



**PLANNING COMMITTEE: 27<sup>th</sup> July 2023**

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

**Contact for further information:**

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

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**SUBJECT:** PLANNING APPLICATION REF: 2022/1143/FUL

**PROPOSAL:** Proposed mixed use development - including six dwellings, two blocks of office accommodation and associated access, parking and landscape following demolition of existing buildings.

**APPLICANT:** Bella Homes NW

**ADDRESS:** Valera Ltd, Plox Brow, Tarleton

**REASON FOR CALL IN:** Application has been called in by Councillor Westley to consider concerns over the impact on neighbouring properties, inadequacy of Plox Brow to cope with the additional traffic and the height of the proposed development.

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**Wards affected:** Tarleton

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To advise Planning Committee on an application which seeks permission for six dwellings, two blocks of office accommodation and associated access, parking and landscape following demolition of existing buildings

## **2.0 RECOMMENDATION TO PLANNING COMMITTEE**

- 2.1 That the application is **REFUSED**.
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### **3.0 THE SITE**

- 3.1 The application site is located to the south of Plox Brow in Tarleton and sits between the Leeds to Liverpool canal to the east and a residential caravan site, Meadow Park, to the west. The site comprises industrial buildings with an access road running along the eastern side of the site.

### **4.0 PROPOSAL**

- 4.1 The description of development has been amended during the course of the application as the commercial element of the proposal previously included a retail use. The development now proposed is for the construction of a mixed use development which includes six dwellings and two blocks of office accommodation following the demolition of the existing buildings. Associated works to access, parking and landscaping are also proposed.
- 4.2 The dwellings would be situated within the northern part of the site and would comprise 4 detached and one pair of semi-detached dwellings. The semi-detached dwellings, plots 2 and 3) would be 2-storey, 3-bedroom buildings and the remaining 4 plots would be 2 ½ storey, 4-bedroom dwellings with dormers to the front and rooflights in the rear roof slope. Each property would have a private amenity space and allocated parking either in the form of garaging or within a driveway.
- 4.3 The office accommodation would be located within the southern part of the site and comprises a total 16 units with a variety of floorspace options across two buildings. Each office building would be 2 storey in height.

### **5.0 PREVIOUS RELEVANT DECISIONS**

- 5.1 2017/0819/OUT - Outline - Residential development including details of access, layout and scale - Granted
- 3.2 2016/1290/OUT - Outline - Residential development including details of access, layout and scale - Withdrawn

### **6.0 OBSERVATION OF CONSULTEES**

- 6.1 Canal and River Trust

16/12/22 - The main issues relevant to the Trust as statutory consultee on this application are: a) Impact on the structural integrity of the canal due to the proximity of the development to the canal, b) Impact on the canal due to the drainage proposals and contamination and c) Impact on the character and appearance of the waterway corridor and operational requirements. Based on the information available our substantive response (as required by the Town &

Country Planning (Development Management Procedure) (England) Order 2015 (as amended)) is to advise that an amendment to the canalside boundary and that suitably worded conditions are necessary to address these matters. Informative notes are also recommended.

It appears from our records that the red line on the location plan includes land in the north-east corner of the site closest to the swingbridge which is within the ownership of the Canal & River Trust. The applicant should therefore be required to serve notice on the Trust and complete Certificate B of the application form. If planning permission is granted, the applicant should also contact our Estates Management Team to discuss the need for an agreement for the use of the land.

The Trust owns the fishing rights through the Rufford Branch and we currently lease them to Southport & District Angling Association. The angling club use the car park area at Plox Brow for parking and this is quite a popular spot for matches and pleasure anglers throughout the year. It is important that access to the canal for angling is maintained during the construction phase and that provision is made to allow access in the long-term. This could be through having formal access points/gates along the proposed line of railings.

24/05/23 - Note the amendment. No change to our comments as it does not address matters previously raised by CRT.

16/06/23 - Refer back to previous comments and recommended conditions. Comment as landowner that land within the red line is owned by CRT. Request informative notes regarding future permissions/agreement for use of the land

## 6.2 LCC Highways

19/12/22

### Proposed Layout

The internal layout of the site is not to an adoptable standard and would not be considered for adoption by the highway authority.

Whilst the access road would not be considered for adoption by the highway authority it should be constructed to Lancashire County Council Specification for the Construction of Estate Roads and provided with street lighting.

The plans indicate speed humps are to be located to the front of the proposed residential dwelling to reduce speed of vehicles within the site which are accessing the proposed retail/office units and the existing Plox Brow Motor business. It is not good planning to access commercial business via a road serving residential properties and the developer needs to carefully consider road safety on this private road.

The plan indicates the edge of carriageway abutting the canal opposite plot 3 and this has safety implications. My recommendation would be to provide a low wall or other barrier along the eastern edge of the proposed road to prevent vehicles running into the canal.

#### Access

The proposed layout indicates that the existing access is to be amended/improved to provide a 5.5m wide access road with a 2m wide footway on the western side which extends into the site to provide safe pedestrian access to the development. The proposed 2m wide footway also extends along the frontage of Plox Brow to connect with the existing footway network.

There is no street lighting on Plox Brow fronting the site. In the interest of highway safety for both pedestrians and vehicles the existing street lighting on Plox Brow should be extended and indicated on amended plans.

In terms of visibility, Plox Brow (U1216) is an unclassified road which has been categorised as a Local Access Road with a speed limit of 20mph fronting the proposed site access. The development will require visibility splays of 2.4m x 25m in both directions of the access road into the site and at the private driveways serving Plots 1 and 2. The site line requirement is based on table 7.1 from Manual for Street and the classified speed of the road.

The Proposed Site Layout drawing indicates the required visibility splays for the access road, however, no visibility splays have been included for the residential Plots 1 and 2 which are accessed directly off Plox Brow. The applicant should submit amended plans which indicate the visibility splays for all accesses.

The construction/improvement of the access and associated off-site works will need to be constructed under an appropriate legal agreement with the Highway Authority under section 278 of the Highway Act 1980.

A detailed scheme for the proposed highway/footway works and street lighting would need to be submitted for approval and constructed under a Section 278 agreement with the highway authority.

#### Parking

Parking provision should be to West Lancashire Local Plan recommended parking.

Bicycle and electric vehicle charging point should be provided in accordance with West Lancashire Planning Authority requirements.

From the plans submitted I am of the opinion that the correct number of parking spaces have been provided for the residential units however the parking

provision for the commercial element of the development would be dependent on the end user / class use of each unit.

#### Conclusion

The principle of the proposed development is acceptable, subject to amended plans to address the above matters regarding the visibility splays. On receipt of amended plans to address my concerns I would be happy to provide appropriate conditions.

06/02/23 - The attached visibility plan (Drawing No. 2706-11) is acceptable and shows the required visibility for all accesses together with the widening of the proposed carriageway to 5.5m with a 2m wide footway extending from the site access and across the frontage of the proposed plots 1 & 2 and the provision of a barrier to prevent overrunning of vehicles.

LCC Highways has no objection to this application subject to recommended conditions.

23/05/23 - Refer to previous comments and request that the conditions recommended on 06/02/23 are included as part of the planning decision.

### 6.3 United Utilities

03/05/23 - Following our review of the submitted Flood Risk Assessment & Drainage Strategy, ref: CFC22041, revision B, dated Feb 2023, we can confirm that whilst the proposals are acceptable in principle, there is insufficient information on the detail of the drainage design. Recommend condition

### 6.4 WLBC Principal Drainage Engineer

13/12/22 - I have reviewed the Flood Risk Assessment & Drainage Strategy (CFC22041; Rev A; November 2022) and would comment as follows:

- It is suggested (page 8) that Flood Zone 3 area is in fact restricted by the canal bank. The nearby Leeds-Liverpool (Rufford Branch canal) does act as a 'pseudo-defence' preventing flood waters from reaching the site. However, the canal is not a formally engineered flood defence and cannot be relied upon as a flood defence measure.

- Flood risk assessment data [Product 4] supplied by the Environment Agency (EA) is contained in Appendix E to this report. Interpretation of this data is subjective, therefore the EA should be asked to comment on the FRA to ensure that its information has been interpreted correctly.

- A Product 4 caveat reads ' The climate change data included in the models may not include the latest flood risk assessment climate change allowances. Where

the new allowances are not available you will need to consider this data and factor in the new allowances to demonstrate the development will be safe from flooding. The Environment Agency will incorporate the new allowances into future modelling studies. For now, it's your responsibility to demonstrate that new developments will be safe in flood risk terms for their lifetime.' It is not known whether climate change data has been included, so again, this is something for the EA to clarify.

- The Drainage Strategy is too vague for my purposes. In essence the surface water and treated foul effluent is said to discharge to the canal, but no drainage layout is apparent. It is also said attenuation will be required, which means a peak discharge rate needs to have been agreed with this LPA and the Canal and Rivers Trust. No evidence is provided.

22/12/22 - I have spoken to the applicants drainage consultant and the first three points I raised in my previous email are now of less concern to me. However, my fourth point is echoed and expanded upon in the response from the Canal and River Trust (posted 12/12/22). I concur with what the Canal and River Trust says but not with the suggestion for the drainage details to be conditioned for the following reasons:

- Although the site is reported to have drained to the canal historically it sounds to me that this may not be permitted in the future, with particular regard to the foul sewage. I am aware of a nearby culverted watercourse but do not know whether this could be utilised or not. If not then I do not understand how the development could be drained of foul and surface water, unless the Canal and River Trust can be convinced to change its stance on the matter.

- Once the surface water outfall is secured the peak rate of discharge will still need to be agreed in writing with this LPA at some point.

In essence, I am not prepared to recommend any conditions regarding the drainage unless outfalls for both the foul and surface water drainage are guaranteed.

03/03/23 - I am now satisfied that both a foul and surface water outfalls are available for this development. A pre-commencement condition is recommended

23/05/23 and 22/06/23 - The amendment to the proposal does not affect my previous comments/recommendations i.e. a pre-commencement drainage condition is still required.

## 6.5 MEAS

04/01/23

The application has been supported by ecological survey reports in line with Local Plan policy EN2. The reports have some minor limitations, although the findings of the surveys can be accepted.

#### Designated sites

The application site lies directly adjacent to the Leeds-Liverpool Canal Rufford Branch Biological Heritage Site (BHS) and also lies near to the following designated sites and Local Plan policy EN2 applies:

The Canal & River Trust has commented on the proposals. In its advice of 16 December 2022, it advises that a CEMP, which includes details of how the transfer of construction and demolition related pollutants into the canal will be avoided, is secured by condition and I support this. Provided that the provision and implementation of a CEMP is secured by a suitably worded planning condition, I do not have any concerns regarding adverse impacts upon the above designated sites.

Recommend conditions in respect of bats, birds, otter, hedgehogs and invasive species.

22/05/23 - I have considered the revised scheme and I advise that previous MEAS advice of 4 January 2023 still applies.

#### 6.6 WLBC - Environmental Health Manager 01/03/23

The applicant is seeking approval for a mixed use development on the south-east part of Plox Brow. The proposal includes the demolition of the warehouse and the two storey office building which will introduce increased noise during the construction of the development.

No information has been provided assessing the potential noise impact from road traffic or nearby adjacent commercial/industrial uses including deliveries and plant / equipment on the proposed development. I therefore recommend that in order for this section to make an informed comment the applicant should be requested to provide further information assessing the noise impact of the external noise sources on the proposed residential accommodation. The report should include, if appropriate, measures to be taken to mitigate excess noise impact.

A Construction Environmental Management Plan should be submitted to be approved by the Local Planning Authority.

In my view the application should be refused until a revised submission is made covering the potential noise impacts from the mixed use development on future and existing occupiers.

## 6.7 Environment Agency

16/06/23 - We object to the proposed development as submitted because it involves the use of a non-mains foul drainage system in circumstances where it may be reasonable for the development to be connected to a public sewer but no justification has been provided for the use of a non-mains system. We recommend that the application should be refused on this basis.

07/07/23 - We have reviewed the resubmitted drainage strategy for the site referenced below:

Flood Risk Assessment & Drainage Strategy, produced by CFA Civils Limited, reference DCFC22041 Rev C, dated June 2023

We are pleased to see that the applicant has confirmed in section 6.3.1.2 of the above report, that a mains drainage connection for foul sewerage is now proposed via an on-site pumping station which will discharge via a private rising main to the public sewer in Plox Brow. We therefore remove our objection to the proposal. Conditions are recommended.

## 7.0 **OTHER REPRESENTATIONS**

### 7.1 Tarleton Parish Council

19/12/22

The Parish Council raised that as it stands the access route to Plox Brow may not cope with more traffic and not more than light industrial traffic and asks that this be taken in to consideration with the application with a view to reassess the road leading to the site.

31/05/23 - no objections to the revised plans however they feel the development would be better suited to "light industrial" without residential dwellings.

### 7.2 Merseyside and West Lancashire Bat Group

06/12/22

I note that a daytime and dusk bat surveys have been undertaken at the site (Echo Bat Calls) and MWLBG do not disagree with the conclusions therein. However, there are a number of points that require some clarification.

Based on our comments MWLBG consider that in order to meet their obligations under the "The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (SI 2019/579" and Local Planning Policy EN2, WLC do not have a sufficient level of information to determine this application relative to a protected species. Subsequently MWLBG wish to place a holding objection to this application until such time that the concerns that I have raised are addressed PRIOR to determination.



Whilst all effort should be taken to avoid disturbance to nesting birds the author of the report should be aware that it is not an offence to disturb nesting birds unless the species concerned is a Schedule I listed species. The Wildlife and Countryside Act 1981 (as amended), makes it an offence to kill, injure or take any wild bird or/and to intentionally take, damage, or destroy the nest of any wild bird or its dependant young while that nest is in use or being built. There are some exceptions to this but generally the previous text is the most applicable. WLC may also wish to consult with their ecological advisors MEAS.

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

- Consider that something needs to be done with the site and that these are good plans but have some concerns
- Welcome use of brownfield site instead of greenfield however have concerns about this particular development
- Not opposed to the development but have some questions
- Object to the proposal
- Concerns about the highway impacts of the development. Road is narrow, pavements do not continue along the full length of the road and visibility is limited. Concern regarding impacts on pedestrian safety. Concerns regarding impact of the resultant traffic on the condition of the existing road. Query if there is a plan for the additional vehicles getting in and out of the site. Consider a new road is necessary to access the development
- Query if the proposal will have a detrimental impact on existing business within the village centre
- Do not agree with the conclusions of the submitted Sequential Test. Consider that Mark Square is a more suitable location within the village centre and advise that this site is available for development.
- Concerns about additional noise from the proposal
- Construction work will affect my health and my property as a result of noise, disruption, mud on the road
- Concerns regarding overlooking/loss of privacy
- Concerns about impact on pets
- Unclear what the proposed development will be for - some types of development would increase crime rate in the area. Consider the development would compromise the security of park home residents
- Note that the existing building's roof contains asbestos
- Concerns regarding impacts on wildlife
- Concerns that the proposal would adversely impact on the Conservation Area.

## **8.0 SUPPORTING INFORMATION**

- 8.1 The application has been supported by the following documents:  
Survey & Assessment in Respect of Bat Species and Nesting Birds  
Preliminary Ecological Appraisal  
Arboricultural Impact Assessment with Arboricultural Method Statement  
Flood Risk Assessment & Drainage Strategy CFC22041 Rev C  
Design and Access Statement  
Email from applicant following call-in request  
Email from applicant's drainage consultant  
Planning Statement (version April 2023)  
Noise Impact 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 within the Key Sustainable Village of Tarleton with Hesketh Bank as designated in the West Lancashire Local Plan 2012-2027 DPD.
- 9.3 **National Planning Policy Framework**  
Promoting healthy and safe communities  
Achieving well-designed places  
Delivering a sufficient supply of homes  
Promoting sustainable transport  
Building a strong, competitive economy  
Conserving and enhancing the natural environment  
Meeting the challenge of climate change, flooding and coastal change
- 9.4 **West Lancashire Local Plan Policies**  
SP1 - A Sustainable Development Framework for West Lancashire  
GN1 - Settlement Boundaries  
GN3 - Criteria for Sustainable Development  
GN4 - Demonstrating Viability  
EC1 - The Economy and Employment Land  
EC2 - The Rural Economy  
RS1 - Residential Development  
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 PLACE AND COMMUNITY**

10.1 The main considerations for this application are:

*Principle of development - Residential development*

10.2 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan 2012-2027 DPD provide the policy framework against which the development proposals will be assessed. Policy RS1 of the Local Plan states that within the Key Sustainable Villages, residential development will be permitted on brownfield sites, and on greenfield sites not protected by other policies, subject to the proposals conforming with all other planning policy. The principle of residential development on the site would therefore be acceptable subject to compliance with other relevant planning policies.

*Principle of development - Office accommodation*

10.3 As detailed above at paragraph 4.1 the description of the proposed development has been amended so that the commercial element of the proposal is now solely for office accommodation. The Use Classes Order was amended in 2020 and office accommodation that was formerly Use Class B1(a) now falls within Use Class E(g)(i).

10.4 Offices are classified as main town centre uses by Annex 2 of the NPPF and paragraph 87 of the Framework indicates main town centre uses should be subject to a sequential test. However, West Lancashire Local Plan 2012-27 DPD Policy EC1 criterion 2c) permits B1 office uses (now use class E(g)(i)) as the adopted Local Plan predates changes to the Use Classes Order within Other Existing Employment Sites and so the commercial element of the proposed development is therefore considered to be compliant with local and national planning policy.

10.5 However, if the proposal is considered as an approval, it is considered appropriate to impose a condition to restrict the permitted development rights for change of use of the office element of the scheme to other uses within Use Class E. This would include not permitting a change of use to retail, food and drink which is mostly consumed on the premises and indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink) (Classes E(a), E(b) and E(d) respectively). Certain uses, such as retail, would require a sequential test in regard to the impact on the town centre as a result of local and national planning policy. For other categories within Class E the Council would wish to assess further the impacts on neighbouring properties, the nearby canal and the proposed linear park.

*Loss of existing employment use*

- 10.6 Policy EC1 of the Local Plan seeks to protect the continued use of existing employment sites. The redevelopment of existing employment sites for other uses will be considered where a viability case can be put forward (in line with policy GN4) and where the provisions of Policy EC2 and EC3 are met where relevant.
- 10.7 Application ref: 2017/0819/OUT for the redevelopment of the whole site to a residential use of 14 dwellings was approved on 22.09.2020 and at the time of writing remains an extant permission. Therefore the principle of the loss of all employment use on the site has been accepted. Nonetheless the current application proposes to retain a commercial / employment use with the creation of 16 units of office accommodation.
- 10.8 It is considered that the loss of the employment use of the site is compliant with the requirements of policies EC1, EC2, EC3 and GN4.

*Impact on Linear Park*

- 10.9 Part of the site lies within an area of land identified for the provision of a Linear Park between Tarleton and Hesketh Bank. The Local Plan Policies Map illustrates this and policy IF2 of the Local Plan applies.
- 10.10 Policy IF2.1 states that the Council will support the delivery of, and not allow development which could prejudice the delivery of, the following schemes: ix. The provision of 4 linear parks between ... Tarleton and Hesketh Bank. Whilst the exact route of the linear park is to be identified it is along the north-south alignment of the proposed access road of this development.
- 10.11 In its current form the proposed development would not affect the delivery or future use of the linear park however future development such as fencing may cause an impediment and prevent through traffic of pedestrians, cyclists or other users of the proposed Linear Park between Tarleton and Hesketh Bank. It is therefore recommended that a condition is imposed removing all permitted development rights to erect fences, walls or any other enclosures on the main access road of the development. Subject to the recommended condition it is considered the proposal complies with the requirements of policy IF2.1.

*Impact on canal*

- 10.12 The site is located adjacent to the Leeds to Liverpool Canal and a small part of the site is owned by Canal and River Trust (CRT) who have provided comments in respect of the proposal.
- 10.13 It is considered that the demolition and construction works would not result in a direct impact on the canal however upgrading of the access road and associated works would take place close to the canal bank. These would need to be

carefully managed to avoid adverse impact to the stability of the canal infrastructure. Matters relating to drainage are also highlighted within the CRT response. Several conditions have been recommended by CRT which are considered to be appropriate and relevant to the proposal and form part of this recommendation

### *Design/Layout*

- 10.14 The NPPF in chapter 12 sets out that the planning and development process should achieve the creation of high quality, beautiful and sustainable buildings and places. Development should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. In particular paragraph 131 sets out that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.
- 10.15 Paragraph 134 states that "Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design."
- 10.16 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. Policy EN4 seeks to protect and enhance non-designated heritage assets.
- 10.17 The site is located at the end of Plox Brow where there has been recent residential development to the northern side of the road. The Plox Brow Conservation Area is located to the west but separated from the site by the caravan park - Meadow Park. Having regard to their scale and design the proposed buildings are considered to be in keeping with surrounding development. The proposed materials are, in principle, acceptable however to ensure the development sits well within the wider street scene a condition would be recommended requiring details of materials to be submitted for agreement. Details of the bin storage area for Block B of the office accommodation is not shown on the plans. A condition in this regard would also be recommended.
- 10.18 Notwithstanding the above the layout of the site is considered to be unacceptable. As detailed further below in this report the proposed layout does not include adequate soft landscaping or replacement planting for the loss of protected trees. The frontages of plots 1, 4, 5 and 6 would be heavily dominated by areas of hardstanding for parking. Similarly no provision has been made for suitable soft landscaping areas within the commercial area of the site.

- 10.19 The importance of good design and layout of development, together with the provision of appropriate soft landscaping to ensure that the development responds appropriately to its surroundings, has been subject of a recent appeal decision received by the Council. The Inspector noted: *The limited amount of landscaping to the frontage area would fail to soften the impact of the buildings or the courtyard, which would be dominated by parking provision. The resulting layout and form of the development would be a marked contrast to, and would be at odds with, the prevailing character and appearance of the area, which has a greater sense of openness, space and greenery. Therefore, the proposal fails to respond to its context or reinforce the local characteristics of the area.*
- 10.20 Whilst it is acknowledged that the site is currently covered by commercial uses there is existing amenity landscaping provided by the existing TPO trees. The site sits within the context of the open green space alongside the canal and beyond, the low level development of the caravan park and the new development to the north which is screened by suitable soft landscaping. The layout of the development together with the lack of suitable provision for landscaping results in a development which would fail to respond to its context and would not reinforce the characteristics of the local area. It is considered that the proposed development fails to comply with the requirements of local plan policies GN3, EN2 and the requirements of the NPPF.

*Impact on residential amenity*

- 10.21 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 proposed and neighbouring properties.
- 10.22 Concerns have been raised in regard to potential for overlooking and loss of privacy to nearby properties within the caravan park. The proposed dwellings on plots 4, 5 and 6 are situated to the east of the caravan park at a slightly oblique angle. The caravans within the residential park are positioned close to each other with, in most cases, approximately 3 metres between two caravans.
- 10.23 The proposed distance between the rear elevation of plots 4, 5 and 6 and the nearest caravans would be at least 22m. I am satisfied that the distance exceeds the guidance set out in the SPD - Design Guide. Due to the position of the dwelling in relation to neighbouring properties I am satisfied that the siting of the proposed dwellings would not result in overshadowing, overlooking or loss of privacy to nearby residential properties. Furthermore I note that each new dwelling would be provided with a private amenity area that meets or exceeds the minimum requirements set out within the SPD - Design Guide.

- 10.24 The office accommodation Block A would be located within approx. 12.5m from the nearest caravan however there would be no windows in the western elevation and therefore no resultant overlooking or loss of privacy. Due to the distance and the relative height of Block A I consider that there would be no significant impacts as a result of overshadowing to warrant refusal of the application on this basis.
- 10.25 It is noted that the Council's Environmental Health Officer raised concerns regarding the impact of the proposed development in respect of noise. These comments were received prior to the submission of the amended plans/documents restricting the use of the commercial units to office accommodation. Subject to a condition restricting the use to office within Use Class E(g)(i) and the above assessment I am satisfied that the proposal would comply with the relevant requirements of local plan policy GN3 1(iii).

### *Highways*

- 10.26 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.
- 10.27 Concerns regarding the impact of the development on highway safety along Plox Brow are noted. I have consulted the Highway Authority in respect of the proposal. The Highway Authority have indicated there is no objection in principle to the proposed development and is of the opinion that the proposed development would not have a severe impact on highway capacity and highway safety within the immediate vicinity of the site. Suitable access to the site with appropriate visibility splays has been demonstrated. In addition suitable parking in accordance with policy IF2 has been demonstrated for each dwelling.
- 10.28 The submission indicates that 742sqm of floorspace is to be created for use as office accommodation. In accordance with appendix F of the local plan 18 parking spaces are required with 5% of the total being allocated as disabled parking spaces. Further provision is required for cycle and motorcycle parking. The submission demonstrates that 26 spaces would be provided with 3 spaces being disabled spaces. The parking provision is therefore considered to be in accordance with policy IF2 and appendix F of the local plan. An area adjacent to Block A is shown to be available for cycle parking however no detail of the proposed provision is provided. A suitable condition is recommended requiring details of the cycle parking to be submitted for agreement.
- 10.29 Subject to recommended conditions I am satisfied the development would comply with the requirements of local plan policies GN3 and IF2.

### *Ecology*

- 10.30 Policy EN2 (1) of the WLLP states that where there is reason to suspect that there may be a priority species, or their habitat, on or close to a proposed development site, planning applications should be accompanied by a survey assessing the presence of such species and, where appropriate, making provision for their needs. This allows the LPA to screen the project against the Habitats Regulations and relevant national and local policy.
- 10.31 The application has been accompanied by a Survey & Assessment in Respect of Bat Species and Nesting Birds and a Preliminary Ecological Appraisal. The submission has been considered by the Council's Ecology advisors MEAS, who consider that the findings of the surveys can be accepted and recommend conditions to protect Biological Heritage Sites and in respect of bats and birds are required. The applicant has confirmed there will be no disturbance to the canal bank and therefore I do not consider a water vole survey is necessary prior to determination of the application in this case. Other conditions are recommended in respect of impacts on otter, hedgehog and invasive species during the construction process. Such matters are covered by legislation outside of the planning regime and therefore such conditions would not be relevant to planning and would not meet the six tests set out within the NPPF. Informative notes can be added to the decision to advise developers of the requirements in respect of relevant legislation.
- 10.32 Subject to appropriate conditions and advice notes recommended it is my view that the proposed development would not adversely impact on protected species or their habitats and on that basis the proposal complies with the requirements of local plan policy EN2.

### *Trees*

- 10.33 Policy EN2 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.
- 10.34 A group of trees, including 23 sycamores 2 ash 1 birch, within and alongside the site are protected by Tree Preservation Order (TPO) No 28/2000. The trees are mainly located alongside the western boundary of the site with two Ash trees on the northern boundary. It is noted that the tree numbers within the submitted AIA and associated plans do not match those of the TPO.
- 10.35 The Council's arboricultural officer has been consulted in respect of the proposal and raises concerns regarding the loss of the TPO trees and other trees within the site. From the site visit inspections it appears that TPO trees have been previously removed from the site. T2 of the WLBC 28/2000 TPO which has not been included on the submitted information is missing from site. The Council



have no records of an appropriate application relating to the removal of this tree and it is noted the tree is visible on Google Streetview in 2019. The applicant has stated they purchased the site in October 2022 and that they did not remove the tree.

- 10.36 The arboricultural officer has confirmed that it was apparent from the site visit that T1 of the WLBC 28/2000 TPO is in decline due to disease. There is no objection to the removal of this tree. It is also noted that although G1 of the WLBC 28/2000 TPO has little arboricultural merit it does provide good visual amenity within the locality. The AIA demonstrates that four trees would be lost from this group with eight remaining. This does not match the landscaping shown on the site plan which shows a different amount of trees and trees within different positions within the site.
- 10.37 The site has three frontages for amenity provision; The Canal, Plox Brow and Meadow Park. All three aspects will lose significant visual amenity as a result of the proposal. The submission does not demonstrate the equivalent level of amenity to be replaced. Officers have considered whether an appropriate condition could be imposed requiring details of replacement planting to be submitted. However, having surveyed the site the Arboricultural Officer is unable to establish that there would be sufficient room for such replacements. The submission does not demonstrate that the development meets a need that could not be met elsewhere or that the benefits of the development could not be met elsewhere. On that basis it is considered that the proposal fails to comply with the requirements of policy EN2.

#### *Drainage/Flooding*

- 10.38 The submission has been accompanied by drainage documentation which has been considered by the Council's drainage engineer, Environment Agency, Canal and River Trust and United Utilities. Whilst the principle is acceptable a more detailed design is required along with details for the maintenance of the proposed sustainable drainage system for the lifetime of the development. On that basis a pre-commencement condition is recommended requiring further details of the foul and surface water drainage to be submitted for agreement. The Environment Agency have raised concern that there is potential for land contamination from the former use to affect watercourse nearby to the site. Further details are required which can be secured by condition.

### **11.0 CONCLUSION**

- 11.1 The principle of the proposed development is considered to be acceptable and compliant with local plan policies and subject to appropriate conditions the proposal is not considered to have any significant adverse impacts on highway safety, neighbouring amenity, drainage, ecology habitat or protected species. However the proposed layout of the development fails to demonstrate that

suitable replacement planting to mitigate the loss of the protected trees and the associated visual amenity afforded by these trees can be provided. Nor has suitable landscaping been incorporated into the scheme. It is therefore considered that the proposal fails to meet the requirements of Chapter 12 of the NPPF, Policies GN3 and EN2 of the West Lancashire Local Plan 2012-2027 DPD and the guidance within Supplementary Planning Document - Design Guide.

## **12.0 RECOMMENDATION**

12.1 That the decision to grant planning permission be REFUSED for the following reason:

1. The proposal conflicts with the NPPF, Policies EN2 and GN3 in the West Lancashire Local Plan 2012 - 2027 and Supplementary Planning Document - Design Guide in that the design and layout of the development fails to provide adequate replacement planting to mitigate the loss of the protected trees. Furthermore due to the proposed layout of the site and the lack of opportunity for appropriate soft landscaping to be provided it is considered that the proposal would fail to integrate well into the existing grain of development.

## **13.0 SUSTAINABILITY IMPLICATIONS**

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

## **14.0 FINANCIAL AND RESOURCE IMPLICATIONS**

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

## **15.0 RISK ASSESSMENT**

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

## **16.0 HEALTH AND WELLBEING IMPLICATIONS**

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

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## **Background Documents**

In accordance with Section 100D of the Local Government Act 1972 the background papers used in the compilation of reports relating to planning applications are listed within the text of each report and are available for inspection in the

Planning Division, except for such documents as contain exempt or confidential information defined in Schedule 12A of the Act.

### **Equality Impact Assessment**

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

### **Human Rights**

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

### **Appendices**

None.