

Agenda



HYNDBURN

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Planning Committee

Wednesday, 9 October 2019 at 2.00 pm,
Scaitcliffe House, Ormerod Street, Accrington

Membership

Chair: Councillor Eamonn Higgins
Vice-Chair: Councillor Dave Parkins

Councillors Judith Addison, Jean Battle, Stephen Button, Stewart Eaves, Diane Fielding, Melissa Fisher, Abdul Khan, Patrick McGinley, Kath Pratt, Paddy Short and Kate Walsh

S U P P L E M E N T A L A G E N D A

3. **Town and Country Planning Act 1990- Planning Applications for Determination (Continued)**

Contents sheet for Agenda Item 3 attached.

The following item is proposed to be considered as a matter of urgent business with the Chair's agreement in accordance with Section 100B(4) of the Local Government Act 1972, the reason being to enable to application to be determined as soon as possible in order to meet relevant planning performance targets.

Additional planning application included in relation to the following:

3D - 11/19/0141: Land off Miller Fold Avenue, Miller Fold Avenue, Accrington

Major Full: Residential development to create 46no dwellings (16 x 2 bed and 30 x 3 bed 2 storey buildings)

Recommendation - That the application be determined as set out in the report.

The following item is proposed to be considered as a matter of urgent business with the



Chair's agreement in accordance with Section 100B(4) of the Local Government Act 1972, the reason being to provide Members with the up to date position with regard to planning appeals lodged.

4. Planning Appeals (Pages 29 - 34)

Report attached.

REPORT TO: PLANNING COMMITTEE, 9th October 2019, 2.00PM

REPORT BY: CHIEF PLANNING & TRANSPORTATION OFFICER

**APPLICATIONS SUBMITTED UNDER
THE TOWN AND COUNTRY PLANNING ACT 1990 FOR DETERMINATION**

Purpose of Report: To present planning applications for determination as set out in the report.

3A	11/19/0159	William Blythe Ltd, Bridge Street, Church, Accrington, Lancs BB5 4PD Hazardous Substance Consent: Changes to the location and quantity of a number of substances including transport to and from the site and in the site.
3B	11/19/0211	Land Adjacent to Back Owen Street, Accrington Erection of 6 no supported living (C2) units with associated parking and communal area.
3C	11/19/0264	Hyannis, Hindle Fold Lane, Great Harwood, BB6 7PT Erection of 2-storey extension to replace existing garage building with new hipped roof above existing 2-storey front extension (resubmission 11/18/0491).
3D	11/19/0141	Land off Miller Fold Avenue, Miller Fold Avenue, Accrington Major Full: Residential development to create 46no dwellings (16 x 2 bed and 30 x 3 bed 2 storey buildings)

NOTE: The policies referred to under “Relevant Policies” are set out in the Hyndburn Borough Local Plan, Hyndburn Core Strategy and National Planning Policy Framework.

A list of the above documents and background papers relating to each planning report can also be inspected at Scitcliffe House, Accrington, upon request or via the Hyndburn Borough Council website:

<http://planning.hyndburnbc.gov.uk/WAM/searchsubmit/performOption.do?action=search&appType=Planning>

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Application Number: 11/19/0141

Full Application Major Full: Residential development to create 46no dwellings (16 x 2 bed and 30 x 3 bed 2 storey buildings)

Address: Land off Miller fold Avenue Miller Fold Avenue Accrington

Determination by: 20th Oct 2019 (extension agreed)

Applicant: Gleeson Homes

Agent: No agent

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 the following rights:-

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

Application Site

The site comprises an area of open grassland that is broadly rectangular in shape and slopes gently from south to north. The site is bounded to the south and west by existing residential properties which back onto it. Property boundaries are defined by timber fences interspersed with tree and hedgerow planting.

To the north the site is bounded to the north by the 17 acre Bullough Park and to the east Woodnook Vale, a Local Nature Reserve. The site lies within a high Risk Area in terms of coal mining. There are groups of trees and shrubs in and around the boundaries of the site.

Proposal

The applicant is seeking full planning permission for 46 new dwellings along with associated infrastructure. Access to the site for both pedestrians and vehicles will be via a new access taken from the end of Miller Fold Avenue. A further pedestrian link is provided from the site to Woodnook Vale along the eastern boundary.

Consultations

Public consultation: 5 letters of objection have been received and the following reasons have been stated:

- Increase in local traffic and impact on highway safety
- The area has been used by walkers for years. Under s31 of the Highways Act 1990 a path is deemed a PROW after 20 years.
- No footpaths are provided between Willows Lane and Miller fold and the current footpaths between Miller Fold and the Miller Fold allotments are ill defined, the addition of traffic will cause problems for the users of these and those crossing between the 'stables' and 'Bollough Park'
- Loss of open views
- Spoil the natural habitat
- Security issues and anti-social behaviour with the creation of an alley way
- Impact on trees
- Overshadowing of existing houses
- Visual Amenity
- Increase in pollution due to increase in traffic

One general comment has been received from a local councillor who welcomes the development and agrees with the requirement of LCC Highways to have the zebra crossing. If this is not agreed he has asked that the application be determined by planning committee.

LCC Highways: No objection and the following observations received:

- The visibility splay at the entrance to the east needs to be maintained in perpetuity
- Bus stop needs repositioning and new Zebra on Willows Lane
- S38 agreement required between LCC, Gleeson and HBC to allow the dedication of the land on Miller Fold Avenue across the proposed site access and visibility splay
- Highway drains will need to be increased in size and this will be carried out through a commuted sum in the S38 agreement
- Parking standards are met
- Covered cycle storage and electric charging point required for each house

Conditions relating to the following are required:

- Construction Method Statement
- Scheme for site access and off site highways works
- Details of internal roads, construction and maintenance (expected to be a s38 agreement)
- Driveway constriction to be porous material
- 2no. cycle store and electric vehicle charging points for each house

Following further discussions the Highway Authority has confirmed they don't require the zebra crossing, instead they are satisfied with:

- Construction of a kerbed build out with associated drop kerbs and formalization of on street car parking at Willows Lane in the vicinity of Miller Fold Avenue

- DDA compliant bus border kerb at the nearest bus stop on Willows Lane.

Lead Local Flood Authority: No objection subject to the inclusion of a condition relating to a final Sustainable Drainage Scheme being submitted.

United Utilities: No objection subject to the inclusion of a condition to ensure no surface water drainage goes into their drains in accordance with the Flood Risk Assessment which has been submitted with the planning application.

HBC Environmental Health: No objections to the development, provided conditions relating to the following are included:

- Site preparation and construction phase
- Noise control
- Mechanical ventilation
- Contamination
- Reassessment of dust risk assessment
- Lighting scheme

HBC Parks: Request for £65179 in relation to the provision of offsite open space to be spent at Bullough Park.

HBC Ecologist: Initial objection was received which highlighted unit 29 was too close to trees, and there was a significant loss of trees, hedgerow and wildflower meadow as a result of the development which needed to be compensated.

Following discussion amended plan was received amending the location of unit 29, this has resulted in the objection being removed provided net gain is achieved by the following compensation:

- Trees and woodland (£45570)
- Hedgerow £5850
- Meadow replacement £57250

If these payments aren't received net gain is not achieved on the site.

Also the inclusion of the following conditions is required:

- Revised Arboricultural Impact Assessment and Arboricultural Method statement
- Bird and bat boxes
- External lighting
- Hedgehog protection
- Japanese Knotweed and Himalayan Balsam treatment
- Landscaping scheme
- Amphibian and small mammals Method Statement
- No removal of trees etc between 1 March and 31 August
- Conditions related to protected species.

HBC Regeneration: Supportive of the development and proposed mix of housing. If possible consideration should be made to bungalows. 30% of affordable provision needs to be tailored to meet the needs of elderly or disabled.

Lancashire Police: No comments received within the 21 day statutory period.

Lancashire Fire and Rescue: Recommendations are made which are largely covered by the building regulations; applicant is directed to comments through an informative.

LCC Education: No request for financial contributions towards education for this development.

United Utilities: No objections provided conditions are attached relating to the surface water drainage scheme for the development.

Coal Authority: Initial objection to the development was received as the information submitted with the application was considered inadequate. On submission of further information this objection was removed.

Electricity Northwest: No comments received within the 21 day statutory period.

HBC Environmental Initiatives and Improvements Officer: Comments received: Subject to satisfactory conclusion relating to Development Management discussions it is possible to modify the boundary of the Local Nature Reserve (LNR). However provision is required for the following:

- An attractive boundary between the access road and remaining HBC land (for visual amenity and to deter fly tipping) to enhance the quality of the key LNR entrance

Vehicle access is required to the remaining HBC land to ensure it does not become landlocked and can be maintained

(This could be achieved by creating an access strip with stone surfacing and drainage between the development site and the woodland).

- Gateway/boundary to that access strip, which allows for occasional vehicle access but deters unauthorised motorbikes, quads etc- a long standing issue in that area

There seems to be a discrepancy in boundaries. The planning layout shows a turning head at the end of Miller fold Avenue, but the remaining track gives access to several residential properties and HBC land. The footway shown on the south side if on HBC land and due to gradients may interfere with the entrance infrastructure.

Relevant Planning History

None

Relevant Policies

Development Plan

Hyndburn Core Strategy (CS)

Policy BD1

The Balanced Development Strategy

Policy E2	Protection, Modernisation and Development of Employment Sites
Policy H1	Housing Provision
Policy H2	Affordable Housing
Policy HC1	Green Space and Facilities for Walking and Cycling
Policy HC3	The Design of Residential Roads
Policy HC4	Community Benefits/Planning Obligations
Policy Env2	Natural Environment Enhancement
Policy Env4	Sustainable Development and Climate Change
Policy Env6	High Quality Design
Policy Env7	Environmental Amenity

Development Management Development Plan Document (DMDPD)

Policy GC1	Presumption in favour of Sustainable Development
Policy GC2	Infrastructure, Planning Obligations and CIL
Policy DM10	New Residential Development
Policy DM11	Open Space Provision in New Residential Development
Policy DM12	Affordable housing
Policy DM16	Housing standards
Policy DM17	Tree woodlands and Hedgerows
Policy DM18	Protection and enhancement of the Natural Environment
Policy DM19	Protected Species
Policy DM20	Flood Risk Management and Water Resources
Policy DM24	Contaminated or Unstable Land and Storage of Hazardous Substances
Policy DM25	Pollution Control
Policy DM26	Design Quality and Materials Policy
Policy DM29	Environmental Amenity
Policy DM31	Waste Management in all new development
Policy DM32	Sustainable Transport, Traffic and Highway Safety

Material considerations

National Planning Policy Framework (NPPF) including
National Planning Practice Guidance (NPPG)
Hyndburn Borough Council Car Parking and Access Standards (2010)
Householder Design Guide (SPD) 2009
DCLG- Technical Housing Standards March 2015.
DMDPD Guidance Notes GN1, GN2, GN3, GN7, GN8 and GN10.
Nerc Act 2006

Observations

Principle of development

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of applications under the Planning Acts should be in accordance with the Development plan unless material considerations indicate otherwise. In this instance the

Development Plan comprises the saved policies of the Hyndburn Core Strategy (CS) and the Development Management Development Plan Document (DMDPD).

The majority of the proposed development is on a site which is located within and adjacent to the urban boundary as shown on the policies map which accompany the DMDPD. A strip of the land to the east of the site separates it from the Green Belt and a small part on the south-eastern side of the access point from Miller Avenue is within Green Belt. The site is allocated for residential development under saved policy H1 of the Hyndburn Local Plan (site 45).

As this policy pre dates the Core Strategy it is necessary to consider whether the allocation is in keeping with the more up to date plan. The site is located on the periphery of Accrington urban area; a location to which Core Strategy seeks to direct the majority of new development, including housing, within the plan period (Policy Bd1 ad A1). The allocation is considered in keeping with the more recent spatial strategy set out in the adopted Core Strategy and as such, in principle the development is supported subject to the consideration of the detail planning policy matters which are addressed below in the report.

The element of the development which is to be located within Green Belt would not however be in line with local or national planning policy. However officers consider that at the time of allocation of the site for housing this was considered and that it was accepted that a slight amendment to the Green Belt would be required. This therefore will be addressed as part of the planning balance.

Viability Assessment:

The applicant has submitted a viability assessment which has been considered independently by external consultants. The outcome of this consideration is that as the planning application process has developed, there have been further abnormal costs identified associated with the development which include Japanese Knotweed treatment (– cost increased from £10,000 to £80,000), protected species costs including drainage redesign (– new cost item of £10,330).

There are also the following costs which have been identified in terms of planning contributions:

- Trees £45,570
- Hedgerow £5,810
- Meadow £57,260
- POS £65,179
- Bins £5,750
- Highways £20,000

Including all these costs would generate a residual land value which is below the land value benchmark and on this basis the development would not be sufficiently viable to support all required contributions.

In this case, the applicant is purchasing the land at a price which is over the bench mark land value identified by the consultant. The PPG is clear when the market value exceeds the bench mark land value, this is not an excuse for developers not to pay the obligations which are required by policy.

Indeed, paragraph: 002 Reference ID: 10-002-20190509 of the Planning Practice Guidance on viability states that *'the price paid for land is not a relevant justification for failing to accord with relevant policies in the plan. Landowners and site purchasers should consider this when agreeing land transactions'*.

As such despite this higher value being paid for the land, the consultants have used the bench mark land value and have not accepted the market value in the figures.

Thereafter differing levels of contributions have been considered. Using the bench mark land value in their calculations, the consultants have shown that there is sufficient viability to allow contributions towards bins and highways and also a further £45000 towards the other costs listed above.

Loss of Green Belt

National Planning Policy Framework (NPPF) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight needs to be given to the harm to Green Belt in decision making.

In the Green Belt, very special circumstances only exist where the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations. The site is allocated for development in the local plan and by virtue of its allocation it must have a suitable access. Although every effort was made to design an access that did not infringe on the Green Belt this has not been possible and a small stretch of Green Belt will therefore be lost. However, this does not harm the general extent of the Green Belt in this location and the need for the access to meet the specifications of the Highway Authority represents the very special circumstances that outweigh this minimal loss of Green Belt.

Traffic and Highway Safety

Policy Env7 of the Core Strategy aims to avoid development which has an unacceptable adverse impact by reason of traffic, and Policy HC3 deals with the design of residential roads. DMDPD DM 32 provides further detail in relation to traffic and highway considerations. The revised NPPF states in paragraph 109 that *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*.

The applicant has submitted a Transport Statement with the application which has been considered in full by the Highways Authority (HA).

The proposed site access provides visibility splays of 2.4m x 25m in both directions on Miller Fold Avenue which is a 20mph speed limit. The splay to the east of the proposed site access goes over Hyndburn Borough Councils land and as such, the HA considers it is necessary to secure an agreement to ensure that this splay is protected in perpetuity. This will be done under a s38 Agreement and a suitable condition is attached to ensure this.

The pre-application advice that was provided highlighted concerns about pedestrian movements across Willows Lane and the collisions which had occurred in the previous 5 years which included a serious child pedestrian injury. The Transport Statement highlights that this collision in particular is no longer on the records within the previous 5 years. Therefore it is agreed that the updated position is that there are no collisions on Willows Lane in the vicinity of the site within the previous 5 years.

However, Officers and the HA still have concerns in relation to pedestrian movements on Willows Lane evidenced by historical requests from residents and politicians representing the constituency who have difficulty crossing Willows Lane. During the HA Officers site visit they also encountered these difficulties.

It was initially considered by the HA that it is feasible to construct a zebra crossing on Willows Lane to the north of Broadfield Avenue when considering the constraints of the existing on-street parking, existing driveways, road geometry and bus stop, although the bus stop will require re-positioning and the on-street parking will require consolidating to a certain extent. However following discussions between the applicant and the HA they have agreed that a more cost effective way of securing the safety of pedestrians which would include the construction of a kerbed build out with associated drop kerbs and formalization of on street car parking at Willows Lane in the vicinity of Miller Fold Avenue and the provision of DDA compliant bus border kerb at the nearest bus stop on Willows Lane. These works are considered necessary by the HA to make the development acceptable and have been agreed with the applicant. The works will be provided through a s278 Agreement with the County Council. The expected costs of the works is approximately £20000 and will be borne by the developer.

The HA accept that the internal layout is designed to adoptable standards and can be formally adopted by them subject to the details below being progressed.

- The adopted highway on Miller Fold Avenue terminates to the west of the proposed site access. Therefore to allow the estate road to be adopted by the Highway Authority, Hyndburn Borough Council as landowner will need to be party to the Section 38 agreement, together with Gleeson Homes, to allow the dedication of the land on Miller Fold Avenue across the proposed site access and the visibility splay. Without this, the estate road will remain private and will need to be covered by a private management and maintenance agreement.

- The proposed highway drains will require increasing to 225mm diameter due to the number of road gullies and there will be a commuted sum within the S38 agreement

It is also accepted by the HA that all the dwellings have off-street car parking in accordance with the parking standards. As such, a condition is included to ensure that all dwellings will have secure covered cycle storage and an electric vehicle charging point.

There is also a list of conditions required by the HA in the consultation section of this report.

With these included Officers consider that the development is acceptably in this regard and in line with the relevant local and national planning policies.

Design, Scale and Layout

Core Strategy Policy Env6 places emphasis on high quality design and requires an enhancement of the character and quality of both townscape and landscape. High quality design must take into account urban form, urban grain, landscape, density, mix, scale and appearance. This is also reflected in the requirements of DMDPD DM26 and at a national level in the NPPF.

The materials to be used in the development have been agreed. These will be main brick – Forterra Abbey Multi Red for the main brick, with a contrasting brick of Forterra Farmstead Antique – Agreed. Roof tiles will be a thin leading edge in grey. Suitably worded conditions are included to ensure only these materials are used for the external walls and roof. The design of the dwellings is considered acceptable, although not outstanding, they are in line with low cost housing expectations; there will be soldier courses around windows to provide some detail and interest.

It was also made clear in the pre application advice response provided by officers that gravelled areas must be kept to a minimum in the scheme. As a result the swathes of gravel seen in previous developments in Rishton and Church have been significantly reduced. A white gravel will be used and again has been conditioned. A gravel plan has been submitted and is approved under condition 2 to ensure that the areas are minimal in the development; this will markedly improve the visual impact of the gravel paths in the development in accordance with the relevant planning policies.

The houses will be 2 storey and use white UPVC for doors and windows; they will also have off road parking, with space adjacent to build garages in the future. The layout was slightly amended at plot 29 to move it away from the boundary, due to protected species but also due to the impact of trees on the proposed development. This is considered to improve the scheme.

Overall officers are satisfied that with the discussed amendments and the conditions listed in the report the development is acceptable and in line with relevant planning policies in relation to design, scale and layout of the development.

Housing Mix

Core Strategy Policy H1 states that new housing development will aim to provide a mix of house types as set out in the policy. This development would provide a mix of housing which would be located within the densely built town centre location. As such it is considered that the mix would provide a different type of housing to the terraced properties in the area and is welcomed and considered to be in line with the relevant planning policy.

The planning application refers to 17 x 2bed and 29 x 3bed semi and detached dwellings. The mix of house sizes 2 beds (approx. 37%) and 3 beds (approx. 63%) is supported and provides a mix of accommodation sizes for households in housing need. 74% are proposed as semi-detached and 26% as detached – this fits comfortably with Policy H1 and the surrounding house types across the Borough.

As such officers are satisfied that the proposal meets with the relevant planning policies in this regard.

Affordable Housing

Policy H2 of the Core strategy requires developments of 15 houses or more to make provision of 20% of the houses to be affordable. It goes on to say that in meeting this target consideration will be given to the availability of financial grants and evidence on the economic viability of individual developments. DMDPD DM11 and DM11 and DM16 provide further policy on this matter.

The proposals submitted in the Planning Statement refer to the properties being delivered as low cost homes for sale in keeping with the NPPF definition of 'discounted market sales housing'; a form of affordable housing offered for sale at a discount of at least 20%.

However as the houses are not to be sold at this reduced level in perpetuity then it is not considered by officers that this model meets with the definition within the NPPF. As such officers have requested that 20% of the houses being provided meet the requirements of the policy in another way; it has been agreed that this requirement can be met through a s106 agreement attached to the planning permission ensuring that this is the case.

As such with this inclusion it is agreed that the proposed development meets the requirements for the provisions of affordable housing and meets the relevant planning policy in this regard.

Housing Standards

DMDPD DM16 gives a requirement that all new housing must meet with the National Space Standards in terms of floor area and storage. There is an allowance within this policy for viability assessments to show that if the houses were built to these standards the development would not be viable.

Following the submission of amended plans, it is evident that the proposed units do not meet with these provisions.

The viability assessment has been considered by an external consultant and it shows that there is some viability in the site (approximately 345000), however due to the nature of the development and the model used by Gleasons, it is not possible to increase houses sizes. This element of policy therefore is not met and this weighs against the development in the planning balance.

The policy also requires that 30% of the affordable housing to be provided should be easily adaptable for elderly or disabled. The onus of on the developer to demonstrate this. This has not been done within the application, and due to the small house sizes officers do not consider that it is likely to be the case. Without the evidence being submitted, therefore this cannot count in favour of the development in the planning balance.

Residential Amenity

Policy Env7 of the Core Strategy relates to residential amenity and states that proposals for new development will be permitted only if it is demonstrated that the material impacts arising my reason of traffic, visual impact, noise, dust, emissions, pollution, odour, over-looking or loss of light, or other nuisances will not give rise to unacceptable adverse impacts or loss of local amenity and can be properly controlled in accordance with best practice and recognised standards. The requirements of DM29 reflect this.

- Contamination:

In terms of contamination of the site, no works have been undertaken. The Council's Environmental Health Officer (EHO) has requested a condition to ensure this work is carried out prior to commencement of any development on the site, any mitigation can then be agreed. This condition is added.

- Amenity of existing and future residents:

The Council's EHO has also requested conditions in relation to site preparation and construction phase, noise control, mechanical ventilation, dust management and lighting. These conditions are also added. As such with the inclusion of these conditions, Officers are satisfied that the development is acceptable in these regards.

There have been objections received to the proposal regarding the proposed properties being over shadowing to the existing houses adjacent. However officers have considered the plans and do not agree. The properties to the south and west are suitable distanced away from the proposed houses not to be significantly detrimentally affected by overshadowing from the new dwellings.

The council also has a policy which relates to distances between existing and proposed dwellings: 21m between habitable windows and 12m between habitable windows and gable

ends (DMDPD DM29). Looking at the plans, officers were satisfied that these distances are widely met. The only units which don't meet are plots 15 and 41. The distance here between habitable rooms is 17m, which is 4m short of the required distance. These have been amended by the applicant and now these units meet with the requirements.

As such the development is considered acceptable in this regard and meets with the relevant local and national planning policies.

Open Space

Policy HC1 of the Core Strategy requires that developments of over 10 houses or more will contribute towards the provision and maintenance of good quality, accessible, multi-functional green space. It goes on to say that if it is demonstrated that it is not possible to make provision on the site, then a financial contribution in lieu of actual provision will be provided by the developer that will be used to improve or maintain nearby areas of greenspace and improve pedestrian or cycleway facilities. More detail is provided within DM11 of the DMDPD.

The Council's Parks department have considered the proposal and have requested off site contribution towards open space as there is no open space which meets with the provisions of the policy within the site. This amount is £65179. The contribution can be secured through a legal agreement.

The policy allows for viability to be considered when making the request for the contribution. In this case a full viability assessment has been submitted to an external consultant for consideration, which includes the requirement for this payment. The outcome of this is that there is a total of £45000 which could be spent towards the required contributions listed earlier in this report. It has been agreed by officers that £15000 of this money will be provided for parks to be spent on the future upgrades and/or maintenance of Bullough Park.

As such it is considered that the local and national planning policy are met in this regard.

The plans submitted show some areas of the site which will not be in the ownership of the residents. These are only very small areas at the front of the site. The applicant has agreed they will try and give these areas away to existing property owners to which they are adjacent, or include these in the ownership of the future residents. This will avoid the need for management and maintenance of these areas in perpetuity. Unusually it would be expected that the control of areas such as this would go into a management and maintenance company set up by the residents, however disposing of these small areas of land will mean this is not necessary. These discussions are ongoing and as such a condition is attached which will ensure that the developer provides details and evidence to show these areas are not in communal use or they will provide details through a legal agreement which will demonstrate the areas will be managed and maintained in perpetuity.

As such with the inclusion of the open space condition officers are satisfied that this development is in line with the relevant planning policy and is acceptable in this regard.

Trees, Landscaping and Ecology

Policy Env2 of the Core strategy requires opportunities for environmental enhancement to be secured, further information is provided within DMDPD DM 17, 18 and 19. The NPPF states that planning decisions should contribute and enhance the natural and local environment, one of the ways of doing this is to minimise the impacts on and provide net gains for biodiversity. Paragraph 175 sets out what principles the local planning authority should apply when determining applications, one of which is that if significant harm to biodiversity results from a development and this cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort compensated for, then planning permission should be refused.

The Council's Ecological advisor has considered the proposal and initially raised an objection, due to the impact on the biodiversity on the site but also specifically due to the location of one of the units close to the boundary in the north west corner. This has since been amended and the objection removed.

The site is located adjacent to a Biological Heritage Site and has an abundance of biodiversity on it- when visiting the site the Ecological advisor for the Council has confirmed that he considered there is a wildlife meadow habitat on the site and this needs to be mitigated for. Her has also confirmed that over 49 trees would be lost and a hedgerow of approximately 6m. This has not been disputed by the applicant. Without the mitigation for these there will not be a net gain of biodiversity on the site.

There is an extensive area of Japanese Knotweed on the site which needs to be treated and removed, along with Himalayan Balsam, as such a suitable condition is attached. There is also a need for bird and bat boxes to be incorporated into the scheme.

The applicant has considered the requests and is unable to make the full payment for the mitigation. There is a total of £30000 available for this site. The priority of the Council's Ecological advisor for this money to be spent would be on a replacement wildflower meadow. As such this has been secured through the legal agreement.

This however does not mitigate the loss in biodiversity on the site and as such it is not accepted that the development results in a net gain of biodiversity on the site as required by policy, this significantly weighs against the proposal in the planning balance.

Drainage

DMDPD DM20 requires flood risk and surface water drainage to be considered as part of the planning process, this is supported by the provisions of the NPPF. The site is not located within Flood Zone 2 and 3. A Flood Risk Assessment has been submitted which has been considered by Lancashire County Council Lead Local Flood Authority. They have raised no objection to the scheme provided that a final sustainable drainage scheme is submitted prior to the commencement of development. This condition has been included. United Utilities have also requested a condition which is included which ensures no run off into their drains.

A condition is included to ensure a final drainage plan is submitted and agreed prior to the commencement of development to ensure that there is no negative impact on protected species. A plan has been submitted, but it has not been possible in the timeframe to confirm if this is acceptable or not.

Officers are satisfied that with the inclusion of the noted conditions, the development is acceptable in this regard and meets with the relevant local and national planning policy.

The Coal Authority

The application site falls within the defined Development High Risk Area; therefore within the site and surrounding area there is coal mining features and hazards which need to be considered in relation to the determination of this planning application. The Coal Authority has considered the proposal and has confirmed that they have no objection, provided their recommended condition is attached. This has been included, and as such the development is considered to comply with the provisions of Development Management Development Plan Document Policy DM24 in this regard.

Improvements made to the proposal:

- Agreed red brick
- Reduced gravel areas
- Bin provision
- 20% affordable housing through the provision of 9 units to be sold through Help to Buy
- Negotiations to remove the open space within the development which needs to be maintained through a management and maintenance plan- if this area is not removed from communal ownership a condition is included which will ensure these areas are and managed and maintained for the lifetime of the development.

Conclusion

In assessing this application, the policies of the development plan and other relevant local and national policy considerations have been taken into account.

Officers consider that the proposal meets with the relevant planning policy in relation to traffic and highway safety, design, scale and layout, housing mix, affordable housing, residential amenity and open space. However they do not consider that it meets with policy in relation to biodiversity net gain or housing standards as detailed within the report. The lack of mitigation in relation to biodiversity net gain weighs significantly against the development.

On balance however, officers are satisfied with the development and recommend it for APPROVAL subject to a legal agreement securing the following

- £5750- Bin provision
- £15000- Public Open Space

- £30000- Ecology

and the following conditions set out below:

1. The development hereby approved shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with Section 91 (as amended) of the Town & Country Planning Act 1990.

2. The development shall be carried out in accordance with the following plans and documents:

Location Plan – 1716.01.01

Site Layout – 1716.04.01 Rev L

House Type 201 – Floor Plan – 201/1F Elevations Plan 13/201-02 Rev E

House Type 202 – Floor Plan – 202/1F Elevations Plan 13/202-02 Rev F

House Type 301 – Floor Plan – 301/1G Elevations Plan 13/301-02 Ref F

House Type 304 – Floor Plan – 304/1E Elevations Plan 13/304-02 Rev G

House Type 307 – Floor Plan – 307/1B Elevations Plan 13/307-02 Rev F

House Type 309 – Floor Plan – 309/1E Elevations Plan 13/309-02 Rev D

House Type 313 – Floor Plan – 313/1 Elevations Plan 13/313/314 – 02

House Type 314 – Floor Plan – 314/1 Elevations Plan 13/313/314 – 02

Finished Floor Levels and Retaining Walls – MFA-AJP-XX-00-DR-C-1400 Rev P5

S104 Agreement Plan – MFA-AJP-XX-00-DR-C-1000 Rev P3

Drainage Layout Plan Sheet 1 – MFA-AJP-XX-00-DR-C-1001 Rev P1

Drainage Layout Plan Sheet 2 – MFA-AJP-XX-00-DR-C-1002 Rev P1

Landscape Planting Plan – P.1058.18.02

Boundary Fence Detail – SD100

Plot Division Fence Detail – SD103

Landscape Planting Plan – P.1058.18.02

Tree Survey – P.1058.18.01 Tree Constraints and Draft Protection – P.1058.18.02

Reason: For the avoidance of doubt and to enable Hyndburn Borough Council to adequately control the development and to minimise its impact on the amenities of the local area and to conform with Policies Env6 & Env7 of the Hyndburn Core Strategy.

Materials

3. Notwithstanding the plans submitted, the materials to be used in the development are as follows:

Walls: Forterra Abbey Multi Red for the main brick,
Forterra Farmstead Antique (contrast brick)

Roof tiles: a thin leading edge in grey.

UPVC: White

Gravel: White

Reason: In the interest of a high quality design in accordance with the provisions of Hyndburn core Strategy Policy Env6, Policy DM26 of the Development Management Development Plan Document, Policy and the provisions of the National Planning Policy Framework.

Open Space Management Plan

4. Prior to the commencement of the development hereby approved, a scheme and programme shall be submitted to the local planning authority and approved in writing which details the management and maintenance of any open space on site for the duration of the development. The scheme shall then be implemented in full in accordance with the details therein.

Reason: To ensure the provision of offsite open space in line with Policy HC1 of the Core Strategy and DM11 of the DMDPD and the long term management of such provision within the site to enable a quality development, in accordance with Policy Env6 of the Core Strategy.

Highways

5. Prior to the commencement of development hereby approved, including any works of demolition, a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. It shall provide for:
 - i) The parking of vehicles of site operatives and visitors
 - ii) The loading and unloading of plant and materials
 - iii) The storage of plant and materials used in constructing the development
 - iv) The erection and maintenance of security hoarding
 - v) Wheel washing facilities
 - vi) Measures to control the emission of dust and dirt during construction
 - vii) A scheme for recycling/disposing of waste resulting from demolition and construction works
 - viii) Details of working hours
 - ix) Routing of delivery vehicles to/from site

Reason: In the interest of traffic and highway safety in accordance with the provisions of Development Management Development Plan Document Policy DM32 Sustainable Transport, Traffic and Highway Safety.

6. Prior to commencement of development hereby approved, excluding demolition, a scheme for the site access and the off-site highway works shall be submitted to and

approved in writing by the local planning authority. The scheme shall then be implemented in full prior to the first occupation of any dwelling hereby approved and retained for the duration of the development.

The works shall include:-

- Construction of a kerbed build out with associated drop kerbs and formalization of on street car parking at Willows Lane in the vicinity of Miller Fold Avenue
- DDA compliant bus border kerb at the nearest bus stop on Willows Lane.

Reason: In the interest of traffic and highway safety in accordance with the provisions of Development Management Development Plan Document Policy DM32 Sustainable Transport, Traffic and Highway Safety.

7. Within 3 months of commencement of the development hereby approved, full engineering, drainage, street lighting and constructional details to adoptable standards (LCC specification) of the internal estate roads shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details and retained for the duration of the development.

The internal estate roads shall be constructed in accordance with the approved engineering details and to at least base course level prior to first occupation of any dwelling, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of traffic and highway safety in accordance with the provisions of Development Management Development Plan Document Policy DM32 Sustainable transport, Traffic and Highway Safety.

8. Within 3 months of commencement of the development hereby approved, details of the proposed arrangements for future management and maintenance of the estate road within the development shall be submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into with the Highway Authority (S38) or a private management and Maintenance Company has been established for the duration of the development.

Reason: In the interest of traffic and highway safety in accordance with the provisions of Development Management Development Plan Document Policy DM32 Sustainable Transport, Traffic and Highway Safety.

9. Prior to the occupation of each dwelling the driveways parking areas shall be constructed in a bound porous material and made available for use. The driveways shall then be maintained for that purpose for the duration of the development.

Reason: In the interest of traffic and highway safety in accordance with the provisions of Development Management Development Plan Document Policy DM32 Sustainable transport, Traffic and Highway Safety.

10. Prior to first occupation each dwelling shall have a secure cycle store for at least 2 cycles and an electric vehicle charging point.

Reason: In the interest of encouraging sustainable transport in accordance with the provisions of Development Management Development Plan Document Policy DM32 Sustainable Transport, Traffic and Highway Safety.

LLFA

11. Prior to the commencement of development hereby permitted, including demolition, final details of the design, based on sustainable drainage principles, and implementation of an appropriate surface water sustainable drainage scheme shall be submitted to and approved in writing by the local planning authority.
Those details shall include:
 - a) Final sustainable drainage layout plan appropriately labelled to include all pipe/structure references, dimensions, design levels, finished floor levels in AOD with adjacent ground levels.
 - b) The drainage scheme should be in accordance with principles of the Eastwood & Partners Flood Risk Assessment for Miller Fold Avenue, Accrington ref.41432-003 dated 15th March 2019 and demonstrate that the surface water run-off and volume shall not exceed the pre-development runoff rate. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
 - c) Sustainable drainage flow calculations (1 in 1, 1 in 30 and 1 in 100 + climate change).
 - d) Plan identifying areas contributing to the drainage network
 - e) Measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses,
 - f) A plan to show overland flow routes and flood water exceedance routes and flood extents.
 - g) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates;
 - h) Breakdown of attenuation volume in pipes, manholes and attenuation pipe system.
 - i) Details of an appropriate management and maintenance plan for the sustainable drainage system for the lifetime of the development. This shall include arrangements for adoption by an appropriate public body or statutory undertaker or management and maintenance by a Management Company and any means of access for maintenance and easements, where applicable in perpetuity.

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

and maintained in accordance with the approved details for the duration of the development.

Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding in accordance with Development Management Development Plan Document Policy DM20 'Flood Risk Management and Water Resources' and the provisions of the National Planning Policy Framework.

United Utilities

12. The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Flood Risk Assessment (Ref No. 41432, Issue 3, and Dated 15 March 2019) which was prepared by Eastwood & Partners. No surface water will be permitted to drain directly or indirectly into the public sewer. Any variation to the discharge of foul shall be agreed in writing by the Local Planning Authority prior to the commencement of the development. The development shall be completed in accordance with the approved details.

Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding in accordance with Development Management Development Plan Document Policy DM20 'Flood Risk Management and Water Resources' and the provisions of the National Planning Policy Framework.

Env Health

13. Construction works and construction deliveries to and from the site shall be restricted to between 0800 and 1800 hrs Monday to Friday and 0800 to 1300 hrs on Saturdays.

Reason: In the interest of residential amenity in accordance with the provisions of Policy Env7 of the Core Strategy and Policy DM29 of the Development Management Development Plan Document.

14. All mechanical ventilation shall be located and designed to ensure that there would not be a significantly detrimental impact on the amenity of neighbours, by reason or odour or noise.

Reason: In the interest of residential amenity in accordance with the provisions of Policy Env7 of the Core Strategy and Policy DM29 of the Development Management Development Plan Document.

Contaminated Land

15. Prior to the commencement of development, including any demolition, the following information shall be submitted to the Local Planning Authority for approval in writing:

(a) A desk study which assesses the risk of the potential for on-site contamination and ground gases and migration of both on and off-site contamination and ground gases.

(b) If the desk study identifies potential contamination and ground gases, a detailed site investigation shall be carried out to address the nature, degree and distribution of contamination and ground gases and shall include an identification and assessment of the risk to receptors as defined under the Environmental Protection Act 1990, Part 2A, focusing primarily on risks to human health and controlled waters. The investigation shall also address the implications of the health and safety of site workers, of nearby occupied buildings, on services and landscaping schemes, and on wider environmental receptors including ecological systems and property. The dust risk assessment shall be reassessed in the light of any relevant findings from the site intrusive investigation, required by the Development of Contaminated Land Condition

The sampling and analytical strategy shall be submitted to and be approved in writing by the LPA prior to the start of the site investigation survey.

(c) A remediation statement, detailing the recommendations and remedial measures to be implemented within the site.

(d) On completion of the development/remedial works, the developer shall submit written confirmation, in the form of a verification report, to the LPA, that all works were completed in accordance with the agreed Remediation Statement.

Any works identified in these reports shall be undertaken when required with all remedial works implemented by the developer prior to occupation of the first and subsequent dwellings.

Reason: In the interest of the amenity of the residents of the dwellings hereby permitted in accordance with Development Management Development Plan Document Policy DM29: Environmental Amenity.

16. Prior to the installation of any external lighting, details shall be submitted to and approved in writing by the local planning authority. The lighting shall then be installed in accordance with the approved details and retained as such for the duration of the development.

Reason: In the interest of the amenity of the residents of the dwellings hereby permitted in accordance with Development Management Development Plan Document Policy DM29: Environmental Amenity.

17. The noise mitigation scheme detailed within the submitted Noise Assessment by Spectrum Acoustic Consultants Ref RK2566/18336/Rev 1, shall be implemented in full prior to the first occupation of the dwellings hereby approved. Written confirmation shall be obtained prior to occupation of any dwelling house from the local planning authority to this effect.

Reason: In the interest of the amenity of the residents of the dwellings hereby permitted in accordance with Development Management Development Plan Document Policy DM29: Environmental Amenity.

18. Prior to the installation of any mechanical ventilation details shall be submitted to and approved in writing by the local planning authority. The mechanical ventilation when installed shall be maintained in accordance with the approved details.

Reason: In the interest of the amenity of the residents of the dwellings hereby permitted in accordance with Development Management Development Plan Document Policy DM29: Environmental Amenity.

Bins

19. Prior to the occupation of each dwelling house hereby approved, bin and recycling receptacles shall be provided and be available for use at each unit, in accordance with the current standards adhered to by Hyndburn Borough Council. Bins shall be stored within the boundary of each dwelling house in accordance with a scheme submitted to and approved by the local planning authority prior to the occupation of the dwelling houses, with the exception of bin collection days.

Reason: In the interests of amenity and to accord with Policies Env6 and Env 7 of the Hyndburn Core Strategy and DMDPD DM31.

Ecology

20. Notwithstanding the approved plans, a revised 'Arboricultural Impact Assessment Tree Protection Plan and Arboricultural Method Statement to BS5837:20012 'Trees in Relation to construction' shall be submitted to and approved in writing with the local planning authority prior to the commencement of any development on site, including felling, scrub removal or groundworks.

Reason: To protect and enhance the natural environment and minimise the risk to trees in accordance with Policy DM 17 of the Development Management Development Plan Document and the provisions of the National Planning Policy Framework..

21. Prior to the construction of the first dwelling houses hereby approved details for the following shall be submitted to and approved in writing by the local planning authority:

A. 2no building mounted house martin nest boxes
2no building integrated terraced sparrow nest boxes
2no building integrated Swift nest boxes
And 6no building integrated bat boxes
(The details submitted shall include manufacturer's name, box type and location detailed installation on a site plan and elevations).

Written confirmation that the boxes have been installed during the construction process shall be obtained from the local planning authority before this condition can be fully discharged.

Reason: In the interest of the protection and enhancement of the natural environment in accordance with the provisions of Policy DM18 of the Development Management Development Plan Document and the National Planning Policy Framework.

22. Prior to the installation of any external lighting on the site, details including the intensity of illumination and predicted lighting contours shall be submitted to and approved in writing by the local planning authority. Any external lighting installed shall accord with the details approved.

Reason: In the interest of the protection and enhancement of the natural environment in accordance with the provisions of Policy DM18 of the Development Management Development Plan Document and the National Planning Policy Framework.

23. Prior to the commencement of development hereby approved, a scheme and programme for hedgehog permeability throughout the site shall be submitted to and approved in writing by the local planning authority. The development shall be built in accordance with the approved details and maintained for the duration of the development.

Reason: In the interest of the protection and enhancement of the natural environment in accordance with the provisions of Policy DM18 of the Development Management Development Plan Document and the National Planning Policy Framework.

24. Prior to the commencement of an development, including demolition, groundworks, site clearance, tree felling or otherwise similar, an invasive, non- native species protocol shall be submitted to and approved in writing by the local planning authority which details the containment, control and removal of Japanese Knotweed and Himalayan Balsam on the site. The works shall be carried out in accordance with the approved scheme.

Reason: In the interest of the protection and enhancement of the natural environment in accordance with the provisions of Policy DM18 of the Development

Management Development Plan Document and the National Planning Policy Framework.

25. Notwithstanding the approved plans and prior to the occupation of the development hereby approved, a satisfactorily programmed landscape scheme (to include hard surfacing, means of enclosure and planting of the development), shall be submitted to and approved in writing by the local planning authority. The scheme shall also include a programme of land reinstatement and landscaping, replacement tree planting, and wildflower seed sowing to those areas of land used for the construction of surface water and foul water drainage arising from the development. The works shall be carried out strictly in accordance with the agreed details and retained in this manner thereafter. The approved scheme shall be implemented during the first growing season following the completion of the development and any tree, shrub, plant or seed sown area which dies, fails or is felled, uprooted, wilfully damaged or destroyed in the first five years commencing with the date of planting shall be replaced by the applicants or their successors in title.

Reason: In the interest of the protection and enhancement of the natural environment in accordance with the provisions of Policy DM18 of the Development Management Development Plan Document and the National Planning Policy Framework.

26. Prior to the commencement of development hereby approved, a method statement titled 'Avoidance of harm to amphibians and small mammals during construction' shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.

Reason: To ensure the development shall not have an adverse impact on protected species in accordance with the provisions of Policy DM19 of the Development Management Development Plan Document and the National Planning Policy Framework.

27. No removal of hedgerows, trees, shrubs or undergrowth shall take place between 1 March and 31 August inclusive unless a competent ecologist has undertaken a careful and detailed check of vegetation for active birds' nests immediately before the vegetation is cleared, and written confirmation of this is provided to the local planning authority

Reason: In the interest of the protection and enhancement of the natural environment in accordance with the provisions of Policy DM18 of the Development Management Development Plan Document and the National Planning Policy Framework.

28. Prior to commencement of development a suitably qualified ecologist shall provide to the Local Planning Authority a Badger Mitigation Strategy and obtain the appropriate Natural England licence. No development may be commenced until the Badger

Mitigation Strategy and approved Natural England licence are submitted and acknowledged in writing by the Local Planning Authority. The work described in the Badger Mitigation Strategy, and Natural England licence shall be carried out strictly in accordance with the approved details and shall be retained in this manner thereafter.

Whereby the badger sett is destroyed or otherwise rendered unusable for its intended purpose, as a consequence of development, then the Badger Mitigation Strategy must include details for the installation of an artificial 3 chamber replacement sett, inclusive sett design, specification, cost assessment and location plan, to be installed at the developers cost and agreed by the third party land owner.

In a given circumstance whereby a Natural England licence is not required then no development may be commenced until a suitably qualified ecologist has submitted a detailed explanation, approved in writing by the Local Planning Authority.

Reason: To ensure the development shall not have an adverse impact on protected species in accordance with the provisions of Policy DM19 of the Development Management Development Plan Document and the National Planning Policy Framework.

Informatives

The grant of planning permission will require the applicant to enter into a Section 38/278 Agreement, with the County Council as Highway Authority. The applicant should contact Lancashire County Council, Highway Development Control email – developeras@lancashire.gov.uk in the first instance to ascertain the details of such an agreement and the information to be provided.

For the avoidance of doubt, this response does not grant the applicant permission to connect to a tributary of Woodhook Water and, once planning permission has been obtained, it does not mean that land drainage consent will be given.

The applicant should obtain Land Drainage Consent from Lancashire County Council before starting any works on site.

Applicant is directed to comments received from Lancashire Fire Service available on the Council's website.

13 a 14 15 16 17

Agenda Item 4.

REPORT TO:	Planning Committee		
DATE:	09 October 2019		
PORTFOLIO:	Cllr Miles Parkinson, Leader		
REPORT AUTHOR:	Chief Planning and Transportation Officer		
TITLE OF REPORT:	Planning Appeals		
EXEMPT REPORT (Local Government Act 1972, Schedule 12A)	Options	Not applicable	
KEY DECISION:	Options	If yes, date of publication:	

1. **Purpose of Report**

- 1.1 To update Planning Committee on planning appeals that have been determined in the Borough and those that are pending.

2. **Recommendations**

- 2.1 The report is for information only and is to be noted by members.

3. **Reasons for Recommendations and Background**

- 3.1 Members will be aware that when the Council refuses planning permission or an associated form of consent (for example advertisement consent) there is a right of appeal available to the applicant. A person also has a right of appeal against planning enforcement notices, one of the grounds for appeal that planning permission should be granted in respect of the alleged breach of planning control.
- 3.2 When refusing planning applications, it is always necessary to ensure that each reason for refusal is reasonable and can be defended by the planning authority.
- 3.3 It should be noted that an Inspectors decision on an appeal is a material consideration that forms part of the planning history of the site. It could be considered unreasonable for a local authority to refuse planning permission for development at a site for a reason that has already been considered by a Planning Inspector who has considered that issue to be satisfactory.
- 3.4 In general, appeals are determined on the same basis as the original application. The decision will be made taking into account national and local policies, and the broader circumstances in

place at the time of the decision. Where any change between the original planning decision and the appeal has the potential to affect the outcome, all parties will have an opportunity to comment on the new material.

- 3.5 The appeal will be determined as if the application for permission had been made to the Secretary of State in the first instance. This means that the Inspector (or the Secretary of State) will come to their own view on the merits of the application. The Inspector (or the Secretary of State) will consider the weight to be given to the relevant planning considerations and come to a decision to allow or refuse the appeal. As Inspectors (or the Secretary of State) are making the decision as if for the first time, they may refuse the permission on different grounds to the local planning authority. Where an appeal is made against the grant of permission with conditions, the Inspector (or the Secretary of State) will make a decision in regard to both the granting of the permission and the imposition of conditions.
- 3.6 The decision made by the Planning Inspectorate will either “Dismiss” the appeal or “allow” the appeal. If the appeal is “allowed” it is likely that the Inspector will allow the appeal subject to planning conditions.

i. Land at Back Owen Street, Accrington 19th December 2018 Dismissed

Refusal of planning permission for supported living units. The key issues raised by this appeal were highways and occupancy conditions. Although the planning application was refused on highway grounds, the Inspector concluded that having considered all matters raised, subject to the imposition of the Grampian condition (to secure the highway improvements), the proposal would have an acceptable effect on the safety of drivers, cyclists and pedestrians. This would be compliant with Policy Env7 of the Hyndburn Core Strategy (January 2012) and Policy DM32 of the DPD, which seek to ensure proposals do not result in unacceptable adverse loss of amenity, that the safety of highway users is properly taken into consideration and that any new development would not have an adverse impact on highway safety.

The Council employed a highways consultant to prepare a statement in defence of the reason for refusal.

In order to make the development acceptable in planning terms, the Inspector believed that it would be necessary to have to be a planning obligation to provide the social housing. Despite the Inspector giving the appellant an opportunity to provide an agreement and noting their intent to provide one, none was forthcoming. As a result there is no means by which to secure the social housing and the appeal was dismissed on this basis.

ii 21 Cannon Street, Accrington 8th April 2019 Dismissed

Appeal against refusal of advertisement consent (retrospective) for the erection of one non-illuminated sign. The appeal was dismissed on the grounds that the advertisement drew undue attention to itself as an incongruous feature within an area more notable for and characterised by, its heritage assets. The advertisement appeared intrusive and this served to

Appeal against the refusal of planning permission for the use of land for a storage and service yard for portable accommodation and plant. The key issue in this case related to the impact of the development on the amenity of neighbouring residents and the extent to which this could be mitigated. The Inspector believed that that due to the distance that would be maintained from the appeal site and the habitable room windows on the rear elevation of the houses on Buttermere Drive, coupled with the appeal site being located on a lower level that occupiers of these properties would not experience any significant harmful effects with regards to their outlook.

The Council employed a Landscape Architect to prepare a statement in respect of the reason for refusal.

However, the Inspector considered that landscaping would be required on the site boundary with the properties on Buttermere Drive to prevent any harmful effects to the living conditions of neighbouring occupiers. In the absence of a formal landscaping scheme to provide sufficient mitigation, the Inspector considered how this could be achieved through a suitably worded condition. However, in the circumstances of this appeal, the Inspector believed that a pre-commencement condition would be necessary to ensure that residents living conditions are not compromised by the development. In the absence of a condition (which the appellant was not willing to agree) the inspector dismissed the appeal on the grounds that there would be a significant adverse effect on the outlook of residents in the lower section of their rear gardens which would be harmful and would impede the ability of the occupiers to use and enjoy their gardens. Appeal dismissed.

viii 11 Church Street, Great Harwood 19th July 2019 Dismissed

Appeal against the refusal of planning permission for the erection of an external staircase to a first floor apartment, at the rear of the property. The appeal was dismissed on the grounds that the staircase would have an unacceptable impact on the privacy of the occupiers of neighbouring property.

3.7 There are also three appeals pending:

Black Abbey Street	appeal against the refusal of permission to demolish buildings on Black Abbey Street owing to them being within the curtilage of a listed building (former Red Lion Public House).
Devine Fisheries	Refusal of outline planning permission for residential development on land at Devine Fisheries.
Smithacres, Baxenden	appeal against the service of enforcement notices requiring the removal of the gypsy and traveller caravans and associated buildings and equipment (not including the agricultural buildings) from the unauthorised site at Back Lane, Baxenden.

3.8 The Government also monitors local authority performance on appeals. Members will observe that out of the 8 appeals determined only one was allowed. It is considered that the service is performing adequately in this respect.

4. Alternative Options considered and Reasons for Rejection

4.1 The report is for information only.

5. Consultations

5.1 No consultations have been undertaken.

6. Implications

<p>Financial implications (including any future financial commitments for the Council)</p>	<p>In response to appeals Officers sometimes prepare statements for submission to Planning Inspectorate. There are times when more specialist consultancy advice is required to defend appeals, for example at Kirkhams Garage Landscape advice was sought (£1k) and for the appeal at Back Owen Street highways advice was sought (approximately £2k). Landscape consultancy advice will be required in respect of the forthcoming appeal for Devine Fisheries and legal / planning advice may be required in respect of the forthcoming appeal for Smithacres. The costs of this are not known at present.</p>
<p>Legal and human rights implications</p>	<p>None</p>
<p>Assessment of risk</p>	<p>If the Council is not able to reasonably defend reasons for refusal</p>
<p>Equality and diversity implications <i>A Customer First Analysis should be completed in relation to policy decisions and should be attached as an appendix to the report.</i></p>	<p>None.</p>

**7. Local Government (Access to Information) Act 1985:
List of Background Papers**

7.1 The full planning appeal decision is published on the Council's website under the relevant planning application reference / address.

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