDATION**

### **Condition(s):**

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Submitted Application Form;  
Site Location (D0211/100);  
Existing and Proposed Site Layout (D0211/110, D0211/111);  
Existing and Proposed Floor Plans and Roof Plans (D0211/101, D0211/105, D0211/102, D0211/106);  
Existing and Proposed Elevation Plans (D0211/103, D0211/104, D0211/108);  
Proposed Sections (D0211/109);

Received by the Local Planning Authority on 27<sup>th</sup> October, 18<sup>th</sup> and 23<sup>rd</sup> November 2022.

Reason: 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.

### **Reason for Approval**

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

Policy GN1 – Settlement Boundaries Policy  
Policy GN3 – Criteria for Sustainable Development Policy  
Policy IF2 – Enhancing Suitable 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.

### **13.0 SUSTAINABILITY IMPLICATIONS**

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

### **14.0 FINANCIAL AND RESOURCE IMPLICATIONS**

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

### **15.0 RISK ASSESSMENT**

15.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.

### **16.0 HEALTH AND WELLBEING IMPLICATIONS**

16.1 There are no health and wellbeing implications arising from this report.

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#### **Background Documents**

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**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

#### **Human Rights**

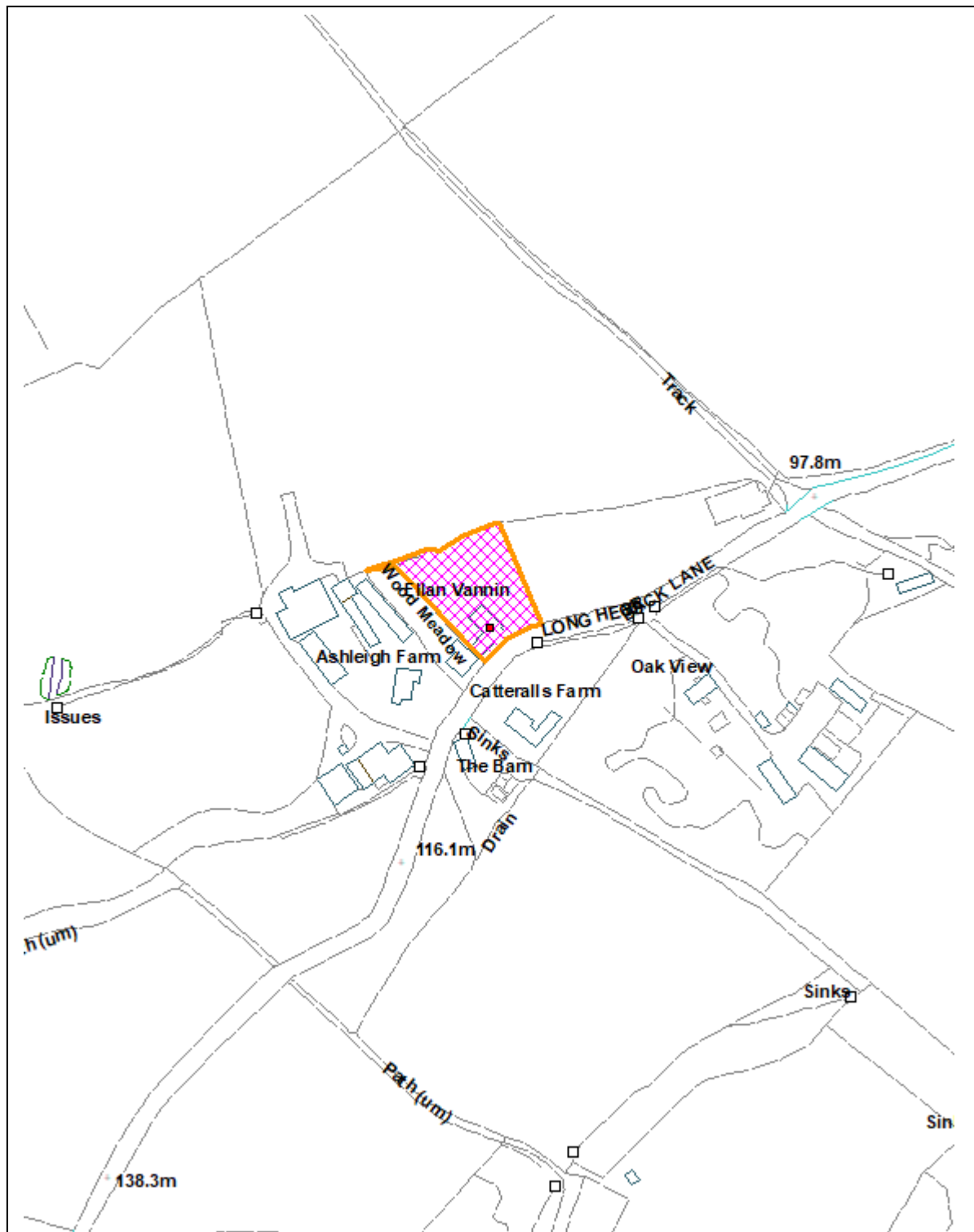
The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from Article 8 (the right to respect for private and family life, home and correspondence) and Article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

#### **Appendices**

None.

2022/1154/FUL

Ellan Vannin, Long Heys Lane, Dalton, WN8 7RS.









PLANNING COMMITTEE: 16<sup>TH</sup> MARCH 2023

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**Report of:** Corporate Director of Place & Community

**Contact for further information:**

**Case Officer:** Rachel Lightfoot  
(Email: Rachel.lightfoot@westlancs.gov.uk)

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**SUBJECT:** PLANNING APPLICATION REF: 2022/0109/FUL

**PROPOSAL:** New Access Track

**APPLICANT:** Mr and Mrs Kenny

**ADDRESS:** Copelands Farm, Drummersdale Lane, Scarisbrick, L40 9RB

**REASON FOR CALL IN:** Application has been called in by Cllr Jane Marshall to consider highways impacts and impact on the Green Belt

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**Wards affected:** Scarisbrick

## **1.0 PURPOSE OF THE REPORT**

1.1 To advise Planning Committee on an application which seeks to provide hardstanding by way of hardcore to provide a twin stone track to the existing access.

## **2.0 RECOMMENDATION TO PLANNING COMMITTEE**

2.1 That planning permission be GRANTED subject to conditions.

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## **3.0 THE SITE**

3.1 The application site relates to a detached farmhouse and stable block located south of Drummersdale Lane approximately 500m from the junction with Bescar Lane.

3.2 The house and stables lie within a grouping of converted barns. The access track is present and was noted as such in the planning application relating to the erection of the stables. It is currently a fenced track with central grassed area and vehicle tracks to either side.

3.3 The site is located within the Green Belt.

#### **4.0 PROPOSAL**

- 4.1 Planning permission is sought to stone the areas of rutting which have been caused by using the track to access the stables.
- 4.2 The stoned tracks would run for the length of the access track.

#### **5.0 PREVIOUS RELEVANT DECISIONS**

- 5.1 2021/0110/FUL – Proposed new stable block, associated yard area and horse exercise **GRANTED**
- 5.2 2020/0144/FUL – Variation of Condition no. 2 of planning permission 14/1190/FUL to allow for letting or subletting of part of the residential home **REFUSED**
- 5.3 2018/0143/FUL – Create new private driveway off Drummersdale Lane to Copelands Farm including 1100mm high wooden post and rail fence alongside the length of the driveway **REFUSED**
- 5.4 E/2017/0014/BC – Enforcement enquiry **CLOSED**
- 5.5 E/2014/0234/UAU – Enforcement enquiry **CLOSED**
- 5.6 2014/1190/FUL – Conversion of garage to provide habitable accommodation action of conservatory (retrospective) **GRANTED**
- 5.7 2014/0689/NMA – Non-material amendment to planning permission 2013/0572/FUL – modification of roof **APPROVED**
- 5.8 2014/0277/FUL – Detached tractor garage and stable block **REFUSED**
- 5.9 2013/0572/FUL – Two storey rear extension **APPROVED**
- 5.10 2013/0019/15 – Without planning permission the change of use of land from agriculture to residential/domestic purposes ancillary to the residential use of the adjacent property, Copelands Farm, Drummersdale Lane, Scarisbrick **REFUSED**  
**APPEAL DISMISSED**
- 5.11 E/2010/0374/UAU – Enforcement enquiry **CLOSED**
- 5.12 2002/0478 – Conservatory and detached double garage **GRANTED**
- 5.13 2001/0939 – Erection of detached double garage **WITHDRAWN**
- 5.14 2001/0524 – Conservatory and detached double garage **REFUSED**
- 5.15 1999/1075 – Conversion of barn and outbuilding into two dwellings **GRANTED**

#### **6.0 OBSERVATION OF CONSULTEES**

##### **6.1 Council's Principal Drainage Engineer (18.03.2022)**

I have no objection in principle to this application as I estimate the impact on flood risk due to the proposed development, to be negligible.

## **7.0 OTHER REPRESENTATIONS**

### **7.1 Scarisbrick Parish Council (05.04.2022)**

This application was discussed at the meeting of Scarisbrick Parish Council on 4 April 2022. The Parish Council objects as follows: The application is for engineering works on the greenbelt which equates to development of the greenbelt. The proposed development will interfere with the openness of the greenbelt.

## **8.0 SUPPORTING INFORMATION**

8.1 Design and Access Statement Equestrian Design

## **9.0 RELEVANT PLANNING POLICIES**

9.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan 2012-2017 DPD provide the policy framework against which the development proposals will be assessed.

9.2 The site is located within the Green Belt.

9.3 **National Planning Policy Framework**  
Protecting Green Belt land

9.4 **West Lancashire Local Plan 2012-2027 DPD**

GN1 – Settlement Boundaries

GN3 – Criteria for Sustainable Development

9.5 **Supplementary Planning Document (SPD)**  
Development within the Green Belt (2015)

## **10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY**

10.1 The main considerations for this application are:

- Principle of development – Green Belt
- Impact on the Green Belt – openness
- Design and Impact on Visual Amenity
- Impact on Residential Amenity
- Impact on Highways

### **Principle of Development – Green Belt**

10.2 The NPPF is a key consideration in relation to Green Belt implications. Paragraph 149 states that new buildings within the Green Belt should be regarded as inappropriate subject to a number of exceptions.

10.3 The application originally included alterations to the approved stables. These are no longer part of the planning application and the application relates to the engineering operation to lay hardcore along the wheel tracks only.

10.3 Paragraph 150(b) of the NPPF 2021 states:

*Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:*

*b) engineering operations*

- 10.4 The stoning up of the existing track to provide a twin track appearance would constitute engineering operations. The previous planning application for the stables (2021/0110/FUL) noted that access was to be taken from Drummersdale Lane and photographs confirm that the track was in place at that time. Google Streetview shows the track in place in 2019. As the 2021/0110/FUL application noted access to the stables via this track, the consideration in this application is the impact of the engineering operation of the stone element.
- 10.5 The carrying out of engineering operations within the Green Belt is one of the specific exceptions to inappropriate development in the Green Belt as set out by Paragraph 150(b) of the NPPF. The development is therefore considered to be acceptable in principle.

**Principle of Development – Impact on Openness**

- 10.6 Local planning authorities are required to give substantial weight to any harm which might be caused to the Green Belt. The proposed works would be carried out to an existing track, this would constitute an engineering operation in association with the approved stables. As such, Officers are satisfied that the proposed development would fall under paragraph 150 part b) of the NPPF. However, for completeness, consideration is given to how the works would impact on the openness of the land.
- 10.7 In terms of the impact on openness, the track is located adjacent to a post and wire field boundary. There is no requirement to remove any landscaping which would retain the general levels of openness in this location.
- 10.8 In terms of vehicle movements along the track which could be considered to have an impact on openness, as the track is existing these movements are already occurring. It is not considered therefore that the stoning up of the twin wheel tracks would impact on openness due to vehicle movements along the track.
- 10.9 It is considered that the stoning of the track in a twin track fashion would be acceptable and preserve the openness of the Green Belt in this location. The tracks are already clearly visible within the landscape.
- 10.10 The proposed engineering works are considered to be appropriate within the Green Belt and would not cause demonstrable harm to the openness of such. The proposed development is considered to be acceptable in principle.

**Design and Impact on Visual Amenity**

- 10.11 Policy GN3 of the Local Plan and the SPD relating to Design states that new development should be of a scale, mass and built form which responds to the characteristics of the site and its surroundings. Care should be taken to ensure that buildings do not disrupt the visual amenities of the street scene because of their height, scale or roofline. The NPPF makes clear that the creation of high quality buildings and places is fundamental to the achievement of good planning.

- 10.12 The proposed development comprises engineering operations to provide a twin track stoned appearance to the existing track. The central grassed area would remain, and the finalised works would have a typically agricultural appearance.
- 10.13 The proposed materials of hard core are noted. The photos of the track demonstrate that the wheel ruts are present in the landscape. The use of hardcore is a typical finish for a rural track such as this and it is therefore considered to be an acceptable visual response.
- 10.14 The proposed development is considered to be an appropriate scale, form and design and would be acceptable in visual terms. The development is considered to meet the requirements of Policy GN3 of the Local Plan and the NPPF.

### **Impact of Residential Amenity**

- 10.15 Policy GN3 of the Local Plan states that developments should '*retain reasonable levels of privacy, amenity and sufficient garden/outdoor space for occupiers of the neighbouring and proposed properties.*'
- 10.16 The track is already in situ. It not considered that the proposed engineering operation would have an impact on residential amenity.

### **Highways**

- 10.17 The track is in place and already serves the stables associated with Copelands Farm, it is not considered that the engineering operation as proposed would demonstrably change how the track is used.

## **11.0 CONCLUSION**

- 11.1 The proposed development is considered to be acceptable in terms of visual impact and impacts on residential amenity. The proposal would also be considered appropriate development within the Green Belt and would not be harmful to openness.
- 11.2 Given the above, the proposed development is considered to be compliant with the NPPF and Policy GN3 of the West Lancashire Local Plan 2012-2027 DPD and the application is recommended for approval.

## **12.0 RECOMMENDATION**

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

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Site Location Plan

Site Plan Showing Proposed Access - Drawing no A14437 01

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

3. No development shall take place until samples of the materials to be used in the construction of the hard surface areas of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the character and amenity of the area in accordance with Policy TD1 of GN3 of the West Lancashire Local Plan 2012-2027 DPD.

### **13.0 SUSTAINABILITY IMPLICATIONS**

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

### **14.0 FINANCIAL AND RESOURCE IMPLICATIONS**

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

### **15.0 RISK ASSESSMENT**

- 15.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.

### **16.0 HEALTH AND WELLBEING IMPLICATIONS**

- 16.1 There are no health and wellbeing implications arising from this report.

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## **Background Documents**

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**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

## **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).

## **Appendices**

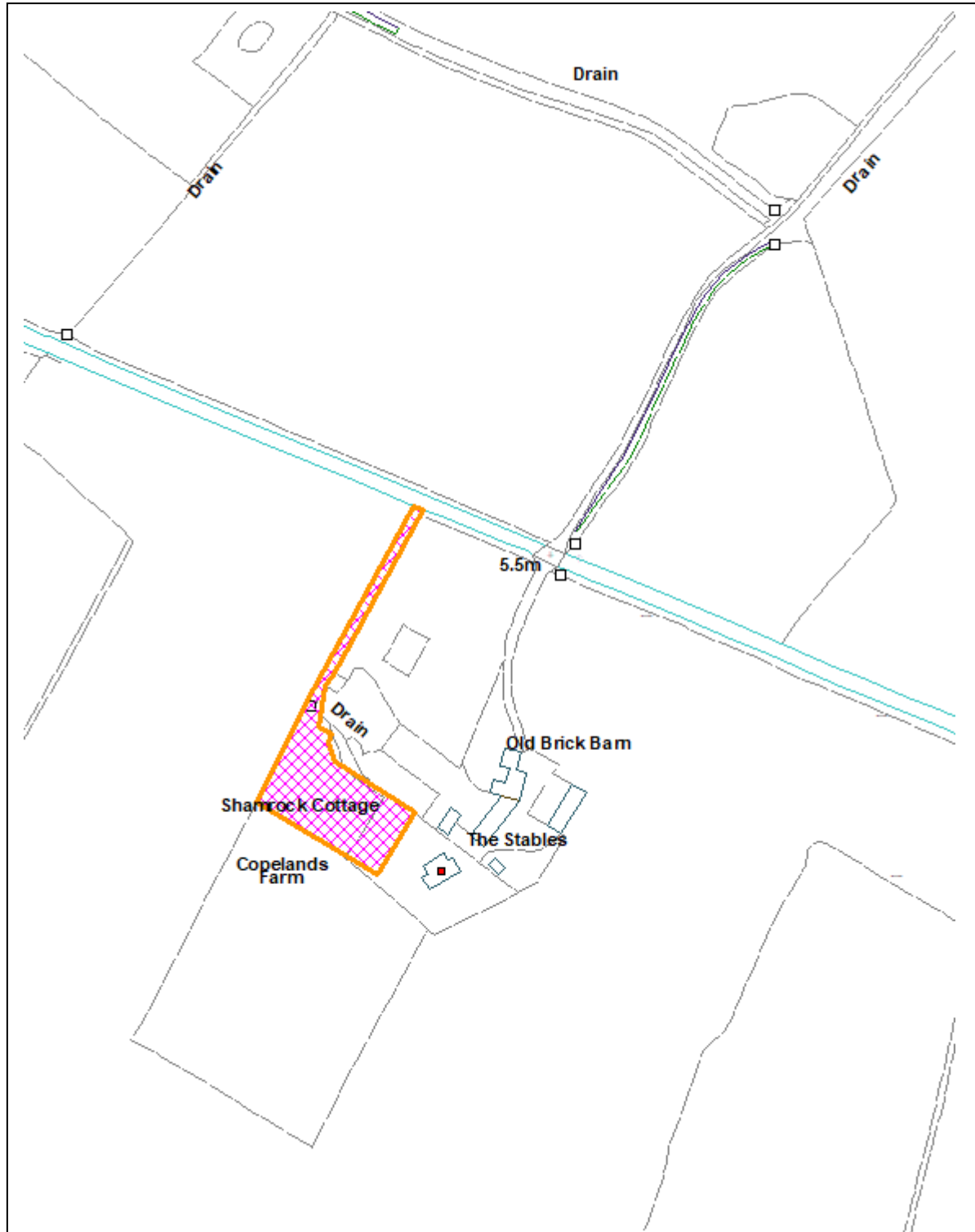
None.





2022/0109/FUL

Copelands Farm, Drummersdale Lane, Scarisbrick,  
L40 9RB







PLANNING COMMITTEE: 16<sup>TH</sup> MARCH 2023

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Report of: Corporate Director of Place & Community

Contact for further information:

Case Officer: Marc Wood (Extn. 585067)  
(E-mail: marc.wood@westlamcs.gov.uk)

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**SUBJECT: PLANNING APPLICATION REF: 2021/0507/ARM**

**PROPOSAL:** Reserved matters approval for the creation of an equipped play area, a multi-use games area, a running/cycle track, the installation of fitness station equipment, along with the provision of associated landscaping

**APPLICANT:** Crompton Property Developments Ltd

**ADDRESS:** Site Of Former Yew Tree Farm, Higgins Lane, Burscough.

**REASON FOR CALL IN:** Application has been called in by Cllr Derelli and Cllr Clandon to consider the future management of the site.

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**Wards affected: Burscough West**

## **1.0 PURPOSE OF THE REPORT**

- 1.1 The report advises Planning Committee on a Reserved Matters application which relates to the western part of the Yew Tree Farm Strategic Development site. Permission is sought to create an equipped play area, a multi-use games area [MUGA], a running/cycle track with the installation of fitness station equipment, along with the installation of associated landscaping. Members are advised that the principle of the development has been established taking into account the previous outline planning approval in association with the Yew Tree Farm Masterplan/SPD
- 1.2 It is considered that the proposals are essential community facilities that will provide greenspace and outdoor sport provision incorporating SuDs which

would greatly benefit the community and form a key component of the proposed 'linear park' which is a key element of the YTF masterplan.

## **2.0 RECOMMENDATION TO PLANNING COMMITTEE**

### **2.1 Approve subject to conditions**

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## **3.0 THE SITE**

- 3.1 The application site relates to a western proportion of the former Yew Tree Farm site which adjoins phase two of the development and is bounded immediately to the north by Chancel Way. Immediately on western boundary is a public right of way and further west employment land currently under development.
- 3.2 Currently this part of the development contains SuDs systems in line with the wider drainage strategy of the site including a swale running parallel with Chancel Way and basin which has recently been provided with a knee rail and life buoy life saving equipment. Moving south is a flood basin grassed area which will be utilised as parkland in dry conditions and the areas of the proposed MUGA and equipped play area immediately adjoin this to the south of the application site.

## **4.0 PROPOSAL**

- 4.1 The application comprises the development of an equipped play area, a multi-use games area [MUGA], a running/cycle track, the installation of fitness station equipment, along with the installation of associated landscaping.
- 4.2 The equipped play area which is approximately 800 sq metres includes typical equipment such as slides, swings and climbing frames and will be secured by a standard 1.2m high steel galvanised and powder-coated bow-top railing with gates. The adjoining MUGA is approximately 800 sqm and will incorporate football nets and basketball hoops at either end which will allow a range of court style sports to be undertaken. The MUGA is enclosed within a fence forming an enclosure around the perimeter to prevent balls or other equipment from easily drifting into the equipped play area. The fencing forming this enclosure is 2.03m in height at the sides and 3.03m height at the ends where balls will typically be directed towards.
- 4.3 A running/cycle track is also proposed which utilises the existing public footpath connecting Dakota Business Park with the link road and then creates a new loop which runs around the drainage basin and associated land to the north of the central community park features. The track is 1.2 meters wide and comprises compacted gravel. In addition to the above, fitness stations are proposed at regular intervals on the southern part of the existing public footpath that connects Dakota Business park with the link road.

## **5.0 PREVIOUS RELEVANT DECISIONS**

### Phase 2 Residential (Anwyl Homes)

- 5.1 2019/1182/ARM - Approval of Reserved Matters - Erection of 267 dwellings including details of appearance, landscaping, layout and scale. Discharge of Condition Nos. 5, 8, 14, 16, 18, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 35 from outline planning permission 2015/0171/OUT. APPROVED
- 5.2 2019/1316/FUL - The construction of access roads, substations and a pumping station to facilitate the phase 2 residential development within the Yew Tree Farm strategic site. APPROVED

### Phase 1 Residential (Redrow Homes)

- 5.3 2020/1134/FUL - Variation of condition no. 1 imposed on planning permission 2017/0431/ARM to retain as-built/revised floor levels and retaining walls. PENDING CONSIDERATION
- 5.4 2019/0947/ARM - Proposed re-plan of plots 74-88 and 116-131 of reserved matters 2017/0431/ARM to provide 16 no. detached houses (net loss of 15 dwellings). APPROVED
- 5.5 2017/0431/ARM - Approval of Reserved Matters for 146 dwellings with associated car parking and landscaping for phases 1a & 1b (denoted as 1 & 1a on the Outline approved master plan). The reserved matters for which consent is sought on these two phases are appearance & scale, layout and landscaping. Discharge of Condition No. 27 (foul and surface water drainage strategy) and Condition No. 35 (updated noise assessment) of planning permission 2015/0171/OUT. APPROVED

### Phase 2 Employment (Barracuda and Seafire Business Parks)

- 5.6 2021/0113/ARM - Reserved Matters - The construction of 17 employment buildings (falling within use classes E, B2 & B8) comprising a total of 25,475.73sqm (GEA) and associated works pursuant to the outline element of hybrid planning permission ref. 2018/0525/HYB including approval of details reserved by condition 3 (finished floor levels), 5 (travel Plan), 6 (landscaping scheme), 7 (arboricultural method statement), 8 (landscape management plan), 10 (surface water drainage), 11 (SuDS maintenance), 12 (foul water drainage), 13 (nesting boxes) and 14 (ecological management plan). APPROVED
- 5.7 2020/1142/FUL - The erection of a building for use as an agricultural machinery showroom and workshop (sui generis) or for employment uses falling within use classes E, B2 and B8 and the erection of an external covered display, together with the laying of an access, internal estate road and other associated works. APPROVED
- 5.8 2018/0525/HYB - Hybrid Application - Full planning permission for the construction of a link road between Tollgate Road/Ringtall Road and the Phase 1 residential development of the Yew Tree Farm site including

associated drainage and other works; and Outline planning permission for the construction of 31,100 sqm of B1, B2 and/or B8 employment development (all matters reserved except for access positions from the existing/new roads) together with the provision of related infrastructure including the construction of drainage works, services and related utilities. APPROVED

#### Phase 1 Employment (Dakota Business Park)

- 5.9 2020/0225/COU - Change of use of Unit 4B within Dakota Business Park from flexible employment uses (use classes B1, B2 or B8) to flexible employment uses with leisure (use classes B1, B2, B8 or D2), along with the creation of a link between Unit 4B and Building 5. APPROVED
- 5.10 2019/0438/FUL - The erection of a building for use as employment (B1, B2 or B8) or leisure (D2), together with the laying of an access road from the existing roundabout at Tollgate Road, and other associated works. APPROVED
- 5.11 2019/0311/ARM – Reserved Matters - Construction of seven employment buildings (falling within use classes B1, B2 & B8) comprising a total of 11,721 sqm (GEA) and associated works pursuant to outline planning permission Ref. 2015/0171/OUT. Including Approval of Details Reserved by Condition 8 (Highways), 16 (Arboricultural Method Statement), 18 (Landscaping), 27 (Foul/Surface Water Drainage Strategy), 28 (Foul Drainage), 29 (surface water regulation system), 31 (Levels) and 35 (Noise). APPROVED

#### Outline and other related permissions at Yew Tree Farm Strategic Development Site

- 5.12 2021/0506/FUL - Temporary planning permission three years for the stationing of caravans static and mobile for residential occupation by travelling showpeople with the provision of associated hardstanding a storage area boundary fencing and a temporary access from Swordfish Close along with full planning permission for the construction of a vehicular access from Higgins Lane- APPROVED
- 5.13 2015/0171/OUT - Outline planning permission (including details of access) for the erection of up to 580 dwellings (C3); Extra Care or Care Accommodation (C2); a Local Centre (comprising up to 500m<sup>2</sup> of A1, A2, A3, A4 and A5 floorspace; and community uses); the construction of 4.6 hectares of Employment Development (up to 13,800m<sup>2</sup> of B1, B2 and B8 floorspace); the provision of open space and associated recreation facilities (including parkland, allotments, play areas, a linear park, cycle and pedestrian facilities); together with the provision of related infrastructure including the construction of drainage works (including sustainable urban drainage systems), roads, services and related utilities; and associated works. APPROVED subject to s106 agreement

## **6.0 OBSERVATION OF CONSULTEES**

- 6.1 Aborigicultural Officer – No objections  
Leisure Services – No comments received  
Environmental Health – No comments received

## **7.0 OTHER REPRESENTATIONS**

- 7.1 Councillors Clandon and Dereli raised concerns relating to public safety upon the site and the future management implications.
- 7.2 Burscough Town Council objected to the original submission in terms of positioning of MUGA and public safety surrounding the SuDs.

## **8.0 SUPPORTING INFORMATION**

- 8.1 Management & Maintenance Performance Standards (prepared by Milieu Landscape Design);  
Funding Mechanism Information (prepared by NRE Surveyors).

## **9.0 RELEVANT PLANNING POLICIES**

- 9.1 The National Planning Policy Framework (NPPF), National Planning Policy Guidance (NPPG), West Lancashire Local Plan (2012-2027) (WLLP) and Burscough Parish Neighbourhood Plan provide the policy framework against which the development will be assessed. The site is subject of a Supplementary Planning Document: Yew Tree Farm Masterplan (February 2015) which aims to guide developers and their applicants in their proposals and planning applications for development on the site.
- 9.2 The site is allocated as SP3 – Yew Tree Farm, Burscough – A Strategic Development Site. The site also falls within the Mineral Safeguarding Area as designated under Policy M2 of the Joint Lancashire Minerals and Waste Local Plan.
- 9.3 The following policies apply:
- National Planning Policy Framework (NPPF)  
Section 2 Achieving sustainable development  
Section 5 Delivering a sufficient supply of homes  
Section 6 Building a strong, competitive economy  
Section 8 Promoting healthy and safe communities  
Section 9 Promoting sustainable transport  
Section 11 Making effective use of land  
Section 12 Achieving well-designed places  
Section 14 Meeting the challenge of climate change, flooding and coastal change  
Section 15 Conserving and enhancing the natural environment  
Section 17 Facilitating the sustainable use of minerals

West Lancashire Local Plan (2012-2027) DPD



SP1 – A Sustainable Development Framework for West Lancashire  
SP3 – Strategic Development Site: Yew Tree Farm  
GN1 – Settlement Boundaries  
GN3 – Criteria for Sustainable Development  
RS1 – Residential Development  
RS2 – Affordable and Specialist Housing  
EC1 – The Economy and Employment Land  
IF1 – Maintaining Vibrant Town and Local Centres  
IF2 – Enhancing Sustainable Transport Choice  
IF3 – Service Accessibility and Infrastructure for Growth  
IF4 – Developer Contributions  
EN1 – Low Carbon Development and Energy Infrastructure  
EN2 – Preserving and Enhancing West Lancashire’s Natural Environment  
EN3 – Provision of Green Infrastructure and Open Recreation Space

Burscough Parish Neighbourhood Plan

BPI1: Development and Infrastructure  
BPI2: Surface Water Drainage  
BPI3: Foul Water Drainage  
BPH1: New Residential Development  
BPH2: Housing Mix  
BPT1: Transport and Development  
BPT2: Environmental Improvement Corridors  
BPD1: Design and Accessibility Principles  
BPD2: Detailed Design Elements  
BPC1: Community Infrastructure

As the site lies within a mineral safeguarding area, Policy M2 of the Lancashire County Council Minerals and Waste Site Allocation and Development Management Policies DPD is also relevant

- 9.4 The following supplementary planning documents are also relevant:  
SPD – Yew Tree Farm Masterplan (Feb 2015)  
SPD - Open Space (July 2014).  
SPD – Design Guide (Jan 2008)

**10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY**

- 10.1 The main considerations for this application are:

- Principle of Development;
- Layout and Design;
- Visual Impact;
- Public Safety;
- Neighbouring Amenity;
- Ecology;
- Future Maintenance

## 10.2 Principle of Development

NPPF para 91 encourages planning decisions to 'enable and support healthy lifestyles' including the provision of sports facilities as such the proposed equipped play area, multi-use games area, running/cycle track, fitness equipment and associated landscaping will create a community park which was envisaged by the original YTF masterplan and the concept subsequently approved by the original planning permission which was required by obligations attached to the associated S106 agreement.

Both the running/cycle track feature and the provision of fitness stations will assist in establishing the creation of a 'Linear Park' which is a key principle set out within the YTF Masterplan/SPD. Taking into account the original planning consent in tandem with the YTF masterplan against the policy backdrop of SP3 – Strategic Development Site: Yew Tree Farm and EN3 – Provision of Green Infrastructure and Open Recreation Space of the WLLP then the principle of the proposal is considered acceptable.

## 10.3 Layout and Design

The proposed positioning of the equipped play area and MUGA are now altered from the original submission and will be alongside each other centrally to the south of the grassed flood basin area. The revised location is considered to be more aesthetically pleasing and will link more coherently with the linear park route and stand alone fitness equipment.

Externally the MUGA will be bounded by a green galvonised mesh fencing system which is 2.03m in height at the sides and 3.03m at each end. The equipped play area will be fenced off with 1.2m high flexarailing. The details surrounding the hard surfacing/landscaping and equipment in both the MUGA and equipped play area will be subject to condition to ensure that they are in line with the requirements of the wider drainage strategy.

## 10.4 Visual Impact

NPPF paragraph 127 requires that plans should, at the most appropriate level, set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable. Design policies should be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area's defining characteristics. Neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development, both through their own plans and by engaging in the production of design policy, guidance and codes by local planning authorities and developers.

The concept of a community park and outdoor facilities has always been an integral element of the aspiration of the strategic development site, as such negotiations have taken place since the original submission which have

repositioned the MUGA and equipped play area to a more central position which offers more balance and in turn accessibility to ensure the facilities are in an appropriate position in design terms which is fundamental principle set out within the original WTF masterplan.

The proposal will offer a distinct buffer between the built form of employment units to the west and the residential properties currently under construction upon the remainder of the site. The open space will offer an aesthetically pleasing view when travelling in either direction along Chancel Way. It is considered that overall all the proposal including the associated landscaping will add high quality green infrastructure and outdoor facilities, which will be suitably designed to accord with the requirements of policy EN3 establishing open space that addresses a clear community need.

#### **10.5 Public Safety**

After some widely publicised incidents of children coming to harm playing on ice during cold weather in 2022 in the UK, concerns have been raised in relation to the public safety associated with the site given the body of water at the SuDs basin. In acknowledging the concerns raised, a knee rail and associated lifesaving equipment has now been erected on site which is welcomed by the council.

#### **10.6 Neighbouring Amenity**

Currently the site can be considered relatively isolated in terms of proximity to residential occupiers due to the current phasing of development upon the site. This will change as the wider site is developed out and there will be dwellings immediately to the east of the MUGA and play area. It is acknowledged that the proposed uses involved with the application can often be associated with anti-social behaviour and therefore the possibility of impacting neighbouring amenity needs to be carefully considered to ensure accordance with policy GN3 of the WLLP. As such the open nature of the site and its visibility will ensure that there is a level of surveillance from neighbouring occupiers that will enable the proper authorities to deal with any potential anti-social behaviour that may arise.

#### **10.7 Ecology**

An extensive 'Landscape Habitat Creation, management & Maintenance Plan' dated October 2019 prepared by Mileu Landscape Design has been submitted both previously and as part of this current application there is clear detail on how the site should be maintained to ensure the site is managed carefully.

As such the proposals have been assessed by the Council's Tree Officer who confirms that the proposals remain consistent with the approved landscaping plan and is therefore deemed acceptable taking into account both the OPP and the Landscape strategy for the wider site.

## 10.8 Future Maintenance

The outline consent ref 2015/0272/OUT which governs the wider strategic development site for Yew Tree Farm, was approved subject to the completion of a S.106 Legal Agreement. This secured a number of developer obligations. The provision of public open space together with its long-term management and maintenance forms Schedule 1 of the S.106 Agreement.

To ensure consistency with the wider outline consent and obligation, officers requested further information in relation to the management and maintenance of the open space area. In response, the applicant has confirmed that the 'community park' will be transferred into the ownership of a management company, Yew Tree Park Management Company, Burscough Ltd, in line with the requirements as set out in the s.106 through identifying the management company. The management company, similar to the majority of new build developments, will be funded from service charge contributions paid by each house purchaser on the various phases of residential development, most of which is now committed through the grant of permission.

These arrangements have been put in place to ensure compliance with the requirements of Schedule 1 of the S.106 Agreement entered into by the applicant in relation to ensuring that there is an adequate funding mechanism in place for providing and maintaining the open space land which is to be used as a community park. Policy OS1 of the Open Space provision SPD highlights the preference for this arrangement and subject to adhering with all other requirements of the S106 agreement then the proposals for the future management of the site are considered acceptable. Officers are therefore satisfied that sufficient controls are in place by way of legal agreement, as such further conditions are not considered necessary in this regard.

## 11.0 CONCLUSION

11.1 In summary, it is considered that, subject to conditions, the proposed development is acceptable in terms of use, layout, scale and design. There are no significant highway, drainage or amenity concerns and I therefore consider that the proposed development is compliant with the NPPF, the Local Plan and the Burscough Parish Neighbourhood Plan.

## 12.0 RECOMMENDATION

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

1. The development in this phase of the development authorised under varied outline planning permission 2019/1093/FUL must commence within two years of the date of this reserved matters approval in accordance with section 92 Town & Country Planning Act 1990.

Reason: To prevent the accumulation of planning permissions; to enable the Local Planning Authority to review the suitability of the development in the

light of altered circumstances and to comply with section 92 of the Town and Country Planning Act 1990.

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

Amended Plan of Swale Area and Play Provision ref dwg 006 Rev P5  
received 26.01.2023

External Materials Schedule ref dwg 102-YTF-PL Rev A received 23.02.2023  
Landscape Management Plan dated October 2019 prepared by Milieu  
Landscape Design

Site location plan received 19.04.2021

Reason: 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. Landscaping shall be carried out in accordance with the details indicated in the Landscape Management Plan prepared by Milieu Landscape Design dated October 2019 and received as part of this application on 19.04.2021. All planting shall be maintained and dead or dying material shall be replaced for a period of seven years from the agreed date of planting. The landscaping shall be maintained in accordance with the details indicated on the above plans in perpetuity.

Reason: To assimilate the proposed development into its surroundings and to ensure that the development complies with the provisions of Policy EN2 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

4. The development permitted by this planning permission shall be carried out in accordance with the principles set out within the original Flood Risk Assessment (February 2015, Project No.: 62000610, WSP).

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 166 and 168 of the National Planning Policy Framework, Planning Practice Guidance. Defra Technical Standards for Sustainable Drainage Systems and Policy GN3 of the West Lancashire Local Plan 2012-2027 DPD.

5. Prior to the development hereby approved being brought into use full details of the composition and final finishes of ground surface areas of both the MUGA and equipped play area shall be provided and agreed in writing by the Local Planning. This shall include full technical specifications which shall be compliant with the local ground conditions and take account of the overarching drainage strategy for the strategic site.

Reason: In the interests of high quality design and to ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 166 and 168 of the National Planning Policy Framework,

Planning Practice Guidance. Defra Technical Standards for Sustainable Drainage Systems and Policy GN3 of the West Lancashire Local Plan 2012-2027 DPD.

### **13.0 SUSTAINABILITY IMPLICATIONS**

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

### **14.0 FINANCIAL AND RESOURCE IMPLICATIONS**

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

### **15.0 RISK ASSESSMENT**

15.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.

### **16.0 HEALTH AND WELLBEING IMPLICATIONS**

16.1 There are no health and wellbeing implications arising from this report.

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### **Background Documents**

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**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

### **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).

### **Appendices**

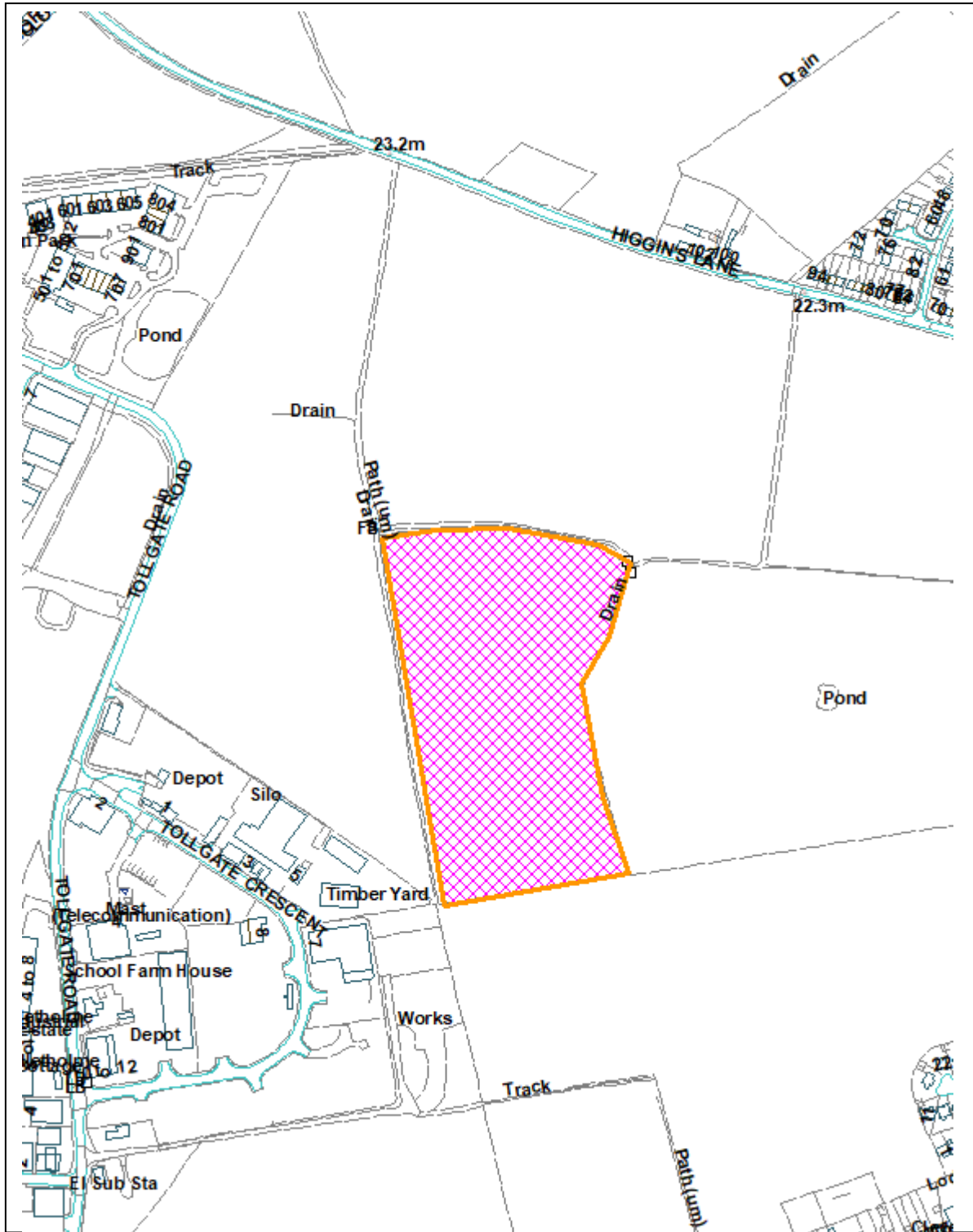
None.







Site Of Former Yew Tree Farm, Higgins Lane, Burscough, L40 7RE







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**Report of:** Corporate Director of Place & Community

**Contact for further information:**

**Case Office:** Feargal McEvoy (Extn.3301)  
**(E-mail:** feargal.mcavoy@westlancs.gov.uk)

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**SUBJECT:** PLANNING APPLICATION REF. 2022/1167/FUL

**PROPOSAL:** Installation of one rapid electric (EV) vehicle charging station within the car park of Co-op foodstore (RETROSPECTIVE APPLICATION)

**APPLICANT:** Instavolt

**ADDRESS:** Co-op Food 1 Hoole Lane Banks Lancashire PR9 8BD

**REASON FOR CALL IN:** Councillor John Howard: raises concerns that the location of the charging station is inappropriate as it is unsightly and leads to a shortage of car parking spaces.

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**Wards affected:** North Meols

## **1.0 PURPOSE OF THE REPORT**

1.1 To advise Planning Committee on an application which seeks retrospective planning permission to retain the installation of one rapid electric vehicle charging station within the car park of a foodstore.

## **2.0 RECOMMENDATION TO PLANNING COMMITTEE**

2.1 That the application be **GRANTED** subject to conditions.

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## **3.0 THE SITE**

3.1 The application site relates to the car park area of the Co-op foodstore which has recently opened on the site of the former Fleetwood Public House. The store is a single storey building, with a floor area of 372m<sup>2</sup> (gross internal). There are two areas of car parking – immediately in front of the store and along the side/rear party boundary of the neighbouring residential property at 11 Hoole Lane.

3.2 The surrounding area, although largely located within the village centre is mixed with commercial and residential properties on Hoole Road and to the north

residential properties and St Stephens Church on Church Road (located within the settlement area).

#### **4.0 PROPOSAL**

4.1 The application is for the retention of one no. electric vehicle (EV) charging station within the existing car park of a newly open Co-op foodstore. Two existing parking spaces have been converted into two EV charging bays along with associated equipment. The two bays measure 5.5 metres in width and a depth of 4.8 metres. To the rear of the bays there is a charger station (2 metres in height x 0.75 metres in height) and an equipment cabinet (2.3 metres in height x 1.7 metres in height).

#### **5.0 PREVIOUS RELEVANT DECISIONS**

5.1 2019/1226/FUL – To demolish existing building and erect A1 retail unit. Planning permission granted July 2020.

5.2 2020/1217/CON - Approval of Details Reserved by Condition No. 11 of planning permission 2019/1226/FUL relating to details of electric vehicle charging points. Condition approved January 2021.

5.3 2021/1226/FUL - Proposed external plant equipment within enclosed yard area. Planning permission granted August 2021.

5.4 There are a number of other approval of conditions applications relating to the foodstore which are not considered relevant to the consideration of this application.

#### **6.0 OBSERVATION OF CONSULTEES**

6.1 LCC Highways (19.12.2022) – Confirm that they have no objection to the application.

#### **7.0 OTHER REPRESENTATIONS**

7.1 One objection has been received from a resident of Hoole Lane raising the following issues;

Whilst there is an environmental aspect regarding charging points and Net Zero, the equipment does nothing to enhance our environment and is not aesthetically pleasing in its central location in the village, and, there are more appropriate locations for EV charging points in the car park, which could be located away from residential properties.

#### **8.0 SUPPORTING INFORMATION**

8.1 Flood Risk Assessment  
Technical Specification of EV Charging Points

#### **9.0 RELEVANT PLANNING POLICIES**

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

- 9.2 The site is located within a Large Village Centre / Settlement Boundary in the West Lancashire Local Plan DPD (2012-2027).
- 9.3 **National Planning Policy Framework – (NPPF)**  
Building a strong, competitive economy
- 9.4 **West Lancashire Local Plan DPD (2012-2027)**  
SP1 A Sustainable development framework for West Lancashire  
GN1 Settlement boundaries  
GN3 Criteria for sustainable development  
EC1 The Economy and Employment Land  
IF1 Maintaining Vibrant Town and Local Centres

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

**10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY**

10.1 The main considerations for this application are:

**Principle**

- 10.2 Policy IF1 of the WLLP which relates to maintain vibrant town and local centres encourages appropriate uses within centres and seeks to maintain and/ or enhance the vitality and viability of these locations.
- 10.3 Condition 11 attached to the planning permission for this foodstore (Appl No: 2019/1226/FUL) required that 10% of the car parking spaces be for EV charging. The details of these charging points were approved as part of Appl No: 2020/1217/CON in January 2021. The location for the EV points that was previously approved remains the same within this application, however the final specification for the equipment has altered from that previously approved, which necessitated the submission of a new planning application, that is currently under consideration.
- 10.4 The installation of the electric charging points within the car park is considered to be an enhancement of the existing car parking facilities offered in this location and in my view would further support the vitality and viability of the village centre. The EV charging point is considered acceptable in principle, subject to material considerations in respect of highway safety, amenity and design and I am therefore satisfied the development would comply with Policy IF1 of the Local Plan in this respect.

**Visual appearance/layout and impact on neighbours**

- 10.5 Policy GN3 of the West Lancashire Local Plan (2012-2027) DPD allows development provided it retains or creates reasonable levels of privacy, amenity and sufficient garden/outdoor space for occupiers of the neighbouring and proposed properties.
- 10.6 The EV equipment is sited adjoining the car park entrance and located on the side party boundary with 11 Hoole Lane which is in residential use and is a two storey end-terraced cottage. The charging equipment sits forward of the building line to this property, which has four windows in the side elevation, one of which is at first floor level, facing onto the car park area of the foodstore. A one metre high wooden fence, which rises in height to two metres at the rear of the property, encloses the

side/rear elevation of this property, where it adjoins the car park of the Co-op foodstore.

- 10.7 As previously stated the principle of an EV charging point has already been established in this location, by virtue of Appl Nos: 2019/1226/FUL and 2020/1217/CON. The nature of the equipment that has been installed is not considered to be materially different from that previously consented, with the cabins being of the same dimensions. The dimensions of the previously approved structures were;

Charging Station – 2.25M High, 0.73M Wide and 0.44M deep,  
Cabin - 2.3M High, 1.6M Wide and 0.85M deep, whereas the structures in situ measure as follows;

Charging Station – 2.0M High, 0.73M Wide and 0.55M deep,  
Cabin - 2.3M High, 1.6M Wide and 0.85M deep,

- 10.8 As previously stated there are 3 windows in the ground floor side elevation of 11 Hoole Lane, which adjoins the application site. All of these windows appear to serve habitable rooms; however, the EV charging equipment is set forward of all these windows. Whilst the equipment may be visible from these windows at certain points, they do not face on directly, and it is not considered that the structures are overbearing. I am satisfied, that these structures, will have no significant detrimental impact on the living conditions of the residents of 11 Hoole Lane and would comply with Policy GN3 of the WLLP.

### **Highway safety**

- 10.9 The siting and location of the two charging points results in the loss of two parking bays that were previously available for all type of vehicles to use. The Enforcement Team are currently investigating a complaint from Cllr Howard that the amount of parking spaces available on site is less than shown on the approved plans. A number of site visits have been carried out and, on each occasion, there were spaces available in the car park. On balance I am satisfied this would not result in any significant impact to the existing car parking provision on site.
- 10.10 LCC Highways have been consulted and raised no objections to the proposal which they consider would not result in any adverse impact on highway safety and amenity.
- 10.11 On the basis of the above, I am satisfied the proposal is in accordance with Policy IF2 of the Local Plan

### **11.0 CONCLUSION**

- 11.1 The principle of siting EV charging points in this location is considered to be acceptable and has already been established previously. They are considered to be an enhancement of the existing car parking facilities offered in this location and in my view would further support the vitality and viability of the village centre. The design and layout of the development would not result in an adverse impact on the character and appearance of the local area or highway safety. I therefore consider that the proposal satisfactorily meets the requirements of Policies GN1, GN3, IF1, EC1 and SP1 of the West Lancashire Local Plan 2012-2027 DPD.

### **12.0 RECOMMENDATION**

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

1. The development hereby approved is permitted in accordance with details shown on the following plans and documents received by the Local Planning Authority on 31<sup>st</sup> October and 23<sup>rd</sup> November 2022:

Location Plan ref: 10420-0046\_03 Rev A

Block Plan ref: 10420-0046\_04

Planning Site Layout ref: 10420-0046\_01-PL

BYD 120kW Charger ref: 001\_19

PS 300 ref: 001\_12

Flood Risk Assessment Rev A

120KW DC Charger Technical Specification V1

Reason: 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.

### **13.0 SUSTAINABILITY IMPLICATIONS**

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

### **14.0 FINANCIAL AND RESOURCE IMPLICATIONS**

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

### **15.0 RISK ASSESSMENT**

15.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.

### **16.0 HEALTH AND WELLBEING IMPLICATIONS**

16.1 There are no health and wellbeing implications arising from this report.

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## **Background Documents**

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**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

## **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

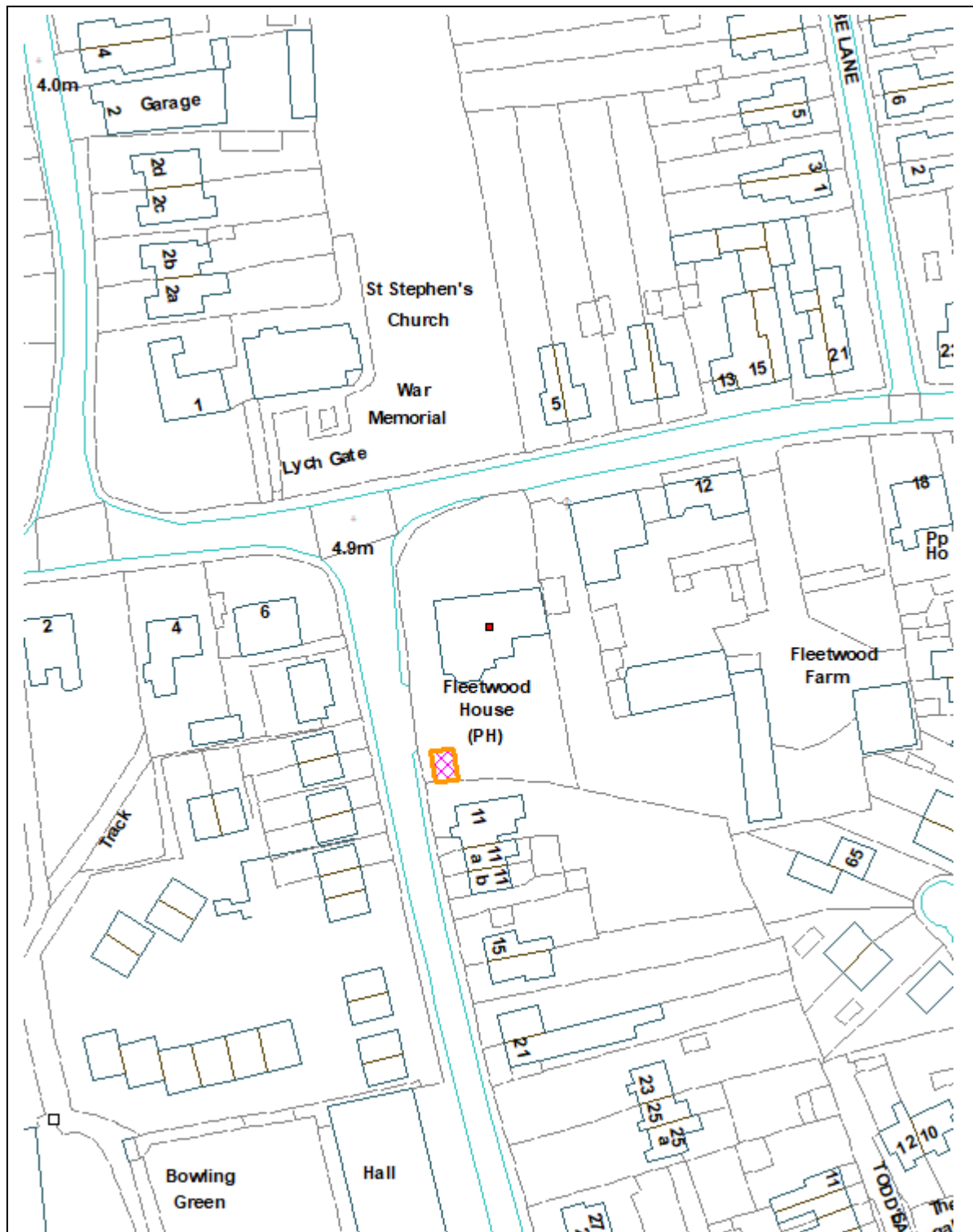
the implications arising from Article 8 (the right to respect for private and family life, home and correspondence) and Article 1 of Protocol 1 (the right of peaceful enjoyment of possessions and protection of property).

**Appendices**

None.



Co-op Food, 1 Hoole Lane, Banks, PR9 8BD.







PLANNING COMMITTEE: 16<sup>TH</sup> MARCH 2023

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**Report of:** Corporate Director of Place & Community

**Contact for further information:**

**Case Officer:** Kate Turner (Extn. 5158) (E-mail: [kate.turner@westlancs.gov.uk](mailto:kate.turner@westlancs.gov.uk))

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**SUBJECT:** PLANNING APPLICATION REF. 2023/0008/FUL

**PROPOSAL:** Conversion of barn to dwelling and construction of rear extension including rebuilding of existing outrigger (Resubmission of application 2022/0900/FUL)

**APPLICANT:** Ms Stephanie Porter

**ADDRESS:** Old Gore Barn, Altcar Lane, Great Altcar

**REASON FOR CALL IN:**

Councillor Gareth Dowling – to consider the heritage impact.

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**Wards affected:** Great Altcar Parish Ward

## **1.0 PURPOSE OF THE REPORT**

1.1 To advise Planning Committee on an application which is seeking planning permission for the conversion of the barn to a single dwelling (previously approved 2020/0517/FUL) including the addition of a single storey rear extension in retrospect.

## **2.0 RECOMMENDATION TO PLANNING COMMITTEE**

2.1 The planning permission be refused.

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## **3.0 THE SITE**

3.1 The application site relates to a brick-built barn located to the east of Altcar Lane, Great Altcar. The barn building has recently been converted into residential accommodation under planning permission 2020/0516/FUL. The site is located within the Green Belt.

#### **4.0 PROPOSAL**

- 4.1 This is a resubmission following refusal of application, reference 2022/0900/FUL. This application is retrospective. As the principle of development for the conversion of the barn has already been considered acceptable, reference 2020/0516/FUL, this application will solely address the additions to the conversion which have been built and have not had the benefit of consent.

#### **5.0 PREVIOUS RELEVANT DECISIONS**

- 5.1 2022/0900/FUL - Conversion of barn to dwelling and construction of rear extension including rebuilding of existing outrigger - Refused
- 5.2 2020/0516/FUL - Conversion of Old Gore Barn into a single dwelling - Granted
- 5.3 2019/0323/FUL - Conversion of the traditional brick barn into 2 residential dwellings with associated gardens, parking and paddock areas - Granted
- 5.4 2001/1160 - Use of land & building for storage, display and sale of activity toy equipment - Granted
- 5.5 1992/0977 - Consideration of details for prior approval - extension to agricultural storage building - Details Approved

#### **6.0 OBSERVATION OF CONSULTEES**

- 6.1 Cadent Gas – 2<sup>nd</sup> February 2023  
No objection, informative note required
- 6.2 Merseyside & West Lancashire Bat Group – 18<sup>th</sup> September 2022.  
I have previously submitted comments in respect this site Ref: SI/01/OGB 18.09.2022) Planning application 2022/0900/FUL. My previous comments as shown below remain valid for the resubmission of this application.

I note that previous dusk emergence or/and dawn re-entry bat surveys have been undertaken at the application site and that two bat species were identified as using the barn; however, the survey data is now out of date and no updated bat surveys accompany this current application. As this is a confirmed bat roost updated dusk emergence or/and dawn re-entry bat surveys will be required; the level of survey effort should consist of three surveys between the months of May-August inclusive at which time bats are most active. These surveys should be undertaken **Prior** to the determination of this application and the results made known to your Council. All surveys must be conducted by suitably experienced bat ecologists that preferably hold valid Natural England bat survey licences.

Based on our comments we consider that currently WLC do not have a sufficient level of information to determine this application relative to the presence of a protected species in order to meet their obligations under the “The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (SI 2019/579” or Local Planning Policy EN2. Therefore, MWLBG wish to place a holding objection to this planning application until such time that the updated bat activity surveys are undertaken, and the results submitted to WLC.

## **7.0 OTHER REPRESENTATIONS**

7.1 None received at the time of writing.

## **8.0 SUPPORTING INFORMATION**

8.1 Planning Statement and Heritage Statement received 6<sup>th</sup> January 2023.

## **9.0 RELEVANT PLANNING POLICIES**

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

The site is located within the Green Belt as designated in the West Lancashire Local Plan (WLLP) DPD.

### **National Planning Policy Framework**

Achieving well – designed places

Protecting Green Belt Land

Conserving and enhancing the historic environment

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

Policy GN1 - Settlement Boundaries

Policy GN3 - Criteria for Sustainable Development

Policy EN4 - Preserving and Enhancing West Lancashire's Cultural and Heritage Assets.

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

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

## **10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY**

10.1 The main considerations for this application are:

- Principle of development - Green Belt
- Visual appearance/design/Impact upon the setting of a Listed Building
- Impact on neighbouring properties

### **Visual appearance/design/Impact upon the setting of a Listed Building**

10.2 The principle statutory duty under the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Principal Act') is to preserve the special character of heritage assets, including their setting. Local Planning Authorities (LPA) should in coming to decisions consider the Principal Act which states the following;

Legislation

## Listed Buildings - Section 66(1)

In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

### 10.3 Planning Guidance and Policy

Policy EN4 of the West Lancashire Local Plan is relevant as is the guidance contained in NPPF (Chapter 16 paragraphs 189-208).

#### NPPF

In determining planning applications LPA's should take account of;

- a. The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b. The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c. The desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 199 states that when considering the impact of proposals on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be applied.

Paragraph 202 identifies that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

#### Local Plan 2012 – 2027

Policy EN4 (a) – presumption in favour of the conservation of designated heritage assets. Development will not be permitted that adversely affects listed buildings, SAM, a conservation area, historic park or garden or archaeological remains.

Policy GN3 provides detailed criteria relating to the design and layout of development, in particular development should relate well to adjacent buildings the area generally and natural features of the site in terms of siting, scale, orientation, design, detailing, materials and residential amenity.

#### West Lancashire Design Guide SPD

DP 5 – New development should be of a scale, mass and built form, which responds to the characteristics of the site and its surroundings. Care should be taken to ensure that buildings do not disrupt the visual amenities of the streetscene because of their height, scale or roofline.

DP 9 - Development, which affects a building of historic interest including its setting or a conservation area needs to be sensitive to the character of the historic environment, be of high quality in terms of design and the materials used and aim to enhance the character and appearance of the wider area

- 10.4 Local Planning Authorities should, in coming to decisions affecting heritage assets, refer to Section 72(1) of the Principal Act, to the presumption in favour of the desirability of the preservation of heritage assets including their setting and also to Section 66(1) to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Recent High Court judgements identify the need to give considerable weight and importance to the duty imposed by the above sections.
- 10.5 Old Gore Barn is within the setting of the grade II listed Old Gore Farm, and this was a consideration in previous applications for the change of use of the barn to residential.
- 10.6 The extension comprises a rectangular cuboid addition to the main building. Although not entirely contemporary in design and using matching materials, it is clearly identifiable as not forming part of the original building. Whilst this addition is simple in form, it's appearance is contemporary and overly domestic, eroding the building's character and heritage.
- 10.7 It is considered that the addition of a rear extension as the unauthorised works to the building, are at odds with the vernacular character of the barn and the extensions are not only, overly domestic in design, form and materials, they also introduce additions which do not respect the simple form of the barn and its historic character. The original approved application, reference 2020/0516/FUL, introduced changes via the conversion of the barn to residential use which were sympathetic to the historic character of the barn, its form and external layout including retaining the essence of its former agricultural use. The linear footprint of the barn was retained, and additions constructed in sympathetic and matching materials.
- 10.8 There have been amendments following informal discussion with a mono-pitched roof being introduced on part of the extension and following the previously refused application amendments have been made to the remaining part of the flat roof extension. These amendments include removal of the outer brick skin and reface incorporating black / grey charred timber cladding, two oak posts on stone bases to visually sub-divide the large, glazed doors to the north east facing elevation and two timber clad piers at either end of the extension.
- 10.9 In terms of materials, I consider the alteration from matching brick to timber cladding would not relate well to the existing building. The Planning Statement submits that this type of material is similar in style to agricultural cladding in the north of England and is proposed attempting to achieve an overall appearance that does not dominate or draw attention away from the original barn. It is my view that due to the scale and form of the extension, with this proposed cladding, would be viewed as a dominant feature in relation to the original building. In addition to this, the proposed timber posts and timber clad piers would introduce further additional bulk to the extension. This again would be adding another

element to the simple form of the barn with no relation to the character and appearance of the original building.

- 10.10 I consider the large single storey addition, even with the alterations as detailed above, does not respect the historic character of the barn and whilst there is a clear differentiation between old and new, through a modern flat roof addition, this is an extension which does not relate to the host building, nor does it attempt to respect the historic character through its form, design and materials.
- 10.11 With respect to the impact on the setting of the listed Old Gore Farmhouse (Grade II), it is considered that both the listed building and red brick barn and outbuildings are seen within the same context of this setting. Whilst public view and visibility are not determining factors, it is considered that in this context the historic relationship between the buildings run with its former use, they are connected by virtue of this and reflect similarities in built form. As such the contemporary flat roof extension, whilst to the rear will dissect the relationship, disrupting the setting and how it is experienced. The rear extension dominates the length of the barn, creating a vast expansion to the building resulting in the barn becoming the more dominant built form within this context.
- 10.12 The listed building becomes a shadow to this form, and as a result its significance is significantly eroded, and status diluted. There is very clear harm evident in this case. Any extension to the barn should respect its vernacular and simple form, with the retention of the linear footprint, which is the essence of its simple functional character. This has been lost through the bolt on addition of the flat roof extension, which is at odds with its historic character. In my view, it has a harmful impact on the historic character of the barn and the setting of the listed farm house, for the reasons outlined above. No substantial public benefit has been demonstrated or to which I can identify as part of the submitted application, that would outweigh this harm.
- 10.13 We are required to give the duties imposed by the Principal Act 1990 considerable weight in our planning balance. Paragraph 199 of the NPPF states that great weight should be given to the conservation of heritage assets and their settings. In respect of the application, it is my view that the proposal due to its scale, form, design and materials would fail to preserve the significance of Old Gore Barn within the setting of the Grade II listed Old Gore Farm House as laid down the Planning (LBCA) Act 1990, and thereby, fails to comply with the guidance contained in the NPPF, paras 200 and 202 and Policies GN3 and EN4 of the Local Plan and the Council's Design Guide SPD.

### **Principle of development - Green Belt**

- 10.14 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. National policy for the control of development in the Green Belt is set out in paragraph 149 and 150 of the NPPF. This lists the types of development which are considered to be appropriate within the Green Belt.
- 10.15 Paragraph 149 in the National Planning Policy Framework states that "A local planning authority should regard the construction of new buildings as



inappropriate in Green Belt.” There are 6 exceptions to this rule including “the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.”

- 10.16 The council's SPD also states proposals for extensions (including domestic outbuildings) to existing buildings in the Green Belt should satisfy the specified criteria which include: the total volume of the proposal together with any previous extensions should not exceed 40% of the volume of the original building, and the design of the extension is in keeping with the original form and appearance of the building and does not materially harm the openness of the Green Belt.
- 10.17 The barn building was granted planning permission under application 2020/0516/FUL and at that time no extensions were proposed as part of the conversion works, as such the converted barn building is as originally built. The proposal is retrospective in form and a single-storey rear extension has been constructed as part of the conversion works without the benefit of planning permission as permitted development for extensions were removed under condition 8 of planning permission 2020/0516/FUL.
- 10.18 A Green Belt Assessment has been submitted as part of the enquiry that indicates the proposed volume increase would be approx. 20%. I am satisfied the single-storey extension volume increase would be below the recommended guideline figure of 40% increase to properties located within the Green Belt.
- 10.19 Given the above I am of the opinion the proposed development would not represent a prominent expansion or would not result in disproportionate additions to the host building and as such, would not comprise inappropriate development in the Green Belt resulting in harm to openness or the visual qualities of the Green Belt.

### **Impact on neighbouring properties**

- 10.20 Policy GN3 of the WLLP allows development provided it retains or creates reasonable levels of privacy, amenity and sufficient garden/outdoor space for occupiers of the neighbouring and proposed properties.
- 10.21 Owing to the location of the retrospective extension at the rear of the property, and the separation distance to any neighbouring properties, I do not consider that any significant loss of residential amenity would occur.

### **Other Matters**

- 10.22 Comments were received from MWLBG in terms of the requirement for updated dusk emergence or/and dawn re-entry bat surveys to be submitted. As the conversion of the barn has already been approved and completed with this application solely looking at the addition of the single storey rear extension with no alterations to the original roof, I do not consider updated surveys are required.

## **11.0 CONCLUSION**

11.1 Given the above I consider that the proposal does not meet the requirements of The National Planning Policy Framework and Policies GN3 and EN4 of the West Lancashire Local Plan 2012-2027 DPD and should be recommended for refusal.

## **12.0 RECOMMENDATION**

12.1 That the application should be REFUSED.

12.2 The proposed development is contrary to Policies GN3 and EN4 in the West Lancashire Local Plan (2012-2027) and the Planning (Listed Buildings and Conservations Areas) Act 1990, in that, by virtue of its scale, form, design and materials would result in an adverse impact on the appearance of the host property and character of the local area. In addition, the development would fail to preserve the significance of Old Gore Barn and would harm the setting of the Grade II listed Old Gore Farmhouse to which it is associated. No substantial public benefit has been demonstrated that would outweigh this harm.

12.3 Despite the requirements of Paras 38-46 of the National Planning Policy Framework it has not been possible to reach a positive agreed solution through the Council's adopted and published procedures. The development proposed shows insufficient regard to the policy requirements as detailed in the reasons above.

## **13.0 SUSTAINABILITY IMPLICATIONS**

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

## **14.0 FINANCIAL AND RESOURCE IMPLICATIONS**

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

## **15.0 RISK ASSESSMENT**

15.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.

## **16.0 HEALTH AND WELLBEING IMPLICATIONS**

16.1 There are no health and wellbeing implications arising from this report.

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### **Background Documents**

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**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

### **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).

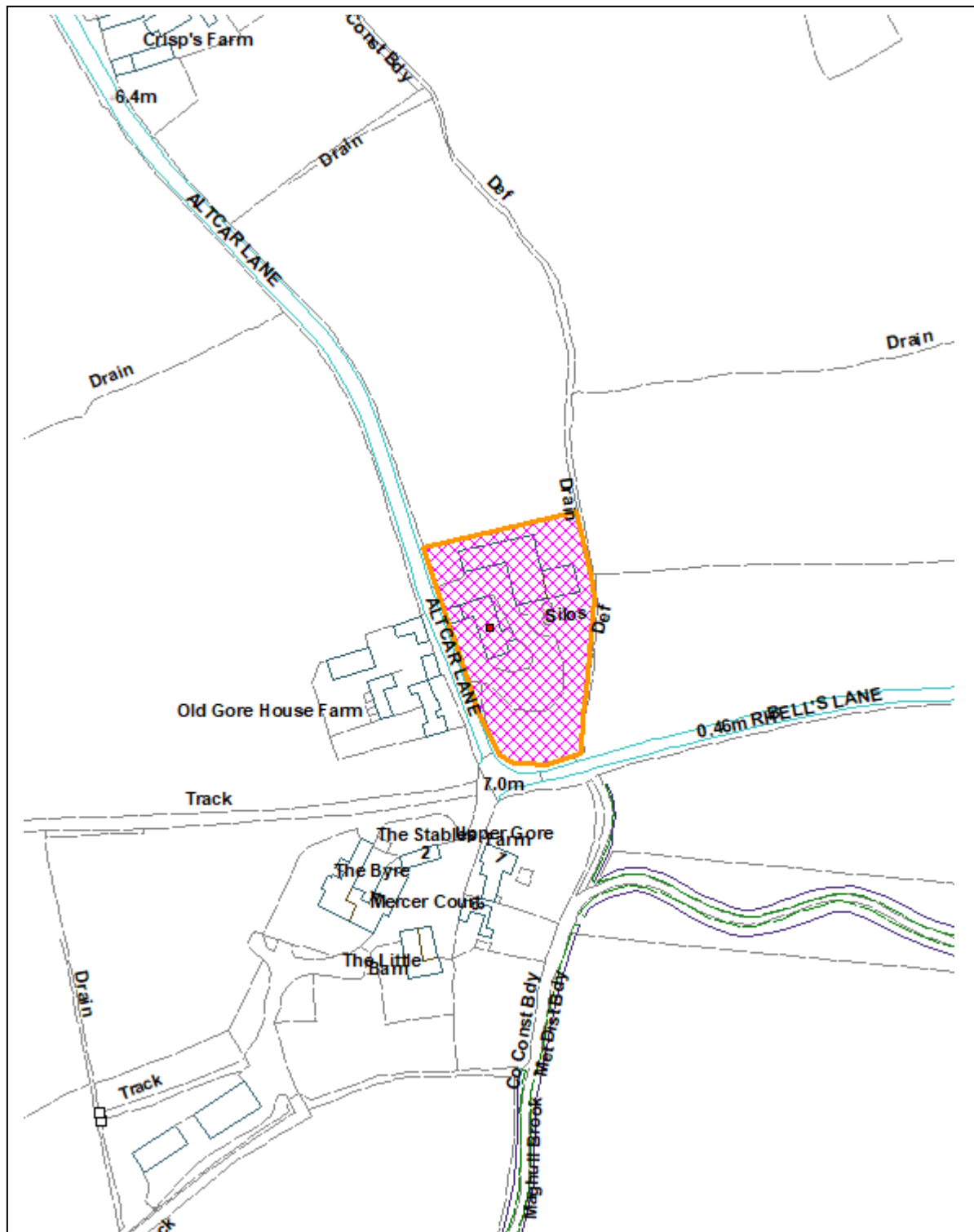
### **Appendices**

None.



2023/0008/FUL

Old Gore Barn, Altcar Lane, Great Altcar, L31 4ET.







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**Report of:** Corporate Director of Place & Community

**Relevant Portfolio Holder:** Councillor Anne Fennell

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**SUBJECT: PLANNING SERVICES ENFORCEMENT POLICY**

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Wards affected: Borough wide

## **1.0 PURPOSE OF THE REPORT**

1.1 To seek adoption of a revised and updated Planning Services Enforcement Policy.

## **2.0 RECOMMENDATIONS TO PLANNING COMMITTEE**

2.1 That the Planning Services Enforcement Policy attached at Appendix 2 to this report be endorsed for approval by Council and operated from 1 May 2023.

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## **3.0 BACKGROUND**

3.1 The Council has long adopted an enforcement plan for relevant development control regulatory activity. Members will be aware that enforcement action under planning legislation is discretionary, but it is good practice for local authorities to take proportionate action where breaches of planning control are evident. This is supported by paragraph 59 of the National Planning Policy Framework (2021), which also supports the adoption of a local enforcement plan:

*Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.*

*They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.*

- 3.2 Members will also be aware that the Planning Service has been subject to significant and fundamental review, with reports being presented to Planning Committee and/or Executive Overview and Scrutiny Committee accordingly. The Planning Services Enforcement Policy (the Policy) attached at Appendix 2 to this report forms a significant part of that review and has been drafted to set out a clear statement of the Council's approach to planning enforcement.
- 3.3 The Council operates its planning enforcement regime in accordance with the Council's Constitution in respect of powers of the Planning Committee and Scheme of Delegation to Chief Officers. However, planning enforcement activity does not operate in isolation solely within the Planning Services team, it requires the support and dedication of other Council colleagues to function effectively and efficiently. To that end, and in addition to the review of the Council's planning enforcement processes, additional dedicated resources have been put into the Council's Legal and Democratic Services team. This has been necessary to ensure those cases identified by Planning Enforcement Officers for further action can be progressed formally. This dedicated resource is in place and so the updated Enforcement Plan is presented to Members accordingly.

#### **4.0 CURRENT POSITION**

- 4.1 The Council receives approximately 300 planning enforcement complaints per year. All formal complaints are investigated by Enforcement / Planning Officers resulting in one of three outcomes:
- determination that no breach of planning control exists;
  - a breach exists and formal action is to be taken; or
  - a breach exists and no formal action is to be taken, following negotiation to resolve the breach, or in circumstances where the breach would not justify enforcement action.
- 4.2 In investigating enforcement matters, a level of prioritisation is carried out in accordance with the Policy which includes the justification of the level of priority assigned. This dictates what the complainant can expect and how the matter will be addressed. The fact that all complaints are investigated, even if the alleged breach is trivial in nature, places great pressure on resources and leads to delays in investigating and resolving more serious breaches. It is therefore important to stress that the prioritisation of complaints is one of the fundamental aspects of the Policy to allow Officers to manage enforcement proactively. However, this can [in itself] lead to complaints against the service and so it is important that the Policy states the approach clearly and justifiably.



## **5.0 ISSUES**

- 5.1 It is clearly essential that Council resources are used to maximum effect. It is equally important that the Council gives priority to those planning enforcement cases where the greatest harm is being caused and not as a response to who is complaining and/or how 'vocal' that complaint may be. The Policy builds on previous versions by placing priority categories against the seriousness of the alleged breach and indicates target response times accordingly. This triage approach allows focus on more significant matters that can be dealt with expeditiously and not be delayed by more minor matters of limited planning harm.
- 5.2 This approach is supported by a scheme of delegations to Chief Officers to determine whether a case is expedient to take further action or not. However, it is important to note an exception to this delegation exists where cases are subject to a high number of complaints, and it is proposed to take no further action. In such cases the matter is referred to the Planning Committee for consideration. Accordingly, and assuming the Policy is approved by Members, the Planning Committee will be provided with routine updates on future enforcement activity; the nature and frequency of which will be determined by the Planning Committee in due course.

## **6.0 SUSTAINABILITY IMPLICATIONS**

- 6.1 It is important that the local environment is protected from the harmful effects of unauthorised development, as are the interests of residents, visitors and businesses. The Policy sets out the Council's aims for the enforcement of planning control in this context.

## **7.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 7.1 There are no significant financial or resource implications arising from this report. All resources required to prepare and implement the Policy are covered by the Planning Service revenue budget.

## **8.0 RISK ASSESSMENT**

- 8.1 A failure to set out clearly the Council's plan for the enforcement of planning controls could result in the loss of public confidence in the planning system. By adopting and publishing an Enforcement Plan it ensures that the Council's resources are prioritised to maximum effect.

## **9.0 HEALTH AND WELLBEING IMPLICATIONS**

- 9.1 There are no health and wellbeing implications arising from this report.

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## **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**

There is a direct impact on members of the public, employees, elected members and / or stakeholders, therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report

## **Appendices**

1. Equality Impact Assessment
2. Planning Services Enforcement Plan

## Appendix 1

# Equality Impact Assessment Form



<b>Directorate: Planning and Regulatory Services</b>		<b>Service: Planning Services</b>
<b>Completed by: Paul Charlson</b>		<b>Date: 24/02/23</b>
<b>Subject Title: PLANNING SERVICES ENFORCEMENT PLAN</b>		
<b>1. DESCRIPTION</b>		
Is a policy or strategy being produced or revised:	Yes	
Is a service being designed, redesigned or cutback:	No	
Is a commissioning plan or contract specification being developed:	No	
Is a budget being set or funding allocated:	No	
Is a programme or project being planned:	No	
Are recommendations being presented to senior managers and/or Councillors:	Yes	
Does the activity contribute to meeting our duties under the Equality Act 2010 and Public Sector Equality Duty ( <b>Eliminating unlawful discrimination/harassment, advancing equality of opportunity, fostering good relations</b> ):	No	
Details of the matter under consideration:		
<p><i>If you answered <b>Yes</b> to any of the above <b>go straight to Section 3</b></i>  <i>If you answered <b>No</b> to all the above <b>please complete Section 2</b></i></p>		
<b>2. RELEVANCE</b>		
Does the work being carried out impact on service users, staff or Councillors (stakeholders):	No	
If <b>Yes</b> , provide details of how this impacts on service users, staff or Councillors (stakeholders): <i>If you answered <b>Yes</b> go to <b>Section 3</b></i>		
If you answered <b>No</b> to both Sections 1 and 2 provide details of why there is no impact on these three groups: <i>You do not need to complete the rest of this form.</i>		
<b>3. EVIDENCE COLLECTION</b>		
Who does the work being carried out impact on, i.e. who is/are the stakeholder(s)?	All residents, businesses and visitors.	
If the work being carried out relates to a universal service, who needs or uses it most? (Is there any particular group affected more than others)?	N/A	

Which of the protected characteristics are most relevant to the work being carried out?	
Age	No
Gender	No
Disability	No
Race and Culture	No
Sexual Orientation	No
Religion or Belief	No
Gender Reassignment	No
Marriage and Civil Partnership	No
Pregnancy and Maternity	No
<b>4. DATA ANALYSIS</b>	
In relation to the work being carried out, and the service/function in question, who is actually or currently using the service and why?	All relevant residents, businesses and planning agents.
What will the impact of the work being carried out be on usage/the stakeholders?	Reviewed enforcement plan requirements.
What are people's views about the services? Are some customers more satisfied than others, and if so what are the reasons? Can these be affected by the proposals?	The Planning Service is subject to routine public consultation in relation to services and future development. Any comments are brought back to the Committee.
What sources of data including consultation results have you used to analyse the impact of the work being carried out on users/stakeholders with protected characteristics?	The Planning Service is subject to routine public consultation in relation to services and future development. Any comments are brought back to the Committee.
If any further data/consultation is needed and is to be gathered, please specify:	N/A
<b>5. IMPACT OF DECISIONS</b>	
In what way will the changes impact on people with particular protected characteristics (either positively or negatively or in terms of disproportionate impact)?	None.
<b>6. CONSIDERING THE IMPACT</b>	
If there is a negative impact what action can be taken to mitigate it? (If it is not possible or desirable to take actions to reduce the impact, explain why this is the case (e.g. legislative or financial drivers etc.).	N/A
What actions do you plan to take to address any other issues above?	No actions
<b>7. MONITORING AND REVIEWING</b>	
When will this assessment be reviewed and who will review it?	The Planning Service is subject to routine public consultation in relation to services and future development. Any comments are brought back

to the Committee.





# **WEST LANCASHIRE BOROUGH COUNCIL PLANNING SERVICES**

## **PLANNING ENFORCEMENT POLICY 2023**

## **1.0 INTRODUCTION**

- 1.1 At the heart of the Council's vision for West Lancashire is the need for our citizens to feel safe and secure where they live and be proud of the Council that serves and supports them. A key instrument for sustaining a green and healthy community is our Local Plan which governs development in the Borough. A fundamental part of the Council's planning system is the authority to control and enforce the development and use of land in the public interest. This includes any new proposals for the development of land and the existing use of developed land.
- 1.2 This document outlines the Council's approach to enforcement within the context of government policy on planning enforcement contained in the National Planning Policy Framework. It sets out our procedures for delivering the Planning Enforcement Service for West Lancashire. This Policy is not part of the Statutory Local Plan but has been agreed by the Council in line with the provisions of the National Planning Policy Framework (NPPF).
- 1.3 This Policy is written in accordance with other relevant corporate documents such as the Council's Enforcement Policy and has direct links to other services such as building control and environmental health, but this document solely relates to planning control.
- 1.4 The Council's priorities for investigation are detailed in this document in addition to an explanation of what will be investigated and what will not, in the context of the Council's general discretionary powers. It also sets out the priorities for responses to complaints and details how we will respond to reports of non-compliance.
- 1.5 The planning enforcement system does not exist to simply punish those responsible for breaches of planning control. It should be noted that formal planning enforcement is a discretionary power and should only be used if and when absolutely necessary, after negotiation and any other potential remedies have not succeeded. This means the Council does not have a duty to enforce, rather it can choose to do so where appropriate and to maintain public confidence in the planning system.
- 1.6 Accordingly, the Council will investigate and act in a proportionate manner to suggested breaches of planning control, free from bias and founded on reasonableness and sound evidence. Should any Officer have an interest which is personal, financial or of any other nature likely to be prejudicial then that officer will take no part in the investigation and will immediately refer the matter and interest to the Planning Services Manager.

### *Staff Safety*

- 1.7 Our Enforcement Officers will always aim to resolve breaches of planning control in an amicable way with the responsible person and other parties, preferably through negotiation. We do know that many of the issues that we deal with can be emotive, however we expect our Officers to be treated with respect. The Council will not tolerate any of its Officers being threatened with



or subjected to written, physical or verbal abuse while carrying out their official duties and the Council will take appropriate action where necessary.

### *Equal Opportunities and Human Rights*

1.8 When undertaking duties, officers will have regard to the Council's Equal Opportunity Policy to ensure that investigations are carried out in a consistent and fair manner, free from discrimination on any grounds.

1.9 As part of the enforcement process, Human Rights are also an important consideration that will be taken into account and balanced with any action taken. The relevant elements of the Human Rights Act (1998) are:

- Article 1 of the First Protocol – Protection of Property
- Article 6 – Right to a fair trial
- Article 8 – Right to respect for private and family life.

### *How We Will Handle Your Data*

1.10 Enforcement duties will be always undertaken in line with the Council's Corporate Privacy Notice.

1.11 If you have any queries, concerns or complaints about the way we process your personal data, including the way we handle information requests, you can contact our Data Protection Officer via [dpo@westlancs.gov.uk](mailto:dpo@westlancs.gov.uk)

1.12 If you are not satisfied with our response or believe we are not processing your personal data in accordance with the law you have the right to contact the Information Commissioner's Office (ICO). For more information visit [www.ico.org](http://www.ico.org)

## **2.0 WHAT WE CAN INVESTIGATE**

2.1 This includes:

- Development (either operational, engineering or a material change in the use of land or a building) has taken place without planning permission;
- Development that has not been carried out in accordance with an approved planning permission;
- Failure to comply with a condition or legal agreement attached to a permission; and;
- Other matters which also fall under the scope of planning control including but not limited to the enforcement of advertisements and untidy land.

2.2 A number of other breaches of planning control which may be investigated also constitute a criminal offence under planning legislation until and unless there is a failure to comply, by the due date, with a formal notice that the Council has issued, and it is in the public interest to do so. These include but are not limited to the following:

- Unauthorised demolition of a building (excluding specified categories) in a conservation area;
- Unauthorised works carried out to a listed building which affect its historic character;
- Unauthorised removal of, or works carried out, to protected trees without consent being granted or proper notification given
- Advertisements, which require consent under the advertisement regulations, which are displayed without express consent.
- Failure to comply with the requirements of a planning notice, e.g., enforcement, discontinuance, stop notice, breach of condition notice, or other statutory notice.

### **3.0 HOW TO MAKE A COMPLAINT**

3.1 The Council will require as much information as possible to carry out an effective investigation, and to help keep individuals informed of what action it is taking. It is highly unlikely that enforcement action will prove successful if complaints are founded on speculation and a lack of cogent evidence.

3.2 All complaints must be received in writing only via the Planning Enforcement webpage  
[www.westlincs.gov.uk/planning/planning-applications-enforcement/breaches-of-planning-control-and-enforcement-notice.aspx](http://www.westlincs.gov.uk/planning/planning-applications-enforcement/breaches-of-planning-control-and-enforcement-notice.aspx)

3.3 All complaints should include the following information:

- Your name, address and telephone number;
- Details of the alleged breach including when the problems started;
- The location of the problem;
- The name and address of the alleged contravener, if known;
- An explanation of the harm that the problem is causing; and
- You may also be required to provide evidence of the alleged breach.

3.4 Complainant details are kept confidential, however if the Council is pursuing a prosecution, a complainant may be asked to cooperate by way of providing witness statements to strengthen any case made to the Courts and would be disclosable to relevant parties. Complainants are therefore asked to consider this before making a complaint as the absence of such information is likely to prevent the Council from taking further action.

3.5 We will therefore not process anonymous complaints unless it relates to unauthorised works to a Listed Building or protected tree. An overview of the complaints process is provided in Appendix 1.

#### **4.0 HOW WE WILL INVESTIGATE**

4.1 The Council's aim is to support responsible development. In common with all planning authorities and national guidelines, the Council's approach is always to seek to resolve an issue without having to take formal action if possible. Where necessary, this may involve lengthy negotiations and correspondence which become part of a process that demonstrates that when the Council does opt for prosecution it is indeed the last resort. In many cases, this will also involve working with colleagues responsible for dealing with other regulations e.g., Building Control, Environmental Protection and Landlord Licensing.

4.2 Sometimes, an issue may best be resolved through using different legislative powers available to the Council other than planning enforcement tools. In other cases, a co-ordinated effort from several agencies may be required.

4.3 We will investigate all enforcement complaints in accordance with their priority rating.

4.4 Reports of breaches of planning control will be assessed and prioritised by the Planning Enforcement team. The following steps will be taken:

- There will be an initial assessment, to determine if the enquiry is a planning related matter and to identify any cases that need an immediate response.
- A priority rating will be assigned (A-D) and the enquiry will be acknowledged.
- A desk-top investigation will then be undertaken to establish initial facts (e.g., if planning permission has been granted).
- Following this, either a site visit will be undertaken, or initial contact made with the developer or landowner.

4.5 We will keep individuals up to date with progress, when there is anything significant to report, or otherwise periodically to reassure them that the matter remains under investigation and advise what we are doing.

4.6 We will only seek or take action where a breach is proven, demonstrable harm is caused, and where it is expedient and legally possible to do so.

4.7 Any actions sought or taken will be reasonable and proportionate to the proven breach, in accordance with government advice. We will seek the co-operation of responsible persons through negotiation. We will, however, take a firm line where co-operation is not forthcoming, and where the nature of the breach merits it, consider prosecution if it is in the public interest to do so. Consideration will be given to the nature of the breach, whether it is

continuing, the harm caused and the cost of pursuing a prosecution against the benefit to be gained.

- 4.8 We will inform individuals of the outcome of any investigation, explaining our reasons for the chosen course of action. Equally, where the subject of any enforcement complaint is aware of the investigation, we will inform them of the outcome, explaining our reasons for the course of action that has been taken.
- 4.9 Where the enforcement complaint does not relate to a planning related matter, either wholly or in part, we will refer the matter to the relevant department with your details, asking them to keep you updated. We will retain and investigate any part of the enquiry relating only to planning.

*Priority Schedule*

- 4.10 All complaints will be prioritised in accordance with the tables below. The information is for general guidance and is not exhaustive:

<b>CATEGORY A: Top Priority – Site Visit and Initial Investigations within 2 working days</b>	
Unauthorised demolition, partial demolition or significant alterations of the building, which is essential to retain (e.g., a listed building or building within a conservation area) or any other development that causes irreversible demonstrable harm.	Unauthorised works to trees covered by tree preservation orders (TPO) or in a conservation area.
Unauthorised development within a Site of Special Scientific Interest (SSSI) or other national or local designation of nature conservation.	All reports of unauthorised development which represent a serious danger to members of the public.

<b>CATEGORY B: High Priority – Site Visit and Initial Investigations within 15 working days</b>	
Breaches of conditions which result in serious visual harm or result in serious demonstrable harm to the amenity of the neighbourhood.	Breaches of either listed building, Article 4 Direction or conservation area controls not coming into Category A above.
Breaches of the requirements of an Enforcement Notice or a Breach of Condition Notice	Any unauthorised development/activity which causes clear, immediate, and continuous harm or danger to the locality including the living conditions of adjoining residents.
Unauthorised development which, without intervention, would otherwise be nearing immunity from enforcement	

action by virtue of either the 4 or 10 year immunity rules.	
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<b>CATEGORY C: Medium Priority – Site Visit and Initial Investigations within 25 working days</b>
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Technical Breaches of Planning Control, including breaches of conditions, not resulting in serious visual harm or not resulting in serious demonstrable harm to the amenity of the neighbourhood.
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<b>CATEGORY D: Lowest Priority Cases – Site Visit and Initial Investigations within 40 working days</b>
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Unauthorised development which, if retrospective planning permission were to be applied for, would comply with local and national planning policies and which is not about to become immune from enforcement action.	Disputes between neighbours or complaints about neighbour's property not resulting in harm to wider residential amenity.
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4.11 Once an investigation commences, an assessment will be made as to whether a site visit or initial contact made with the developer or landowner is first necessary. If a site is conducted or further information is received its priority may change following the initial site visit or on receipt of addition information.

4.12 Whilst the initial site visit will be made relatively quickly in accordance with the above prioritisation schedule, further investigations and site visits may be required before a conclusion is made. This may take time and therefore reporters of alleged breaches of planning control should be aware that there may be some delay before the Council confirms the outcome of these investigations.

4.13 A complaint will be deemed to have been resolved in the event of one of the following occurrences:

- It has been determined that a breach of planning control has not occurred;
- It has been determined that it is not expedient to pursue enforcement action;
- The matter has been resolved through negotiation;
- It has been concluded that the breach of planning control has ceased; or
- That a retrospective planning application has been submitted (where requested).

4.14 A list of possible enforcement actions are provided at Appendix 2.

## 5.0 WHAT WE WILL NOT INVESTIGATE

5.1 Planning laws are designed to control development and uses of land and buildings in the public interest. They are not meant to protect the private interests of one person against the activities of another. The Council often receives reports regarding matters that are not breaches of planning control. The following are examples (but not limited to) of matters that the planning enforcement service will not consider:

- Boundary and land ownership disputes, private rights of way, and covenants/easements on deeds. These are civil matters upon which we respectfully request that you seek independent legal advice;
- Use of/or development on the highway, footway or verge that is covered by highway legislation. Further advice can be obtained from the Local Highway Authority at Lancashire County Council [www.lancashire.gov.uk/roads-parking-and-travel/roads](http://www.lancashire.gov.uk/roads-parking-and-travel/roads);
- Dangerous structures. Please contact the Borough Council's Building Control team [www.westlancs.gov.uk/planning/building-regulations.aspx](http://www.westlancs.gov.uk/planning/building-regulations.aspx);
- Unsafe working practices for more information please contact the Health and Safety Executive ([www.HSE.gov.uk](http://www.HSE.gov.uk)) or the Council's own health and safety enforcement team [www.westlancs.gov.uk/business/business-services/business-regulation/health-and-safety.aspx](http://www.westlancs.gov.uk/business/business-services/business-regulation/health-and-safety.aspx)
- Fly tipping and any other matters covered by other environmental legislation such as noise and smell. In such cases, please contact the Council's Environmental Protection team [www.westlancs.gov.uk/environment/noise.aspx](http://www.westlancs.gov.uk/environment/noise.aspx);
- Uses operating without the necessary licence. Please contact the Borough Council's licensing team [www.westlancs.gov.uk/business/business-services/licensing.aspx](http://www.westlancs.gov.uk/business/business-services/licensing.aspx)
- Internal alterations (unless to a listed building, or result in the installation of a mezzanine floor in a retail premises)
- External security lights fixed to houses.
- Fences and walls in rear gardens unless they exceed 2m in height.
- Where the reported issue is purely about trade and competition.
- Complaints of a vague and imprecise nature that offer no specifics about the breach of planning control being alleged.
- Anonymous complaints or complaints where the information required in Section 3 has not been provided.
- Speculative requests for officers to check whether or not conditions have been complied with when there is no direct evidence of a breach of planning control.

## 6.0 WHEN IS IT TOO LATE TO TAKE ACTION?

- 6.1 Planning legislation sets out time limits for taking enforcement action. The Council cannot serve a notice after four years where a breach of planning control involves building operations, or the change of use of any building to a single dwelling house. Other unauthorised changes of use and breaches of condition are subject to a ten year time limit. After these periods the Council cannot take action and the use becomes lawful. The landowner can apply for a Certificate of Lawful Existing Use or Development (CLEUD) after this period.
- 6.2 Serving an enforcement notice in respect of a particular development stops the clock in relation to these time limits. Therefore, where the Council feel a breach may be close to the relevant time limit it may seek to take urgent enforcement action to prevent the unauthorised development becoming lawful.
- 6.3 The Localism Act (2011) has introduced a new enforcement power in relation to time limits. This affords possibility to take enforcement action against breaches of planning control where the actions have been deliberately concealed outside of the above time limits.

## **7.0 IF YOU ARE THE SUBJECT OF AN ALLEGED BREACH**

- 7.1 The Council appreciates that this area can be complex, influenced by neighbourhood relations, a lack of knowledge by the complainant of the approved planning application, or of rights available to carry out certain activities without planning permission being required. We also understand that the receipt of letters alleging a breach of planning control can be distressing. We will inform you of the nature of any allegation and if substantiated, what remedies may be available in order to avoid the need for formal action.
- 7.2 We encourage you and / or your company to work with us and for example provide as much evidence as possible including photos and drawings. This will assist enforcement officers to carry out their initial assessment as quickly as the evidence permits. We encourage negotiation and if we conclude a breach has occurred, you will be advised of the details of the breach and how to put it right. Our first approach is to try and resolve any breaches through negotiation and discussion. On occasion, where matters relating to the alleged breach are more complex, you may wish to consider taking independent professional advice.
- 7.3 If you are served with a formal notice, you will be given the details of the breach, the reasons for the action, the steps required to resolve the matter and a time period for compliance. In most cases you will have the right of appeal.

## **8.0 REVIEW AND REPORTING PROCESS**

8.1 This Policy will be reviewed at least once every three years. To assist in the improvement of service delivery, a review of the following elements will also be undertaken and reported to the Council's Planning Committee annually. Information considered will include the following:

- The number of enforcement cases received and their profiling within Priority A, B,C and D.
- The number of cases identified as a breach of planning control;
- The number of cases resolved without the need for formal action;
- The number of cases resulting in the issue of a formal notice and the types of notices issued;
- The number of appeals made to notices and the outcome;
- The number of prosecutions initiated;
- The achievement of performance standards;
- Benchmarking the above with previous years; and
- Reviewing targets, standards and approaches where necessary.

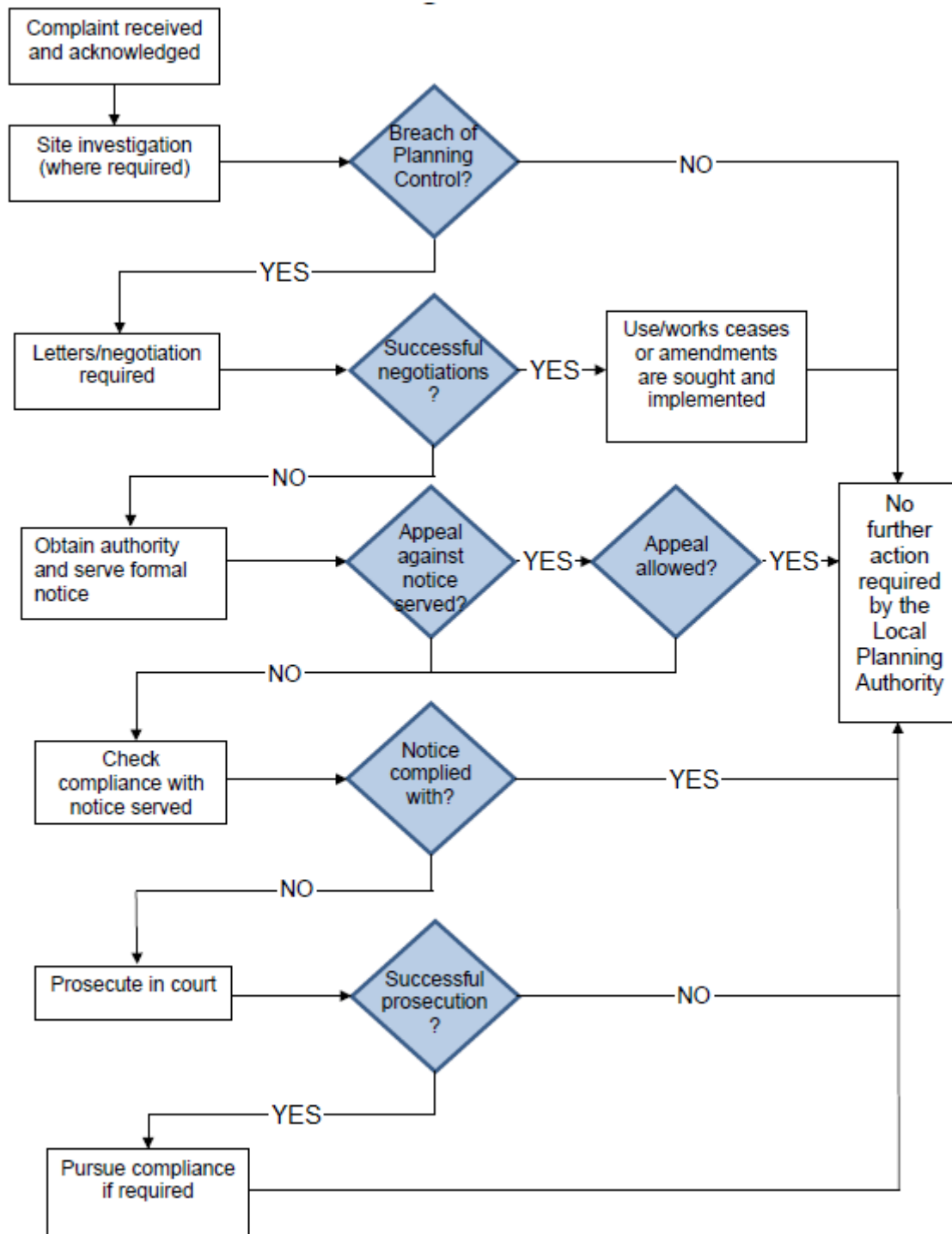
## **9. FEEDBACK AND COMPLAINTS**

9.1 Should you have any comments, compliments or complaints with regard to the handling of your complaint, or any aspect of the Council's Planning Service, you may wish to direct them to the Council's Customer Feedback page at the address below.

<https://www.westlancs.gov.uk/about-the-council/contact-us/customer-feedback.aspx>



## Appendix 1: Overview of complaint process



## **Appendix 2: Possible enforcement outcomes**

### **A1 No Breach**

A1.1 A significant number of investigations are closed as there is no breach of planning control established. This can occur for a number of reasons, for example:

- There is no evidence of the allegation;
- Development has taken place but planning permission is not required;
- The development already benefits from planning permission granted by the Council;
- A technical breach is evidenced but it is so minor that it has no or very little impact on amenity; or
- The time limits for taking enforcement action have been exceeded.

### **A2 Breach Identified**

A2.1 If a breach is identified, the person responsible will be told what wrong and what action is required immediately to remedy the breach. In most cases, unless there is serious and immediate ongoing harm to the environment, highway safety or neighbours, the person responsible will be given the opportunity to remedy the breach before the commencement of costly and protracted formal action.

A2.2 Where officers consider that planning permission is likely to be granted for an unauthorised development, or that the imposition of conditions could reduce the harm to amenity, a retrospective planning application will be requested for the development.

A2.3 In determining retrospective planning applications the Council cannot refuse an application simply because the development has already been carried out. Many breaches of planning control occur because the applicant simply did not know that permission was required. A retrospective application enables the Council to regularise acceptable development without arbitrarily penalising the applicant. Most enforcement complaints are subsequently regularised through retrospective applications.

A2.4 The Council will not invite a retrospective application if the development is likely to be unacceptable. The Enforcement Officer may require further information to determine if a development is acceptable in planning terms, prior to making that decision. However, the Council cannot prevent the voluntary submission of retrospective applications, in which case we would be duty bound to determine the application in accordance with planning policy. Should no retrospective application be received, formal enforcement action is at the discretion of the Council; and will only be taken where harm can be attributed to the breach as set out below.

### **A3 Not Expedient to Pursue Formal Action**

A3.1 Enforcement action needs to be proportionate to the alleged breach and it is likely that the Council will not take formal enforcement action against a trivial or technical breach of planning control that causes no harm to amenity or the

environment, or the potential cost of action outweighs the gain to be achieved.

- A3.2 If a person decides to appeal against formal enforcement action this will add to the time taken to resolve the case. Therefore, it is not possible to give a standard time for dealing with planning enforcement cases.
- A3.3 In exceptional circumstances, contraventions may not warrant any action. This can be where the cost of compliance to the offender outweighs the detrimental impact of the contravention on the community or environment, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community or environment.
- A3.4 A decision of no action may also be taken where formal planning enforcement is inappropriate in the circumstances, such as an unauthorised business has ceased to trade, or the offender is elderly or frail and formal action would seriously damage their well-being. A decision to take no action will be recorded in writing and must consider the health, safety, environmental and nuisance implications of the contravention i.e., it would not be in the public interest to take action.
- A3.5 If it is the intention to take no action, we will inform the complainant and let them know the reason why. The time taken to investigate and conclude on Planning Enforcement cases is unpredictable, so no guide as to how soon updates may be given can be provided.

#### **A4 Formal Enforcement Action**

- A4.1 Where it has not been possible to remedy a breach of planning control through negotiation, or the submission of a retrospective application, the Council has various formal enforcement options which are outlined below:

##### Planning Contravention Notice (PCN)

The main purpose of a PCN is to gather initial information so that the Council can establish whether there is a case for taking Enforcement Action. It is an offence if the recipient of the notice fails to provide the required information. If convicted of such an offence the offender would be liable on conviction to a fine currently not exceeding £2,500.

##### Enforcement Notice / Listed Building Enforcement Notice

This is served on the owner and/or occupier of the land. The notice will set out what the Council expects the owner to do within specified timescales for this action. An Enforcement Notice takes 28 days to become effective. Within this time, there is a right of appeal to the Planning Inspectorate. Following this initial 28 days, the Council must give a 'reasonable' timescale in which the requirements of the Notice have to be met. An Enforcement Notice is a land charge and will be declared when a property is sold. Even if the Notice is complied with, it will still remain as a land charge on that property. If the Enforcement Notice is not complied with, the Council can decide whether or not to prosecute, which if successful, can incur significant fines or imprisonment.

### Breach of Condition Notice

Where development has taken place without compliance with a condition or conditions of the planning permission. As above, if a notice is not complied with, the Council may bring a prosecution in the Courts. There is no right of appeal against such a notice. The Council can prosecute after 28 days if the requirements of the Notice are not met.

### Section 215 Notice / Community Protection Notice

The condition of certain buildings or land may cause serious harm to the visual amenity of an area. Should the Council consider it appropriate to do so they may serve on the owner and occupier a Notice under Section 215 of the Town and Country Planning Act, 1990. Such a notice would require steps for remedying the condition of the land or buildings and specify a period of time for complying but in any event not less than 28 days. This Notice can be appealed via a magistrates' hearing. If any person is subsequently found guilty of an offence of not complying with the requirements of a 215 Notice, they shall be liable on conviction to a fine.

### Conservation Area Notice

This may be served where unauthorised demolition has taken place within a designated conservation area.

### Temporary Stop Notice

Where the Council consider that there has been a breach of planning control and it is necessary in order to safeguard the amenity of the area that the activity that amounts to the breach should stop immediately, Section 171E of the Town and Country Planning Act 1990 enables the Council to issue a temporary stop notice which takes effect immediately.

### Stop Notice

In the most serious of cases, the Council may consider serving a Stop Notice alongside an Enforcement Notice or may apply to the Courts for an Injunction to prevent further harm being caused. This action requires the people responsible to stop specified activities.

This is used for the most serious breaches of planning control in which there is a clear and identifiable serious risk to human health and /or serious effect on the physical environment. An example may include a residential development taking place on land with known, serious pollutants that could have an impact on the health of future occupiers or people near-by. Such a notice can only follow the service of an Enforcement Notice.

**It should also be noted that where the associated enforcement notice is quashed, varied or withdrawn, or the stop notice is withdrawn, compensation may be payable in certain circumstances and subject to various limitations.**

### Signage and advertisements

In practice, most signs are displayed on the adopted highway or verge so the matter will be referred to Lancashire County Council as landowner. Only where this is not the case and where an advertisement is not lawfully displayed and causes harm to the amenity or public safety, and it is considered that express consent would not be granted, the owner/ occupier shall be requested to remove the offending sign. If the sign is not removed by agreement the Council does have the power to prosecute.

If a person is found guilty of an offence under The Control of Advertisement Regulations, he or she could be liable to a fine per advert. The Council also has the power to serve a Notice requiring the discontinuance of a lawfully displayed advertisement if it is satisfied that it is necessary to do so to remedy a substantial injury to the amenity of the locality or a danger to members of the public. Recipients of a Discontinuance Notice do have a right of appeal.

A4.2 In addition to the above notices, prosecution proceedings can take place for the following breaches:

- Unauthorised works to a protected tree, or removal of a protected hedgerow
- Unauthorised works to a listed building
- Demolition within a conservation area, or
- Works to an ancient monument
- High hedges

A4.3 Direct Action and Injunctions are further steps available where the circumstances require such intervention. Additionally, where a prosecution is undertaken, an Order for Proceeds of Crime (POCA) can in relevant circumstances also be made.

