



Jacqui Sinnott-Lacey  
Chief Operating Officer

52 Derby Street  
Ormskirk  
West Lancashire  
L39 2DF

Wednesday, 17 April 2024

**TO: COUNCILLORS G OWEN, A FOWLER, M ANDERSON, A BLUNDELL,  
A FENNELL, P HOGAN, S PATEL, E POPE, L WEBSTER AND  
J WITTER**

Dear Councillor,

A meeting of the **PLANNING COMMITTEE** will be held in the **COUNCIL CHAMBER - 52 DERBY STREET, ORMSKIRK, L39 2DF** on **THURSDAY, 25 APRIL 2024** at **7.00 PM** at which your attendance is requested.

Yours faithfully

A handwritten signature in black ink, appearing to be 'JSL', written over a faint 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** 743 - 744  
 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** 745 - 748  
 To receive as a correct record the minutes of the meeting held on the 21 March 2024.
7. **PLANNING APPLICATIONS**  
 To consider the report of the Deputy Chief Executive.
- 7a 2023/0117/FUL - LAND OFF FIRSWOOD ROAD, LATHOM 749 - 766
- 7b 2023/0118/FUL - LAND OFF FIRSWOOD ROAD, LATHOM 767 - 786
- 7c 2023/0730/FUL - LAND OFF BOUNDARY LANE, HESKETH BANK 787 - 810
8. **2022/0883/FUL - SISTERS OF NOTRE DAME CONVENT, LANCASTER LANE, PARBOLD (TO FOLLOW)**  
 To consider a report from the Deputy Chief Executive.
9. **COMMITTEE MEMBER UPDATE - AN ACCELERATED PLANNING SYSTEM - CONSULTATION / CHANGES TO PLANNING ENFORCEMENT REGIME** 811 - 828  
 To consider a report from the Deputy Chief Executive.

**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**.



	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, 21 March 2024

Start: 7.00pm

Finish: 8.41pm

### PRESENT:

Councillor: G Owen (Chairman)  
A Fowler (Vice-Chairman)

Councillors: M Anderson                      S Patel  
A Blundell                                E Pope  
A Fennell                                 L Webster  
P Hogan                                    J Witter

Officers: Steve Faulkner, Planning Services Manager  
Kate Jones, Planning Services Team Leader  
David Delaney, Planning Assistant Solicitor  
Jill Ryan, Principal Democratic Services Officer  
Hollie Griffith, Planning Assistant Solicitor  
Danielle Valenti, Planning Assistant Solicitor

In attendance: Councillor Howard – North Meols and Hesketh Bank Ward

#### 74 **APOLOGIES**

There were no apologies for absence received.

#### 75 **MEMBERSHIP OF THE COMMITTEE**

There were no changes to the Membership of the Committee.

#### 76 **URGENT BUSINESS, IF ANY INTRODUCED BY THE CHAIRMAN**

There were no urgent items of business received.

#### 77 **DECLARATIONS OF INTEREST**

There were no Declarations of Interest received.

#### 78 **DECLARATIONS OF PARTY WHIP**

There were no Declarations of Party Whip.

#### 79 **MINUTES**

RESOLVED: That the minutes of the meeting held on the 15 February 2024 be approved as a correct record and signed by the Chairman.

**80 PLANNING APPLICATIONS**

Consideration was given to the report of the Corporate Director of Transformation, Housing and Resources as contained on pages 667 to 731 of the Book of Reports and on pages 735 to 737 of the Late Information Report.

(Notes:

1. An objector spoke in connection with planning application 2023/0983/FUL relating to 2C Moorfield Lane, Scarisbrick.
2. An objector and the agent spoke in connection with planning application 2023/1026/FUL relating to 1 Charles Close, Hesketh Bank.
3. Councillor John Howard spoke in connection with planning application 2023/1026/FUL relating to 1 Charles Close, Hesketh Bank.
4. Councillor John Howard spoke in connection with planning application 2022/0908/FUL relating to Otterbrook, Moss Lane, Churchtown, Banks.
5. An objector and the Agent spoke in connection with planning application 2023/1002/PIP relating to Land North of Electricity Substation, Mossy Lea Road, Wrightington.
6. Parish Councillor Jukes spoke on behalf of Wrightington Parish Council in connection with planning application 2023/1002/PIP relating to Land North of Electricity Substation, Mossy Lea Road, Wrightington).

**81 2023/0983/FUL - 2C MOORFIELD LANE, SCARISBRICK**

The Corporate Director of Transformation, Housing and Resources submitted a report on planning application 2023/0983/FUL relating to 2C Moorfield Lane, Scarisbrick.

RESOLVED: That planning application 2023/0983/FUL relating to 2C Moorfield Lane, Scarisbrick be approved subject to the conditions and reasons as set out on pages 672 to 673 of the Book of Reports.

**82 2023/1026/FUL - 1 CHARLES CLOSE, HESKETH BANK**

The Corporate Director of Transformation, Housing and Resources submitted a report on planning application 2023/1026/FUL relating to 1 Charles Close, Hesketh Bank.

RESOLVED: That planning application 2023/1026/FUL relating to 1 Charles Close, Hesketh Bank be deferred to allow for additional information on highway safety impacts and for further comment from LCC Commissioning and Lancashire Police.

**83 2022/0908/FUL - OTTERBROOK, MOSS LANE, CHURCHTOWN, BANKS**

The Corporate Director of Transformation, Housing and Resources submitted a report on planning application 2023/0908/FUL relating to Otterbrook, Moss Lane, Churchtown, Banks.



RESOLVED: That planning application 2023/0908/FUL relating to Otterbrook, Moss Lane, Churchtown, Banks be approved subject to the conditions and reasons as set out on pages 695 to 696 of the Book of Reports.

84 **2023/1002/PIP - LAND NORTH OF ELECTRICITY SUBSTATION, MOSSY LEA ROAD, WRIGHTINGTON**

The Corporate Director of Transformation, Housing and Resources submitted a report on planning application 2023/1002/PIP relating to Land North of Electricity Substation, Mossy Lea Road, Wrightington.

RESOLVED: That planning application 2023/1002/PIP relating to Land North of Electricity Substation, Mossy Lea Road, Wrightington be refused due to the impact of the development on the visual qualities of the open space within the settlement and with the final wording of the reason delegated to Officers.

85 **2024/0027/FUL - 14 BELMONT CLOSE, BURSCOUGH**

The Corporate Director of Transformation, Housing and Resources submitted a report on planning application 2024/0027/FUL relating to 14 Belmont Close, Burscough.

RESOLVED: That planning application 2024/0027/FUL relating to 14 Belmont Close, Burscough be approved subject to the conditions and reasons as set out on pages 716 to 718 of the Book of Reports and with an additional condition as set out below:-

Additional Condition

Construction/Demolition Works audible at or beyond the site boundary should not occur outside of Monday to Friday 08:00hrs to 18:00hrs, Saturday 08:30hrs to 13:30hrs and at no time on Sundays or Public/Bank Holidays.

Noisy or disruptive works carried on outside of these hours are much more likely to raise objections or complaints by local residents (due to disturbance) to the redevelopment of the site which may, in turn, result in formal action being pursued by Housing and Regulatory services, Environmental Health to enforce recommended hours.

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.

86 **2023/1141/FUL - BOOTHS SUPERMARKET, UNIT 1, RINGTAIL RETAIL PARK, BURSCOUGH**

The Corporate Director of Transformation, Housing and Resources submitted a report on planning application 2023/1141/FUL relating to Booths Supermarket Unit, 1

Ringtail Retail Park, Burscough.

**RESOLVED:** That planning application 2023/1141/FUL relating to Booths Supermarket, Unit 1, Ringtail Retail Park, Burscough be approved subject to the conditions and reasons as set out on pages 726 to 728 of the Book of Reports.

.....  
**CHAIRMAN**



**PLANNING COMMITTEE: Thursday,  
25 April 2024**

---

**Report of: Corporate Director of Transformation, Housing & Resources**

**Relevant Portfolio Holder: Councillor Deputy Leader & Portfolio Holder for  
Planning & Community Safety**

**Contact for further information: Marc Wood (Extn. 5067) (E-mail:  
[marc.wood@westlancs.gov.uk](mailto:marc.wood@westlancs.gov.uk))**

---

**SUBJECT: PLANNING APPLICATION REF: 2023/0117/FUL**

**PROPOSAL: Erection of 9 dwellings with associated works.**

**APPLICANT: Wain Homes**

**ADDRESS: Land off Firwood Road, Lathom.**

**REASON FOR COMMITTEE DECISION: Called in by Cllr Rigby due to impact upon  
highway safety and open space.**

---

Wards affected: Bickerstaffe;

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To advise Planning Committee on an application which seeks the erection of 9 dwellings on a parcel of land adjoining site currently being redeveloped for 130 homes.

## **2.0 RECOMMENDATION TO PLANNING COMMITTEE**

- 2.1 That planning permission be GRANTED subject to conditions.

## **3.0 THE SITE**

- 3.1 The site is an existing greenfield site which is 0.32 hectares situated at the corner of Firwood Road and Slate Lane to the east the adjoining land is part of the wider Wain Homes site which has consent for 130 residential units. The site is located on the edge of Skelmersdale and is adjacent to Green Belt. The Firwood Road wider site comprises a total of approximately 22ha of formerly safeguarded land which has been released through the Local Plan for residential development. The surrounding area is bordered by residential development to the east, south and

south west corner; employment to the north, and open agricultural Green Belt to the west.

#### **4.0 PROPOSAL**

4.1 The application proposes nine dwellings with four properties located upon Firwood Road and the remaining five properties directly linked to the wider Wain Homes redevelopment. Access is achieved from either Firwood Road and partly from the adjoining land which is currently under development for 130 dwellings. A parallel application (also on the committee agenda) 2023/0118/FUL seeks to vary condition 1 of reserved matters consent 2020/0906/ARM to alter the associated approved plans and create an internal access road connecting the wider site to allow access to plots 5-9 of this current application.

4.2 The development comprises 4 no. 3 bed semi-detached properties which are 2.5 storey and 5 no. 4 bed detached properties all of which are two storey. The site plan indicates off street parking provision and associated garages for a proportion of the dwellings.

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

5.1 2020/0906/ARM – Reserved Matters – 130 Dwellings - granted 19.10.2021

2019/0069/OUT - Outline - Residential development including details of access (all other matters reserved) – granted 01.10.2020.

2023/0118/FUL – variation of c.1 of approved plans to allow access road - pending and on current Committee Agenda.

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

6.1 Arboricultural Officer – No objection to the proposal as there is alignment with the adjoining application and associated management plan.

6.2 Environmental Protection Team – No objection subject to conditions.

6.3 Historic Environment Team LCC – No objection.

6.4 Lancashire County Council Highway Services – No objections subject to conditions and is of the opinion that the proposal would not severely impact highway safety or highway capacity.

6.5 Merseyside Environmental Advisory Service (MEAS) – No objection subject to conditions

6.6 Principal Engineer – no objection as the impact on flood risk due to the proposed development will be negligible.

6.7 The Coal Authority – no objection subject to standing advice.

6.8 United Utilities – Requested information relating to levels which was provided.

## **7.0 OTHER REPRESENTATIONS**

7.1 South Lathom Residents Association – Concerns raised relating to the access road and the effect on what is considered to be open space provision upon the wider site (associated application). Ecology impacts and utilities provision are also raised. Construction Management of wider site has also been highlighted as an issue with Construction Management Plan not being adhered to.

7.2 9 Objections from neighbouring occupiers summarised by the following issues:

Impact upon open space  
Hedgerow removal  
Utilities provision  
Highway implications particularly increase of traffic on Firwood Road  
Impact upon privacy  
Impact on wildlife

## **8.0 SUPPORTING INFORMATION**

Planning Statement  
Design and Access Statement  
Heritage Statement prepared by Emery Planning  
Landscape Layout Plan  
Highways Technical Note  
Phase 1 Ground Investigation report  
FRA Addendum  
Air Quality Assessment  
Ecological Assessment  
Transport Statement  
Utilities Statement  
BNG Metric

## **9.0 RELEVANT PLANNING POLICIES**

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

9.2 The site is located within the Regional Town of Skelmersdale as designated in the Local Plan.

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

SP1 – A Sustainable Development Framework for West Lancashire  
GN1 – Settlement Boundaries  
GN3 - Criteria for Sustainable Development  
RS1 – Residential Development  
RS2 – Affordable and Specialist Housing  
IF2 – Enhancing Sustainable Transport Choice  
EN2 – Preserving and Enhancing West Lancashire’s Natural Environment  
EN3 – Provision of Green Infrastructure and Open Recreation Space

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

**10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF TRANSFORMATION,  
HOUSING AND RESOURCES**

10.1 The main considerations for this application are:

Principle of Development  
Design  
Impact on Neighbouring Amenity  
Highways Impacts  
Drainage Impacts  
Biodiversity

**Principle of Development**

10.2 The NPPF supports growth of areas to supply new homes in sustainable locations. Policy SP1 of the Local Plan reiterates this approach and it is considered that the proposed residential development of this site complies with Policy RS1 in the Local Plan as it is an allocated housing site. This policy supports a development which provides up to 400 units on the whole Firswood Road site.

10.3 The Development Brief for the wider site set out a vision and key principles for its development; these include to develop the land in such a way as to complement the existing residential areas and to diversify the choice and range of housing to meet local needs, whilst helping to create a linear park to provide multifunctional recreation spaces.

10.4 The principle of a residential development in this location has already been established through the neighbouring associated wider consents. There have been no significant policy changes since the grant of these permission which may have affected this decision, therefore it is considered that the principle of development remains compliant with the aims and objectives of the NPPF and Policies SP1 and RS1 of the Local Plan.

**Design**

10.5 Policy GN3 of the Local Plan requires all new development to have regard to the visual amenity of the surrounding area and complement or enhance the attractive attributes through sensitive design including appropriate siting, orientation, scale, materials, landscaping and boundary treatments.

10.6 In addition, the 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 building(s) height, scale and form, including the roofline, do not disrupt the visual amenities of the streetscene and impact on any significant wider landscape views.

- 10.7 The 9 dwellings proposed are situated in two separate elements with plots 1-4 affording Firswood Road and 5-9 linking into the wider Wainhomes site by means of a new minor link road (subject to separate application 2023/0118/FUL). As the proposed dwellings are in keeping with the scale, design and proportions of the wider site, it is considered the proposal is suited to this location and is of a scale and siting that is in accordance with Policy GN3 of the Local Plan. Similarly, the densities, outdoor amenity space and hard landscaping are in keeping with the wider redevelopment site and therefore the design is considered to accord with the aforementioned policies.
- 10.8 The dwellings would vary between 2 and 2.5 storey and would be constructed from brick which is reflective of the wider Wain Homes redevelopment. There are a variety of styles of house types in the locality and as such it is considered that the proposed additional 9 dwellings would be acceptable. I am satisfied that the resulting layout is acceptable and would not appear incongruous within its surroundings or detrimentally affect the Firswood Road, Slate Lane or Old Engine Lane streetscenes. The proposal is therefore in accordance with Policy GN3 of the WLLP.

### **Impact on Neighbouring Amenity**

- 10.9 Policy GN3 of the Local Plan requires that development retains or creates reasonable levels of privacy, amenity and sufficient garden or outdoor space for occupiers of the neighbouring and proposed properties.
- 10.10 In terms of potential impact on existing residents, there are existing established dwellings which border the site on Firswood Road, Slate Lane and Old Engine Lane, as well as the wider site which is under redevelopment and it is considered that the separation distances provided, meet the standards in the Council's SPD Design Guide and are sufficient to ensure that there would be no undue impact from overlooking, overshadowing or creation of poor outlook in accordance with Policy GN3 of the Local Plan.
- 10.11 Overall it is considered that the proposed development would offer an acceptable standard of amenity to occupiers of the new dwellings and would not give rise to unacceptable impact on the amenities of existing residents as such the proposed development complies with Policy GN3 in terms of impact on residential amenity.

### **Highways Impacts**

- 10.12 Policy GN3 of the Local Plan states that suitable and safe access, road layout, design and adequate parking provision are required in new developments. Policy IF2 details parking standards required for residential developments.
- 10.13 In approving the previous adjoining planning permission, which included details of access, the Highway Authority has accepted that the local road network can accommodate further vehicular movements and the additional 9 dwellings proposed do not detract from this conclusion. The amended plans provided include a 2m wide footway to the affected Firswood Road boundary of the site which is deemed acceptable to the Local Highway Authority. It is noted that objections received from local residents in relation to the increase in vehicles associated with

the proposal and there is an ongoing concern with the construction management of the wider site but this increase in development of 9 dwellings is considered to have a negligible impact.

- 10.14 Electric Vehicle Charging points are to be provided for each of the 9 dwellings, which coupled with the off street parking provision, associated garages and access arrangements ensure the proposal accords with Policies GN3 and IF2 of the Local Plan.

### **Drainage Impacts**

- 10.15 The drainage implications of the proposal are tied into the main Wain Homes redevelopment, and it is noted that the wider site is covered by a Flood Risk Assessment and Drainage Strategy (FRA) which has been agreed with LLFA. With respect to the surface water drainage, the FRA proposes underground attenuation in the form of oversized pipes with flow controls together with an open SUDs attenuation meadow to limit flows. The councils Drainage Engineer having assessed the current proposal is satisfied that there will be a negligible impact in terms of flood risk.
- 10.16 United Utilities (UU) had previously requested further details in regard to the levels associated with the site which have been provided. No further comments have been provided from UU.

### **Landscaping and Biodiversity**

- 10.17 The Council's Tree Officer has assessed the proposal and concluded that there are two trees affected which are of little stature and could easily be protected during construction or their loss mitigated. Highlighting the boundary of the site being hedgerow which bring with it biodiversity implications the officer has no objections to the proposal.
- 10.18 MEAS having initially assessed the application were not satisfied with the fact that a loss of BNG was proposed and objected on this basis. The applicant has however sought to address this issue by utilising the parallel application (2023/0118/FUL) for the wider site whereby a condition requiring enhanced landscaping across the whole of the Wain Homes site will provide no net loss in Biodiversity terms as such MEAS has subsequently removed their objection.
- 10.19 Policy GN3 requires development to minimise the removal of trees, hedgerows, and areas of ecological value, or, where removal is unavoidable, provide for their like for like replacement or provide enhancement of features of ecological value. There has been a significant amount of negotiation between the applicants ecology consultant and MEAS in terms of ensuring that there is an acceptable level of impact upon biodiversity. The redevelopment of this greenfield site will effectively result in a net loss of biodiversity. However, the application benefits from a parallel planning application for the wider adjoining site which is currently under consideration. This provides opportunity for enhancement of landscaping and open space to mitigate the net loss on the application site by offsetting utilising the wider site. As such, a condition requiring the submission of an updated landscape plan



and also a habitat maintenance and management plan will ensure the proposal is acceptable from an ecological stand point.

- 10.20 Taking all of the above factors into account, it is deemed that the development impact on ecology can be mitigated utilising the landscaping and future management upon the wider site. The development is therefore in accordance with Local Plan Policies GN3 and EN2.

### **Other Matters**

- 10.21 Other issues have been raised in regard to the proposal, firstly electricity diversion and removal of an electricity pole with the impact this may have on existing properties. The applicant has advised that this work is not associated with the applications submitted by Wainhomes and is being undertaken by Electricity North West (ENW) as a statutory undertaker. It is understood that that (ENW) has undertaken consultation in accordance with their statutory obligations and there is limited consideration in this regard in connection with the current application(s).
- 10.22 Questions as to why the application has come forward as a separate development to the wider site have also been raised. The Firwood Road allocation is made up of many different landowners and applications can only be made when agreements are made with different landowners and the appropriate agreements are in place hence the separate Bellway schemes coming forward at different times. The scheme for 130 homes was approved prior to any agreements with the owner of the land subject to the current application for 9 houses and it was not possible to bring the applications forward at that time.
- 10.23 The impact of the proposal on open space provision is covered in greater detail on the Section 73 application (2023/0118/FUL) which highlights the calculations for the site as a whole. The impact of the development upon OS provision is considered acceptable.

## **11.0 CONCLUSION**

- 11.1 Taking the above into account the principle of the proposed development is considered to be acceptable, and it is important to recognise the strategic importance of the wider consent associated with the application and the delivery of new homes that has come forward in this location to date.
- 11.2 The application is considered to be compliant with local plan policies and subject to appropriate conditions the proposal is not considered to have any significant adverse impacts on design, neighbouring amenity, highways, drainage and ground issues. The impacts upon ecology can be mitigated using the landscaping of the wider site to achieve no net loss on biodiversity. It is therefore considered that when applying the planning balance, the proposal complies with the NPPF, the relevant policies of the Local Plan and the guidance within the Design Guide SPD.

## **12.0 RECOMMENDATION**

- 12.1 That planning permission granted by the Director of Transformation, Housing and Resources subject to the following conditions:

## **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/documents received by the Local Planning Authority on 8th November 2023 unless otherwise stated.

- o Existing survey
- o Boundary treatment plan (WH-FREL-BTP-01 Rev C)
- o Waste Management Plan (WH-FREL-WMP-01 Rev C)
- o Cycle storage plan (WH-FREL-CSP-01 Rev B)
- o EV charging plan (WH-FREL-EVCP-01 Rev B)
- o Hard landscaping layout (WH-FREL-HLP-01 Rev B)
- o Materials plan (WH-FREL-MP-01 Rev B)
- o Open space layout - 9 units scheme (WH-FREL-OSP-01 Rev A)
- o Open space layout - full site (WH-FR-OSL-01)
- o Storey heights plan (WH-FREL-SHP-01 Rev C)
- o Landscaping plan (5897.09 Rev C)
- o Design and Access Statement received 8th February 2023
- o Streetscene Plan WH-FREL-SS-01 received 8th February 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. 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 all hard surfaces within the development site 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. The development shall be carried out using only the agreed materials.

Reason: To ensure that the external appearance of the site 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

4. Prior to the commencement of any above ground works, details of the sections across the site shall be submitted to and approved in writing by the Local Planning Authority. The sections shall indicate existing and proposed ground levels together with finished floor levels of any (dwellings) (buildings) through which the sections run and shall extend beyond the site boundaries to include any surrounding adjacent properties.

The development shall thereafter be implemented in accordance with the approved details and method of construction.

Reason: To ensure the satisfactory visual appearance of the site and in the interests of protecting the amenity of neighbouring occupiers and to comply with the provisions of Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

5. Prior to occupation of any dwelling the provision of electric vehicle charging points as detailed in drawing WH-FREL-EVCP-01 received by the LPA on 8th November 2023 shall be implemented. No dwelling shall be occupied until an electric vehicle charging point has been installed in accordance with the agreed details.

Reason: In the interests of sustainability and air quality in accordance with Policy GN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

6. Notwithstanding the details shown on the approved drawings, no part of the development shall 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 relate to all land surfaces not built upon and shall include:

- Land-levels and gradients resulting in the formation of any banks, terraces or other earthworks
- hard surfaced areas and materials,
- planting plans, specifications and schedules, planting size, species and numbers/densities, trees to be retained and a scheme for the timing / phasing of work.
- existing plants / trees to be retained
- A detailed regime for the ongoing and longer term maintenance of all soft landscaping is also required to be submitted for approval.

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.

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 originally 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 EN3 in the West Lancashire Local Plan 2012-2027 Development Plan Document.

7. 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), and
- (ii) the garage(s) hereby permitted shall not be converted into living accommodation (either in whole or part).

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/visual amenity and highway safety in accordance with Policies GN3, EN2 and IF2 of the West Lancashire Local Plan 2012-2027 Development Plan Document.

8. Notwithstanding the approved plans the existing hedging to Firwood Road shall be retained. No boundary treatment shall take place to unless details of which have been first submitted and agreed with the Local Planning Authority.

Reason: To preserve the character and appearance of the designated heritage asset and to ensure compliance with Policy EN4 of the West Lancashire Local Plan.

9. Prior to any part of the development hereby permitted taking place a scheme showing the areas for a site compound including the siting of office, storage of plant and materials and measures to prevent the transfer of mud out of the site shall be submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be implemented while any demolition/construction works are in operation.

Reason: These details are required prior to the commencement of development in order to protect the amenity of neighbouring occupiers and to comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

10. No part of the development hereby approved shall commence until a scheme for the construction of the site accesses and highway works (including: 2m wide footway along the sites full frontage with The Gravel and The Marshes Lane, reinstatement of kerbing to redundant access points, relocation of signs and street lighting) has been submitted to, and approved by, the Local Planning Authority in consultation with the Highway Authority as part of an appropriate legal agreement of the Highways Act 1980.

Reasons: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site and to enable all traffic to enter and leave the premises in a safe manner without causing a hazard to other road users.

11. No part of the development hereby approved shall be occupied until the approved scheme referred to in Condition 10 has been constructed and completed in accordance with the approved scheme details, without prior agreement from the Local Planning Authority.

Reason: In order that the traffic generated by the new development does not exacerbate unsatisfactory highway conditions in advance of the first occupancy or trading.

12. Prior to commencement of development a Construction Traffic Management Plan (CTMA) shall be submitted to and approved in writing by the Local Planning Authority (in conjunction with the highway authority). The CTMA shall include and specify the provisions to be made for the following:-

- a) The parking of vehicles of site operatives and visitors;
- b) Loading and unloading of plant and materials used in the construction of the development;
- c) Vehicle wheel washing facilities;
- d) Storage of such plant and materials;
- e) Periods when plant and materials trips should not be made to and from the site (mainly peak hours but the developer to identify times when trips of this nature should not be made)
- f) Measure to ensure that the construction and delivery vehicles do not impede access to adjoining properties and obstruct the public highway.

Reason: These details are required prior to the commencement of development in order to protect the amenity of neighbouring occupiers and to comply with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

13. Prior to the first occupation of dwellings in the development hereby approved, cycle parking storage facilities shall be provided for each as detailed in dwg WH-FREL-CSP-01 received 8th November 2023 and thereafter retained.

Reason: To promote sustainable transport as a travel option, encourage healthy communities and reduce carbon emissions.

14. 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, maintenance management proposals, and phasing of delivery if applicable, 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.

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.

15. No tree felling, scrub clearance, hedgerow removal, vegetation management, ground clearance and/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, trees, scrub, hedgerows 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.

16. 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.

17. 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.

18. Prior to commencement of any works associated with the development a Habitat Management and Maintenance Plan is to be submitted and agreed in writing to set out how the proposed land will be managed for at least 30 years to create and/ enhance habitats to mitigate any impacts upon biodiversity and to manage and monitor these habitats.

Reason: In the interests of ensuring appropriate biodiversity upon the site and to accord with policy EN2 of the WLLP.

19. Notwithstanding the submitted details and prior to above ground works a scheme for hard and soft landscaping of the site (incorporating existing flora) and including the means of enclosure and the materials to be used for hard surfacing, shall be submitted to and approved by the Local Planning Authority. The scheme shall include, but not be limited to:

- i. A plan showing existing vegetation to be retained and safeguarded during construction which shall be consistent with any Construction Management Plan.
- ii. A plan showing areas to be managed as public open space including a final state topography plan, where appropriate.
- iii. A landscaping implementation phasing plan, where appropriate.
- iv. Detailed planting / sowing specifications including species, size, density spacing,

cultivation protection (fencing, staking, guards) and methods of weed control  
v. Details of surfacing, boundary treatments and landscaping structures including design, location, hedgehog accessibility, size, colour, materials and openings.

Development shall be carried out in accordance with the approved scheme and in accordance with the landscape implementation phasing plan OR shall be completed by the end of the next available planting season immediately following the completion of the development or the site being brought into use, whichever is the earliest.

Reason: To ensure the development has an acceptable level of impact in terms of biodiversity and to accord with policy EN2 of the WLLP.

20. Notwithstanding the submitted details, no development shall take place (including demolition, ground works and vegetation clearance) until a Construction Environmental Management Plan - Biodiversity (CEMP-B) has been submitted to and approved in writing by the local planning authority. The CEMP-B shall include, but not necessarily be limited to, the following:
- i. Risk assessment of potentially damaging construction activities;
  - ii. Identification of 'biodiversity protection zones';
  - iii. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
  - iv. The location and timing of sensitive works to avoid harm to biodiversity features (e.g. daylight working hours only starting one hour after sunrise and ceasing one hour before sunset);
  - v. Use of protective fences, exclusion barriers and warning signs, including advanced installation and maintenance during the construction period;
  - vi. A non-native invasive species protocol (e.g. for Japanese knotweed);
  - vii. The times during construction when specialists ecologists need to be present on site to oversee works;
  - viii. Responsible persons and lines of communication;
  - ix. The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person(s);
  - x. Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works; and
  - xi. The submission of a verification report by the EcOW or similarly competent person(s) to the LPA at the end of the construction period.

Reason: In the interests of maintaining and enhancing biodiversity and ecological value of the site and surrounding area. In accordance with policy EN2 of the WLLP.

### **Note(s)**

1. a) The alterations to the existing highway as part of the new works may require changes to the existing street lighting at the developer's expense.

1. b) The grant of planning permission will require the applicant to enter into an appropriate legal agreement (Section 278), with Lancashire County Council as Highway Authority prior to the start of any development. The applicant should be advised to contact the county council for further information by telephoning the Development Support Section on 0300 123 6780 or email [developeras@lancashire.gov.uk](mailto:developeras@lancashire.gov.uk), in the first instance to ascertain the details of such an agreement and the information to be provided, quoting the location, district and relevant planning application reference number. Please be aware that the demand to enter into section 278 agreements with Lancashire County Council as the highway authority is extremely high. Enquiries are being dealt with on a first come first served basis. As such all developers are advised to seek to enter into Section 278 agreements at a very early stage.

1. c) This consent does not give approval to a connection being made to Lancashire County Council's highway drainage system.

2. The development approved by this permission may be liable to a Community Infrastructure Levy, which is payable after development begins. If your scheme is liable, and you have not already done so, you must submit an Assumption of Liability Notice to the Council before development commences. If your scheme is issued with a CIL charge, it is essential you submit a Commencement Notice to the Council before the development commences. Any application for relief or exemption should also be submitted before commencement.

The Council will impose penalties where the correct forms are not submitted, or are late, or where the information provided is inaccurate.

All forms are available at

<http://www.westlancs.gov.uk/planning/planningpolicy/community-infrastructure-levy/the-cil-process.aspx> and once completed, should be emailed to [CIL@westlancs.gov.uk](mailto:CIL@westlancs.gov.uk).

Further information on CIL can be found at [www.westlancs.gov.uk/CIL](http://www.westlancs.gov.uk/CIL) or by contacting the Council's CIL and S106 Officer on [CIL@westlancs.gov.uk](mailto:CIL@westlancs.gov.uk) or tel: 01695 585171.

3. The alterations to the existing highway as part of the new works may require changes to the existing street lighting at the developer's expense.

4. The grant of planning permission will require the applicant to enter into an appropriate legal agreement (Section 278), with Lancashire County Council as Highway Authority prior to the start of any development. The applicant should be advised to contact the county council for further information by telephoning the Development Support Section on 0300 123 6780 or email [developeras@lancashire.gov.uk](mailto:developeras@lancashire.gov.uk), in the first instance to ascertain the details of such an agreement and the information to be provided, quoting the location, district and relevant planning application reference number. Please be aware that the demand to enter into section 278 agreements with Lancashire County Council as the highway authority is extremely high. Enquiries are being dealt with on a first come first served basis. As such all developers are advised to seek to enter into Section 278 agreements at a very early stage.



5. This consent does not give approval to a connection being made to Lancashire County Council's highway drainage system.
6. The applicant, their advisers and contractors should be made aware that if any European protected species (bats) are found, then as a legal requirement, work must cease and advice must be sought from a licensed specialist.

### **Reason for Approval**

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

Policy GN1 Settlement Boundaries  
Policy GN3 Criteria for Sustainable Development  
Policy EC2 The Rural Economy  
Policy GN4 Demonstrating Viability  
Policy RS1 Residential Development  
Policy IF2 Enhancing Sustainable Transport Choice  
Policy EN1 Low Carbon Development and Energy Infrastructure  
Policy EN2 Preserving and Enhancing West Lancashire's Natural Environment  
Policy EN4 Preserving and Enhancing West Lancashire's Cultural and Heritage Assets

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**

13.01 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.

### **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**

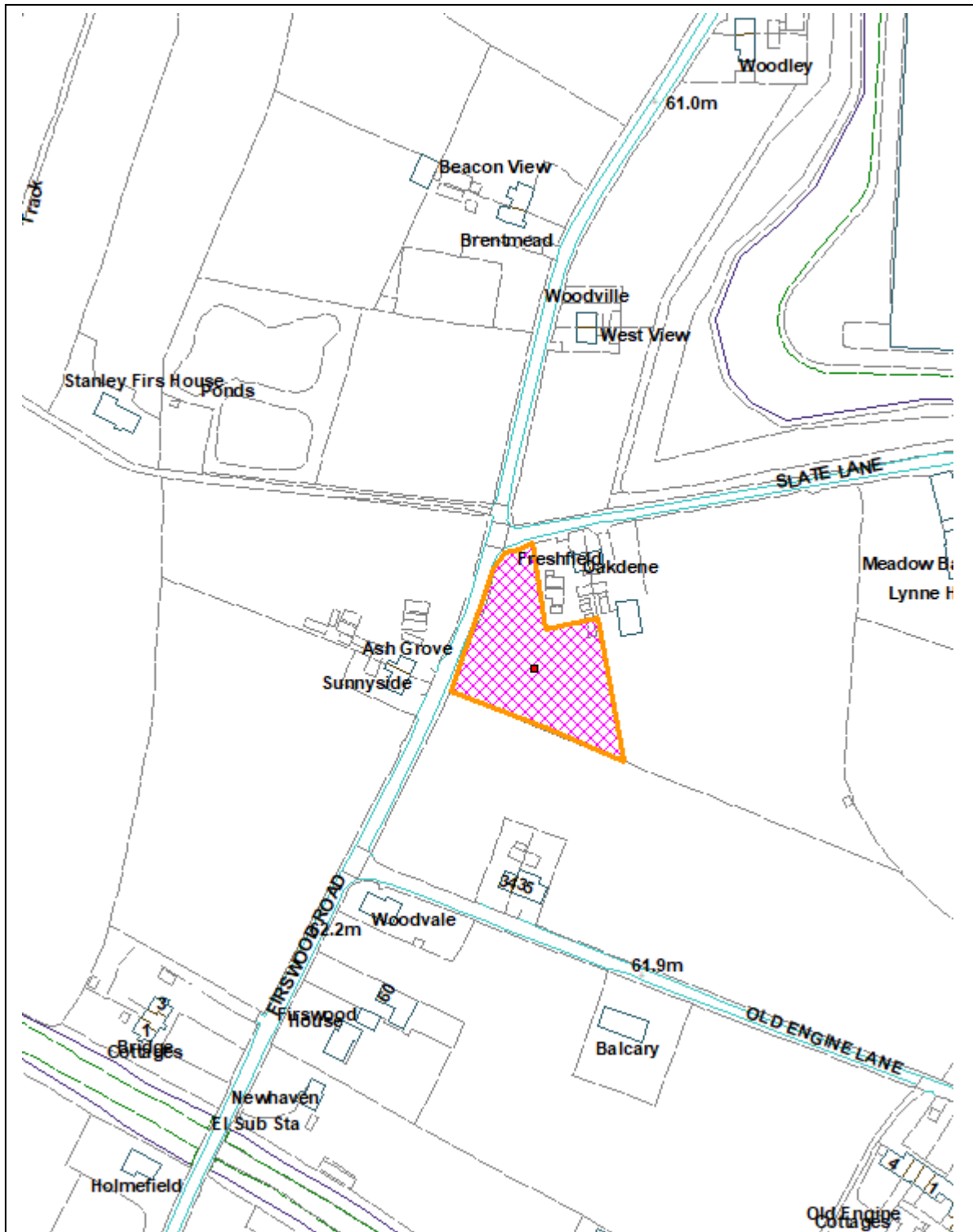
The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from Article 8 (the right to respect for private and family life, home and correspondence) and Article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

### **Appendices**

None.

2023/0117/FUL

Land Off, Firswood Road, Lathom, WN8 8UT







**PLANNING COMMITTEE: Thursday,  
25 April 2024**

---

**Report of: Corporate Director of Transformation, Housing & Resources**

**Relevant Portfolio Holder: Councillor Deputy Leader & Portfolio Holder for  
Planning & Community Safety**

**Contact for further information: Marc Wood (Extn. 5067) (E-mail:  
[marc.wood@westlancs.gov.uk](mailto:marc.wood@westlancs.gov.uk))**

---

**SUBJECT: PLANNING APPLICATION REF: 2023/0118/FUL**

**PROPOSAL: Variation of condition no 1 of planning permission 2020/0906/ARM  
reserved matters relating to approved plans (Section 73 application)**

**APPLICANT: Wain Homes**

**ADDRESS: Land off Firswood Road, Lathom**

**REASON FOR COMMITTEE DECISION: To be considered in association with  
2023/0117/FUL (Wain Homes application for 9 dwellings) and issues surrounding  
highway safety and open space**

---

Wards affected: Bickerstaffe;

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To advise Planning Committee on an application which seeks to vary condition 1 of 2020/0906/ARM to allow for a revision of the site layout and house types on site currently being redeveloped for 130 homes.

## **2.0 RECOMMENDATION TO PLANNING COMMITTEE**

- 2.1 That planning permission be GRANTED subject to deed of variation to section 106 agreement attached to original permission and associated conditions incorporated into approval.

## **3.0 THE SITE**

- 3.1 The site forms the large part of the land currently being redeveloped for 130 dwellings in line with the current outline and reserved matters approvals. The site is located on the edge of Skelmersdale and is adjacent to Green Belt and

comprises a total of approximately 22ha of formerly safeguarded land which has been released through the Local Plan for residential development. The surrounding area is bordered by residential development to the east, south and southwest corner; employment to the north, and open agricultural Green Belt to the west.

#### **4.0 PROPOSAL**

4.1 The application is for the variation of condition 1 associated with 2020/0906/ARM which relates to the approved plans connected to that consent. The sites construction for 130 dwellings is well under way and this application comes forward with two elements. Firstly, to substitute the house types of the original consent to reflect a refresh of the styles of properties and secondly to alter the site layout to allow for a minor access road linking the site to the 2023/0117 (the 'parallel application' for 9 dwellings on the north-western proportion of the site).

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

5.1 2020/0906/ARM – Reserved Matters – 130 Dwellings - approved 19.10.2021.

2019/0069/OUT - Outline - Residential development including details of access (all other matters reserved) – approved 01.10.2020

2023/0117/FUL – Erection of 9 dwellings – pending and on this Committee Agenda.

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

6.1 Arboricultural Officer – No objection to the proposal as there is alignment with the adjoining application and associated management plan.

6.2 Lancashire County Council Lead Local Flood Authority – No objections

6.3 Lancashire County Council Highway Services – No objections subject to addressing issues raised on parallel application for 9 dwellings.

#### **7.0 OTHER REPRESENTATIONS**

7.1 South Lathom Residents Association – Concerns raised relating to the access road and the effect on what is considered to be open space provision. There is also concern relating to the traffic that will run now alongside the trim trail children's play equipment. Construction management of wider site has also been highlighted as an issue with Construction Management Plan not being adhered to.

7.2 1 Objection received from neighbouring occupier relating to highway safety.

#### **8.0 SUPPORTING INFORMATION**

Planning Statement  
Design and Access Statement  
Heritage Statement prepared by Emery Planning  
Landscape Layout Plan  
Highways Technical Note  
Phase 1 Ground Investigation report  
FRA Addendum  
Air Quality Assessment  
Ecological Assessment  
Transport Statement  
Utilities Statement  
BNG Metric

## **9.0 RELEVANT PLANNING POLICIES**

- 9.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan 2012-2027 DPD (Local Plan) provide the policy framework against which the development proposals will be assessed.
- 9.2 The site is located within the Regional Town of Skelmersdale as designated in the Local Plan.

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

SP1 – A Sustainable Development Framework for West Lancashire  
GN1 – Settlement Boundaries  
GN3 - Criteria for Sustainable Development  
RS1 – Residential Development  
RS2 – Affordable and Specialist Housing  
IF2 – Enhancing Sustainable Transport Choice  
EN2 – Preserving and Enhancing West Lancashire’s Natural Environment  
EN3 – Provision of Green Infrastructure and Open Recreation Space

### **Supplementary Planning Document**

Design Guide SPD (2008)

## **10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF TRANSFORMATION, HOUSING AND RESOURCES**

- 10.1 The main considerations for this application are:

Principle of Development and impact upon open space  
Design  
Impact on Neighbouring Amenity  
Highways Impacts  
Biodiversity

### **Principle of Development**

- 10.2 Section 73 of the Town and Country Planning Act 1990 gives express power to amend or remove conditions on a planning permission for the development of the land. The Local Planning Authority must determine whether the proposals differ in

such a way from the approved development that they would cause significant harm to the interests of planning importance to justify withholding planning permission. As such the following are to be considered:

- The quantum of development would remain the same and the description of development would remain as approved.
- The changes to house type design would not have significant impact upon the overall design and appearance of the scheme.
- There is no material change in respect of other matters.
- There has been no change to the development plan since the granting of planning permission in October 2021.

10.3 Having regard to the comments from local stakeholders, the issue surrounding impact upon loss of open space that would result in the changes to the internal road layout is clearly a concern. The area of open space to be severed will serve 5 dwellings and the previously approved landscaping plan incorporating a 'beta trail' and 'gamma trail' although being affected will still provide a reasonable level of usable open space in this area. The level of traffic that will use the new access road will be associated only to those five dwellings. As there is no through road this in combination with the overall open space provision upon the site deems the impact in regard to open space provision across the site as acceptable.

10.4 Having regard to the provision of open space under the approved scheme it was at the time above the policy requirements of Policy OS1 of the Local Plan which requires 13.5 square metres of public open space per bedroom for development of 4-289 dwellings. The difference between open space provision between the approved scheme and the proposal is shown as below.

<b>_A. Approved 130 house scheme</b>	<b>B. Proposed 130 house scheme</b>	<b>C. Adjacent scheme for 9 dwellings</b>	<b>D. Total proposed (B + C)</b>	
Total bedrooms	437	437	32	469
Total POS required	5899.5 sqm	5899.5 sqm	432 sqm	6331.5 sqm
Total POS proposed	7648.6 sqm	7567.6 sqm	300 sqm	7867.6 sqm
Provision against standard	+1749.1 sqm	+1,668.1 sqm	-132 sqm	+1,536.1 sqm

10.5 Effectively, the scheme had significantly more than the required open space as required by Policy OS1 and the provision of the new access road would then it is not considered this would not have a significant impact on the level of open space across the site which would be close to 25% over the level required across both schemes..

## **Design**



- 10.6 Policy GN3 of the Local Plan requires all new development to have regard to the visual amenity of the surrounding area and complement or enhance the attractive attributes through sensitive design including appropriate siting, orientation, scale, materials, landscaping and boundary treatments.
- 10.7 In addition, the 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 building(s) height, scale and form, including the roofline, do not disrupt the visual amenities of the streetscene and impact on any significant wider landscape views.
- 10.8 The proposal incorporates a relatively minor amendment to the internal road layout approved under 2020/0906/ARM which would enable a small access road to provide a vehicular link to the parallel application. In design terms this change is considered to have a minimal level of impact and is considered to accord with policy GN3 of the WLLP.
- 10.9 In addition to the access road, there are some minor external changes to the design of various house types and the introduction of a new house type. These changes are considered minimal and will have a negligible impact in design terms representing a 'refresh' to the original design house types as such the proposal is in accordance with Policy GN3 of the WLLP.

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

- 10.10 Policy GN3 of the Local Plan requires that development retains or creates reasonable levels of privacy, amenity and sufficient garden or outdoor space for occupiers of the neighbouring and proposed properties.
- 10.11 The impact upon neighbouring amenity has been assessed as part of the original approval and the amended road layout to provide access to five of the dwellings associated with the parallel application will not give rise to any further adverse impacts.
- 10.12 I am satisfied that the proposed alterations would ensure an acceptable standard of amenity to occupiers of the new dwellings and would not give rise to unacceptable impact on the amenities of existing residents. As such, the proposed development complies with Policy GN3 in terms of impact on residential amenity.

#### **Highway Impacts**

- 10.13 Policy GN3 of the Local Plan states that suitable and safe access, road layout, design and adequate parking provision are required in new developments. Policy IF2 details parking standards required for residential developments.
- 10.14 The Highway Authority (Lancashire County Council) are satisfied that the level of development proposed will give rise to no adverse impacts on highway safety.
- 10.15 It is noted that there have been issues previously surrounding the construction management of the site with complaints being raised in terms of mud being left on the public highway and construction traffic becoming a nuisance. It is understood

that this matter was brought to the attention of the site manager and has improved through adhering to the previously approved construction management plan. As such the approved construction management plan will be transferred as a condition should members be minded to agree with the officer recommendation.

## **11.0 CONCLUSION**

- 11.1 The proposed development has been assessed in line with Section 73 of the Town and Country Planning Act 1990, which permits minor amendments to already approved planning applications. It is considered that the minor revisions to the site layout and house types are acceptable.
- 11.2 Where an application under Section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission which remains intact and unamended. Therefore, should this Section 73 application be approved, it would need to include all the conditions attached to the outline consent and all conditions attached to the Reserved Matters approval as relevant to the application.
- 11.3 Additionally, should this Section 73 application be approved, a variation will be required to the Section 106 Agreement agreed by outline planning permission 2019/0069/OUT, to ensure that the new permission is bound by the same legal requirements as those previously applicable. The Section 106 Agreement previously outlined the terms and conditions of the affordable housing units, accommodation suitable for the elderly; terms and conditions of on-site public open space and financial contribution towards the provision of/delivery of part of the Linear Park.

## **12.0 RECOMMENDATION**

- 12.1 That planning permission granted by the Director of Transformation, Housing and Resources subject to a deed of variation to the original Section 106 agreement and the following conditions:

### **Condition(s)**

1. The development must be begun not later than 19th October 2024.

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 received 7th February 2023 :

Section 73 Site Layout Plan WH/FR/273SL/01  
Section 73 hard landscaping plan WH/FR/HLP/01  
Section 73 boundary treatment plan HW/FR/BTP-01  
Landscape masterplan 5897 Rev K  
Landscape proposals sheets 1-5 5897 0.3-0.7 Rev K  
Section 73 storey heights plan WH/FR/SHP/01

Section 73 waste management plan WH/FR/WMP/01

House types

Brahms BRM-13.1

Brunswick BRU-P1

Ellington ELL-13

Holbrooke HOL-13

Haversham HAV-P1

Hatherleigh HAT-B-P1

Jenner JEN-PI Rev A & JEN-P2

Priestley PR-P1

Newton NT-P1

Oakmere Apartments Type A, B, C, D Oak-P1

Shakespeare SHA-P1

Trevithick TRE-P1

Stephenson STE-P1 & STE-P2

Wren WRE-P1

Wrenbury WREB-P1

Nelson NEL-P1

Which shall supercede any corresponding plan previously approved outlined below:

Plan reference:

Location Plan - WH.FR.LP.01 Rev B, received by the Local Planning Authority on 07.10.2020.

Plan reference:

Detailed site layout plan ref: WH/FR/DSL/RM/01 Rev. P

Boundary treatment plan ref: WH/FR/BTP/01 Rev B

Hard landscaping plan ref: WH/FR/HLP/01 Rev B

received by the Local Planning Authority on 29.09.2021.

Plan reference:

House Type: Trevithick - 3.205CB/P/BU/L10/300 Rev A

House Type: Brahms - R24LH/P/R/L10/300

House Type: Ellington - R35LH/P/R/L10/300

House Type: Brunswick - 3.113SACB/P/BU/L10/300 Rev A

House Type: Holbrooke - G/R46LH/P/R/L10/300

House Type: Wren - 4.404CB/P/S/L10 300

House Type: Wrenbury - 4.404DACB/P/BU/L10 300

House Type: Newton - 4.201/P/BU/L10/300 Rev A

House Type: Haversham - 4.342/P/BU/L10/300 Rev B

House Type: Shakespeare - 4.341/P/BU/L10/300 Rev A

House Type: Priestley - 4.341/P/BU/L10/300

House Type: Oakmere (New) Apartments 1 of 2 - 2.346HL/P/BU/L10

House Type: Oakmere (New) Apartments 2 of 2 - 2.346HL/P/BU/L10

House Type: Hatherleigh & Bay 4B6P - 4.342SAB/P/BU/L10/300 Rev B

House Type: Jenner 3B4P - 4.209CB/P/BU/L10/300 Rev A

House Type: Stephenson - 4.203/P/BU/L10/300 Rev B

received by the Local Planning Authority on 28.04.2021.

Plan reference:

Screen Wall Drawing - FD001

Boundary Details - FD002 and FD003

Feather Edged Fence Drawing - FD-004 Rev P1

Received by the Local Planning Authority on 07.10.2020.

Plan reference:

Landscape Masterplan - 5897.08 Rev J

Landscape Proposals Sheet 1 - 5897.03 Rev J

Landscape Proposals Sheet 2 - 5897.04 Rev J

Landscape Proposals Sheet 3 - 5897.05 Rev J

Landscape Proposals Sheet 4 - 5897.06 Rev J

Landscape Proposals Sheet 5 - 5897.07 Rev J

Received by the Local Planning Authority on 29.09.2021.

Plan reference:

Cycle store plan ref: 9000

received by the Local Planning Authority on 20.08.2021.

Plan reference:

Street Scene and Site Section - WH.FR.SS.01 - Rev A

received by the Local Planning Authority on 09.07.2021.

Plan reference:

Large single garage side to side - LSG/SE/1.4/B

Large single garage front to rear - LSG/SE/1.3/B

received by the Local Planning Authority on 05.07.2021.

Plan reference:

Storey Heights Plan - WH-FR-SHP-01 Rev B

Waste Management Plan - WH-FR-WMP-01 Rev C

received by the Local Planning Authority on 29.09.2021.

Plan reference 'WH/FR/LP/01 - Location Plan' received by the Local Planning Authority on 25.01.19.

Plan reference 'Proposed access arrangement & section 278 works and visibility splays - SCP/17348/F01 Rev D' received by the Local Planning Authority on 23/07/19.

Plan reference 'Proposed Neverstitch Road Pedestrian Crossing -SCP/17384/SK02 Rev A' received by the Local Planning Authority on 02/07/19.

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 development permitted by this planning permission shall be carried out in accordance with the principles set out within the Flood Risk Assessment and Drainage Strategy (October 2020, Ref: 30357/SRG, Ironside Farrar Limited). The measures shall be fully implemented prior to first occupation of any dwelling 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 National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

4. 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 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.

Those details 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), with allowance for urban creep.
- b) 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. Sustainable drainage system layout showing all pipe and structure references, dimensions, design levels;
  - iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
  - iv. 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 plot to confirm minimum 150mm+ difference for FFL.
- c) Measures taken to manage the quality of the surface water runoff to prevent pollution, protects groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;
- d) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates and groundwater levels in accordance with industry guidance.

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 National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

5. No part of the development shall be occupied until the new site access junction to Firswood Road (and off site highway works including 30mph gateway feature on Firswood Road, new footways and pedestrian refuge island on Neverstich Road, and street lighting on Old Engine Lane between Neverstich Road and the pedestrian site access to Old Engine Lane) shown on plan SCP/17348/F01 have been constructed in accordance with a scheme which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of Highway Safety and to accord with policy GN3 of the WLLP.

6. All measures detailed in Wainhomes Surface Water Run Off Document' submitted 26.04.2022 shall be adhered to ensuring surface water and pollution prevention will be managed during each construction phase.

The development shall be constructed in accordance with the approved details.

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 and to ensure that any pollution arising from the development as a result of the construction works does not adversely impact on existing or proposed ecological or geomorphic condition of water bodies.

7. No part of the development shall be occupied until the new internal lit footway connecting the pedestrian access to Old Engine Lane with the surfaced section of Old Engine Lane, has been constructed in accordance with a scheme which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to accord with policy GN3 of the WLLP.

8. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report and Operation and Maintenance Plan 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 by the Local Planning Authority.

The Verification Report must demonstrate that the sustainable drainage system has been constructed as per the agreed scheme (or detail any minor variations), and contain information and evidence (including photographs) of details and locations (including national grid reference) of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the

installation of those items identified on the critical drainage assets drawing; and, the submission of an final 'operation and maintenance manual' for the sustainable drainage scheme as constructed. Details of appropriate operational, maintenance and access requirements for each sustainable drainage component are to be provided, with reference to published guidance, through an appropriate Operation and Maintenance Plan for the lifetime of the development as constructed. This shall include arrangements for adoption by a appropriate public body or statutory undertaker, and/or management and maintenance by a Management Company and any means of access for maintenance and easements, where applicable. 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 development as constructed is compliant with and subsequently maintained pursuant to the requirements of Paragraph 165 of the National Planning Policy Framework.

9. The new estate roads/access shall be constructed in accordance with the Lancashire County Council Specification for Construction of Estate Roads to at least base course level before any development takes place within the site.

Reason: In the interests of highway safety.

10. The development shall be carried out in accordance with the approved details - Water vole survey report (Updated Water Vole Presence/Absence Survey 2022, ERAP Ltd, March 2022, 2022-017) which provides the results of water vole survey undertaken of Slate Brook and ditches undertaken on 9th March 2022. All measures and requirements of report shall be adhered to at all times during construction.

Reason: To safeguard a 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.

11. The proposed arrangements of Wainhomes 'Highway Future Management and Maintenance Document' submitted 13 April 2022 providing details upon management and maintenance of streets shall be implement and maintained as detailed. 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: To ensure highway safety and to accord with policy GN3 of the WLLP.

12. Development of plots 43-48 (inclusive) and plots 54 and 56 shall not be commenced until an assessment of noise on the location of dwellings has been submitted to and agreed in writing with the Local Planning Authority. A scheme for enhanced sound insulation of the facades of the proposed dwellings shall be submitted to, and approved in writing by, the Local Planning Authority. The mitigation shall ensure that the following internal noise rating levels are not

exceeded within these properties , at any time, with windows closed and ventilation provided:

35cBLAr, 1 hour inside habitable rooms between 07:00 and 23:00 hours;  
30dBLAr, 15 mins in bedrooms between 23:00 and 07:00 hours.

The ventilation provided must be sufficient to minimise the need to open windows to control overheating.

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.

13. During the construction period a facility shall be provided and maintained at all times by which the wheels of all vehicles leaving the site can be cleaned. The wheels of all vehicles leaving the site during all stages of implementation shall be cleaned so that they do not carry any mud, soil, grit or other such materials onto the public highway.

Reasons: In the interests of highway safety and amenity of neighbouring occupiers in accordance with policy GN3 of WLLP.

14. No development shall be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the local planning authority. The development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the local planning authority.

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

15. The travel planning Action Plan included in the submitted Travel Plan must be implemented in full in accordance with the timetable within it.

Reason: To ensure compliance with policy IF2 of the WLLP.

16. Within 3 months of the date of decision a Habitat Management and Maintenance Plan is to be submitted and agreed in writing to set out how the proposed land will be managed for at least 30 years to create and/ enhance habitats to mitigate any impacts upon biodiversity and to manage and monitor these habitats.

Reason: In the interests of ensuring appropriate biodiversity upon the site and to accord with policy EN2 of the WLLP.

17. Notwithstanding the submitted details and prior to above ground works a scheme for hard and soft landscaping of the site (incorporating existing flora) and including the means of enclosure and the materials to be used for hard surfacing, shall be submitted to and approved by the Local Planning Authority. The scheme shall include, but not be limited to:



- i. A plan showing existing vegetation to be retained and safeguarded during construction which shall be consistent with any Construction Management Plan.
- ii. A plan showing areas to be managed as public open space including a final state topography plan, where appropriate.
- iii. A landscaping implementation phasing plan, where appropriate.
- iv. Detailed planting / sowing specifications including species, size, density spacing, cultivation protection (fencing, staking, guards) and methods of weed control
- v. Details of surfacing, boundary treatments and landscaping structures including design, location, hedgehog accessibility, size, colour, materials and openings.

Development shall be carried out in accordance with the approved scheme and in accordance with the landscape implementation phasing plan OR shall be completed by the end of the next available planting season immediately following the completion of the development or the site being brought into use, whichever is the earliest.

Reason: To ensure the development has an acceptable level of impact in terms of biodiversity and to accord with policy EN2 of the WLLP.

18. Prior to the commencement of construction, the following details shall be submitted to, and approved in writing by, the local planning authority a Surface water drainage scheme which as a minimum shall include:
- a) Information about the lifetime of the development design storm period and intensity (1 in 30 & 1 in 100 year + allowance for climate change - see EA advice Flood risk assessments: climate change allowances'), discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance and easements where applicable, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses, and details of floor levels in AOD;
  - b) The drainage scheme should demonstrate that the surface water run-off must not exceed the existing greenfield rate. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed;
  - c) Flood water exceedance routes, both on and off site;
  - d) A timetable for implementation, including phasing where applicable;
  - e) Details of water quality controls, where applicable.

The scheme shall be fully implemented and subsequently maintained, 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.

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

19. 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.

20. No development shall commence until details of an appropriate management and maintenance plan for the sustainable drainage system for the lifetime of the development have been submitted to and approved in writing by the Local Planning Authority which, as a minimum, shall include:

a) The arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company

b) Arrangements concerning appropriate funding mechanisms for its on-going maintenance of all elements of the sustainable drainage system (including mechanical components) and will include elements such as:

i. on-going inspections relating to performance and asset condition assessments  
ii. operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime;

c) Means of access for maintenance and easements where applicable.

The plan shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner. Thereafter the sustainable drainage system shall be managed and maintained in accordance with the approved details.

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.

21. The development shall be constructed in line with the submitted Drawing 150/ML/01 received 14 October 2022 and WH/FRHLP/01 Rev b submitted 1 August 2022 which shows full specification of materials to be used externally on all hard surfaces within the development site.

Reason: To ensure satisfactory appearance and accordance with policy GN3 of the WLLP.

22. In respect of the siting of the proposed dwellings, sections across the site indicating existing and proposed ground levels shall be provided together with finished floor levels of any dwellings through which the sections run and shall extend beyond the site boundaries to include any surrounding adjacent properties.

The development shall thereafter be implemented in accordance with the approved details and method of construction.

Reason: To ensure satisfactory external appearance of the site and to accord with policy GN3 of the WLLP.

23. 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(s) ( 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 ensure the development accords with policy EN3 of the WLLP.

24. An updated bat survey of the Powder Hut building shall be undertaken if works to the structure have not commenced by 31st July 2021.

Reason: To ensure the preservation of protected species and to accord with policy EN2 of the WLLP.

25. The development shall be implemented in accordance with the mitigation strategy described in Section 5 of the Ecological Appraisal Report, prepared by ERAP Consultant Ecologists. and deposited with the Local Planning Authority on 28th January 2019 unless otherwise formally agreed.

Reason: To ensure the preservation of protected species and to accord with policy EN2 of the WLLP.

26. Bat Access Panel and Bird Box Provisions ERAP (Consultant Ecologists) Ltd ref: 2017-313c received by the local planning authority on 14 January 2022 include details and measures that are considered acceptable. The bird 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: To ensure the preservation of wildlife and to accord with policy EN2 of the WLLP.

27. All hard and soft landscape works shall be carried out in accordance with the approved details Landscaping Master Plan, Drawing No 587.08, Rev J, Date Aug 20 submitted 04 May 2022. 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 the development is in accordance with policy GN3 of the WLLP.

28. No development shall take place until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work in line with the submitted document ARS Ltd report submitted 11.4.2022. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure compliance with policy EN4 of the WLLP.

29. Prior to occupation of any dwelling the details submitted in 'Detailed Site Layout' ref WH/FR/DSL/RM/01 Rev Q received 21/10/22 detailing the provision of electric vehicle charging points throughout the development shall be implemented. No dwelling shall be occupied until an electric vehicle charging point has been installed in accordance with the agreed details.

Reason: To ensure the development is in accordance with policy IF2 of the WLLP.

### **Reason for Approval**

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

SP1 - A Sustainable Development Framework for West Lancashire  
GN1 - Settlement Boundaries  
GN3 - Criteria for Sustainable Development  
RS1 - Residential Development  
RS2 - Affordable and Specialist Housing  
IF2 - Enhancing Sustainable Transport Choice  
IF3 - Service Accessibility and Infrastructure for Growth  
IF4 - Developer Contributions  
EN1 - Low Carbon Development and Energy Infrastructure  
EN2 - Preserving and Enhancing West Lancashire's Natural Environment  
EN3 - Provision of Green Infrastructure and Open Recreation Space  
EN4 - Preserving and Enhancing West Lancashire's Cultural and Heritage Assets

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**

13.01 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.

### **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).

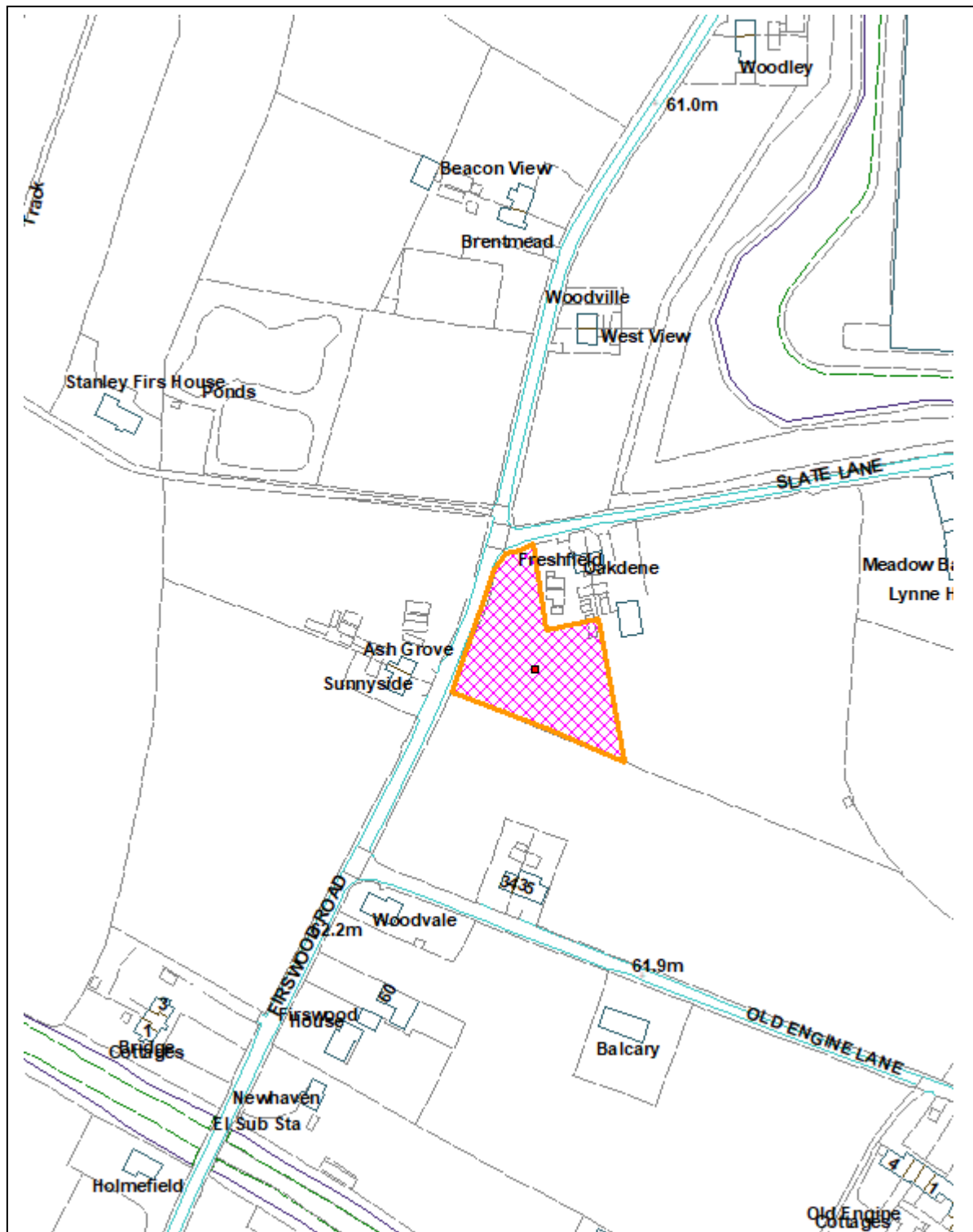
### **Appendices**

None.



2023/0118/FUL

Land Off, Firswood Road, Lathom, WN8 8UT









**PLANNING COMMITTEE: Thursday,  
25 April 2024**

---

**Report of:** Corporate Director of Transformation, Housing & Resources

**Relevant Portfolio Holder:** Councillor Deputy Leader & Portfolio Holder for Planning & Community Safety

**Contact for further information:** Nicola Cook (Extn. 5140) (E-mail: [nicola.cook@westlancs.gov.uk](mailto:nicola.cook@westlancs.gov.uk))

---

**SUBJECT:** PLANNING APPLICATION REF: 2023/0730/FUL

**PROPOSAL:** Demolition of an existing bungalow and the erection of 34no. adaptable and accessible bungalows for over 55s with associated infrastructure, landscaping and car parking.

**ADDRESS:** Land off Boundary Lane, Hesketh Bank

**REASON WHY APPLICATION IS AT PLANNING COMMITTEE:** Application has been called in by Cllr Westley as there are concerns over the possible detrimental effect the development would have on both the surface and foul water drainage.

---

Wards affected: North Meols & Hesketh Bank;

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To advise Planning Committee on an application which seeks planning permission for the demolition of an existing bungalow and the erection of 34no. adaptable and accessible bungalows for over 55s with associated infrastructure, landscaping and car parking.

## **2.0 RECOMMENDATION TO PLANNING COMMITTEE**

- 2.1 That the planning application is refused as the proposed development fails to comply with the requirements of the NPPF and policies GN1, GN3, EN2 and RS1 in the West Lancashire Local Plan 2012-27.

## **3.0 THE SITE**

- 3.1 The application site is located to the east of Boundary Lane and sits to the rear of nos. 29 and 31. The site comprises a detached bungalow surrounded by land that

was formerly in use as a plant nursery. There are currently two vehicular access points to the site which run between nos. 27 and 29 and nos. 31 and 37.

#### **4.0 PROPOSAL**

- 4.1 The application proposes the demolition of the existing bungalow on site and the erection of 34 bungalow style dwellings. Each property would be detached, except for one pair of semi-detached properties, and each would have a private garden and parking area.
- 4.2 It is proposed that the access adjacent to no. 29 is closed off and all properties would be accessed on foot or by vehicle via a widened access adjacent to no. 31/37.

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

- 5.1 None

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

- 6.1 Lancashire County Council (LCC) Highways (12/09/23) & (25/09/23) & (15/11/23)

As submitted the development fails to satisfy NPPF to demonstrate safe and suitable access for all users.

However, subject to amended plans to satisfactorily address the concerns regarding the visibility splays, access details, footway widths, swept path analysis for the access and turning heads as stated above, LCC Highways has no objection to the proposed development and is of the opinion that the proposal would not severely impact highway safety or highway capacity.

- 6.2 LCC Highways (15/12/23)

Subject to an amended site plan showing the visibility splays LCC Highways has no objection to the proposed development and is of the opinion that the proposal would not have a severe impact on highway safety or highway capacity.

Subject to amended plans to satisfactorily address the above matter regarding the visibility splays and red line boundary I would be happy to provide suitable conditions

- 6.3 LCC Highways (04/01/24)

Following my previous response dated 25/09/23, 15/11/23 and 12/12/23 the applicant submitted an amended Site Layout Plan (Drawing 21-64-P01 Rev E) on 18th December 2023 which now indicates the required sight lines as requested.

Conclusion - LCC Highways has no objection to the proposed development and is of the opinion that the proposal would not have a severe impact on highway safety or highway capacity. Conditions are recommended.

- 6.4 LLFA (14/09/23)

The Lead Local Flood Authority has no objection to the above application subject to the inclusion of the recommended conditions, in consultation with the Lead Local Flood Authority.

## 6.5 MEAS (06/10/23)

### Habitats Regulations

The development site is near to national and international sites and functionally linked land which supports qualifying bird species of the national sites network. These sites are protected under the Conservation of Habitats & Species Regulations 2017 (as amended) and Local Plan policy EN2 applies.

The proposal is for 34 net residential units, this will result in increased visits (recreational pressure) to the sites listed. This may result in significant effects on habitats and species for which these sites have been designated.

Recreational pressure from residential development has been identified as a Likely Significant Effect alone and in-combination within the Liverpool City Region. Recreational pressure is recognised in the formal statutory Conservation Advice Packages and Site Improvement as Medium-High risk to qualifying features of the national and international sites.

Due to the development's potential pathways and impacts on the above sites, this proposal requires Habitats Regulations Assessment for likely significant effects. Local Plan policy EN2 applies. In line with the recent Court of Justice of the European Union judgement of 12 April 2018 (known as People Over Wind<sup>1</sup>), I have undertaken an assessment of likely significant effects (Appendix 1) which is based upon the essential features and characteristics of the project only. This concludes that, without mitigation measures, that there will be likely significant effects on the identified sites:

An Appropriate Assessment will therefore be required in accordance with Regulation 63 (Habitats Regulations 2017). I have therefore attached an Appropriate Assessment report (Appendix 2) which concludes that, with mitigation measures, there will be no adverse effect upon the integrity of national and international sites. I advise that Natural England is consulted on the outcome of the Appropriate Assessment prior to determination and any points which may arise should be addressed.

On this occasion, and to ensure no adverse effect on designated site integrity, provided that the production and provision of an information leaflet is secured by a suitably worded planning condition there will be no adverse effect on the integrity of the International and national sites.

The proposed development is within the Natural England SSSI Impact Risk Zone (IRZ). As the proposed development falls within the category 'residential development of 10 dwellings or more' Natural England must be consulted on the planning application prior to determination.

### Ecology

The applicant has submitted a Preliminary Ecological Appraisal in accordance with Local Plan policy EN2 which meets BS 42020:2013. I advise the survey and report are acceptable to assess protected habitats and species on site but that further information is required prior to determination with respect to roosting bats.

## Bats

Between 30 to 50 bat droppings were identified both internally in roof void of the bungalow (building B1). The Preliminary Ecological Appraisal states the droppings are likely to have fallen from a cavity obscuring the roost location but no further investigation was undertaken nor droppings tested by DNA analysis. This is a significant limitation in the survey as further evidence may be present within the roof and loft areas and the high number of droppings identified may indicate presence of a maternity roost. B1 is categorised in the report as of medium bat roost potential but this is not accepted as evidence confirms it as a roost.

I advise further internal assessment is required prior to determination by a suitably qualified ecologist to investigate presence of any further bat evidence in roof features which may be obscuring droppings. Recovered droppings must be collected for sampling using DNA analysis to determine species using the roost. The bungalow was subject to three bat emergence surveys on 22/5/23, 15/6/23 and 14/9/22. The May and June surveys are appropriate for observation of maternity roosting (Table 2.2 of BCT Guidelines 4th Ed.) and whilst emergence survey in September survey can be useful in observing possible transitory roosting behaviour it is not suitable to assess a potential maternity roost which is likely to have dispersed by this time. Further inspection as stated above would likely have helped in characterising the roost further and thus inform survey timings. On this occasion, I advise the September survey cannot be accepted for a potential maternity roost.

The emergence survey effort recorded emergence of two Common pipistrelle bats during the June survey, with no bats recorded emerging on either the May or September surveys. The report characterises building B1 as providing a day roost but this is not in line with the level of droppings previously found. The internal inspection and DNA analysis can assist in more robust characterisation of the roost.

The PEA identifies that presence of a roost means a bat mitigation licence is required but does not include a method statement or similar information relating to sufficient mitigation necessary to undertake a three tests assessment. A method statement and mitigation strategy is required prior to determination which must be informed by the additional internal inspection and DNA analysis.

## Aquatic species (European eel and amphibians)

eDNA sampling of a rectangular concrete tank for European eel (Eel Regulations 2009 and S41 Priority Species) completed for an adjacent 2022 application (WL ref. 2021/1187/OUT) returned a positive result for European eel. Artificial attenuation tanks and other waterbodies present on this application site provide similar habitat to the concrete tank on the adjacent site and as such presence of European eel during the construction phase cannot be discounted.

Recent records show presence of for common amphibian species and European eel adjacent to the development site. I advise reasonable avoidance measures are required which can be secured by a suitably worded planning condition.

Habitats – no net loss and biodiversity net gain

The separately submitted Biodiversity Net Gain report (Envirotech – version 3, 16 August 2023) contains the results and interpretation of DEFRA Metric v4.0 calculations for baseline and post-development habitats. Habitat identification and condition assessments are informed by three site visits in February, May and June 2023, plus drone survey in June 2023. It is unclear whether the calculations taken into account the site condition prior to clearance and clarification is required. DEFRA BNG guidance states that in habitat clearance instances such as this the LPA can request habitats to be assessed as far back as January 2020.

If the applicant cannot confirm the habitat baseline has been calculated using pre-clearance values then I advise they commission their ecological consultant to provide a revised Biodiversity Net Gain report which characterises the site prior to clearance. I advise this can be achieved by supplementing drone imagery with historic publicly available aerial imagery, with condition to be assessed on a precautionary basis in line with the Environment Act (2021). This information is required prior to determination to demonstrate no net loss to development. A copy of the completed DEFRA Biodiversity Metric v4.0 and Technical Annex 1 – Condition Assessment are also required for verification purposes.

#### 6.6 MEAS (18/12/23)

The applicant has submitted an ecological letter in response to MEAS advice dated 6 October 2023. The letter includes rebuttals to excerpts taken from the MEAS response, including useful additional information. I have provided a constructive response to identify inconsistencies or omissions in both survey and report and to highlight outstanding information required in order to robustly conclude the use of the site by roosting bats.

Emergence survey effort provides evidence the bungalow providing a summer roost for common pipistrelle bats. Further information is required prior to determination in relation to the three 2022 internal inspections which can be provided within an updated PEA in order to fully characterise the building. This may allow for acceptance of further conclusions within the report.

Paragraph 6.5.4 of the PEA confirms trees were assessed on site as largely negligible but with a small number of trees contained features which were inspected further as being of negligible bat roost potential. This is accepted.

Bat roost mitigation - The ecological letter also contains a Method Statement for Bats which includes recommendations for both external and integrated bat boxes but no indication as to which will be used as mitigation nor any information of the intended installation, e.g. height, elevation, etc. This information is provided within the separate ecology letter as, “at least four integrated bat boxes will be installed in buildings across the site. These will be on southerly aspects, at least 3m from the ground and not over windows or doorways”, with further bat boxes welcomed

as enhancements. Mitigation should be provided on a like-for-like basis for that lost to development, in this case a void in the roof with access into the loft space.

However, the proposed mitigation measures are broadly suitable for the loss of a low conservation value common pipistrelle day roost but as stated above, further information is required to fully characterise the building with respect to roosting bats which may lead to revisions to the mitigation measures.

Mitigation measures can be reviewed and accepted once the outstanding information as listed in paragraph 4 is submitted. It is recommended the above expert regarding bat box installation is included within the updated PEA.

#### Biodiversity Net Gain

The submitted BNG documents are accepted as demonstrating baseline habitats but the applicant must determine how they will achieve no net loss. In line with the mitigation hierarchy, this should be explored on site but can be achieved via off-site compensation.

#### 6.7 MEAS (21/12/23)

The ecological consultant has provided a further explanatory letter following MEAS comments. This is accepted.

Further reasoning is provided for lack of endoscope search, with the gap between loft boarding being too small to facilitate an endoscope and the area of torn roof membrane being too delicate as to avoid further degradation during additional search. This is not accepted and the opinion is shared within a M&WLBG response. This limitation can only be accepted only due to the subsequent emergence survey confirming a maternity roost was not present.

Clarification is provided on a total of four internal inspections in February, May, June and September 2023, with correction of the 2022 inspections, which was referred to in error and did not take place. The letter also confirms no internal access to the loft, with bat roosting opportunities isolated to gaps at cavity between membrane and tiles following ingress at missing roof caps.

The PEA and ecology letters state the droppings were indicative of pipistrelle and despite no DNA analysis evidence that only *C. pipistrelle* was roosting at the time of survey is provided by subsequent bat emergence survey.

I advise that the information now submitted, via two PEA version and two subsequent letters, provides sufficient evidence with which to assess the bat roost potential of the building and in characterising the presence of a day roost for common pipistrelle. However, the report omits bat mitigation measures due to the intended low impact licence route. Whilst this is acceptable for Natural England in granting a licence, the Council still does not have sufficient confidence from the information submitted that the development will not have an impact upon bats.

Information is still required prior to determination in regard to the intended timing of works (in relation to the summer roost), reasonable avoidance (e.g., hand

removal of roof tiles) or capture and exclusion measures in place for the repair and demolition works, plus bat box provision for receptor and long term mitigation. Once this has been provided the three tests assessment and mitigation measures can be reviewed and accepted by the Council.

The ecological letter also includes a copy of a Natural England email return which confirms the site's registration under a CL21 low impact mitigation licence for works to repair the missing roof end caps only. This has been applied for and granted prior to a planning decision and, according to the letter, will cease on 28 April 2024, despite likely being "2-3 years before demolition would be undertaken". The roost is scheduled to be closed prior to 31 March 2024, as per the licensed information and prior to the bat active season. I advise the Licence has been sought in an attempt to overcome limitations with the surveys and reports and does not cover all activities sought for permission as part of this planning application.

The applicant's previously submitted DEFRA Biodiversity Metric v4.0 (Version 5, 19/1/24) and report showed the pre-clearance scrub and other habitats lost to development would result in -4.57 HU (-69%) and a gain of 0.74 linear hedgerow units (+160.38%). The submitted documents did not include recommendations for achieving no net loss or biodiversity net gain.

The ecological consultant has updated the Metric and Biodiversity Net Gain report (Report Version 5, Envirotech, 19/01/2024, ref. 8428) which show a slight reduction in from 2.05 HU to 2.02 HU post development habitat units, with overall losses at -4.60 HU (69.1% to 69.44%). The changes come from a slight reduction in proposed low distinctiveness / moderate condition modified grassland creation. Hedgerow creation has also been reduced from +0.74 to +0.63 linear units (+136.83%) due to proposed native, mixed hedgerow being reduced from 142 to 114 metres.

The main habitat losses are 1.95 HU of medium distinctiveness / poor condition mixed scrub and 1.49 HU of medium distinctiveness / poor condition other neutral grassland. Soft landscaping is shown in the woodland fringe being replaced by native and ornamental tree planting in residential gardens and communal areas (+0.33 HU). The updated report still does not include recommendations for achieving no net loss and at present the development will be responsible for the loss of 69% biodiversity on site.

It is likely that off-site compensation will be required. However, I advise that at 69.44% loss, the mitigation hierarchy has not been sufficiently followed in terms of retaining or replacing / enhancing habitats on site and the applicant should aim to address further biodiversity losses on site before looking off site.

## 6.8 Natural England (25/10/23)

For residential development in this area, proportionate assessment of recreational disturbance impacts on the coastal designated sites resulting from the development is required via the Screening stage of the Habitats Regulations Assessment, as required under the Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations').

Under Regulation 63 of the Habitat Regulations the determination of likely significant effect is for the competent authority, in this case the Local Planning Authority. If your authority can be satisfied that the proposal can conclude no likely significant effects there is no further need to consult Natural England.

Where the HRA Screening cannot rule out a likely significant effect on the coastal designated sites then an Appropriate Assessment is required, of which Natural England is a statutory consultee, please consult us again at this stage.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

6.9 United Utilities (04/10/23)

Following our review of the submitted Drainage Strategy, we can confirm the proposals are acceptable in principle to United Utilities. A condition is recommended.

6.10 Lancashire Police (11/09/23)

Design and security recommendations.

6.11 LCC Public Rights of Way Team (19/10/23)

Public Rights of Way has no objection to the application. Advice offered in regard to PROWs.

6.12 Arboricultural Officer (25/10/23)

Raises a query as the tree survey shows the vast majority of the site is treeless. Whereas satellite imagery shows the area to be well treed. I am not aware of any felling licences in the area.

6.13 Arboricultural Officer (23/02/24)

Raise no objection

6.14 WLBC - Drainage Engineer (10/10/23)

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.

6.15 WLBC - Environmental Protection (01/02/24)

The proposed development site is located in the urban area of Hesketh Bank, Preston with the application site in close proximity to existing residential properties. These properties may be adversely affected by noise and vibration from the construction/demolition phase of the development if not sufficiently mitigated. Conditions are recommended.



## **7.0 OTHER REPRESENTATIONS**

### **7.1 Parish Council (18/09/23)**

Following a meeting of the Hesketh with Beconsall Parish Council on the 10th of September 2023, we write to advise of our strong objection to the above development for the reasons outlined below: -

- The road network locally, is trying to cope with abundance of vehicles transporting produce from local growers and processors to processing centres and local and regional/national markets. We would encourage an up to date survey to be undertaken on these routes and would question if the roads could cope with volumes and types of vehicles trying to utilise the roads?
- The sewage treatment plant in Hesketh Bank dates back to the 1960's and is totally inadequate and not fit for purpose for today's volume of houses it services. Manhole covers regularly overflow where sewerage enters gardens, houses and watercourses.
- The land road and surface water discharge is again being dealt with by sites which were last updated in the 1950's and 1960's and again, inadequate and not fit for purpose. Regular flooding occurs in the area impacting the livelihood of local farmers and causing damage to properties and land within the vicinity.
- The barrister's opinion sought for comment on flooding issues would suggest he was clearly unaware of outstanding local flooding issues and therefore the opinion arrived at is flawed.
- National Planning Policy Framework confirms that 'age restricted specialist bungalows' do fall within exemptions set out in NPPF 65b although we consider no exemption should override flooding others out!!
- We understand flooding and associated issues report has been commissioned by the three local Parish Councils and local farmers and this report is expected imminently (within weeks, not months) and WLBC should refuse or defer any major planning decisions until this report is published and available.

Based on the above, we are of the opinion that this and any other developments placing additional pressure on an already failing drainage, sewerage and local transport infrastructure, should be refused.

### **7.2 Merseyside & West Lancashire Bat Group (MWLBG) (02/09/23)**

MWLBG consider that the bat survey effort and bat section of the Preliminary Ecological Appraisal report is not fit for purpose and does not enable a decision-maker to make a properly informed decision, i.e., West Lancashire Council and their ecological advisors. Until such time that adequate dusk/dawn surveys at an appropriate time of year have been undertaken along with a suitable mitigation scheme then MWLBG reiterate our objection and that bat surveys should not be

secured by way of planning conditions as this would be in contradiction to current central government guidance.

### 7.3 MWLBG (21/11/23)

I note that an amended application form has been submitted which under the Biodiversity and Geological Conservation section it is stated that no protected species will be affected by the development. The ecological survey identified the presence of bats at the property, which will be demolished, therefore the information provided at the above section is incorrect.

### 7.4 MWLBG (07/12/23)

The application is now supported by a response letter (Envirotech 2023) to the comments made by your ecological advisor (MEAS.) I note that Envirotech have declined to respond to the comments made by MWLBG. Raise concerns in regard to the content of the additional information/surveys which have been submitted.

In conclusion MWLBG maintains its objection to this application for the reasons set out in this response and the contents of my previous comments.

### 7.5 MWLBG (26/01/24)

The application is now supported by a second response letter (Envirotech 2024) in which a justification is attempted as to why additional surveys or DNA testing of droppings is not required.

Raise concerns regarding several sections of the report and consider the above points have not been fully addressed within the PEA or any other surveys undertaken by Envirotech; it appears that the application for a CL21 licence is being used to circumvent the undertaking of additional and appropriate surveys or detailed investigations.

Whilst Natural England have issued a CL21 licence that is not to say that the LPA are satisfied that a sufficient level of information is available to determine this application where a protected species is present. Therefore MWLBG consider that WLC should not determine this application until such time that our comments and those of your ecological advisor have been adequately addressed. Following the addressing of our comments MWLBG will review our position in addition to raising our concerns about the issue of the CL21 licence with Natural England.

In conclusion MWLBG maintains its objection to this application.

### 7.6 MWLBG (29/01/24)

Further to my recent and submitted comments I note the email sent by PWA planning (20.11.2023) to the case officer which includes the statement: "However, the additional information document provided clarifies the request for more survey work - it is pertinent to note that some of the works suggested would be illegal." MWLBG consider that PWA have made an incorrect and/or ill-advised statement in as much as there has not been any requests or suggestions by WLC's ecological

advisor or the MWLBG to undertake any work by any person/s that would be illegal under current wildlife legislation.

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

### Objections

#### Principle of development

- Site is outside settlement boundary,
- Proposal is contrary to local plan policy GN1 regarding the use of protected land for small scale developments,
- Over 55s housing is not considered to be the same as affordable housing, note that the Council are able to demonstrate a 5 year housing land supply

#### Amenity

- Adverse impact on residential amenity of neighbouring properties,
- Overbearing nature of the development,
- Overlooking,
- Lack of privacy,
- Impact of the construction works including noise pollution and congestion of local roads

#### Design

- Development is bland and seeks to place as many houses as possible in a small space,
- Houses would be too close together,
- No consideration is given that the dwellings will require steep driveways to get to the house - how does this help with an over 55s development,
- Comprises over development of the site - site will be cramped with 34 dwellings, out of character with the density of the surrounding development and over the 30 dwellings per hectare allowed,
- Proposal would not enhance the rural character of the area

#### Trees/landscaping

- Concerns regarding the loss of trees/hedgerow on site
- Consider the submitted arboricultural survey is inaccurate,
- There is a lack of proposed landscaping to boundaries
- Note that the trees previously on the land were removed in Dec 2022

#### Ecology

- Proposal will result in a loss of habitat and biodiversity for a large variety of species,
- Note the requirements of BNG/Environment Bill and do not consider the proposal complies
- Query what will happen to the existing pond which attracts ducks, toads, frogs and possibly newts
- The open land is a hunting ground for owls

#### Highway/Traffic

- Concerns regarding the impacts of so many additional vehicles on the local roads

- Concerns regarding conflict with tractors/HGVs which serve the surrounding farm and businesses
- Concerns that transportation of the heavy machinery required for the development construction will damage the roads
- There is a lack of suitable pavements within the area, those that exist are narrow.
- Raise concerns for pedestrian safety
- Public transport in the area is poor and the site not considered to be highly accessible by rail.

#### Flooding/Drainage

- Provide details (including photographs) of existing flooding concerns/situations that have occurred in the past in relation to Carr Heyes watercourse
- Provide a copy of a letter from the Environment Agency to Damien Moore MP regarding the works which have been undertaken by the EA.
- Raise concerns that the existing system cannot cope with this number of new dwellings
- Query if there is a requirement for betterment for the drainage
- Query if the developer can show how they will avoid flooding of its site and the wider area
- To say that the proposals can manage “surface water run-off up to and including the 1 in 100 year plus 35% climate change” is all well and good but in Hesketh Bank we have had 2 incidents in the last 3 years which have been categorised as 1 in 100 years
- Acknowledge the sewage treatment plant was upgraded approx. 5 years ago but consider that the infrastructure for getting foul water to the treatment plant is inadequate for the number of houses today
- Flooding causes an impact on the local economy due to the flooded highways, loss of edible crops and destruction of grade 1 land.
- Consider that the suggestion by the LLFA to discharge to the watercourse is irresponsible and reckless
- Consider the barrister is not aware of local flooding issues

#### Other matters

- Concerns that there aren't suitable facilities such as GP and Dentists to accommodate the number of new occupants
- The village has already seen significant level of development without relevant improvement to the supporting infrastructure
- Query why the affordable housing statement contains information regarding a South Ribble Council application
- The land was used for growing and should be preserved as it is important to the area
- Query why there is no Design and Access Statement (*officer note: a D&A was submitted on 21/08/23 prior to validation of the application and has been published on the Council's website*)
- Consider that the agent response does not understand local residents' real life experiences

## 8.0 **SUPPORTING INFORMATION**

- 8.1 The application has been supported by the following documents:

8th August 2023  
Affordable Housing Statement  
Arboricultural Impact Assessment  
Flood Risk Assessment / Drainage Strategy  
Land Contamination Assessment  
Letter PWA planning to Richard Calderbank  
Older Persons Need Assessment  
Poppi data for West Lancashire  
Preliminary Ecological Appraisal  
Sequential Test Statement  
Statement of Community Involvement  
Transport Assessment  
Planning Statement

18th August 2023  
High Court decision x 2

21st August 2023  
Cushman & Wakefield Report  
Design and Access Statement  
Legal Opinion on behalf of applicant  
Phase 1 Preliminary Risk Assessment  
Ranking Results  
Seniors Housing Opportunity Ranking  
The Mayhew Review

30th August 2023  
Response to Arboricultural Officer

19th September 2023  
Preliminary Ecological Appraisal

26th September 2023  
Response to third party issues

30th October 2023  
Letter from Ascerta

21st November 2023  
BNG statement  
High Court Judgement  
Letter from Envirotech

16th January 2024  
Letter from Envirotech to agent

19th January 2024  
BNG Matrix  
BNG Report

## **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 on Protected Land outside any settlement boundary defined within the West Lancashire Local Plan 2012-2027 DPD.

### **National Planning Policy Framework**

Promoting healthy and safe communities  
Achieving well-designed places  
Delivering a sufficient supply of homes

### **West Lancashire Local Plan Policies**

SP1 - A Sustainable Development Framework for West Lancashire  
GN1 - Settlement Boundaries  
GN3 - Criteria for Sustainable Development  
GN5 - Sequential Tests  
EC2 - The Rural Economy  
RS1 - Residential Development  
RS2 - Affordable and Specialist Housing  
IF2 - Enhancing Sustainable Transport Choice  
EN2 - Preserving and Enhancing West Lancashire's Natural Environment

Supplementary Planning Document - Design Guide (January 2008)

## **10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF TRANSFORMATION, HOUSING AND RESOURCES**

### *Principle of development*

- 10.1 Policy GN1(b) of the WLLP which relates to 'development outside settlement boundaries' states that 'Development on Protected Land will only be permitted where it retains or enhances the rural character of the area, for example small scale, low intensity tourism and leisure uses, and forestry and horticulture related uses.
- 10.2 However in accordance with policy RS1 (b), policy GN1(b) goes on to state: Small scale 100% affordable housing schemes (i.e. 10 units or fewer), or small scale rural employment (i.e. up to 1,000 square metres) or community facilities to meet an identified local need may be permitted on Protected Land, provided that a sequential site search has been carried out in accordance with Policy GN5. If it is demonstrated that there are no sequentially preferable sites within the settlement boundary, then the most sustainable Protected Land sites closest to the village centre should be considered first, followed by sites which are further from the village centre where a problem of dereliction would be removed. Only after this search sequence has been satisfied should other sites outside that settlement boundary be considered.
- 10.3 Paragraph 63 of the NPPF is noted which states (inter alia) *Within this context of establishing need, the size, type and tenure of housing needed for different groups*

*in the community should be assessed and reflected in planning policies. These groups should include older people (including those who require retirement housing). Council policies support the development of housing and directs such development to appropriate locations within the borough. The proposal does not accord with the requirements of policies GN1 part b) and RS1 part b) as firstly the development is not for affordable housing and secondly 34 dwellings significantly exceeds the threshold of 10 set out in Policy GN1 b).*

- 10.4 It is noted that despite the principle of development being not in accordance with policies GN1 and RS1 the applicant has submitted a Sequential Test (dated August 2023) in support of the application that seeks to identify whether there are any more preferable sites within the locality.
- 10.5 As detailed above Policy GN1 b) allows for small scale 100% affordable housing schemes (i.e. 10 units or fewer) to be permitted on Protected Land, provided that a sequential site search has been carried out in accordance with policy GN5. Given that the proposed development is contrary to policy as it is not an appropriate development on Protected Land (i.e. 10 affordable units or fewer), the application of a Sequential Test would still not allow accordance with policy GN1 b) or RS1 b).

#### *Design/Layout*

- 10.6 Paragraph 131 of the NPPF advises that the creation of high quality beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. 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.
- 10.7 The proposed dwellings would all be single storey in nature and would have pitched roofs with front gable features. In terms of materials the buildings would be mainly brick and tile with some decorative features in either timber boarding or hanging tiles. The surrounding properties are both single and two storey buildings in a variety of designs and materials. I am satisfied that the design and scale of the proposed dwellings would be in keeping with the surrounding development.
- 10.8 Each property has been provided with a private garden to the rear, parking area and/or garage and bin storage locations. The SPD - Design Guide requires that the minimum rear garden depth will generally be 10m unless the particular merits of the case, in terms of the character of the setting, can be proved to warrant a reduction in this requirement. Many of the gardens do not reach a depth of 10m however some of those properties are compensated by a greater width of garden. Nonetheless several properties, including plots 4, 9, 10, 23 and 33, fall below the requirements without appropriate compensatory width.
- 10.9 The development would comprise backland development however having regard to patterns of development in the area it is not considered the principle of such development would be so out of keeping to warrant refusal of the application on that basis.

10.10 The density of the development would be approx. 19 dwellings per hectare. This falls below the minimum density set out in RS1d) due to the proposed arrangement of the roads within the site. Due to the position of the entrance road and the position of the site in its context it is considered unlikely that any additional dwellings on the site could be accommodated without the development appearing cramped or out of keeping with its surroundings particularly given the issue raised above whereby several gardens already fall below the required size. The amount of landscaping and open space is very limited within the site however the applicant has introduced two small areas of planting towards the front of the site to soften the entrance road. Some trees are proposed within the site and small gardens would be provided to the front of each site.

10.11 On balance it is considered the development would not comply with the relevant requirements of policy GN3 and the SPD - Design Guide as suitable private amenity space has not been provided for all of the proposed dwellings.

#### *Impact on residential amenity*

10.12 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 properties.

10.13 It is noted that concerns have been raised in regard to loss of privacy and overlooking from the proposed dwellings. Each property would be single storey in nature and therefore all windows/doors would be at ground floor level. A condition would be recommended to ensure that suitable boundary treatment is provided to the rear/sides of each garden that lies adjacent to another property. Having regard to the nature of the proposed development and the siting of nearby dwellings it is considered that the proposal would not result in overlooking or loss of privacy subject to suitable boundary treatment being provided where relevant.

10.14 It is noted that concerns have been raised in regard to the impact of the development on neighbouring properties. I have consulted the Council's Environmental Health officer who acknowledges that there may be some noise or disturbance during the construction phase however conditions/informative note have been recommended which are considered to mitigate any resultant harm.

10.15 It is considered that the proposed development would not result in adverse impacts on neighbouring properties as a result of overlooking or loss of privacy and that harms from disturbance can be mitigated by conditions. However as detailed above at 10.8 suitable amenity space would not be provided for future and on that basis the proposal fails to comply with the requirements of local plan policy GN3 1(iii).

#### *Highways*

10.16 Paragraph 112 of the NPPF sets out the criteria that applications should adhere to and includes the requirement for applications to give priority first to pedestrians and cyclists and secondly to facilitate access to high quality public transport. Development should create places that are safe, secure and attractive. 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.

- 10.17 The Highway Authority have been consulted in respect of the submission. Amended plans have been submitted during the course of the application to address the comments made. The Highway Authority have confirmed that the amended plans are acceptable and that suitable visibility splays can be provided at the proposed access point. It is considered that the development would not have a severe impact on highway safety or highway capacity subject to the recommended conditions.
- 10.18 Each property would be provided with a minimum of two parking spaces which is considered to be in accordance with the requirements of policy IF2. Suitable pedestrian pavements have been provided within the site connecting to existing pavements along Boundary Lane and the design of the roads is shown to be to an adoptable standard.
- 10.19 It is therefore considered that the development complies with the relevant requirements of local plan policies GN1 and IF2.

#### *Drainage/Flood Risk*

- 10.20 It is noted that representations have raised concerns in regard to foul and surface water drainage. United Utilities and LLFA have not raised any concerns in regard to the proposed drainage of the site although it is noted that United Utilities confirm that no surface water drainage should enter the public sewer.
- 10.21 Notwithstanding the above lack of objection, Environment Agency data identifies Northern and Western parts of the application site at two different risks in relation to surface water flooding. These are low (between 1 in 100 and 1 in 1,000) which relates to the majority and medium (between 1 in 30 and 1 in 100) which covers smaller parts of the site.
- 10.22 Local plan policy GN3, part 3 sets out requirements for developers to ensure development does not result in unacceptable flood risk or drainage problems. National advice (NPPF and PPG), which is more up to date, requires consideration of flood risk from all sources of flooding, not just sea and river sources.
- 10.23 The development site is within Flood Zone 1 and there is no identified risk from groundwater flooding or from artificial sources. The outstanding potential flood risk to the site is therefore from surface water flooding.
- 10.24 Paragraph: 004 (Reference ID: 7-004-20220825) of the PPG Chapter 'Flood risk and coastal change' sets out the process for where flood risk is a consideration for a development proposal. Under the heading "Avoid" the guidance advises that site layout should be used to locate the most vulnerable aspects of development in areas of lowest flood risk, unless there are overriding reasons to prefer a different location. In addition, measures to avoid flood risk vertically can then be taken, by locating the most vulnerable uses on upper storeys, and by raising finished floor and/or ground levels, where appropriate and that such techniques are suitably designed.

- 10.25 The proposed site layout incorporates More Vulnerable development (as identified by NPPF Annex 3) on areas within the site at risk of surface water flooding, meaning the applicant would need to reconsider this layout in accordance with the avoidance measures identified above. This is supported by Paragraph: 023 (Reference ID: 7-023-20220825) of the PPG which states: *The approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding.*
- 10.26 The Council therefore need to consider the proposal in relation to Paragraph 167 of the NPPF. This indicates that when determining any planning applications development should only be allowed in areas at risk of flooding where, in the light of this (site specific flood risk) assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location.
  - b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
  - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
  - d) any residual risk can be safely managed; and
  - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 10.27 The applicant has not applied the sequential approach as per NPPF para 173a and Paragraph: 004 Reference ID: 7-004-20220825 of PPG Chapter on Flood risk and coastal change. The application has therefore not demonstrated that within the site, the most vulnerable development is located in areas of lowest flood risk. On that basis the proposal fails to comply with the requirements of the NPPF.

### *Ecology*

- 10.28 Policy EN2 2 in the Local Plan states development proposals must seek to avoid impacts on significant ecological assets and protect and improve the biodiversity value of sites. If significant impacts on biodiversity are unavoidable, then mitigation or as a last resort, compensation, are required to fully offset impacts. The application, which has been assessed by the Council's Ecological Consultant MEAS, has been accompanied by a series of Ecological documents as listed above at para. 8.1.
- 10.29 MEAS have indicated that in respect of the Habitat Regulations, with mitigation measures, there will be no adverse effect upon the integrity of national and international sites. Natural England have been consulted on this matter and raise no objection to this conclusion.
- 10.30 In respect of bats, while it is considered that appropriate surveys have now been undertaken, suitable mitigation for the loss of bat roosts has not been submitted to

support this application. The Council are therefore unable to review the three tests assessment and mitigation measures to determine whether they are suitable.

- 10.31 In respect of Biodiversity Net Gain the submission was received prior to the relevant legislation coming into force however the submission was accompanied by BNG supporting information. MEAS have therefore addressed this matter in their consultation responses and confirm that the development will be responsible for the loss of 69% biodiversity on site and that it is likely that off-site compensation will be required. At 69.44% loss, the mitigation hierarchy has not been sufficiently followed in terms of retaining or replacing / enhancing habitats on site and the applicant should aim to address further biodiversity losses on site before looking off site.
- 10.32 Having regard to the above it is considered that the proposal fails to comply with the requirements of local plan policy EN2 as the submission fails to demonstrate that there would not be any adverse impact on protected species or their habitat.

#### *Trees/Landscaping*

- 10.33 Policy EN2 (3) of the Local Plan states that development involving the loss of, or damage to, woodlands or trees of significant amenity, screening, wildlife or historical value will only be permitted where the development is required to meet a need that could not be met elsewhere, and where the benefits of the development clearly outweigh the loss or damage. All development should include appropriate landscaping plans which incorporate suitable tree planting that integrates well with all existing trees.
- 10.34 The Arboricultural Officer noted that the site appears to have been cleared of trees prior to the submission of the application. The applicant submitted additional supporting information to confirm that the trees are self-seeded and category C specimens. The Arboricultural Officer has confirmed there is no objection to the proposal. The proposed scheme would introduce new trees within the two amenity areas at the front of the site and also at intervals around the site. Whilst the loss of trees is regrettable the trees to be removed are not of great amenity value and will be replaced. It is considered that the development complies with the requirements of local plan policy EN2 (3).

### **11.0 CONCLUSION**

- 11.1 The principle of the proposed development is considered to be unacceptable as the submission fails to demonstrate compliance with policies GN1(b) and RS1. Furthermore, it is considered that the proposal development fails to demonstrate that within the site the most vulnerable development is located in areas of lowest flood risk. The proposal fails to provide adequate private amenity space for all proposed properties and fails to demonstrate that the development would not have an adverse impact on protected species or their habitats. It is therefore considered that the proposal fails to meet the requirements of the National Planning Policy Framework and Guidance, Policies GN1, GN3, RS1 and EN2 of the West Lancashire Local Plan 2012-2027 DPD and the SPD - Design Guide.

### **12.0 RECOMMENDATION**

12.1 The proposed development fails to comply with the NPPF and the relevant policies in the West Lancashire Local Plan 2012-27 and is recommended for refusal for the following reasons:

1. The proposed development conflicts with Policies GN1 and RS1 in the West Lancashire Local Plan 2012-2027 DPD in that firstly the development is not for affordable housing and secondly 34 dwellings significantly exceeds the threshold of 10 set out in Policy GN1 b).

2. The proposed development conflicts with the NPPF and Policy GN3 in the West Lancashire Local Plan 2012 - 2027 DPD as the submission fails to demonstrate that within the site, the most vulnerable development is located in areas of lowest flood risk.

3. The proposal conflicts with Policy GN3 in the West Lancashire Local Plan 2012 - 2027 and supplementary planning document 'Design Guide' (Jan 2008) in that it would result in a form of development that does not provide adequate amenity space for all the proposed dwellings.

4. The submission documentation fails to demonstrate that the development would not cause harm to protected species or their habitats and therefore the proposal fails to meet the requirements of Policy EN2 in the 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.

### **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**

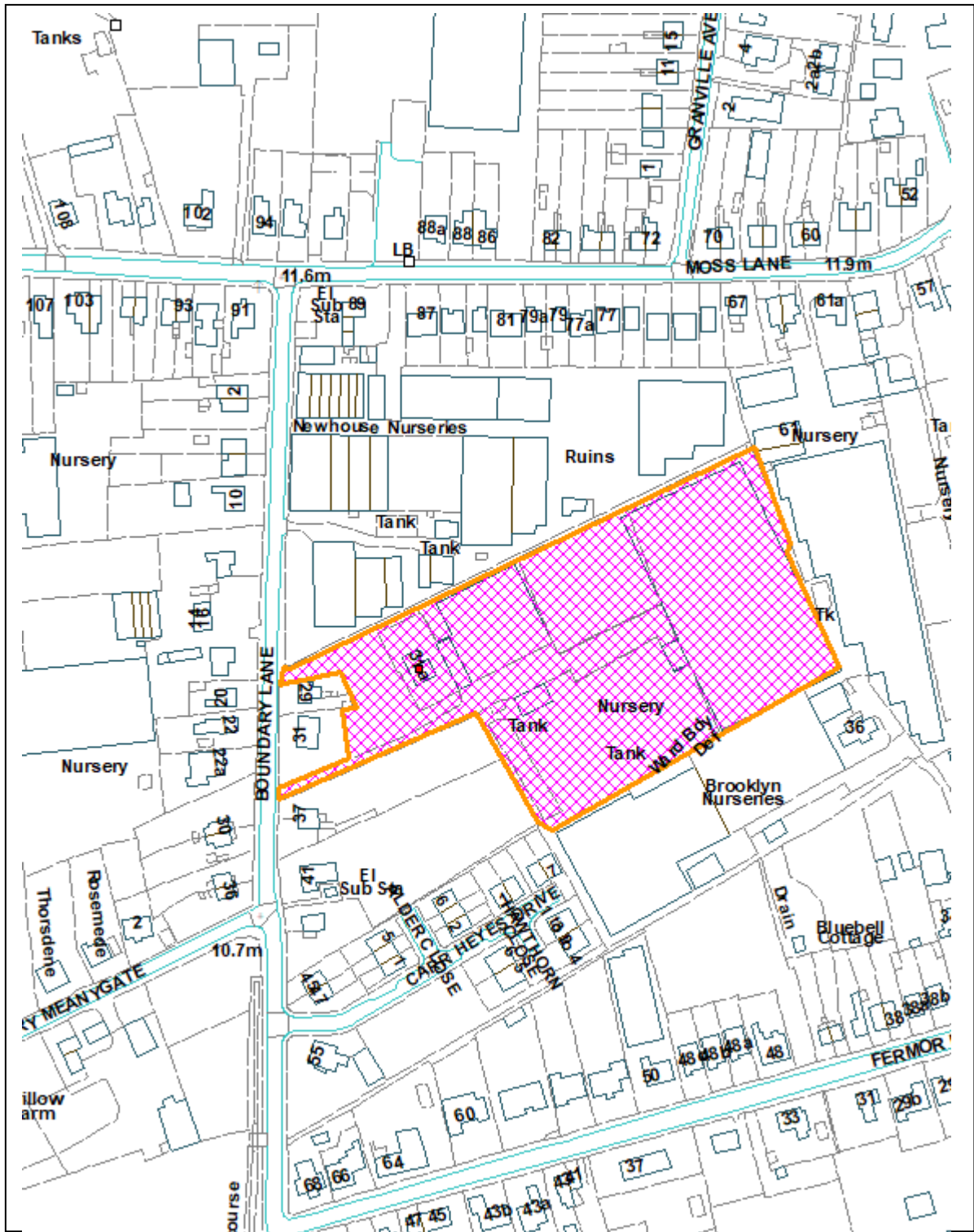
The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from Article 8 (the right to respect for private and family life, home and correspondence) and Article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

## **Appendices**

None.



Land Off Boundary Lane, Hesketh Bank, PR4 6AJ,









**PLANNING COMMITTEE: Thursday,  
25 April 2024**

---

**Report of: Corporate Director of Transformation, Housing & Resources**

**Relevant Portfolio Holder: Councillor Deputy Leader & Portfolio Holder for  
Planning & Community Safety**

**Contact for further information: Steve Faulkner (Extn. 5195)  
(E-mail: [steven.faulkner@westlancs.gov.uk](mailto:steven.faulkner@westlancs.gov.uk))**

---

**SUBJECT: COMMITTEE MEMBER UPDATE - AN ACCELERATED PLANNING  
SYSTEM – CONSULTATION / CHANGES TO PLANNING ENFORCEMENT REGIME**

---

Wards affected: (All Wards);

## **1.0 PURPOSE OF THE REPORT**

1.1 To inform Planning Committee of a Government consultation designed to create an "accelerated planning system".

## **2.0 RECOMMENDATIONS**

2.1 That the Planning Committee consider and agree the proposed responses to the consultation questions attached at Appendix A to this report and for these responses to be submitted to Government prior to 1 May 2024.

## **3.0 BACKGROUND**

3.1 The Government have stated that the planning system requires considerable reform to deliver the growth the UK needs, be it in respect of housing, commercial development and other key infrastructure.

3.2 The current 8 and 13 week determination targets for non-major and major planning applications date back to the 1990s, were of an arbitrary nature, and have not been changed to reflect the pressures and demands on planning services since that time.

3.3 In 2013, the Government amended relevant legislation to allow for extensions of time, which would [if mutually agreed with applicants] allow the determination period for planning applications to be extended. Local Planning Authorities (LPAs) have become increasingly dependent on these extensions of time (EOT) to help maintain performance levels, but this has not prevented several LPAs from being

designated into special measures under Section 62(A) of the Town and Country Planning Act 1990. (LPAs that fail to determine 60% of major applications and 70% of non-major applications measured over a 2 year period each September are at such risk. LPAs can also be placed at risk based on poor appeal performance).

- 3.4 In March 2024, Bristol and St Albans became the latest LPAs to be designated, in addition to Chorley and Uttlesford, the latter of whom have been under designation since February 2022. Where an LPA is placed in special measures, applicants may choose to submit certain major and non-major applications to the Planning Inspectorate, removing decision-making powers at a local level.
- 3.5 It is clear from these recent designations that Government is taking LPA performance and the speed of their decision-making extremely seriously. Not only does it remain incumbent on LPAs to continue to ensure performance is sustained under the current system, but the changes also proposed by the latest consultation will sharpen the focus on LPA performance, and place additional pressure on LPAs to deliver timely decisions.
- 3.6 The Council is not currently at risk of designation based on poor performance, but it is vital that the service remains alive to these proposed changes and is prepared to review working practices and resources to maintain this position.
- 3.7 The full detail of the consultation and proposed responses are presented below to the Planning Committee for approval and submission to Government. This report outlines the proposals and key issues that will inform the Council's response.

#### **4.0 CHANGES PROPOSED BY DLUHC**

- 4.1 The proposed changes are summarised as follows:
  - the introduction of a new Accelerated Planning Service (APS) to offer a new application route with accelerated decision dates for major commercial applications and fee refunds wherever these are not met;
  - changes in relation to extensions of time agreements, including a new performance measure for speed of decision-making against statutory time limits, and an end to the use of extension of time agreements for householder applications and repeat agreements for the same application for other types of application;
  - an expansion of the current simplified householder and minor commercial appeal service for more written representation appeals;
  - and detail on the broadening of the ability to vary a planning permission through section 73B applications and on the treatment of overlapping planning permissions.

##### Accelerated Planning Service (APS)

- 4.2 Under this system, all LPAs will be required to offer an APS for major commercial applications. The applicant would pay a higher planning fee to the LPA which will

be required to determine such applications within 10 weeks (rather than the 13-week statutory time limit), with a guarantee that the fee would be refunded if the application is not determined within this timescale.

#### Speed of decision making

- 4.3 The consultation proposes that the new performance thresholds would be:
- *Major applications – 50% or more of applications determined within the statutory time limit; and*
  - *Non-major applications – 60% or more of applications determined within the statutory time limit.*
- 4.4 Accordingly, the Government's intended acceleration of the planning system is accompanied by what would actually be a more generous, but more difficult to achieve performance target.
- 4.5 The consultation also details that LPAs would be at risk of designation for speed or decision-making in stated circumstances.

#### Changes to extensions of time

- 4.6 At present, LPAs can agree EOTs with applicants, provided they do so mutually. It is also possible to agree multiple extensions as circumstances change, whether it is necessary to secure further amendment, to carry out further consultation, or in the event that an applicant cannot provide information to the LPA in a timely manner, in which case they can also request an extension.
- 4.7 The Government has clearly stated that the use of EOTs is masking poor performance in that they are used to bolster performance rather than for their original purpose, i.e., to allow negotiation of better outcomes. However, the need for EOTs is based on current performance targets that have not been updated to reflect the modern-day realities of LPA decision making, including the greater complexity of planning applications (notably through recent measures to secure mandatory bio-diversity net gain), and the increased emphasis on public scrutiny on planning decisions over the same period.
- 4.8 The proposal is to remove the ability to secure extensions of time on householder applications, to encourage their more efficient, timely determination, and to allow only one extension of time for other applications, abolishing the facility to undertake repeat extensions.

#### Simplified Process for Written Representation Appeals

- 4.9 Where applicants are refused planning permission, they currently have access to an independent appeals process via the Planning Inspectorate (PINS).
- 4.10 At present, PINS run an expedited written representations procedure (Fast Track) - Householder Appeals Service (HAS) and the Commercial Appeals Service (CAS), which affords a simplified process for determining these less complex,

small-scale cases by removing opportunities for the main parties and other interested parties to provide additional information at appeal stage.

- 4.11 The Government is seeking views on whether this process could be expanded to cover more written representation appeals as they believe most are straightforward and can be considered without the need for further representations. Where this is not the case, the Planning Inspectorate would retain the power to change the appeal procedure to a hearing or inquiry or to follow the current non-simplified written representation procedure.

#### Section 73B and "overlapping applications"

- 4.12 This is a more complex matter in respect of recent Supreme Court judgment but in summary, is a response to the significant legal implications brought by the difficulty of submitting overlapping or "drop in" permissions following the Supreme Court decision in Hillside Parks Ltd v Snowdonia National Park Authority [2022].
- 4.13 The proposals in this element of the consultation would enable a developer to make an application for development which could vary both the description of the development and the conditions of an existing planning permission, providing the development was not 'substantially different' from the existing development (a section 73B application). This would provide greater flexibility than a current section 73 application (restricted to the variation of conditions) and a section 96A application (limited to non-material changes to a permission).
- 4.14 Implementation of these proposals would require changes to secondary legislation covering the consultation, information requirements, procedural matters, the application fee and other planning legislation. The Government also intends to prepare guidance on the use of the route to aid applicants and planning authorities.
- 4.15 The consultation recognises that for both developers and planning authorities, a key issue will be the 'substantially different' test. Factors such as location, scope of existing permissions on the site and the nature of the proposed changes could all be relevant. At this stage the Government has indicated it does not intend to provide prescriptive guidance on this matter, as it would risk planning authorities' ability to make a local judgement based on the individual circumstances of the case. However, views are invited on whether guidance should have a role in promoting common approaches across planning authorities. Views are also invited on overlapping consents and whether the Section 73B application route would be appropriate in these circumstances.

## **5.0 ISSUES**

- 5.1 The proposals for an APS are understandable, but LPAs are often faced with applications of poor quality, lacking information and thereby giving rise to more questions than answers. Poor submissions cause confusion and consternation for statutory consultees and the wider public alike, and the requirement for LPAs to determine more quickly is not balanced by further measures to secure prompt consultation responses and swifter responses from the public. A solution designed to improve the speed and efficiency of the planning process should therefore be cognisant of these issues.

- 5.2 For all planning applications, and in particular those to be considered under the APS, there will be no limited to no opportunity for negotiations that may need to be placed before Planning Committee to avoid the fee being returned. This pressure would increase the likelihood of substandard approvals or refusals grounded on a lack of available information, leading to more service complaints and an increased number of appeals. Officers would therefore suggest that Government should consider making pre-application enquiries for applications under the APS mandatory.
- 5.3 The proposed EOT measures also raise cause for concern. The table below sets out the performance thresholds for special measures and how LPAs across the country would be performing without the facility to agree extensions of time.

APPLICATION TYPE	NATIONAL THRESHOLD	CURRENT NATIONAL PERFORMANCE
Major applications	60% in 13 weeks	19%
Non-major applications	70% in 8 weeks	37%
Householder applications	70% in 8 weeks	56%
Total non-major / householder	70% in 8 weeks	49%

*[Data from the Government dashboard which sets out how LPAs are performing with and without EOTs]*

- 5.4 An LPA could therefore quickly find itself under threat of designation of special measures if they are unable to deliver one time extensions for major and non-major applications and will likely find itself undertaking the same measures it currently does to respond to a new set of thresholds as set out in paragraph 4.3 above.
- 5.5 Like all LPAs, the Council is heavily reliant on the appropriate use of EOTs to adequately address the complex nature of individual applications and thereby maintain performance. If it were unable to justifiably negotiate EOTs [as proposed in the consultation], and if mitigating action were not taken, there would be a real risk of being designated under special measures. This will be true of most LPAs and indicates that the proposals have not fully understood how an LPA must currently work.
- 5.6 However, in the light of the consultation and the probability of the measures being moved forward, it is appropriate that the Council provides a response. Resources and processes will have to change if these more stringent measures are introduced. It will therefore be necessary to review how decisions are made and mitigate against the potential consequences, which would include:
  - Increased service complaints
  - Increased numbers of refusals and resulting appeals
  - Significant pressure on drafting and completion of Section 106 Agreements
  - Impacts on staff morale and recruitment
  - Demand for staff resources whilst competing with other LPAs
  - Poor decisions based on reduced ability to negotiate
  - Potential further legal challenges
  - Increased risk of fees being returned

- The appearance of a more inflexible, unresponsive service.

5.7 The proposed changes to the written representation appeal process are identified to reduce burdens on LPAs in response to the additional pressures the other changes will create. However, there is no present requirement to present a written statement for certain categories of appeal, and LPAs already rely on Officer reports as a time saving measure. Most time on appeals is spent by LPAs writing letters to interested parties on behalf of the Inspectorate and filling in appeal questionnaires. Officers therefore consider the administrative burden of appeal processes would be better reviewed as a whole rather than by way of smaller interventions that may have little impact.

5.8 The proposed amendments to introduce Section 73 are broadly welcome subject to further guidance / legislation that makes precise what can be regarded as 'substantially different', and clarification on the fee schedules.

## **6.0 CHANGES TO ENFORCEMENT PROCESS**

6.1 On 2<sup>nd</sup> April 2024, secondary legislation by way of the Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (LURA) (Commencement No. 4 and Transitional Provisions) Regulations 2024 were made. These regulations bring the majority of the enforcement provisions provided by LURA into force.

6.2 The following changes will therefore come into effect as of **25 April 2024** and all references to individual sections below are to the LURA.

### Time limits for enforcement

6.3 Section 115 changes the time limits for taking enforcement action in England by revoking the four-year time limit which applied to operational development and change of use of any building to use as a single dwellinghouse. The time limit for taking enforcement against all breaches of planning control in England will now be ten years. There is a transitional provision that states that where the operational development was substantially completed before 25th April 2024, or where the change of use to a dwelling occurred before 25th April 2024, the four-year rule would still apply.

### Duration of temporary stop notices

6.4 Section 116 changes the duration of temporary stop notices in England from 28 days to 56 days.

### Enforcement warning notices

6.5 Section 117 provides local planning authorities ("LPA") with the power, in England, to issue an enforcement warning notice where it appears to them that there has been a breach of planning control, and there is a reasonable prospect that, if a planning application is made for the development concerned, then planning permission would be granted. The LPA can take further enforcement action if an application is not received within the specified period.

### Restriction on appeals against enforcement notices

- 6.6 Section 118 reduces the circumstances in which an appeal against an enforcement notice can be made where an application has already been made to regularise the breach. In short, it effectively removes the ground (a) so that there is only one opportunity to obtain retrospective planning permission. This change does not apply to appeals against enforcement notices that were made and have not been withdrawn before 25th April 2024.

### Undue delays in appeals

- 6.7 Section 119 provides the Planning Inspectorate (in England) with the ability to dismiss appeals against enforcement notices and appeals relating to certificate of lawfulness where the appellant is responsible for undue delay in the progress of the appeal. This change does not apply to enforcement notice or certificate of lawfulness appeals that were made before 25th April 2024.

### Penalties for non-compliance

- 6.8 Section 120 increases the penalties that relate to several planning enforcement offences. This change applies to offences committed after 25th April 2024. The following penalties will be applied moving forward.
- The penalty for non-compliance with a breach of condition notice is increased from £2,500 to an uncapped fine.
  - The penalty for non-compliance with a section 215 notice (requirement to maintain land) is increased from £1,000 to an uncapped fine.
  - The daily fine for non-compliance with court orders has increased from £100 to £500.
- 6.9 A further enforcement power which relates to listed buildings will also be effective from 25th April 2024. Section 103 of LURA amends the Planning (Listed Buildings and Conservations Areas) Act 1990 (“LBA 1990”) by giving LPAs the power to issue temporary stop notices in relation to listed buildings where they suspect that unauthorised works have been carried out. The temporary stop notice can require that works stop for up to 56 days to allow the LPA to investigate the suspected breach. Section 103 also creates an offence for contravention of a temporary stop notice.
- 6.10 Another heritage enforcement change is contained in Section 105 of LURA which amends the LBA 1990 so that in England, LPAs are required to consult with the Historic Buildings and Monuments Commission before serving a building preservation notice. Section 105 also amends the LBA to remove the right to claim compensation for building preservation notices. Section 105 comes into force on 25th July 2024, but does not apply to building preservation notices that come into effect before 25th July 2024.

## **7.0 CONCLUSION**

7.1 The changes proposed by Government will have profound impacts on the Planning Service and those Council services on which the planning process is dependent. It is therefore important that WLBC responds accordingly. The consultation response, if agreed by Planning Committee, will be presented to DLUHC prior to the 1 May 2024 deadline.

## **8.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

8.1 There are no direct implications for sustainability from the recommendations in this report. Options are being considered but no formal decision is being made.

## **9.0 FINANCIAL AND RESOURCE IMPLICATIONS**

9.1 There are no direct financial or resource implications arising from this report.

## **10.0 RISK ASSESSMENT**

10.1 There are no direct risks arising from this report.

## **11.0 HEALTH AND WELLBEING IMPLICATIONS**

11.1 There are no direct implications for health and wellbeing from the recommendations in this report.

### **Background Documents**

[An accelerated planning system - link to consultation](#)

[Debate on reform of the planning system - House of Commons Library \(parliament.uk\)](#)

[The Planning Act 2008 \(Commencement No. 8\) and Levelling-up and Regeneration Act 2023 \(Commencement No. 4 and Transitional Provisions\) Regulations 2024 \(legislation.gov.uk\)](#)

### **Equality Impact Assessment**

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

## **APPENDIX A – RESPONSE TO DETAILED QUESTIONS SET OUT BY CONSULTATION**



NO	QUESTION	PROPOSED RESPONSE
1	Do you agree with the proposal for an Accelerated Planning Service?	<p>No – not in the form suggested. Whilst there is persistent criticism of the speed of the planning system, time is often taken trying to resolve poor quality submissions, and the WLBC experience is that consultees are also becoming increasingly over-burdened with the system such that response times and quality is affecting the delivery of planning outcomes.</p> <p>The need to manage public expectation and engagement with the planning process is also greater than it has ever been.</p> <p>The responsibility for the slowing of the planning system is not solely with LPAs.</p>
2	Do you agree with the initial scope of applications proposed for the Accelerated Planning Service (Non-EIA major commercial development)?	Yes – if the process is to be trialled these would be the most appropriate applications.
3	Do you consider there is scope for EIA development to also benefit from an Accelerated Planning Service?	No – these applications are typically very complex and require levels of time and resource that are not compatible with accelerated decision making.
4	Do you agree with the proposed exclusions from the Accelerated Planning Service – applications subject to Habitat Regulations Assessment, within the curtilage or area of listed buildings and other designated heritage assets, Scheduled Monuments and World Heritage Sites, and applications for retrospective development or minerals and waste development?	Yes.

<p><b>5</b></p>	<p>Do you agree that the Accelerated Planning Service should:</p> <p>a) have an accelerated 10-week statutory time limit for the determination of eligible applications</p> <p>Yes / <u>No</u> / Don't know. If not, please confirm what you consider would be an appropriate accelerated time limit</p> <p>b) encourage pre-application engagement</p> <p><u>Yes</u> / No / Don't know</p> <p>c) encourage notification of statutory consultees before the application is made</p> <p><u>Yes</u> / No / Don't know</p>	<p>a) No. National performance figures minus the facility to secure extensions of time highlight that it is unrealistic to deal with complex major planning applications even within the current statutory 13 week period. Such applications will also require the securing of Bio-Diversity Net Gain and other planning obligations via Section 106 Agreement which will place significant pressure not just on LPAs but on other Council Services (e.g., Legal) to respond promptly. There are also constitutional requirements to be met and accommodating request for applications to be "called in", which would also pressure the timeframes for determination further.</p> <p>b) Yes. It is considered that candidates for the APS should provide evidence that they have used the pre-application advice service, failing which they should continue via the current established process.</p> <p>c) Yes, but this will not overcome the point that various non-statutory consultees may also raise significant relevant issues, including Environmental Health, Contaminated Land, Heritage etc.</p>
<p><b>6</b></p>	<p>Do you consider that the fee for Accelerated Planning Service applications should be a percentage uplift on the existing planning application fee?</p>	<p>Yes. To reflect the wider requirements of the process and the need to engage more swiftly with consultees. There needs to be certainty around any percentage uplift but it is considered that a minimum uplift of 50% would be appropriate.</p>
<p><b>7</b></p>	<p>Do you consider that the refund of the planning fee should be:</p> <p>a. the whole fee at 10 weeks if the 10-week timeline is not met</p> <p>b. the premium part of the fee at 10 weeks if the 10-week timeline is not met, and the remainder of the fee at 13 weeks</p> <p>c. 50% of the whole fee at 10 weeks if the 10-week timeline is not met, and the remainder of the fee at 13 weeks</p>	<p>None of the above. To incentivise the process and to ensure all parties are invested in delivering a timely outcome, it is suggested that for such applications a 13 week timeframe be applied and if the decision is made within this time frame the LPA would retain the uplift but refund the uplift only after the 13 weeks expire. Moving forward this would be more easily rolled out to a wider range of planning applications.</p> <p>A serious concern is that LPAs may feel they need to determine the application to retain the uplift but are then minded to refuse owing to a lack of time to resolve outstanding issues, particularly in the face of ongoing financial resource pressures. This will lead to more appeals and further delays to the planning process of a different nature.</p>

	<p><u>d. none of the above (please specify an alternative option)</u></p> <p>e. don't know</p> <p>Please give your reasons</p>	
<p><b>8</b></p>	<p>Do you have views about how statutory consultees can best support the Accelerated Planning Service?</p>	<p>The main issue with statutory consultees is that neither developers nor LPAs can always easily engage with them at pre-application stage and they will often provide their own service which may allow them to be satisfied with proposals but with advice offered sitting entirely outside the wider planning context.</p> <p>It would also be important to ensure that they have their own support and professional skills / resources to offer the LPA a timely response.</p> <p>It would be beneficial within the APS if a system were to be devised that mandates a prior approach of applicants to the relevant statutory consultees and whilst this would also bring further resource pressures of their own, it would also encourage greater certainty over planning processes as and when the application is made.</p>
<p><b>9</b></p>	<p>Do you consider that the Accelerated Planning Service could be extended to:</p> <p>a: major infrastructure development</p> <p>Yes / <u>No</u> / Don't Know</p> <p>b. major residential development</p> <p>Yes/ <u>No</u> / Don't know</p> <p>c. any other development</p> <p>Yes / <u>No</u> / Don't know.</p>	<p>See in part the answer to Question 7 which suggests a trialled 13 week system allowing for uplifts and incentives to deliver more prompt outcomes – it would be appropriate to consider this for commercial applications before any wider roll out but the APS should not be extended until there is certainty over how it will work across a narrower range of planning applications.</p>

	<p>If yes, please specify</p> <p>If yes to any of the above, what do you consider would be an appropriate accelerated time limit?</p>	
<b>10</b>	<p>Do you prefer:</p> <ul style="list-style-type: none"> <li>a. the discretionary option (which provides a choice for applicants between an Accelerated Planning Service or a standard planning application route)</li> <li>b. the mandatory option (which provides a single Accelerated Planning Service for all applications within a given definition)</li> <li>c. <u>neither</u></li> <li>d. don't know</li> </ul>	<p>Neither. WLBC are concerned that this process would give rise to certain applications receiving potentially preferential treatment over others, particularly where existing resources are at a premium. It would also be likely that any gains from the speeding up of certain decisions will come at the expense of others being slowed down leading to continued criticism of the speed of decision making.</p> <p>For reasons expressed in previous answers it is not considered preferable to offer either option.</p>
<b>11</b>	<p>In addition to a planning statement, is there any other additional statutory information you think should be provided by an applicant in order to opt-in to a discretionary Accelerated Planning Service?</p>	<p>Yes. Typically, such applications will require more detailed complex information and there may be merit in devising a specific national checklist to cover key documents including transport assessments / statements, travel plans, sustainability assessments, flood risk assessments, heritage statements, Section 106 Heads of Terms, etc.</p>
<b>12</b>	<p>Do you agree with the introduction of a new performance measure for speed of decision-making for major and non-major applications based on the proportion of decisions made within the statutory time limit only?</p>	<p>WLBC's experience is that whilst speed of decision making is important, developers are keen not only to receive timely decisions but expect negotiation to ensure successful outcomes. A new performance measure is required but it risks appearing arbitrary and not based around the practical reality of LPA decision-making.</p>

13	Do you agree with the proposed performance thresholds for assessing the proportion of decisions made within the statutory time limit (50% or more for major applications and 60% or more for non-major applications)?	No. It appears arbitrary and is not based around the day to day realities of LPA decision making. It also reduces the statutory timeframes currently in place (60% and 70% respectively) and whilst accepting that the new targets would not be centred on extensions of time, they do not appear to focus on the overarching aim of delivering a faster planning service.
14	<p>Do you consider that the designation decisions in relation to performance for speed of decision-making should be made based on:</p> <p>a) the new criteria only – i.e. the proportion of decisions made within the statutory time limit; or</p> <p>b) both the current criteria (proportion of applications determined within the statutory time limit or an agreed extended time period) and the new criteria (proportion of decisions made within the statutory time limit) with a local planning authority at risk of designation if they do not meet the threshold for either or both criteria</p> <p><u>c) neither of the above</u></p> <p>d) don't know</p>	c) Whilst not supporting the introduction of these criteria, it is considered that LPAs need to be given time and resource to develop and improve skills further in advance of any changes to designation measures, in which case option (b) would be preferred over the longer period.
15	Do you agree that the performance of local planning authorities for speed of decision-making should be measured across a 12-month period?	Yes. It is a more accurate and better barometer of more recent performance. However, noting this shortens the current period, it may give rise to further volatility in performance across authorities, particularly those who receive a smaller number of major applications. It is therefore important that the criteria make it wholly clear how performance is to be measured, and if designation is intended that LPAs are offered reasonable opportunity to prepare an improvement plan and in turn, on designation, are informed of any required actions to allow such designation to be removed.

16	Do you agree with the proposed transitional arrangements for the new measure for assessing speed of decision-making performance?	Yes. This will afford time for LPAs to adjust and respond to the new performance measures.
17	Do you agree that the measure and thresholds for assessing quality of decision-making performance should stay the same?	Yes, in the absence of any suggested more suitable or obvious alternatives.
18	Do you agree with the proposal to remove the ability to use extension of time agreements for householder applications?	<p>No. In theory, this could prompt applicants to ensure they get their application right at the first time of asking, and invest further in the pre-application advice service, but in practice, it will likely place huge pressure on LPAs to negotiate in limited time. Often, it is applicants faced with the possibility of a refusal who ask for the extension of time themselves to allow for longer for the decision to be made.</p> <p>If extensions of time are to be curtailed it is likely to mean that applications will have to be determined as submitted with likely increased frustration and complaint. Applicants can also no longer benefit from a "free go" if their original application was submitted prior to 6 December 2023 and the need to submit a further £258 would likely do little to appease these frustrations.</p>
19	What is your view on the use of repeat extension of time agreements for the same application? Is this something that should be prohibited?	It is accepted that the planning process should not accommodate repeated extensions of time, however, the reality for major planning applications is that they take considerable time particularly where a Section 106 Agreement is required. If there is to be a prohibition on the use of repeat extensions of time this should not extend to major applications.
20	Do you agree with the proposals for the simplified written representation appeal route?	Yes – but it will have limited practical impact on officer time and resource, given officer reports already explain the LPA's grounds for refusal in further detail. If this is to be continued it should be on the basis that Appellants are afforded no further opportunity to comment or evolve their case during the appeal process.
21	Do you agree with the types of appeals that are proposed for inclusion through the simplified written representation appeal route? If not, which types of appeals should be excluded	No - it is not appropriate for the process to extend to applications for Certificate of Lawfulness, which can often require the testing of evidence on oath.

	form the simplified written representation appeal route?	
<b>22</b>	Are there any other types of appeals which should be included in a simplified written representation appeal route?	Yes. The simplified route could readily be used to deal with appeals made under the Prior Approval process (e.g., larger householder extensions, telecommunications, various commercial changes of use, etc).
<b>23</b>	Would you raise any concern about removing the ability for additional representations, including those of third parties, to be made during the appeal stage on cases that would follow the simplified written representations procedure?	No. It is however important that LPAs make clear to all engaging with the planning process that in the event of a refusal and subsequent appeal that all comments must be made at application stage.
<b>24</b>	Do you agree that there should be an option for written representation appeals to be determined under the current (non-simplified) process in cases where the Planning Inspectorate considers that the simplified process is not appropriate?	Yes – see Q21 above. Equally, the Inspectorate should also reserve the right where it is necessary to invite the respective parties to prepare a statement if there is a clear change in circumstances, e.g., adoption of new Local Plan policies, matters arising under Habitat Regulations, etc.
<b>25</b>	Do you agree that the existing time limits for lodging appeals should remain as they currently are, should the proposed simplified procedure for determining written representation planning appeals be introduced?	Yes. The current timeframes for appeal submission are acceptable but WLBC would ask for consideration of the timeframes being reduced by 50% for all appeals relating to retrospective planning applications (i.e. 6 weeks for householder applications, 12 weeks for other applications).
<b>26</b>	Do you agree that guidance should encourage clearer descriptors of development for planning permissions and section 73B to become the route to make general variations to planning permissions (rather than section 73)?	Yes. The Town and Country (Development Management Procedure) Order 2015 (as amended) should be revised to ensure that the applicants and LPA are agreed on a description before the application is made valid – unless the LPA proceeds to validate based on that supplied.
<b>27</b>	Do you have any further comments on the scope of the guidance?	No.

<b>28</b>	Do you agree with the proposed approach for the procedural arrangements for a section 73B application?	Yes.
<b>29</b>	Do you agree that the application fee for a section 73B application should be the same as the fee for a section 73 application?	Yes. However, see the answer to Q31 below.
<b>30</b>	Do you agree with the proposal for a 3 band application fee structure for section 73 and 73B applications?	No. It is an unnecessary complexity.
<b>31</b>	What should be the fee for section 73 and 73B applications for major development (providing evidence where possible)?	There is a wider issue that the fee payable for a Section 73 application simply does not cover the cost of dealing with the matter. So whilst the fee should be the same for both Section 73 and Section 73B it is suggested that the fee should be either £293 or half that of the original application (based on the current fee rates), whichever is the higher fee of the two.
<b>32</b>	Do you agree with this approach for section 73B permissions in relation to Community Infrastructure Levy?	Yes.
<b>33</b>	Can you provide evidence about the use of the 'drop in' permissions and the extent the Hillside judgment has affected development?	No response.
<b>34</b>	To what extent could the use of section 73B provide an alternative to the use of drop in permissions?	It is not an unwelcome move but there needs to be clarity for all concerned to avoid such applications entering further time consuming legal arguments.
<b>35</b>	If section 73B cannot address all circumstances, do you have views about the use of a general development order to deal with overlapping permissions related to large scale development granted through outline planning permission?	Subject to such an order making the process clear for all parties at the outset, this could potentially prove helpful.



<b>36</b>	Do you have any views on the implications of the proposals in this consultation for you, or the group or business you represent, and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how. Is there anything that could be done to mitigate any impact identified?	None.
-----------	--	-------

