Application Number: 11/15/0349

Full Application: Major- Change of use of former brickworks to a builders merchants, erection of office and storage building, layout of storage, parking and turning areas and access alterations.

Address: Accrington Nori Factory Whinney Hill Road, Altham Accrington BB5 6NR

Determination by: 30th January 2015 (applicant has agreed an extension of time)

Applicant: Greengates Builders Merchants Ltd

Agent: Mr Alan Kinder

Application Site

The application site is situated on the eastern fringe of Clayton le Moors in the Enfield area. The site fronts onto the North West side of Whinney Hill Road and extends along the back street of the properties that front onto the North East side of Whalley Road as far as Frank Street. The application site is approximately rectangular in plan, with some kinks along the North East boundary, and extends to 1.95ha. The eastern boundary of the site abuts the former Enfield Quarry which forms part of the wider Whinney Hill complex.

The land is currently vacant and overgrown but has previously been used as a brickworks. There is evidence of hardstanding and low brick walls remaining from that use. Generally, across the site the land slopes towards the North East but locally there are variations and the site has an uneven surface.

Proposal

The proposal is made in respect of Greengates Builder’s Merchants, a family owned independent builder’s merchants that supplies building and timber materials to trade and DIY customers. The business currently operates from a site off Whalley Road, Accrington. That site is triangular in shape, bordered by Owen Street, Ramsbottom Street and Haywood Road and thus hemmed in on all sides by residential property and with a difficult, substandard vehicular access utilising a back street. In addition to the unsuitable location of the premises there is no scope for expansion, and these two issues have given rise to the proposed development.

Planning permission is sought for the change of use of the whole site to a builder’s merchants yard; a sui generis use not falling within any of the Use Classes defined by the Use Classes Order. The development will require some levelling of the site in order to
provide a suitable surface on which to erect the buildings and the layout of the storage, parking and turning areas.

Two buildings are proposed at the site, one L – Shaped, housing a show room, sales counter, toilets, storage and offices, with a mezzanine floor, located in the South West corner of the site. The building would be 37.5m x 26m and would be 7.82m high, 6m to the eaves. There would also be solar panels on the roof.

The other building would be rectangular, in two parts, to provide covered storage with a drive-thru facility, measuring 56.2m x 10m and 7m in height. This would be located along the western boundary, backing on to the residential properties on Whalley Road. The applicant is also proposing solar panels on the roof of this building.

Both buildings would be constructed from rustic red brick in the lower section, with green profile sheeting upper walls and roof, and yellow trim to windows and doors. In addition, outside areas of storage, staff and customer parking, along with delivery and turning facilities will be laid out. Fencing would enclose the site.

The existing access on to Whinney Hill Road is to be altered and a new access created onto Frank Street, the latter for emergency use. Planting would be incorporated along the boundaries and there would be three areas of wetland, two of which would be laid out adjacent to Whinney Hill Road and one within the site, to deal with surface water run-off.

Concurrently, Lancashire County Council is working towards the creation of a priority bus lane, as part of the Pennine Reach scheme, along Whalley Road in the direction of Accrington, which will be supported by double yellow lines along its full length. This necessitates the provision of alternative parking arrangements for residents and customers of the retail and commercial properties which would be laid out between the South West boundary of the application site and the Whalley Road back street. This area is located within the blue edge submitted on the Site Location Plan. Although this is not part of the application, the applicant has made separate arrangements with Lancashire County Council and is committed to pursuing this.

A Screening opinion under the Town and Country Planning (Environmental impact assessment) Regulations has been undertaken and it is advised that although the development falls within Schedule 2 of the Regulations, it is not necessary for the applicant to submit an Environmental Impact Assessment in support of the planning application.

**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.

Consultations

Public consultation:

Site notice affixed and letters sent to surrounding properties. No letters of objection have been received.

LCC Highways:

Comments received 29th October 2015 and the comments are summarised below:

Transport Statement:

The application merits a Transport Assessment to be submitted, but on reflection of the nature of the scheme a Transport Statement would be acceptable in this case. This has not been submitted. As a consequence the County Council cannot fully assess the application. The submission of a Transport Statement is therefore requested which clearly provides the following information and assessments:

- Peak traffic survey data relating to the operation of the signalised junction of C637 Whinney Hill Road and A680 Whalley Road.
- Trip generation, distribution and development flows inclusive of future growth.
- Rationale as to the level of parking provision provided.
- Sustainable travel options and proposed measures to encourage sustainable travel by employees.
- Proposed servicing strategy.
- Road Safety assessment.

Access Strategy

The site is proposed to be accessed via C637 Whinney Hill Road which allows access to the greater network via the existing signalised junction with A680 Whalley Road. Currently there is no known congestion issue at these signals. The developer is expected to confirm that this is the case and that future traffic growth, inclusive of that generated by the development, will not create a capacity issue at this location.
Access

The site access itself appears to be 7m in width which will easily permit two way vehicle flows. Two 2m pedestrian accesses are also indicated with gates being erected 20m from the carriageway edge. This will be acceptable to the County Council.

S278 agreement is required with the County Council for the improved access and extension to the existing ‘no waiting times’ Traffic Regulation Order (TRO) TROs adjacent to the site. This will ensure no vehicles park adjacent to the access to the detriment of sight lines.

Design / Layout

Footway access to the sales area should be provided in order to minimise vehicular / pedestrian conflict within the site.

All car parking spaces should be provided to minimum dimensions of 2.4m x 5mm with 6m manoeuvring isle width.

Disabled parking spaces should comply with dimensions indicated in the Department for Transport (DfT) document "Inclusive Mobility" at a provision of 10% of the total.

Conditions are requested should the planning application be approved in relation to:

- The surfacing of the car park and the spaces to be laid out prior to the operation of the development.
- Wheel cleaning facilities
- Scheme for the construction of the site access and off site works submitted, approved and completed.

Final comments have been received on 30th November 2015 which are summarised below:
- The amended plans are acceptable, but recommend that the easterly side of the car park (staff and customer parking) should have footway adjacent to the first bay linking into the easterly entrance footway. Also suggest a pedestrian route, similar to a pedestrian crossing, across the vehicular entranceway linking both access footways to assist pedestrian movements to and from the shop area.
- Request £5000 for testing signalised junction at the bottom of Whinney Hill Road from the perspective of improving flow and access via a s106.

Lead Local Flood Authority (LLFA):

Following the submission of further information by the applicant, the LLFA has withdrawn the objection made on 30th November 2015 subject to conditions detailed below. Their comments at this stage are summarised below:

Surface water discharge:
The drainage of the surface water into SuDs and then the surface water sewer in Whinney Hill Road is acceptable; however this is subject to sufficient evidence of permeability testing for the site and subject to an agreement with the water and sewerage statutory undertaker.

Sustainable Drainage systems

Prior to designing site surface water drainage for the site, a full ground investigation should be undertaken to fully explore the option of ground infiltration to manage the surface water in preference to discharging to a surface water body, sewer system or other means.

The LLFA also strongly encourages the developer to take into account designing drainage systems for exceedance working with the natural topography for the site. Should exceedance routes be used, the applicant must provide a site layout plan with these displayed, in line with Standards 9 of DEFRA’s Technical Standards for SuDs.

Flow balancing SuDs methods which involve the retention and controlled release of surface water from a site may be an option for some developments at a scale where uncontrolled surface water flows would otherwise exceed the pre-development greenfield runoff rate. Flow balancing should seek to achieve water quality treatment as part of a treatment train and amenity benefits as well as managing flood risk.

Flood Risk Assessment

LLFA recommends the applicant explore the use of other SuDs features in order to further reduce the rate and volume of surface water draining from the site.

The developer should submit to the LPA details of phasing in relation to how surface water and pollution prevention will be managed during each construction phase of the development. The LPA is advised to consider an appropriate condition to do this.

Conditions to be attached relate to the following:

- Appropriate surface water drainage scheme to be submitted prior to commencement of development.
- No occupation of the development until completion of SuDs in accordance with agreed SuDs Scheme and Management Maintenance Plan.
- Prior to commencement Surface Water Lifetime Management and Maintenance Plan.
- Construction and operation of pond/attenuation basin prior to main construction phase/occupation.
- Prior to commencement, construction phase Surface Water Management Plan Approval.

United Utilities:

Comments were received on 26th October 2015. No objection was received but the following comments are summarised below:
Drainage:

The NPPG clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy. We would ask the developer to consider the following drainage options in the following order of priority:

1. Into the ground (infiltration)
2. To a surface water body
3. To a surface water sewer, highway drain, or other drainage system
4. To a combined sewer.

Conditions suggested dealing with:

Foul water:
- Foul and surface water shall be drained on separate systems.
- No building shall be occupied until the approved foul drainage scheme has been completed to serve that building, in accordance with the approved details.

Surface water:
- Surface water drainage scheme to be submitted and agreed and the development completed, maintained and managed in accordance with the approved details.

Electricity Northwest:
No comments have been received

HBC Ecology
Initial comments were received on 30th October 2015 and the comments are summarised below:

Not possible to make an accurate assessment of the impact of the proposals due to the following issues:

- The ecology report submitted is more than a year old, and no longer likely to be an accurate representation of the habitat on site or the presence/absence of European Protected Species. Need a fully updated ecology survey carried out at optimum season in order to be able to progress this application.
- The information that has been provided suggests that more information is required specifically in relation to Great Crested Newts and Bats (foraging and commuting)- both of which are European Protected Species.
- The proposals would result in the total destruction of Nation Biodiversity Action Plan habitats without any suggestion of mitigation or compensation. The proposals would therefore constitute a significant net loss in biodiversity contrary to the Core Strategy, NPPF and the NERC Act.
- No tree survey has been carried out despite the presence of woodland and scrubland on site, the application cannot be progressed without this information.
Even in the event that all of the information submitted was complete and showed no protected species, there is serious concern about the nature of this development. The proposal will result in the loss of priority habitats with no compensation, and would therefore result in a net loss of biodiversity.

Following further work being submitted, the comments are summarised below:

- The removal of U category trees is considered acceptable.
- 2 Category B trees are proposed to be removed, it is important from amenity perspective to replace these trees on the South West boundary.
- Over 750 category C trees will be lost to development, an extraordinarily high number. Whilst category C trees should not be considered as a barrier to development, a reasonable amount of tree planting should be carried out to replace them. Core Strategy policies Env 1, 2, 3f, and 4f, all stress the need to incorporate landscape and environmental improvement as a part of development. Standard practice both here and throughout the England is to expect a tree replacement ratio of 3:1. For this site this would mean that 2250 (equating to 2ha of woodland) would need to be planted to compensate/enhance coverage as a result of the development. This number is not achievable on site, however, a significant number could be planted on site - as recommended in the ecology report - along the South West, South East, and North East boundaries of the site. The remaining numbers could be included in a s.106 agreement for planting on Council owned property in Norden Valley. With the inclusion of landscaping to the SW, SE, NE, and with the northern stretch remaining undeveloped 0.8ha of woodland planting can be achieved on site leaving 1.2ha to be planted off-site. This approach would also allow for a net gain in biodiversity as a result of the development.

Ecology/Bats

The bat activity survey has highlighted that the site is of importance to bats for both commuting and foraging and that unsympathetic development of the site would result in a barrier between current bat roosts and their foraging habitat, and would also displace some foraging bats resulting in increased competition on neighbouring foraging sites and therefore a have detrimental impact on the local population of bats.

As a European Protected Species bats have enhanced protection under the law, developments which demonstrate a negative impact on local bat populations are unacceptable without considered mitigation/compensation. In this case I concur with the applicant's ecologist in that the development must be designed in order to minimise the impact on bat foraging/commuting habitat - the only way to achieve this is to retain and/or plant a significant landscape buffer (native species) on the South West, South East, and North East boundaries of the site. A woodland belt 10 metres wide would result in an area approximately 0.8ha being planted (if the area to the North of the site is undeveloped and planted up as well). 0.8ha of on-site woodland would leave 1.2ha needing to be planted off-site via s.106. Based on costs to plant a woodland area and maintain it for a period of 25
years (ie. until it has become established) we would expect a contribution of £27k for 1.2ha. This is based on standard Forestry Commission rates for woodland planting/maintenance.

Final comments have been received on 1st December 2015. The Trees and Woodlands Officer accepts the final plan and requests a lighting scheme to be submitted prior to commencement of development.

**HBC Environmental Health:**

No objection to the application, however some conditions have been suggested as follows:

- Measures to prevent nuisance being caused to residents from noise, dust, fumes and or vibration arising from the building works. No burning off on site of construction waste, and
- Contaminated Land

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

Lighting: A lighting scheme should be provided for approval prior to commencement of development.

Dust Management Plan to be submitted prior to the commencement of development and implemented and maintained at all times.

Final Development Operational Times: There shall be no noise, generated from on-site activities, which is detrimental to the amenity of residents: On Monday to Fridays before 8:00am and after 18:00pm. On Saturdays before 9:00am and after 17:00pm.

**Environment Agency:**

No comment to make.

**Relevant Planning History**

11/09/0252: Outline planning permission (all matters reserved apart from access) for B1 and B8 Business Park (Resubmission 11/08/0622) Approved 9.6.09

**Relevant Policies**

**Development Plan**

Hyndburn Borough Local Plan Saved Policies
- Policy I1 Development of Employment Sites
- Policy E10 Development Criteria

Hyndburn Core Strategy
The proposed development raises a number of issues that will be considered in turn:

**Principle of development**

The application site was assessed as being a ‘good’ quality employment site in the last Employment Land Study, published 2008. A new Employment Land Study is currently underway and is expected to be complete in December 2015. Although the preliminary findings of this can only be seen as draft at this stage, the re-assessment of this site indicates that it is still considered to be a ‘good’ quality site from a commercial point of view.

Policy E2 of the Hyndburn Core Strategy sets the framework for the ‘Protection, Modernisation and Development of Employment Sites’ states that ‘good quality employment sites will be retained for employment uses’. This is a key policy aim within the Core Strategy which is in place to help ensure that sufficient land to meet the identified need for employment provision is met (in line with Policy E1) within the Borough. Although defined as a “sui generis use, a builders merchants generally comprises a mix of A1 (retail), B1(a) and B8 uses, with A1 forming an ancillary part of the proposed development, and the predominant use being B8 (warehousing).

The Hyndburn Local Plan allocates the site as an employment site under Policy I1 (Site K). The development of the site for the use proposed would be broadly consistent with that allocation for the reasons set out above.
The applicant states that an additional 5 jobs are anticipated to be created from the scheme over the next 2 years, in addition to the 18 that will be relocated from its existing site in Accrington. Although this represents a relatively low employment density for the size of the site, the proposal would secure the long-term future of existing jobs within the Borough and as such Officers consider the proposed scheme therefore constitutes a valid employment use in the context of the aims of Policy E2. A condition is attached to ensure that the retail element of the development is only to provide retail for the builder’s merchant and no other business. As such the principle of the development is considered acceptable.

**Impact on neighbouring amenity**

Policy Env7 of the Hyndburn Core Strategy states that proposals for new development will only be permitted only if it is demonstrated that the material impacts arising by 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. Policy E10 of the Hyndburn Local Plan also seeks to ensure that proper consideration is given to the impacts associated with development.

In relation to amenity, the key point for consideration is whether the change of use of the site, and the associated development would have a significantly detrimental impact on the residential amenity of the nearby residents located along the South Western boundary of the site on Whalley road, and partially along the North Western boundary on Frank Street.

The properties are a minimum distance of 10m away from the site boundary, and 13m from the proposed buildings (although some houses would be 20m away from the proposed buildings).

A Noise Report has been submitted with the application which highlights the requirement for an acoustic fence to erected, along the South Western boundary of the site, adjacent to the rear of residential properties on Whalley Road and those on Frank Street. It is accepted that the buildings would provide some acoustic protection to the neighbouring properties at the front of the site and as such the fencing is not required at this location. The applicant intends to build the development in two phases, and as such the acoustic fencing will not be required until the second phase is built. A suitable condition is attached to the permission to detail the phasing of the development and ensure the acoustic fencing is erected prior to the development of phase two of the development.

There are no windows proposed in the elevations of the buildings facing the rear of the properties on Whalley Road and as such noise leakage through open windows is not considered to be a concern. A condition is attached to the permission which ensures this is the case in perpetuity.
The proposed buildings would be 7m high, and the acoustic fencing would be 3.5m high. Due to the distance from the residential properties, this is not considered to be overbearing to these neighbours, despite the change in ground level.

Deliveries to the business, once operational, would take place throughout the working day. To ensure that this is not a nuisance to nearby residents with regards to noise and disturbance, a condition is attached to restrict these hours in line with the direction of Environmental Health Officers.

Opening hours of the yards are to be restricted by condition to 0730 – 1800 hours Monday to Friday, 0730 – 1700 Hours on Saturdays and no opening on bank holidays or Sundays. These hours are slightly longer than the current operation hours of the business, (which are 0730-1730 Monday to Friday, 0730-1300 Saturdays and no opening on Sundays or bank holidays), to allow for occasional later deliveries should vehicles be delayed in traffic.

A condition is attached to ensure that deliveries during the construction of the development, and hours of construction, are within a suitable timeframe directed by Environmental Health Officers.

As such, Officers are satisfied that the use of relevant conditions will mitigate any issues in relation to noise and disturbance and that the proposal meets with the provisions of relevant policies in relation to residential amenity.

Traffic and Highways Safety

Saved Policy E.10 of the Local Plan states that when considering proposals for development, the Council will have regard to car parking provision and proposed arrangements for servicing and access. In addition, Policy Env7 of the Core Strategy aims to avoid development which has an unacceptable adverse impact by reason of traffic.

LCC Highways have no objections to the proposal but have asked for a S278 agreement to be completed between the applicant and the County Council to ensure TROs are imposed at the entrance of the site, to ensure visibility (a suitable condition is attached). The Officer also requested changes to be made to the path that leads to the sales area, standards parking spaces and manoeuvring space to be used and the provision of disabled parking. These amendments have been made.

On submission of the Transport Statement, LCC Highways have requested that a sum of £5000 be provided as a S106 Agreement for the testing of the signal junction at Whinney Hill Road and Whalley Road. This has been accepted by the applicant and a S106 is currently being drawn up.

As such it is considered that the proposal would comply with the provisions of the relevant planning policies in regards to traffic and highways safety.
Design and visual amenity

Policy Env6 of the Hyndburn Core Strategy seeks to ensure that the character and quality of Hyndburn’s urban and rural environments will be conserved and enhanced through high quality design. Saved Policy E.10 of the Hyndburn Local Plan has similar aims.

The proposed development would provide some levelling of the site in order to accommodate the erection of buildings and storage facilities in order to provide accommodation for the business needs. There would be fencing around the site, with acoustic close boarded fencing to the rear portion of the site adjacent to the residential properties on Whalley Road. There would also be planting on the site adjacent to Whinney Hill Road and along both boundaries to the rear of the site. This would provide an attractive appearance from Whinney Hill Road and help to shield the buildings from view. The materials proposed are considered to be acceptable for a commercial business and would provide an attractive visual improvement to the area.

As such it is considered that the proposal would be acceptable in terms of visual amenity and in accordance with the relevant planning policies.

Trees and Ecology

Paragraph 118 of the NPPF states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by, if significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused. Paragraph 109 of the Framework states that the planning system should contribute to and enhance the natural and local environment by minimising the impacts on biodiversity and providing net gains ‘where possible’.

The site is currently largely covered with trees and scrub which has self-seeded over the years. Although these trees are not of a particularly high standard, there is an associated biodiversity habitat value (due to bats using them for foraging and commuting) and amenity value to the neighbouring houses.

The proposal requires the removal of 750 Category C trees and 2 Category B trees. These trees are not protected under Tree Preservation Orders or located within a Conservation Area and as such it is acceptable to remove them for development needs. However due to the high quantity of trees to be removed, the Council’s Trees and Woodland Officer considers there is a need to replace and mitigate for their loss in line with the provisions of the NPPF. As such a request has been made for 0.8ha to be planted on site and £27000 contribution to be made for planting off site in the local area (1.2ha).
The applicant has amended the plans to provide a significant amount of this required planting around the periphery of the site (1.2 acres). He has also submitted evidence of the full cost of the project prepared by Glovers of Accrington (Quantity Surveyors). Officers are satisfied that the payment of £27000 would add an additional cost of development, which would not be acceptable to the applicant and would ‘tip the balance’ of a development which is already costing much more than anticipated and, as such, in this case ‘net gain’ in biodiversity terms, is not possible.

On balance, it is considered therefore that the development is acceptable in terms of the provisions of the NPPF in relation to biodiversity.

**Drainage**

Paragraph 103 of the Framework requires local planning authorities, in decision making, to ensure flood risk is not increased elsewhere. At the local level Core Strategy Policy Env4 encourages the incorporation of sustainable drainage systems where possible; this is reflected in the hierarchy detailed within the NPPG.

The site is not located within an area at risk of flooding. The applicant has submitted a Flood Risk Assessment which provides detail of the the use of SUDs in the development. It is the intention that the surface water is held in SuDs on the site, and then discharged into the surface water drains on Whinney Hill Road. The Lead Local Authority has considered this and has no objections, provided various conditions are attached which are detailed at the end of the report. United Utilities have also considered the proposal and make no objection.

Based on expert advice form the statutory consultee, Officers are satisfied that the development is acceptable in terms of flood risk and is in accordance with the NPPF and Policy Env 4 of the Core Strategy.

**Conclusion**

In assessing this application, the relevant policies of the development plan and other local and national policy considerations have been taken into account and the proposed development is considered to be acceptable in terms of its principle of development, impact on neighbouring amenity, traffic and highways safety, design and visual amenity and drainage.

Although the Council’s Trees and Woodlands Officer has highlighted concerns in relation to the proposal, Officers are satisfied that the applicant has provided sufficient planting on site to continue to support the foraging and commuting bats in the area, and that the conditions attached will ensure that the landscaping potential on the site is maximised and managed in the future, in line with the provisions of the NPPF.

**Recommendation**
That planning permission is GRANTED for the change of use of former brickworks to a builders’ merchant, erection of office and storage building, laying out of storage and turning areas and access alterations at Accrington Nori Factory, Whinney Hill Road, Altham subject to:

(i) The applicant entering into a legal agreement under S106 of the Town and country Planning Act to secure signal testing at the Whinney Hill Road junction with Whalley Road, as set out in the report,

(ii) The 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 documents:

   (a) The planning application form dated 3/9/2015
   (b) Submitted Plans:

   Location Plan GREENG/01 Dwg 01A  received 1/12/15
   Proposed Site Plan GREENG/01 Dwg 04D  received 1/12/15
   Warehouse Plans and Elevations GREENG/01 Dwg 03  received 30/9/15
   SUDs Plan  received 30/0/15
   Showroom Plans and Elevations GREENG/01 Dwg 02  received 30/9/15
   Proposed Site Sections GREENG/01 Dwg 07  received 30/9/15
   Fence Detail J6/01060  received 30/9/15
   Existing TOPO Survey GREENG/01 Dwg 06  received 30/9/15
   Existing Site Sections GREENG/01 Dwg 06  received 30/9/15
   Typical Gate Detail  received 12/11/15

   (c) And supporting information:

   Nova Acoustics Noise Report Nov 15  received 18/11/15
   Bowland Tree Consultancy Ltd Tree Report  received 12/11/15
   The Tryer Partnership Bat Survey  dated 15/05/2015
   DTPC Transport Statement Sept 2015  received 2/11/15
   Flood Risk Assessment  received 2/11/15
   SUDs Report  received 30/9/15
   Pennine Ecological extended Phase 1 Habitat and Protected Species Survey received 30/9/15
   Pennine Ecological Great Crested Newt Survey May 2015  received 30/9/15
   Design and Access Statement  received 30/9/15
   Worms Eye Report April 2015  received 30/9/15

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.

3. No part of the development hereby approved shall commence until a scheme and programme for the following has been submitted to, and approved, by the Local Planning Authority as part of a Section 278 agreement, under the Highways Act 1980:
   (i) The improved access to the site from Whinney Hill Road as detailed on the submitted plans,
   (ii) The extension of the existing TROs to beyond the proposed access from Whinney Hill Road.

   The highway works shall be implemented in accordance with the approved details prior to the occupation or first use of the approved development for trading.

   Reason: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on the development hereby approved, in accordance with Policy E10 of the Local Plan Policy Env7 of the Core Strategy.

4. **Retail use**

   The retail element of the development hereby approved is restricted to retail sales only in connection with the operation of the site as a builder’s merchant.

   Reason: In the interest of the vitality and viability of town centres and nearby local centres in accordance with the provisions of the National Planning Policy Framework.

**Phasing Plan**

5. Prior to the commencement of development a Phasing Plan shall be submitted to, and approved in writing by the Local Planning Authority which will detail the phasing of the construction of the site, including the erection of the acoustic fencing. The phasing of the development shall then be implemented in accordance with the details contained within the plan.

   Reason: In the interests of residential amenity and to accord with Policy Env 7 of the Hyndburn Core Strategy.

**Ground gases**

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

   (a) A desk top study which assessed the risk of the potential for on-site contamination and ground gases and migration of both on and off-site
contamination and ground gases has been submitted and satisfies this section of the contaminated land condition. Thereafter sections (b), (c) and (d) remain to be complied with.

(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 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 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 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: To ensure that the site investigation and remediation strategy will not cause pollution of ground and surface waters both off and on site, and to ensure that the site cannot be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990 and in accordance with the provisions of the NPPF.

**Foul and surface separate drainage systems**

7. Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution in accordance with the provisions of National Planning Policy Framework and National Planning Practice Guidance.

**Surface water drain**

8. No development shall commence until details of the design, based on sustainable drainage principles, and implementation of an appropriate surface water sustainable drainage scheme have been submitted to and approved in writing by the local planning authority.
These details shall include, as a minimum:

a) Information about the lifetime of the development, design storm period and intensity (1 in 30 and 1 in 100 year +30% allowance for climate change), discharge rates and volumes (both pre and post development, temporary storage facilities, and methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including water courses and details of floor levels in AOD;

b) The drainage strategy should demonstrate that the surface water run-off must not exceed the pre-development greenfield runoff rate for the same rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

c) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant),

d) Flood water exceedance routes, both on and off site

e) A timetable for implementation, including phasing as applicable

f) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltration rates

g) Details of water quality controls where applicable

The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the approved units 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.

Reason: To secure ensure the proposed development can be adequately drained, there is no flood risk on or off the site resulting from the proposed development and to ensure that water quality is not detrimentally impacted by the development proposal in accordance with the provisions of National Planning Policy Framework and National Planning Practice Guidance.

9. No development hereby permitted shall be occupied until the sustainable drainage scheme for the site has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: To secure ensure the proposed development can be adequately drained, there is no flood risk on or off the site resulting from the proposed development and to ensure that water quality is not detrimentally impacted by the development proposal in accordance with the provisions of National Planning Policy Framework and National Planning Practice Guidance.

9. No development shall commence until details of an appropriate management and maintenance plan for the sustainable drainage system for the lifetime of the development have been submitted which, as a minimum, shall include:
a) the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company

b) arrangements concerning appropriate funding mechanisms for its on-going maintenance of all elements of the sustainable drainage system (including mechanical components) and will include elements such as:
   i. on-going inspections relating to performance and asset condition assessments
   ii. operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime;

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

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

Reason: To secure ensure the proposed development can be adequately drained, there is no flood risk on or off the site resulting from the proposed development and to ensure that water quality is not detrimentally impacted by the development proposal in accordance with the provisions of National Planning Policy Framework and National Planning Practice Guidance.

10. All attenuation basins and flow control devices/structures are to be constructed and operational prior to the commencement of any other development and prior to any development phase.

Reason: To prevent a flood risk during the construction of the development proposal in accordance with the provisions of National Planning Policy Framework and National Planning Practice Guidance.

11. No development shall commence until details of how surface water and pollution prevention will be managed during each construction phase have been submitted to and approved in writing by the local planning authority.

Reason: To ensure that the construction phase(s) of development does not pose an undue flood risk on site or elsewhere and to ensure that any pollution arising from the development as a result of the construction works does not adversely impact on existing or proposed ecological or geomorphic condition of water bodies in accordance with the provisions of National Planning Policy Framework and National Planning Practice Guidance.

Tree planting and management plan
12. Prior to the commencement of development, a Tree Planting and Management Plan for areas of planting indicated on the approved Site Plan GREENG/01 Dwg 04D, including maintenance schedules for replacement planting, shall be submitted to and approved in writing by the Local Planning Authority. The Tree Planting and Tree Management Plan shall be implemented as approved.

Reason: To ensure a satisfactory form of development and to enhance the visual amenities of the locality, and in order to comply with Policy Env 7 of the Hyndburn Core Strategy.

First planting season

13. During the first planting season following the commencement of development hereby approved the tree planting as indicated on the approved plans and detailed in the tree planting and management plan shall be carried out to the satisfaction of the Local Planning Authority. Any trees, plants or shrubs so planted which die or are felled, uprooted, willfully damaged or destroyed within five years of the date of planting shall be replaced by the applicants or their successors in title.

Reason: To ensure a satisfactory form of development and to enhance the visual amenities of the locality, and in order to comply with Policy Env 7 of the Hyndburn Core Strategy.

Noise fumes and dust

14. Measures should be in place to prevent nuisance being caused to residents from noise, dust, fumes and or vibration arising from the building works.

There should be no burning off on site of construction waste.

Reason: To protect the amenities of existing occupiers at nearby premises from any nuisance from construction/development activities in accordance with Policy Env7 of the Hyndburn Core Strategy.

Dust management

15. Prior to the commencement of development, a Dust Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Dust Management Plan shall identify all areas of the site and site operations where dust maybe generated and further identify control measures to ensure that dust does not travel beyond the site boundary. Once in place, all identified measures shall be implemented and maintained at all times. Should any equipment used to control dust fail, the site shall cease all material handling operations immediately until the dust control equipment has been repaired or replaced.
Reason: Reason- To protect the amenities of existing occupiers at nearby premises from any nuisance from construction/development activities in accordance with Policy Env7 of the Hyndburn Core Strategy.

**CCTV**

16. Prior to commencement details of proposed CCTV shall be submitted to and approved in writing by the Local Planning Authority. The CCTV shall be installed in accordance with the approved details and thereby retained as such unless a variation is subsequently submitted to and approved in writing with the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with Policy Env 7 of the Hyndburn Core Strategy.

**External lighting**

17. No development shall take place until details of external lighting have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and thereby retained as such unless a variation is subsequently submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with Policy Env 7 of the Hyndburn Core Strategy.

**Deliveries during construction**

18. Deliveries to and from the site shall be restricted between 0800 and 1800hrs Monday to Friday and 1300hrs on Saturdays. Deliveries shall not take place on Sundays and bank holidays.

All works shall be undertaken in accordance with BS5228:2009.

Reason: In the interests of residential amenity and to accord with Policy Env7 of the Hyndburn Core Strategy

**Hours of working (demolition and construction)**

19. Demolition or construction works shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0900 hours to 1700 hours on Saturdays nor at any time on Sundays or Bank Holidays.

Reason: In the interests of residential amenity and to accord with Policy Env 7 of the Hyndburn Core Strategy.
20. The specified boundary treatment of the development hereby approved (including siting, height and materials) shall be as described on the approved plans 10 J6-01060, J6/04031, GREENG/01 Dwg 04D and application form, and retained thereafter, unless any variation is first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development will be of a satisfactory appearance and to accord with Policies Env 6 and Env 7 of the Hyndburn Core Strategy.

21. All materials to be used in the approved development shall be as stated on the application form and approved drawings GREENG/01 Dwg 02 and GREENG/01 Dwg 03 and shall not be varied without the prior written approval of the Local Planning Authority.

Reason: To ensure that the development will be of a satisfactory appearance and to accord with Policies Env 6 and Env 7 of the Hyndburn Core Strategy.

22. No window openings shall be inserted in the elevations of the approved buildings facing the residential properties on Whalley Road unless otherwise first agreed in writing with the Local Planning Authority.

Reason: in the interest of residential amenity of the of the occupiers of the nearby properties on Whalley Road in accordance with the provisions of Policy Env 7 of the Hyndburn Core Strategy.

23. Before the development hereby approved is first brought into use the car parking area shall be hard surfaced and marked out as indicated on the approved plan to the satisfaction of the Local Planning Authority. The car park shall be made available at all times that the premises are in use for the parking of staff and visitors’ cars.

Reason: In order to ensure that there is adequate car parking provision clear of the public highway in the interests of the safety of users of the highway and in order to comply with Policy Env 7 of the Hyndburn Core Strategy and the Hyndburn car parking and access standards.

21
24. Tree felling, vegetation clearance works, demolition work or other works that may affect nesting birds shall not be undertaken between March and July inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections approved by the Local Planning Authority.

Reason: To ensure that birds are protected and their habitat enhanced, in accordance with Circular 06/05, the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats, &c.) Regulations 1994 and to accord with Policy Env 2 of the Hyndburn Core Strategy and the NPPF.

**Wheel washing**

25. Before any construction or engineering works commence on site details of facilities for the washing of the wheels of vehicles before leaving the site shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be installed before any engineering or construction work commences on site and shall be retained for the full construction period.

Reason: To avoid the public highway being affected by the deposit of mud and/or loose materials which could create a potential hazard to road users and to comply with Policy Env 7 of the Hyndburn Core Strategy.

**Development noise operational hours**

26. There shall be no noise generated from on-site activities, which is detrimental to the amenity of residents on Mondays to Fridays before 8.00 and after 18.00 and on Saturdays before 09.00 and 17.00 and at no time on Sundays and bank holidays.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with Policy Env 7 of the Hyndburn Core Strategy.

**Opening hours**

27. The use hereby permitted shall not be open to customers except between the hours of 8.30am and 8.00pm on Mondays to Fridays, 07.30 – 18.00 on Saturdays, 07.30 – 17.00 on Sundays and not at any time on Bank or Public Holidays.

Reason: in order to protect the residential amenities of the occupiers of the nearby properties and to comply with Policy Env7 of the Hyndburn Core Strategy.

**Informative**
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The level of cover to water mains and sewers must not be compromised either during or after construction. The applicant should contact United Utilities on 03456 723723 regarding connection to the water mains or public sewers. The applicant must contact United Utilities water fittings section at Warrington North WwTW, Gatewarth Industrial Estate, off Liverpool Road, Sankey Bridges, Warrington, WA5 1DS. It is the applicant's responsibility to demonstrate the exact relationship between any United Utilities assets and the proposed development. United Utilities offers a fully supported mapping service and we recommend the applicant contact Property Searches Team on 03707 510101 to obtain maps of the site. Due to the public sewer transfer, not all sewers are currently shown on the statutory sewer records, if a sewer is discovered during construction; please contact a Building Control Body to discuss the matter further.