

**Report for:** Planning Committee

**Application Number:** 11/18/0248

**Full Application:** Major outline: Erection of 122 dwellings (all matters reserved apart from access) resubmission of 11/18/0034

**Address:** Devine Fisheries Broad Oak Road Accrington BB5 2DG

**Determination by:** 10<sup>th</sup> September 2018 Extension not agreed yet

**Applicant:** Ms Cath Whelan

**Agent:** De Pol Associates

### **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 lies to the south east of Accrington town centre, with a proposed access point form Manchester Road. A site visit was undertaken by members at the start of September 2018.

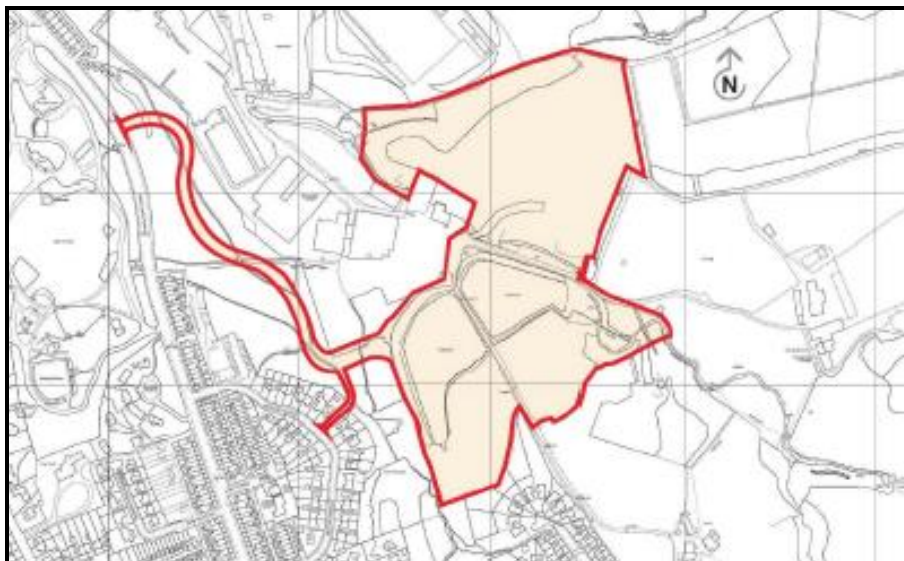


Fig 1. Plan illustrating the application boundary (red-line).

The site can be divided into three main parcels:

- i. The land coloured blue on the plan below that stretches between Manchester Road and the area to be developed for housing. This land is heavily wooded and it is proposed to construct the access road across this area of land. The proposed access road is approximately 450m in length.
- ii. The land edged red and shaded pink on the plan below that is open countryside comprising grassland, wooded ravines and the fishing lakes. This is the area on which it is proposed to build 122 houses.
- iii. The area shaded green is described as “Environmental Mitigation Land” and this area will be used to mitigate the environmental impacts associated with the development, in particular the loss of trees. It should be stressed that this area does not form part of the planning application area (i.e. within the red-line) and if planning permission is granted for the proposed development this element of the scheme would need to be subject to appropriate controls.

There are two concrete lined reservoirs which are within the site and currently used for fisheries, and some existing roads/tracks which serve the fisheries. There are also two areas of land that have been used as landfill sites in the past.

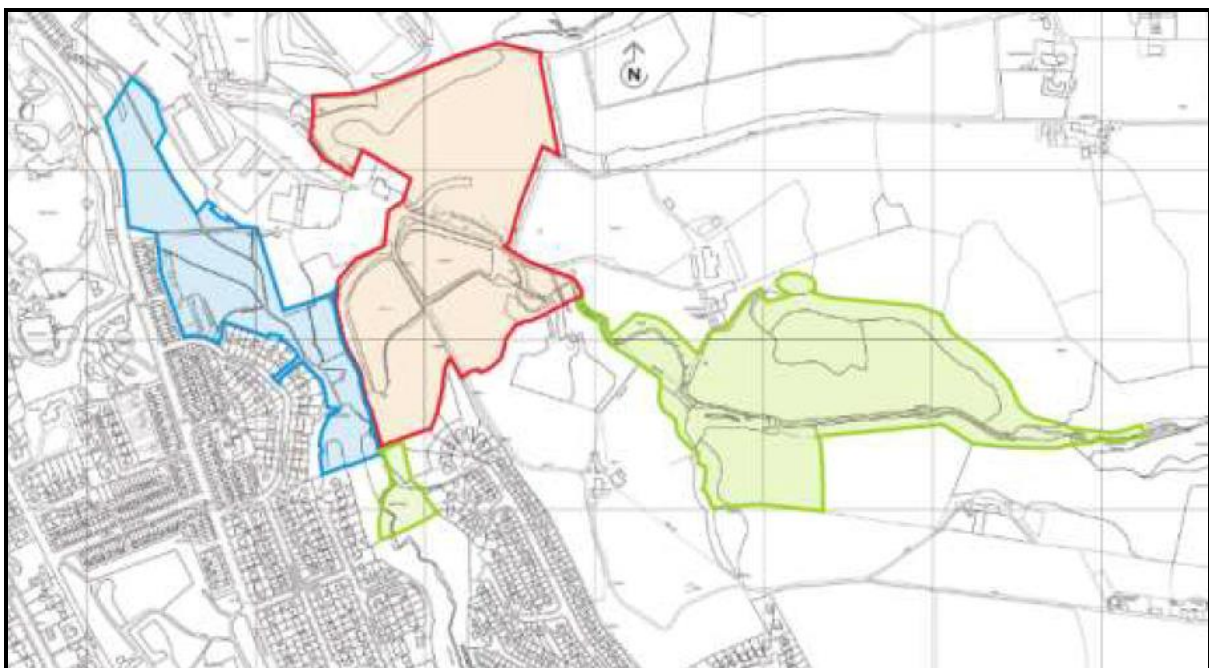


Fig 2. Plan illustrating the three main areas of the proposed scheme. Source: Design and Access Statement submitted by the applicant. It should be noted that the area shaded green is not within the “red-edge” of the planning application shown in Fig 1 above.

To the west is an industrial estate occupied by Calogen Foam and Manchester Road, to the south scrub woodland and residential houses, to the east open countryside leading to the A56 and to the north Accrington College and playing fields leading to residential houses.

## **Proposal**

Outline planning permission is sought for the development of 122 houses with associated access. The proposed access is approximately 450m in length and stretches from Manchester Road to the smaller fishing lake. There would be a further pedestrian/cycle access from Bamford Crescent connecting into the access road. Although details of the access have been submitted as a reserved matter, details of the appearance, scale, layout and landscaping have not been submitted at this stage. If planning permission is granted these would be determined at a later stage.

The indicative plan submitted show that the houses would be split between 93 market houses, and 29 affordable units. The development include planting of trees and ecological enhancements to an area east of the housing site although this land is not within the application boundary. The submitted drawings indicate that approximately 51 houses would be constructed around the two fishing lakes, the lake on the west side being reduced in size. The lakes would form a focal point for development with the housing shown on the indicative plans facing onto the water bodies.

The remaining 71 dwellings would be constructed on the open land to the north of the fisheries, utilising the same access onto Manchester Road as that used by the dwellings around the two lakes. On this part of the site the proposed dwellings are at least 630m from Manchester Road, the furthest being over 800m from the main road.

Full details of the layout and size of the access road have been submitted as a part of the application. In addition, the applicant has also submitted a (non-intrusive) technical report on the condition of the site, a tree report and woodland management plan, a biodiversity assessment and management plan, a transport assessment, a landscape assessment, a flood risk assessment and indicative plans / sections of the housing layout. The applicant has not submitted an assessment of financial viability.

## **Consultations**

**Public consultation:** 62 no of representations have been received. The following reasons for objecting to the scheme have been noted:

- Detrimental impact on wildlife in the area, including Deer, Bats and Owls
- Impact on traffic and highway safety, parking and congestion
- The road will flood in wet weather
- Greenfields will be turned into concrete
- A roundabout or traffic light system should be added
- Housing should be made for housing associations, not market housing which isn't needed
- Hyndburn doesn't need new homes
- Pressure on school places
- No jobs in the town
- Financial gain to the Council when there is no need for housing

- The access from Bamford Crescent will cause serious disturbance to residents on Bamford Crescent
- The land is used by children and walkers and spaces like this are important for mental health
- Noise from the Calogen site next door which is not a suitable neighbour for this development
- The land off Laund Clough is not in the ownership of the applicant so how can they designate it as a 'mitigation area'.
- Tree Preservation Orders on the land
- Increase in Co2 emissions due to the increase in cars in the area
- Japanese Knotweed on the site could be disturbed and this could make it grow more aggressively and invalidate the warranty from the work that has been done already.
- Increased vulnerability from crime
- Noise and nuisance to neighbouring properties.
- Noise vibration and light pollution
- Visual impact of the development from Grafton Gardens
- Net gain in biodiversity has not been demonstrated within the application and the mitigation has not been assessed correctly.
- The wildlife corridor between Laund Clough and Warmden Clough would not be able to be maintained at an appropriate width
- A water main runs across the site
- Car parking spaces are inadequate
- Opening the footpaths in the area is not mitigation for this application, those footpaths were closer unlawfully and access denied in 2005
- Trespass on properties on Grafton Gardens will increase
- Inaccuracies in the plans
- Impact on house prices
- Pressure on water services in the area which are already under stress
- When it snows people park on Manchester Road and walk to houses on Bamford Crescent, this will be exacerbated by the new houses.
- Will the roads be adopted?
- The old and disabled people will be isolated due to walking distance to public transport
- Loss of view
- The site is not included in the Councils Development Plan '5 year housing supply statement 2017-2022' and as such is not deemed appropriate for development.
- The use of the Council land for the site access road is not consistent with the safeguarding of those areas which are a conservation area and stepping stone habitat.

### ***LCC Highways***

Initial comments were received, with no objection, and are summarised below:

- Pre application comments have been provided to the applicant

- Construction traffic will use the new road from Manchester Road, although it has been confirmed there is access through Broad Oak Road also available as a secondary route if required.
- Broad Oak road can also be used as an emergency route should the site access and road link be closed during an emergency or for repairs to the infrastructure
- Bamford Crescent will be a pedestrian cycle link only. Vehicular access is not agreed or deemed necessary
- The principle of the access are agreed on drawing J846/Access/Fig 1 Rev X. The visibility splays are agreed and are within the adopted highway. These works would be delivered under a s278 agreement and include street lighting and drainage.
- Framework Travel Plan is submitted but can't be viewed on the website an update will be provided.
- The internal layout is reserved matter and principals are agreed and detailed in pre-app comments.
- Conditions are required:
  1. Construction Method Statement
  2. Scheme for the site access and access road off Manchester road
  3. Scheme for off-site highway works
  4. Details of future management and maintenance of roads details of the internal roads to LCC standards to be submitted
  5. Scheme for the footpaths to be submitted
  6. Pedestrian/cycle link to Bamford Crescent only
  7. Garage driveway and communal parking areas to be agreed at reserved matters
  8. Estate roads to be at least base course level prior to occupation
  9. Secure cycle storage
  10. Electric Vehicle charging point
  11. Implementation of the Framework Travel Plan

Following confirmation that the access being applied for is the full length of the road, further updated comments were received which are summarised below:

- Comments are made in response to the Devine Housing Development outline site plans North DHD 07/11/17, Central DHD 08/07/17, West Manchester Road access DHD 09/11/17, access arrangement J846/Access/Fig 1 Rev X, Topping Engineers 'Highway proposals' 18311-C-50 Rev C, Topping Engineers 'Footway diversion proposals' 18311-C-52 and Transport Assessment J846/TA dated November 2017.
- Pre-application comments have been provided to Devine Fisheries by the Highway Authority.
- The construction traffic will use the new site access off Manchester Road, however the applicant has confirmed that a right of vehicular access exists for the development site over Broad Oak Road and therefore this can be used as a secondary route if required.
- The applicant has confirmed that a right of vehicular access exists for the development site over Broad Oak Road and therefore this can be used as an

emergency route should the new site access and link road be closed during an emergency or for repairs to the infrastructure.

- Bamford Crescent will form a pedestrian cycle link only. Vehicular access at this point is not agreed or considered necessary as Broad Oak Road provides a suitable alternative.
- Site access
- The principles are agreed on drawing J846/Access/Fig 1 Rev X, together with parking restrictions on Manchester Road to protect the visibility splays which are agreed at X-2.4m x Y-49m based upon the 85th percentile speeds recorded in the traffic count undertaken in May 2017. The splays lie within the adopted highway. These works are to be delivered under a S278 off-site highway works agreement and will include an assessment of the street lighting and surface drainage.
- The new access road from Manchester Road shown on the Topping Engineers 'Highway proposals' drawing is included in the 'access', rather than under 'layout' which is a reserved matter. The design principles are agreed. There are aspects that are indicative and subject to further detailed design, in particular the structures and tie-in detail of the public rights of way. This can be agreed at condition discharge stage, should the application be approved.
- A framework Travel Plan is submitted however it is not available to view on the website therefore an update will be provided to these comments to confirm or otherwise its acceptability.
- The layout is a reserved matter and the principles are agreed and detailed in the pre-application comments.

Various conditions are recommended relating to:

- Construction Management Plan
- Scheme for the site access and site access road off Manchester Road, including Public Rights of Way details
- Scheme for offsite highway works including the provision of a right hand lane and pedestrian refuge on Manchester Road and a signalised crossing on Manchester Road near the junction with Broad Oak Road.
- Details of future management and maintenance of the proposed streets within the development
- Full engineering, drainage. Street lighting and construction details to adoptable standard
- Scheme for the boundary treatment, surface, signage and vehicular access restrictions from within the development for footpaths 147, 165, 166, 167, 168, 169 and 170
- Pedestrian and cycle link to Bamford Crescent to adoptable standards
- Details of garages and communal parking areas for each dwelling at reserved matters stage, to be in line with HBC requirements
- Estate roads to be completed to at least base course level prior to first occupation
- Secure cycle storage for each dwelling
- Electric vehicle point for each dwelling
- Framework Travel Plan to be implemented in full in accordance with the timetable within it.

## **LCC Education**

No request for contributions has been made.

## **Lead Local Flood Authority**

Comments have been received confirming no objection subject to conditions relating to the submission of details of a Surface Water Drainage Scheme and associated Lifetime Management and Maintenance Plan.

## **HBC Environmental Health**

No objection, conditions in relation to the following are required:

- Site preparation and construction phase
- Contamination
- Noise
- Odour

## **HBC Parks**

At this stage it is not possible to provide a figure for offsite contribution to open space as the full detail has not been received, Should provision be made on site a LEAP is required at a minimum and also an offsite contribution towards a sports facility off site.

## **HBC Ecologist**

Comments have been received following the amended road layout, which are summarised below:

- The revised road layout has been supported through an Arboricultural Impact Assessment. The layout avoids all significant impact on the tree stock on Manchester Road and limits the impact on TPO trees within the woodland so far as reasonably possible.
- A detailed Arboricultural Method Statement and Tree Protection Plan has not been submitted which will be required by pre-commencement condition.
- The area of earthworks necessary to construct the road will need to be landscaped and planted following construction.
- A woodland management scheme has been submitted in support of the scheme, however this does not take into consideration the road construction, and therein the aftercare/management of the woodland immediately affected by construction.
- The applicant will be required to submit a planting/landscape/management plan specifically to cover the area of woodland immediately affected by the road construction.
- The woodland management plan provides details of future management of the woodland and the means by which the biodiversity can be increased. The woodland is S41 Principal Habitat for purpose of the NERC Act. The woodland has high

distinctiveness but in poor condition. The woodland management plan describes a methodology to bring the retained woodland to good condition thereby improving its overall biodiversity.

- Some concern that the road will increase the fragmentation of the woodland wildlife corridor, specifically for the movement of small mammals, however this impact will be no greater than that caused by Shop Lane and Broad Oak Road. Overall improvements to the woodland condition and enhancement of the woodland biodiversity will compensate for this impact.
- The application is not supported by a viability assessment. In consideration of the extent of engineering to create the road, due thought must be given to of the scheme costs and viability
- The woodland, lakeside and open areas of countryside have a distinct 'sense' of rural wellbeing, despite its proximity to the urban area. In its present form the scheme will have a detrimental impact on the open countryside and rural character of the area.
- Any further applications to increase the dwelling numbers will significantly increase the negative impact, both to rural character and biodiversity benefit.
- The area proposed for development has high ecology, environmental, aesthetic and amenity value. In particular the southern area around the two lakes requires careful consideration in respect of ecology, form, character and scale. Development around the lakes must sit and be framed by the character of the landscape, and not be dominant to it. Due consideration must be given to the extent of development and impact on rural character.
- Careful use of landscaping and design must ensure that the development fits into the open and rural nature of the area. This does not necessarily mean that the design must be all traditional; indeed the dwellings running into/towards the lake could be more modern to reflect the lake side location.

## **HBC Regeneration**

Comments have been received from the Council's Regeneration Officer and are summarised below:

- The indicative housing provides an initial good % mix of house types in accordance with the policy, however further discussion on the mix would be required at the reserved matters stage
- The offer of affordable housing equates to 23%, when spread over the development is welcome. The affordable element should be delivered in accordance with Development Management DPD Policy DM12. Subject to negotiation these could be either for sale or rent preferably via a registered provider. It should be noted DM16 states that at least 30% of any new affordable housing provide onsite should be specifically tailored to meet the needs of elderly or disabled residents, or be easily adaptable, in line with Building regulations Requirement M4 (2) Category 2.



## **HBC Conservation Officer**

The woodland is part of the Conservation Area and enhances the character and appearance especially along Manchester Road where there is a plain wall and a series of mature trees opposite the gardens of Oakhill, now Oakhill Park. Breaking through the wall would detract from the townscape and setting of the listed Oakhill Mansion because it will introduce clutter associated with a modern highway junction in a location where there is simply a plain wall and trees adjacent to the highway. Whilst I defer to the Tree Officer in relation to the trees, it appears that lots need to be destroyed and this would detract from the character and appearance of the Conservation Area in particular the woodland walk enjoyed along the PROW.

There is a legal requirement to pay special attention to desirability of preserving and enhancing character and appearance of a Conservation Area and this should take precedent over most other things.

On balance, I feel that this proposal would cause less than substantial harm to the character and appearance of the Conservation Area and the setting of the listed building provided the large trees adjacent to Manchester Road are not affected in such a situation one should assess public benefits of the proposal which might outweigh the harm that would take place'.

## **Lancashire Fire Service**

Advice is given in relation to fire appliances and water supplies, which would be covered in a subsequent building regulations application. The applicant to be directed to this advice in an informative, should the application be approved.

## ***Lancashire Police***

No comments have been received within the statutory time period.

## ***United Utilities***

No objections provided conditions are included relating to foul and surface water discharge.

## ***Electricity Northwest***

No comments have been received within the statutory consultation period.

## ***Environment Agency***

An objection and supporting comments have been received which are summarised below:

In the absence of an acceptable Flood Risk Assessment (FRA) object to the grant of planning permission and recommend refusal on this basis for the following reasons:

- The FRA submitted with this application does not comply with the requirements set out in paragraph 9 of the Technical Guide to the National Planning Policy Framework. The submitted FRA does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular, the submitted FRA proposes that one of the existing lakes which is within the floodplain and provides flood storage is to be partially infilled. The FRA does not properly determine the effects that infilling the floodplain will have on the site and downstream, nor does it propose compensatory flood storage on a level-for-level basis.

The proposals to infill other watercourses are a matter for the Lead Local Flood Authority, for which Land Drainage Consent must be obtained.

The consultation response advises the applicant on how they can overcome the objection: By submitting a FRA which covers the deficiencies highlighted above and demonstrates that the development will not increase risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of an objection.

#### Advice to LPA / Applicant:

The watercourse, Broad Oak Water is designated a Main River and the developer may need an Environmental Permit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. We would be unlikely to permit any works within the 8m wide river easement for the following reasons:

- *Development within the 8m wide main river easement would restrict essential maintenance and emergency access to the watercourse. The permanent retention of a continuous 8m wide unobstructed area is an essential requirement for future maintenance and / or improvement works.*
- *Building structures within the easement may interfere with natural geomorphological processes and could be placed at risk of damage arising from channel migration/erosion.*

The Environment Agency has a right of entry to the Broad Oak Water by virtue of Section 172 of the Water Resources Act 1991, and a right to carry out maintenance and improvement works by virtue of Section 165 of the same Act.

#### Contaminated Land:

In the event of the submission of a revised FRA that enabled us to remove our current objection, we would make the following comment regarding contaminated land:

The development site is noted as comprising:

- Contaminated land which has previously been a licensed landfill;
- Land with a previous use as undefined garages & storage areas.

These land uses present a high risk of contamination that could be mobilised during

construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the site is located upon a Secondary Aquifer B.

The Desk study by Worms Eye Dated March 2017 submitted in support of this planning application provides us with confidence that it will be possible to suitably manage the risk posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. It is our opinion that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the Local Planning Authority.

In light of the above, we would seek a planning condition requiring the submission of a remediation strategy, carried out by a competent person in line with paragraph 121 of the National Planning Policy Framework.

This strategy would include the following components:

1. A preliminary risk assessment which has identified:
  - all previous uses;
  - potential contaminants associated with those uses;
  - a conceptual model of the site indicating sources, pathways and receptors; and
  - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The desk study already satisfies part 1 of this condition, which recommends that further investigation should be undertaken.

#### Biodiversity:

In the event of the submission of a revised FRA that enabled us to remove our current objection, we may have additional comment regarding biodiversity.

#### ***Ribble Rivers Trust***

An objection has been received to the application which is summarised below:

- Insufficient information to enable an appropriate decision to be made in relation to the following:

- The Ecological report makes several references to the running water/streams within the development site, it makes reference to macrophytes and culverts. But nowhere is there any information on the current ecological status of the streams, or what species it may contain. The development will have a significant impact on the water course, from human disturbance during and post construction to water quality.
- It is expected there will be Bullhead (*Cottus gobio*) and Brown Trout (*Salmo trutta*) to be present in both brooks as they are present in nearby streams in which we have records, and are present in almost every watercourse in the Ribble. These species are Lancashire BAP priority species, and Brown Trout are UK BAP priority species. It is also possible that Eel (*Anguilla anguilla*) are present, which are also a UK BAP priority species.
- There is no mention of the streams within the Biodiversity offsetting calculation.
- The SuDS design in the FRA make no reference to water quality, and we feel there is an overall lack of detail pertaining to the SUDS proposed, this also poses an issue regarding the Biodiversity offsetting calculations.
- Onsite mitigation associated to the expected impacts on the streams, and where this can't be achieved offsite compensation.

Following further discussion, the Ribble Rivers Trust has withdrawn their objection provided a condition is included in relation to the applicant completing an assessment of the water habitat on the site to enable mitigation measures to be in place if required.

### ***HBC Waste***

£125 per unit for bin provision

### ***Natural England***

No Objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected sites or landscapes.

### ***Cadent Gas***

No objection, but they request that advice provided is included within an informative note for the applicant.

### ***Health and Safety Executive***

Does not advise against development.

### **Relevant Planning History**

11 18 0034 Major: Outline planning permission (Access landscape, layout and scale) for erection of 122 dwellings with associated infrastructure. Withdrawn

## **Relevant Policies**

### **Hyndburn Core Strategy**

Policy BD1	Balanced Development Strategy
Policy H1	Housing Provision
Policy H2	Affordable Housing
Policy HC3	Design of Residential Roads
Policy HC4	Community Benefits/Planning obligations
Policy Env2	Natural Environment Enhancement
Policy Env3	Landscape Character
Policy Env6	High Quality Design
Policy Env7	Environmental Amenity
Policy T1	Improving Connectivity
Policy T2	Cycle and Footpath Networks
Policy RA1	Amount and Distribution of housing in Rural Areas

### **Development Management Development Plan Document**

Policy GC1	Presumption in Favour of Sustainable Development
Policy GC2	Infrastructure, Planning Obligations and CIL
PolicyDM10	New Residential Development
Policy DM11	Open Space Provision in New Residential Development
Policy DM16	Housing Standards
Policy DM17	Trees, Woodlands and Hedgerows
Policy DM18	Protection and Enhancement of the Natural Environment
Policy DM19	Protected Species
Policy DM20	Flood Risk and Water Resources
Policy DM22	Heritage Assets
Policy DM23	Demolition of Unlisted Buildings and Structures in Conservation Areas
Policy DM24	Contaminated or Unstable Land and Storage of Hazardous Substances
Policy DM25	Pollution Control
Policy DM26	Design Quality and Materials
Policy DM29	Environmental Amenity
Policy DM31	Waste Management in all New Development
Policy DM32	Sustainable Transport, Traffic and Highway Safety
Policy DM34	Development in Green Belt and Countryside Area

### **Other material considerations:**

National Planning Policy Framework

National Planning Policy Guidance

Development Management Development Plan Document:

- Guidance Note 1: Open Space in New Development
- Guidance Note 2: Affordable Housing
- Guidance Note 8: Car parking, access standards and transport assessment/travel plan thresholds
- Guidance Note 10: Distances between development and trees

Institute of Highways and Transportation: 'Providing for Journeys on Foot'

## **Observations**

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 Council Local Plan (1996), the adopted Hyndburn Core Strategy and the Development Management Development Plan Document.

The National Planning Policy Framework and associated guidance are material considerations that should be taken into consideration as are material consultation responses and the responses of statutory consultees.

The application is submitted in outline with all matters reserved apart from access. This section of the report will initially concentrate on the principle of the development, and the impact in terms of traffic and highway safety (specifically for the consideration of this application; the access), sustainability of the location of the site, before going onto discuss the associated issues in terms of affordable housing provision, housing mix, housing standards, landscape character, scale design and layout, heritage impacts, residential amenity, open space provision, Trees, Landscaping and Ecology, Drainage, Coal and bin provision. The report will then conclude before making a recommendation.

## **Principle of development**

### **The Hyndburn Core Strategy**

The Council's Core Strategy, adopted in January 2012, provides the strategic policy framework for development within Hyndburn and is considered relevant to the determination of planning applications.

### **Policy BD1 'The Balanced Development Strategy'**

Hyndburn Core Strategy Policy BD1 presents 'The Balanced Development Strategy' and parts a) and c) are relevant to the consideration of this proposal. Part a) states that *the existing settlement pattern and hierarchy of centres will be maintained and supported by concentrating development within the urban areas and in centres of a scale and type appropriate to their role. Accrington and its townships will accommodate the majority of new development. Modest growth is proposed in Great Harwood, and Rishton would develop in a manner consistent with its size and function. Development that is appropriate to the scale and role of the townships will be supported to help sustain these areas and the services they provide to their communities.*

The supporting text explains the application of this policy, advising that '*...the policy will protect the majority of rural areas from development, maintaining the distinctiveness of these areas*'. (para 3.18, Hyndburn Core Strategy).

Although the proposed access road, within the area coloured blue on Fig 2 above, is within the urban boundary, the areas that are proposed to be developed for housing are within the countryside which forms part of the rural area.

Part c) of Policy BD1 states:

*c) Development within the rural area will be limited to that supporting farm diversification and promoting leisure and recreational facilities whilst retaining landscape character. Within the settlements of Belthorn and Altham new development will be limited to that required to meet specific local needs that satisfy the requirements of Green Belt and other rural policies’.*

The supporting text explains the application of this policy, advising that ‘...the policy will protect the majority of the rural areas from development, maintaining the distinctiveness of these areas’.

The proposed development does not relate to farm diversification and does not promote leisure and recreation facilities. As such officers do not consider that the proposed development is in accordance with the policy.

#### Policy RA1 ‘Amount and distribution of Housing in Rural Areas’

Hyndburn Core Strategy Policy RA 1 concerns the amount and distribution of housing in rural areas, further explaining the reason why housing development is limited in rural areas and states that:

*‘In settlements within the rural area new housing development will be limited to that needed to meet specific local needs that satisfy the requirements of Green Belt and other rural policies’.*

This site is neither in a settlement nor has any specific need been identified. As such, Officers do not consider that the proposal is in accordance with the provisions of the policy.

Although the applicant’s agent has made representations concerning the consistency of these policies with the National Planning Policy Framework officers are satisfied that these policies of the Core Strategy form an important and extant part of the development plan and should therefore be apportioned appropriate weight.

The policies of the Hyndburn Core Strategy do not support large scale residential development within the countryside and for this reason the proposed development is contrary to the strategic policies of the development plan and is not therefore acceptable in principle.

It should be noted that the applicant has been advised that the proposed development is not supported by the strategic policy framework set out in the Core Strategy at pre-application stage and for this reason has been advised to submit the site through the Council’s “call for

Sites” so that it can be considered as part of the development of the new planning policy framework for the Borough that is currently taking place.

The applicant has submitted the site under Call for Sites and so the merits of allocating the site in the new local plan will be considered through that process.

### **The Development Management Development Plan Document.**

The Council's Development Management Development Plan Document (DMDPD) sets out the more detailed policy framework in respect of the Borough's rural areas in section 9: 'Rural Issues'. The purpose this section of the Core Strategy is identified in the supporting text to the policy, to present a more detailed policy framework for development within the rural areas that reflects the strategic approach set out in CS Policy BD1.

#### **Policy DM34 'Development in the Green Belt and Countryside Area'**

DMDPD Policy DM34 presents a more detailed policy framework for development within the rural areas that reflects the strategic approach set out in Core Strategy Policy BD1. This gives circumstances when new buildings, extensions, conversion of buildings and development to enable leisure and recreation would be considered acceptable.

It provides clear criteria for proposed extensions and conversions in the rural areas. DM34 also provides more detailed policy that sets out how the Council will manage proposals for new buildings within the Countryside Areas. Whilst the approach adopted in Policy DM34 does provide scope for new buildings in the Countryside Area (paragraph 2), these will be assessed in the context of strategic policies BD1 & RA1 and any proposal must meet the following criteria:

- a) *have suitable access in place, or the ability to create a suitable access, without adversely impacting on rural character;*
- b) *protect and enhance<sup>1</sup> nature conservation features and species, including the area's soils;*
- c) *be capable of being developed without adversely affecting the character of the rural landscape;*
- d) *have satisfactory arrangements in place for the discharge of foul and surface water and considered issues of flood risk in line with Policy DM20: Flood Risk Management and Water Resources. It must also be demonstrated that the proposed development, where necessary, can be serviced by existing utility infrastructure, or that a co-ordinated approach will be applied between the phased delivery of development and delivery of future infrastructure works;*
- e) *for residential proposals, any new curtilage which is being created should be proportionate to the size of the building and be in keeping with the surrounding rural landscape;*
- f) *the design of any buildings must be sensitive to the local area and must respect the rural setting in terms of the materials used, their detailing and overall*

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<sup>1</sup> providing net gains in biodiversity where possible



appearance. A more traditional approach will be favoured and any scheme should not have an urbanising impact on the site and surrounding area.

It is clear in the supporting text (paragraph 9.5) that this refers to smaller scale development, when it states: *'there is a general presumption against proposals for new development in rural areas, in order to support the Council's adopted 'Balanced Development Strategy' Policy BD1 of the Core Strategy which states that 'development in such areas should be limited to supporting farm diversification and promoting leisure and recreational facilities whilst retaining landscape character.'*

Paragraph 9.6 goes on to state that *'Policy DM34 provides the policy framework through which the Council can recognize the value of the natural environment to the local economy and protect the rural areas of the Borough, whilst supporting sustainable rural tourism that will benefit businesses in rural areas'.*

The development of 122 dwellings in this area of open countryside would change the character and appearance of this rural area to an urban area that is dominated by built development. The policy framework seeks to retain the landscape character of the Borough's countryside and its distinctiveness, and to do this it includes a policy presumption against proposals for new development in rural areas unless they are related to farm diversification or promoting leisure and recreation facilities.

The proposed development would have an irreversible detrimental impact on the character and appearance of the landscape contrary to the policies of the Core Strategy and Development Management DPD set out above.

Notwithstanding this, the planning application has been submitted in outline form. Although indicative plans have been submitted that suggest that the site will be developed with low density housing with large areas of landscaping, these cannot be conditioned. Furthermore, the applicant has not submitted an assessment of financial viability that demonstrates that the development of the site, including a 450m long access road and higher than required level of affordable housing, can actually be provided.

### **Consideration of the Council's 5 Year Housing Supply**

The applicant has submitted a Design and Access Statement with the application prepared by Rural Futures North West which argues that the Council does not have a valid 5 year supply of housing, and as such all local planning policies relating to the supply of housing should *'be considered in terms of sustainable development, in line with the NPPF'.*

They also argue that the DMDPD Policy DM34 relates to development in the countryside and under this policy development opportunities have been expanded and can include new build providing it meets the individual requirements of Policy DM34. However Officers consider that this statement suggests that the applicant has failed to consider the proposal in line with Policy BD1 of the Core Strategy as the supporting text requires (see above).

During the consideration of the planning application, the Government published a revised National Planning Policy Framework (NPPF), along with Planning Practice Guidance issued on 18<sup>th</sup> September 2018 which requires Councils to calculate their 5 year housing supply in a specific way. -

National Planning Policy Framework states that “Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.”

The adopted Core Strategy is more than five years old, it is therefore necessary to consider whether the Council has a five year supply of housing when considered against its local housing need requirement (as calculated using the standard method in national planning guidance).

Paragraph 11 (d) of the updated NPPF states that:

*‘Plans and decisions should apply a presumption in favour of sustainable development.....*

*For decision-taking this means:*

- c) *approving development proposals that accord with an up to date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
  - i) *The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or*
  - ii) *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole’.*

Further clarification (by way of a footnote in NPPF) is provided to d) to advise when policies would be considered out of date, these specifically relate to the presence of a five year supply and failure to satisfy the housing delivery test.

- Officers have undertaken an assessment of the 5 year housing land supply based upon the new policy requirements set out in NPPF 2018. The Council has an adequate 5 year housing land supply.
- In relation to the housing delivery test, the Council has assessed its position under the transitional arrangements set out in NPPF 2018 and officers are satisfied that delivery is above the minimum level required by the transitional arrangements.

The agent also argues specifically that Policy BD1 is out of date due to it being inconsistent with NPPF, in that it places a blanket restriction on development in the rural area, save specific circumstances identified.

However, Officers consider that Core Strategy Policies BD1 and RA1 provide the strategic policy framework for development in the rural areas and are still considered relevant to determining the application. The policy approach taken by the Core Strategy is consistent with the approach advocated in NPPF on Rural Housing.

These policies do allow development for residential business (farm diversification) or leisure uses, subject to certain criteria being met. DMDPD Policy DM34 then provides further detailed policy on the circumstances whereby new buildings, extensions, or conversions will be permitted. As such Officers do not accept that the policy (and its associated ones) places a 'blanket restriction' on development.

Revised NPPF refers to the development of housing in rural areas in paragraphs 77-79, and supporting a prosperous economy in rural areas in paragraphs 83-84. Having reviewed these paragraphs, Officers are satisfied that Policies BD1, RA1 and DM34 collectively are in broad compliance with the NPPF.

Paragraph 212 of the NPPF also states that *'existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the framework, the greater the weight that may be given).'*

It should also be noted that work on a review of the Core Strategy has begun, with a scoping exercise undertaken as part of a Regulation 18 consultation in February –April 2018. The scoping exercise identified the intention to review Policy BD1 of the Core Strategy, on the grounds of changes to the OAN for housing and employment in the Borough.

Officers do not however consider the policy to be out of date in terms of its key aim to limit development within the rural areas to those that are felt appropriate (discussed earlier). Officers therefore do not consider that the publication of the revised NPPF has a significant influence of policy in determining the application.

For the reasons set out in this section of the report, Officers do not consider that the proposed development accords with the relevant local and national planning policy in relation to the principle of the development (namely Policy BD1 and RA1 of the Core Strategy and the later DMDPD Policy DM34), and as such the development is not considered acceptable in this regard.

### **Traffic and highway safety**

Policy Env7 of the Core Strategy aims to avoid development which has an unacceptable adverse impact by reason of traffic. Policy T2 deals with the provision of cycle and footpath

networks and Policy HC3 deals with the design of residential roads. DMDPD DM 32 and DM33 also provide 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 the application in outline with all matters reserved apart from access. A Transport Statement has been submitted with the application along with a Framework Travel Plan. Officers requested further information in relation to the access track and the impact it would have on the woodland, along with details of the works required to develop the access track due to the level change between Manchester Road and the adjacent land. This was subsequently submitted and considered in full.

- Access

The access and 421.83m link road to the development would be from Manchester Road and would snake through the existing woodland to the south east to join the entrance point to the development. It is this length in its entirety that is being considered as the 'access' detail in this outline planning permission. The road would roughly follow the line of the Calogen Foam development on the industrial estate adjacent.

The land levels between Manchester Road and the existing woodland are significantly different; with Manchester Road being significantly higher than the woodland area adjacent. As such significant works will be required to bring the link road to an acceptable level and gradient. To enable this this plans show a retaining wall to be erected to the Manchester Road end of the link road which would be 7m in some parts. It would also be necessary to remove a stretch of the wall along Manchester Road which lies within the Christ Church Conservation Area (discussed in more detail in the 'Heritage' section of the report), and one tree which is protected under a Tree Preservation Order. Other trees would be required to be removed, which are not protected under a Tree Preservation Order, but are afforded the protection of the Conservation Area.

Following the submission of the extra details the HA has confirmed that the principles of the access to the development are agreed on the drawing submitted (J846/Access/Fig 1 Rev X), together with parking restrictions being required on Manchester Road to provide suitable visibility splays within the adopted highway. They have stated that there would also be a pedestrian refuge required at the point where the access is formed. These works would be delivered under a S278 agreement and will include an assessment of street lighting and drainage. They have however also highlighted that there are aspects of the design which are indicative and subject to further detailed design and a list of recommended planning conditions have been given to ensure this is met. This includes the tie-in detail of the public right of way across the site. The HA have confirmed they would adopt the access road.

As such in the absence of an objection from the statutory consultee, Officers are satisfied that the access to the development, as detailed on the submitted plans and subject to the

recommended conditions, is acceptable and in accordance with the relevant planning policy in this regard.

- Secondary/emergency access – Development traffic

The HA are satisfied that the applicant has confirmed that a right of vehicular access exists for the development site over Broad Oak Road and therefore this can be used as an emergency route should the new site access and link road be closed during an emergency or for repairs to the infrastructure. The Bamford Crescent link to the west of the site will form a pedestrian/cycle link only. Vehicular access at this point is not agreed or considered necessary as Broad Oak Road provides a suitable alternative.

As such, in the absence of an objection from the statutory consultee, Officers are satisfied that the secondary and emergency access to the site as proposed is acceptable and in accordance with the relevant planning policies in this regard.

- Construction Traffic

The construction traffic will use the new site access off Manchester Road; however the applicant has confirmed that a right of vehicular access exists for the development site over Broad Oak Road and therefore this can be used as a secondary route if required.

As such, in the absence of an objection from the statutory consultee, Officers are satisfied that the access for construction traffic to the site as proposed is acceptable and subject to the recommended planning conditions is in accordance with the relevant planning policies in this regard.

- Internal Layout and parking

The layout is a reserved matter and the principals are agreed and detailed in the pre-application comments. As such, Officers are satisfied that this can be suitably designed in accordance with the relevant planning policies at the reserved matters stage.

### **Sustainability of the location of the site.**

Policy Env4 of the Hyndburn Core Strategy requires that all development must minimise negative impact on the environment and help to mitigate against the likely effects of Climate Change on present and future generations. It provides details ways in which this can be achieved.

Point a) of the policy states that one of the ways is by *‘ensuring that new development is in sustainable locations, is accessible to goods and services, can be accessed on foot and by bicycle and improve links with public transport networks’*. This policy is supported by the provisions of the Development Management DPD as set out later in this section of the report. The Balanced Development Strategy within the Core Strategy (Policy BD1) also

sought to focus new development within the urban areas, recognising that this was inherently sustainable with ready access to services.

The Council also provides a Guidance Note in relation to accessibility in the DMDPD which is a material consideration to this application and which allows accessibility to be assessed in relation to distances to services and bus stops etc.

The site is located on the edge of the urban boundary, but in order to access the site it would be necessary to construct an access track of approximately 450m in length from Manchester Road. There would also be pedestrian/cycle access from Bamford Crescent. Although the closest part of the proposed development to Manchester Road would be approximately 450m away, large parts of the site would be over 800m away. The proposed access is through a wooded area that is not overlooked by housing and would involve a steep climb to reach Manchester Road.

One of the strategic objectives of the Core Strategy is to ensure that new development has easy access to good quality services and facilities and this is reflected by the principles that underpin the balanced development strategy. The proposed development is not in a highly accessible location with areas of housing a significant distance from Manchester Road, local and district services. Whilst the access road will facilitate travel into and out of the site by car, it is a significant distance to walk and involves a steep incline that is unlikely to be used by elderly people, disabled people or those with young children. The route does not benefit from natural surveillance and would not contribute to an environment that feels safe.

Although the applicant maintains that the site is highly accessible this is not considered to be the case. The proposed development does not relate well to existing urban areas and the development will rely on a lengthy access road to connect into the urban area. There are no shops, primary schools, creches or play areas within easy walking distance of the site. Although there are frequent bus services along Manchester Road, this is also a significant distance from the proposed housing. It is recognised that Bamford Crescent is closer but services are limited. The applicant has submitted a Framework Travel Plan to encourage more sustainable travel choices but the site remains in an unsustainable location.

The Framework Travel Plan is an outline of ways in which accessibility can be improved through measures such as providing bus timetables and information in a travel pack, discount from local shops for cycles, encouraging people to walk through active campaigning and encouraging car sharing. Although these measures are welcomed, officers do not consider that they go far enough to mitigate the long distances which would need to be walked or cycled in order to access basic services such as the local shops, bus services and schools.

Officers therefore have concerns in relation to accessibility and associated sustainability of the location of the site. In particular elderly and young people who would need to walk long distances to bus and train services and local shops for daily supplies. This could have the

impact of isolating some parts of the community and also increase the need for car use on the development.

Officers do not therefore consider that the development is acceptable in relation to the provisions of Policy Env4 in this regard.

Policy DM32 of the DMDPD seeks to ensure that all development proposals actively encourage sustainable travel by prioritising the needs of sustainable transport modes in accordance with a street user hierarchy that prioritises pedestrians, cyclists and public transport users above other motorised transport. The policy framework also seeks to ensure that new developments are located and designed to allow ease of access for all potential users including those with impaired mobility. It is not considered that the proposed development satisfies these requirements for the reasons set out above.

In conclusion, therefore the development is not considered to be located in a sustainable location and/or accessible to goods and services, or that the priority walkers cyclists and public transport users have been prioritised. As such the development would be located in an area which is contrary to the provisions of Env4 of the Core Strategy, DM32 and DM33 of the Development Management DPD as detailed in this section of the report.

### **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. This is supported by Policy DM12 of the DMDPD which also gives more details in relation to other requirements which must be met when considering the affordable provision on a development. Policy DM16 of the DMDPD also has requirements which must be met in relation to housing standards for affordable homes.

It is confirmed in the supporting information submitted that the proposed development is for 122 houses in total; 29 being affordable 2 bed units spread across the site. This provision is at a level of 23.8% of the overall housing provision on the site which is over and above what is required by the Council under its affordable housing policy (20%). A provision of 20% would equate to 24 units. No evidence is provided to support the affordable units being provided as two bed units, and this will be required to be considered at the reserved matters stage in detail should the application be approved, along with the consideration of tenure and type of affordable housing it would be.

Although the applicant has not demonstrated that the affordable housing proposed is financially viable, the provision of affordable housing is welcomed and complies with the policies of the development plan.

### **Housing mix**

Core Strategy Policy H1 provides detail on the mix of house types which new housing should aim to provide.

Within the planning statement submitted with the application, it is confirmed that the development would consist of a mix of detached and semi-detached housing of 3 and 4 bed units, some bungalows which are intended for those who may have mobility issues and affordable 2 bed unit; discussed above. This would be considered in detail at the reserved matters stage should the application be approved.

The site's location in open countryside means that it has the potential to provide good quality housing in an attractive setting, a factor that weighs in favour of the proposal. However, it is important to recognise that the details of layout, landscaping, appearance and scale are reserved matters that would be submitted at a later date. Details relating to the standard of housing in relation to the National Space Standards would also be addressed at a later stage.

### **Landscape Character**

Core Strategy Policy Env3 relates to the consideration of Landscape Character and requires that new development must be appropriate to the landscape character type within which it is situated and should also contribute to the conservation, enhancement or restoration of landscape character or creation of appropriate new features. It provides a detailed list of how landscape character can be protected and enhanced.

The applicant has submitted an indicative Landscape Plan with the application which shows the two areas of housing, north and south of the site, and the retention of the existing reservoirs, albeit the west reservoir is indicated as being reduced in size. A Landscape Impact Assessment is also submitted which assesses the landscape and visual impact of the proposed housing development on the character of the existing site and surrounding area, as well as considering any impact on local visual receptors. The format of which is based on the principles in the 'Landscape Institute and Institute of Environmental Management and Assessment Guidelines for Landscape and Visual Assessment' and the 'Town and Country Planning (EIA) Regulations'.

The conclusion to this report is that the assessment identifies that the proposed development, notwithstanding the proposed mitigation measures, will have a 'moderate' impact on a number of receptors identified within the Zone of Visual Influence as a proposed change of use of the land. The impact of the remaining visual receptors is assessed as being, at worst 'minor'.

The proposed mitigation which is detailed within the report identifies a number of moderate impacts from the development and notes that the main reason for this is that the receptors are highly sensitive as they are residential. That said, it is noted that none have either an open or even partial view of the site, as the site is completely screened through both landform and tree cover.

The report also states that the only possible impact will be on those properties on Bamford Crescent that back onto the site as a small number of these may be able to view part of the



access road through the woodland. The Public Rights Of Way (PROW) will also have a moderate impact within the site boundaries.

It is stated that the most effective method of introducing a development into the landscape is to minimise potential impact through careful siting and landscaping and that the indicative development has been designed to achieve this by retaining the existing landform, boundaries and associated hedges and trees. The purpose of this is to help ensure that the existing habitat areas and visual amenity currently provided by these features is retained. The main mitigation measure proposed as part of the current application proposals is the provision of supplementary woodland planting internally within the site.

The report concludes that it is considered that the implementation of the proposed mitigation measures, with particular reference to proposed environmental mitigation measures, will ensure that the completed development will have a limited number of impacts of a negative nature both in terms of landscape character and visual impact. The proposed site is effectively in a bowl and as a result, both the topography and mature woodland protects the existing receptors. This screening will be further enhanced by the use of low intensity housing constructed from natural material.

The policies of the development plan seek to protect and retain the character and appearance of Hyndburn's landscapes by limiting the scale and types of development that should be permitted to that supporting farm diversification and promoting leisure and recreation.

The proposed development will fundamentally change the character and appearance of this rural area to an urban area that is occupied by housing and associated infrastructure. Notwithstanding the policies that form the Balanced Development Strategy, PolicyEnv3 of the Core Strategy seeks to ensure that the design of new development is appropriate to the landscape character type and would contribute towards the conservation, enhancement or restoration of landscape character or creation of appropriate new features. Policy DM34 of the Development Management DPD also seeks to ensure that new development in the countryside area is capable of being developed without adversely affecting the character of the rural landscape. Policy Env6a) of the Core Strategy and Policy DM26 of the Development Management DPD have similar aims.

Whilst the provision of replacement tree planting will help to mitigate some of the impacts associated with the loss of trees arising from the development, the proposed development is not well integrated with the existing settlement pattern and does not respect the small scale dispersed pattern of farmsteads and clusters of buildings that characterise this rural area. The development would not maintain or reinforce a clear distinction between the urban edge and rural areas. It is not possible to comment on building materials or design at this stage because these details would be submitted at reserved matters. For these reasons it is considered that the proposed development would have an unacceptable impact on the character and appearance of the landscape contrary to Policies BD1 and Env3 of the Hyndburn Core Strategy and Policy DM34 of the Development Management DPD.

## Heritage

The Hyndburn Core Strategy Policy Env6 states that the character and quality of Hyndburn's urban and rural environments will be conserved and enhanced through high quality design and protection of heritage assets. It lists the considerations to be taken into account when looking at design of development. This policy is further expanded upon under DMDPD DM22 'Heritage Assets' and DMDPD DM26 'Design Quality and Materials'.

Paragraph 193 of the NPPF considers that great weight should be given to the conservation of a designated heritage asset in relation to a proposed development, and that the more important the asset, the greater the weight should be. It also states that this is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance.

Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate securing its optimum viable use.

Part of the site lies within the Christ Church Conservation Area and there is a listed building opposite: Oakhill Mansion. As such the access point for the proposed development is also considered to be within the setting of this listed building, as confirmed by the Council's Conservation Officer. He also considers that the woodland area which would accommodate the access road is an asset of the Conservation Area.

The creation of the access road will require the removal of a large section of the plain wall which abuts Manchester Road, along with the removal of one of the protected trees located within this stretch of wall and numerous other trees within the existing woodland area. These trees are not subject to Tree Preservation Order, but are afforded the protection of the Conservation Area. The Highways Authority's requirement for a traffic island will be located opposite the access point, introducing modern traffic management measures into the location.

On consideration of the proposal, the Council's Conservation Officer has expressed concern in relation to the proposal and its impact on the Christ Church Conservation Area and setting of the Listed Building (Oakhill Mansion) opposite. His comments are provided in full in the consultation section of this report.

The Conservation Officer considers that overall the harm to the Conservation Area and the setting of the listed building can be considered as 'less than substantial' as such in accordance with paragraph 196 of the NPPF the harm arising from the development needs to be weighed against the public benefits of the proposal, including where possible securing its optimum viable use.

It is important to note that should Members consider that the development is acceptable, it is necessary to consider the impact on the Conservation Area and the setting of the listed

building opposite and be satisfied that public benefit of the development outweighs this less than substantial harm in terms of the local and national planning policy.

On balance with the consideration of the public benefit, Officers consider that the relevant planning policy is met in this regard, but that it should be noted that this is a fine balance in relation to the consideration of the impact on heritage.

### **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 from 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. This is supported by DMDPD Policy DM29: Environmental Amenity.

In the event that planning permission is granted for the proposed development it would be necessary to ensure that the design and layout of the scheme provides sufficient distances between properties and would not result in over-looking or loss of amenity. Conditions requiring a construction management plan and appropriate remediation of the site is also recommended.

Part of the site lies on what was land previously used for landfill. The applicant has not carried out any contamination works in relation to the development site. However they have submitted a Phase 1 report which considers the next stages to be carried out in terms of testing should the application move forward. The northern section of housing as proposed on the indicative plan, is located on an old tipping site for the adjacent print works and as such there could be contamination which needs to be mitigated against. There is also potential for contamination on other parts of the site.

The Council's Environmental Health Officer has considered the submitted information, and has recommended a condition in relation to contamination which can be attached to the planning permission if granted. This will ensure that surveys are carried out prior to the commencement of development and any mitigation works proposed carried out and signed off prior to the occupation of the dwellings. The Environment Agency has also provided suggested conditions in their response in relation to contamination conditions, should the application be approved. As such, with the inclusion of a suitably worded planning condition, Officers are satisfied that the development would be in line with the relevant planning policy in this regard.

### **Noise and Odour:**

The applicant has not submitted a noise survey or odour assessment at this stage. However due to the close proximity to the Calogen Foam factory and other associated uses, it is considered possible that these premises could have a detrimental impact on any future residents on the site. As such the Council's Environmental Health Officer has recommended

that both noise and odour surveys be carried out. Officers consider that the results of these surveys could influence the layout of the development and as such it is recommended that these are supplied at the reserved matters stage, if the application is approved.

Officers consider that due to the low density of the dwellings on the site and the large area there is within the site, it would be possible to accommodate 122 dwellings on the site even if there were some areas which would be affected by noise and odour.

Officers are satisfied the requirements of the relevant planning policy in this regard can be met through the submission of the detail in the reserved matters application and with the inclusion of suitably worded conditions. As such this is not considered a reason to recommend refusal to the planning application.

### **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. This is supported by Policy DM11 of the DMDPD and Guidance note GN1 at the back of that document.

The Council's Parks department has considered the application and have stated that they are unable to give a final request in terms of offsite contribution until the next stage in the planning process as no detail has been provided as part of this application.

It is acknowledged that the development would contain a certain amount of open space within it, but it needs to be assessed how much of this will be accessible to the public and whether this provision is in line with the detail in the Council's Policy.

A Local Equipped Area for Play (LEAP) would be required within the site as a minimum along with associated maintenance; the size and requirements of which could be discussed at the reserved matters stage, and there could also be an offsite contribution required.

Officers note that should Members be minded to approve the application a suitably worded condition can be attached to ensure that open space provision is considered in detail at the reserved matters stage. A maintenance plan for this provision would also be required should be it accommodated on site, along with any other areas of space not located within the ownership of residential properties, such as the land around the reservoirs.

Officers are satisfied the requirements of the relevant planning policy in this regard can be met through the submission of the detail in the reserved matters application and with the inclusion of suitably worded conditions. As such this is not considered a reason to recommend refusal to the planning application.

## **Trees, Landscaping and Ecology**

Policy Env2 of the Core strategy requires opportunities for environmental enhancement to be secured; this is supported by Policies DM17, DM18 and DM19 of the DMDPD.

Although this application is for access only and as such the biodiversity and landscape impact on the full site is not for consideration as part of this application (although the area which would accommodate the access road is), the applicant has undertaken extensive discussions with Officers in relation to the biodiversity of the site and ensuring that the development is capable of providing a biodiversity net gain on site once the development is complete, in line with the Council's planning policy.

They have submitted sufficient detail with the application which provides Officers with the assurance that this can be achieved. Updated reports have been provided as the application has progressed as requested.

The Ecology Report submitted with the application considers the impact this development would have on the site, and the adjacent Biological Heritage Site (BHS) Walmden Clough.

The report notes mitigations measures recommended as listed below:

- Ecological surveys, site appraisals and impact assessments have been carried out and it is proposed that an extensive parcel of the land is to be set aside for ecological compensation land.
- Bats are believed to roost in an electricity substation and in at least one tree on the site. The report states that habitats on site will support foraging bats, as well as feeding and nesting birds. Further surveys would be required in relation to Bats (with a mitigation licence from Natural England to be required if roosts sites are to be lost, altered or significantly disturbed.
- No conclusive evidence of any specifically protected species regularly occurring on the site or the surrounding areas which would be negatively affected by site development following the mitigation and compensation proposed.
- The vegetation to be cleared is noted to have a low ecological significance in the local area. The habitats within the proposed compensation area are considered to be of greater ecological value and offer extensive scope for enhancements to offset the development.
- The protection of trees on the site boundary and landscaping will promote structural diversity in both the canopy and at ground level and will encourage a wider variety of wildlife to use the site than already occurs.
- The retention and improvement of ponds will provide connectivity across the site. A draft 10 years management plan has been compiled.
- Contractors will be observant for protected species and all nesting birds. Should any species be found during construction, all site works should cease and further ecological advice should be sought with a view to a detailed method statement and programme of c measures being prepared and implemented.

This has been considered by Officers and no objection has been raised in relation to its content.

#### The wider site

Although this application is for consideration of the access road only, Officers need to be satisfied that the development of the remainder of the site for housing, and the ecological improvements that are being proposed are achievable and acceptable in terms of providing biodiversity net gain in line with the requirements of the relevant planning policy.

Officers have considered the information submitted and are satisfied that the development would have not have a significantly detrimental impact on the trees, landscape and ecology, and as such, policy can be met on the wider site in this regard. However it should be noted that if the development layout and detail significantly changes from that which has been submitted, this stance may change and/or further mitigation be required at the reserved matters stage should Members be minded to approve this application.

#### Impact of the access road:

Officers are satisfied that the revised road layout has been supported through the submitted Arboricultural Impact Assessment. The layout avoids all significant impact on the tree stock on Manchester Road and limits the impact on TPO trees within the woodland so far as reasonably possible with only one TPO'd tree being required to be removed. The area of earthworks necessary to construct the road will need to be landscaped and planted following construction and suitable conditions can be attached if the planning permission is granted.

A woodland management scheme has also been submitted in support of the scheme. However this does not take into consideration the road construction, and therein the aftercare/management of the woodland immediately affected by construction. As such, if Members are minded to approve the application, then a condition is recommended to ensure the submission of a planting/landscape/management plan specifically to cover the area of woodland immediately affected by the road construction.

The submitted woodland management plan provides details of future management of the woodland and the means by which the biodiversity can be increased. The woodland is S41 Principal Habitat for purpose of the NERC Act and is considered to have high distinctiveness but is in poor condition. The woodland management plan describes a methodology to bring the retained woodland to good condition thereby improving its overall biodiversity.

Officers do have concern that the road will increase the fragmentation of the woodland wildlife corridor, specifically for the movement of small mammals, however it is not considered that this would be any greater than that caused by Shop Lane and Broad Oak Road. Overall improvements to the woodland condition and enhancement of the woodland biodiversity will compensate for this impact.

On consideration of the submitted information, Officers are satisfied the construction of the access road would not have a significantly detrimental impact on the trees, landscape or ecology of the immediate areas. They are also satisfied that the overall gain in biodiversity can be achieved across the site and as such is achievable in terms of the development of the whole site, as submitted.

Should the proposals change dramatically from those demonstrated by the indicative layout plan submitted with this application, Members are reminded that this may not be the case on consideration of reserved matters.

Should Members be minded to approve the application for the outline planning permission with access, Officers request delegated authority to include the recommended conditions of the Council's Ecologist.

### **Drainage**

Policy DM20 of the Development Management Development Plan Document relates to the consideration of flood risk and surface water drainage in relation to planning proposals. There are three water courses that pass within the boundary of the site; the first is Warmden Brook which passes through the site from the south-east to north-west direction. Warmden Brook is generally an open water course but is culverted for approximately 25m. The second called Laund Clough follows roughly the part of the southern part of the west boundary. Laund Clough would appear to be the source supply for the west reservoir. The east reservoir acts as an overspill basin which in turn overflows into Warmden Brook.

Laund Clough continues northward out of the site for 50m before it enters a culvert for some 40m and then heads west as an open water course for approximately 25m where a stream from the west joins it and once again heads northward in a culvert beneath Broad Oak Works. The third is Tag Clough which runs along the edge of the north boundary in a westerly direction and is generally an open water course partially culverted for 35m within the upstream eastern end, and partly culverted at the western extent of the site for 8m. General topography has ground falling in a northerly direction toward the reservoirs and eastward toward Laund Clough watercourse and westward toward Warmden Brook.

The Flood Risk Assessment states that only small number of properties lies within what is currently deemed Flood Zone 3 which is primarily the area of the two reservoirs / fisheries within the site, and, it is proposed to retain the east reservoir and reduce marginally the size of the west overspill reservoir. The partially culverted Warmden Brook within the site area is also indicated as Flood Zone 3.

### **Flood Risk:**

The Environment Agency's Flood Risk Plan indicates that there are areas at risk of flooding along the course of the Warmden Brook and in the vicinity of the two lakes.

Policy DM 20 of the DMDPD states that all proposals in Flood Zones 2 and 3 will be expected to address the 'Sequential Test' and, if necessary, the 'Exception Test', as set out in the NPPF and associated Planning Guidance. For relevant proposals on non-allocated sites, applicants must demonstrate as part of a site-specific flood risk assessment that all other reasonably available sites within zones at lower probability of flooding have been considered, and that flood risk to people and property will be managed satisfactorily.

The Flood Risk Assessment undertaken by the applicant identifies that the primary risk of flooding to the development site is from watercourses, Laund Clough and Warmden Brook. In addition, there is a risk of surface water flooding associated with the two reservoirs/fisheries within the development site, these elements are categorised as Flood Zone 3. There is also a low risk of surface water flooding from Bamford Crescent. However, most of the site lies within Flood Zone 1. The indicative plans show some of the houses lie within the Flood Zone 2 and 3, although this area is closely centred around the existing reservoirs and it is accepted that this could be controlled by condition by not allowing development within the Flood Risk 2 and 3 areas. .

As part of the site and a small number of proposed properties lie within Flood Zone 3 these are most likely to be affected by flooding, the proposal does not satisfy the Sequential Test.

As such Policy DM20 requires that the FRA consider the 'Exception Test'. This is detailed within paragraph 160 of the revised NPPF. This states that 'the application of the exception test should be informed by a strategic or site specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. For the exception test to be passed it should be demonstrated that:

- a) The development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b) The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Both elements of the 'Exception Test' should be satisfied for the development to be allocated or permitted.

In terms of the 'Exception Test', the Environment Agency has provided comments in which they have objected to the proposal as not enough information has been submitted in relation to the reduction in size of the western reservoir. This means that they are unable to consider the impact that the reduced capacity would have on the Flood Risk Zones. This has not been tested properly in the FRA and evidence is therefore not provided to confirm that there would not be a safety implication on the site due to flooding.

They have confirmed that before they can accept the outline permission and remove their objection, this information should be addressed in full. Their comments are provided within the consultation section of this report for information. As such Part b) of the 'Exception Test'



is not met at this stage and until further information is submitted and considered which demonstrates this, the Environment Agency is objecting to the proposal.

Although the lack of information is a cause for concern, this is an outline application with all matters except means of access reserved for later consideration. Given the topography of the site and the relationship between the areas at risk of flooding and areas of housing it is considered that this matter could be satisfactorily addressed at reserved matters stage and that the lack of information would not stand on its own two feet as a reason for refusal of this planning application. .

Recognising that the planning application is in outline form, if members are minded to grant planning permission for the proposed development that it would be necessary to include suitably worded conditions requiring further information be submitted with regard to the layout and design of the development and its relationship to areas at risk of flooding. This would seek to ensure that the proposed development satisfies both the sequential and exceptions test.

#### Surface Water Drainage:

Policy DM20 of the DMDPD also expects all major developments to set out how the development will deal with surface water drainage and management, as part of a flood risk assessment. The Flood Risk Assessment has been submitted but this has not considered what level of water can be disposed of through infiltration as the proposal is in outline. It does make suggestions in relation to the different measures which can be taken to help dispose of surface water such as porous materials being used and grey water being re-used for gardening etc.

The Lead Local Flood Authority has considered the FRA and have no objections to the proposal. They have recommended conditions in relation to the submission of a surface water drainage scheme and a lifetime management plan for it, should the application be approved.

In the absence of an objection form the statutory consultee in this regard, Officers consider that the proposal meets with the relevant local and national planning policy in relation to surface water drainage.

#### **Bins**

Bins would be provided in line with Policy DM31 of the DMDPD, and a suitable condition could be attached to ensure this is the case.

#### **Other matters raised by neighbour consultation responses, not covered within the report:**

- Detrimental impact on wildlife in the area, including Deer, Bats and Owls- no objection has been received from the Council's Ecologist and it has been confirmed

that the development, as presented would result in a net gain in biodiversity across the site.

- The road will flood in wet weather- no objection from LLFA or United Utilities in support of this. The relevant drainage will be provided in the road in order for it to be adopted by the relevant statutory undertaker.
- Greenfields will be turned into concrete- this has been considered within the principle section of the report.
- A roundabout or traffic light system should be added- this has been considered within the traffic and highways section of the report
- Housing should be made for housing associations, not market housing which isn't needed- the development provides for both market and affordable housing.
- Hyndburn doesn't need new homes- this has been considered within the 'Principle' section of the report
- Pressure on school places – No request from Lancashire County Council education towards school places as it is not required.
- No jobs in the town- This planning application refers to housing development, this is not a relevant consideration for this application.
- Financial gain to the Council when there is no need for housing- this is not a planning consideration
- The access from Bamford Crescent will cause serious disturbance to residents on Bamford Crescent – this access will remain pedestrian only, a condition could be attached to ensure no vehicular movements through this access.
- The land is used by children and walkers and spaces like this are important for mental health- the open space provision within the development will be considered at the reserved matters stage should the application be approved.
- Noise from the Calogen site next door which is not a suitable neighbour for this development- this has been addressed in the amenity section of the report- a noise survey would be required as part of the reserved matters application- if any mitigation is required in this regard then a suitable condition can be attached to the planning permission at that stage.
- The land off Laund Clough is not in the ownership of the applicant so how can they designate it as a 'mitigation area'. – land ownership is not a planning consideration.
- Tree Preservation Orders on the land – this has been considered within the 'Trees Landscape and Ecology' section of this report.
- Increase in Co2 emissions due to the increase in cars in the area – this is not a matter which has been raised by the Council's Environmental Health Officer and the site is not located within a designated Air Quality Management Area.
- Japanese Knotweed on the site could be disturbed and this could make it grow more aggressively and invalidate the warranty from the work that has been done already. - This has been considered within the 'Trees Landscape and Ecology' section of this report.
- Increased vulnerability from crime- this would be considered as part of the reserved matters application should the application be approved.
- Noise and nuisance to neighbouring properties. This has been addressed within the 'Amenity' section of the report.

- Noise vibration and light pollution - This has been addressed within the 'Amenity' section of the report.
- Visual impact of the development from Grafton Gardens- the visual impact is not being addressed as part of this application. The impact of the low density housing has been addressed in terms of landscape character within that section of the report.
- Net gain in biodiversity has not been demonstrated within the application and the mitigation has not been assessed correctly. The council's Ecologist is satisfied with the conclusion of the Ecology report and this is covered in the 'Trees, Landscape and Ecology' section of this report.
- The wildlife corridor between Laund Clough and Warmden Clough would not be able to be maintained at an appropriate width – this has not been raised as an issue by the Council's Ecologist.
- A water main runs across the site- United utilities have not objected to the proposal and as such this is not considered a reason to refuse the planning application.
- Car parking spaces are inadequate - See 'Traffic and Highway Safety' section of this report
- Opening the footpaths in the area is not mitigation for this application, those footpaths were closed unlawfully and access denied in 2005- This is not a planning consideration
- Trespass on properties on Grafton Gardens will increase- this is not a planning consideration
- Inaccuracies in the plans – plans have been submitted and are confirmed to not have inaccuracies by the agent
- Impact on house prices- this is not a planning consideration
- Pressure on water services in the area which are already under stress- United Utilities have not objected to the scheme and as such this is not considered a reason to refuse the planning application.
- When it snows people park on Manchester Road and walk to houses on Bamford Crescent, this will be exacerbated by the new houses.- this is not a planning consideration. At the reserved matters stage the parking provision would be addressed in full.
- Will the roads be adopted? – the Highways Authority have confirmed the access road would be adopted by them, the internal road layout is subject to consideration at the reserved matters stage of the planning process. This application is for access only.
- The old and disabled people will be isolated due to walking distance to public transport- this is considered within the 'Traffic and Highway Safety' section of this report.
- Loss of view – this is not a planning consideration
- The site is not included in the Councils Development Plan '5 year housing supply statement 2017-2022' and as such is not deemed appropriate for development.- this is considered within the 'Principle of Development' section of the report.
- The use of the Council land for the site access road is not consistent with the safeguarding of those areas which are a conservation area and stepping stone habitat.- this has been considered within the Heritage and Trees, Landscape and Ecology' sections of the report.

## **Conclusion**

Planning law requires that planning applications should be determined in accordance with the policies of the development plan unless material considerations indicate otherwise. The proposed development is in the countryside and the policies of the development plan do not support large scale housing developments of the type proposed in the countryside. The Council has a five year housing land supply and is able to satisfy the transitional housing delivery test as required by National Planning Policy Framework.

The development of 122 dwellings in this area of open countryside would change the character and appearance of this rural area to an urban area that is dominated by built development. The policy framework seeks to retain the landscape character of the Borough's countryside and its distinctiveness, and to do this it includes a policy presumption against proposals for new development in rural areas unless they are related to farm diversification or promoting leisure and recreation facilities.

The proposed development would have an irreversible detrimental impact on the character and appearance of the landscape contrary to the policies of the Core Strategy and Development Management DPD. The proposed housing development is located a significant distance from local services and does not relate well to existing patterns of development. For these reasons officers recommend that planning permission is **refused**:

1. The proposed development, by virtue of its location and access arrangements, would result in an unsustainable form of development that would have an unacceptable adverse impact on the character and appearance of this area of countryside, contrary to Policies BD1, RA1, Env3, Env4 and Env6 of the Hyndburn Core Strategy, Policies DM26, DM29, DM32 and DM34 of the Hyndburn Development Management DPD and the National Planning Policy Framework.

**Note: In the event that members are minded to grant planning permission.**

If members are minded to grant planning permission for the proposed development it will be necessary for reasons to be given and recorded as part of the minutes of the meeting.

If members do grant permission it is recommended that a planning permission is granted subject to a legal agreement under s.106 of the Town and Country Planning Act 1990 and to appropriate planning conditions. Whilst authority to draft planning conditions can be delegated to the Chief Planning and Transportation Officer, given the range of issues arising

it is recommended that a report on conditions and legal agreements necessary is presented to the next meeting of Planning Committee for agreement by members.

Notwithstanding this, the following areas (not exhaustive) should be managed through the use of a s.106 agreement and / or by planning conditions.

#### S.106 Agreement.

A section 106 agreement should cover the following matters:

- Tree planting and mitigation in the area not included in the planning application boundary
- Long term woodland management on Hyndburn Borough Council owned land
- Long term management of water bodies

Note – it is likely that a further s.106 agreement will be required at reserved matters stage to address matters such as affordable housing, maintenance of open space / play area and any un-adopted infrastructure, drainage and roads not adopted by Highway Authority.

#### Planning Conditions – heads of terms – to be agreed

1. Timeframe for the submission of the reserved matters application
2. Plan and document
3. Highways conditions in relation to:
  - Construction Management Plan
  - Scheme for the site access and site access road off Manchester Road, including Public Rights of Way details
  - Scheme for offsite highway works including the provision of a right hand lane and pedestrian refuge on Manchester Road and a signalised crossing on Manchester Road near the junction with Broad Oak Road.
  - Details of future management and maintenance of the proposed streets within the development and adoption of highways
  - Full engineering, drainage. Street lighting and construction details to adoptable standard
  - Scheme for the boundary treatment, surface, signage and vehicular access restrictions from within the development for footpaths 147, 165, 166, 167, 168, 169 and 170
  - Pedestrian and cycle link to Bamford Crescent to adoptable standards
  - Details of garages and communal parking areas for each dwelling at reserved matters stage, to be in line with HBC requirements
  - Estate roads to be completed to at least base course level prior to first occupation
  - Secure cycle storage for each dwelling
  - Electric vehicle point for each dwelling
  - Framework Travel Plan to be implemented in full in accordance with the timetable within it.
4. Lead local flood Authority and United Utilities:

- Surface Water Drainage Scheme and associated Lifetime Management and Maintenance Plan
5. Environmental Health/ Environment Agency
    - Site preparation and construction phase
    - Contamination
    - Noise
  6. Open space provision in line with policy
  7. Affordable housing- 29 units to be provided (if considered material) or at 20% if not and the house standards
  8. House standards
  9. Ecology – put in Ian list and also add to consultation section of the report
  10. Bins 125 per unit- provided in lien with policy prior to occupation
  11. Flood Risk information