

## Document reference 3 – Statement of Case

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## Document Reference 3- Statement of Case

### **TOWN AND COUNTRY PLANNING ACT 1990, SECTION 257 AND PARAGRAPH 1 OF SCHEDULE 14 WILDLIFE AND COUNTRYSIDE ACT 1981, SECTION 53A(2)**

#### **RIBBLE VALLEY BOROUGH COUNCIL (FOOTPATH 3-45-FP51) DIVERSION ORDER 2023**

#### **STATEMENT OF RIBBLE VALLEY BOROUGH COUNCIL OF GROUNDS ON WHICH IT IS CONSIDERED THE ORDER SHOULD BE CONFIRMED**

1. This statement relates to the Ribble Valley Borough Council (Footpath 3-45-FP51) Diversion Order 2023, ('the Order'). The Order contains a plan, ('the Plan').
2. A copy of the Order, including the Plan (Document reference 1), is included with the Council's submission letter (Document Reference 2.)

#### **The Effect of the Order:**

3. The entire width of Footpath 3-45-FP51 running 240m from Mitton Road to Pendle Drive (points A to B), 220m from Pendle Drive to Calderstones Drive, except for the footpath alongside Calderstones Drive (points C to I and J to K) and 40m from the junction in the path to Calderstones Drive, except for the footpath alongside it (points D to F and G to H) as shown on by a bold black line on the Plan will be diverted as below:
4. An alternative footpath will be created predominantly of tarmac running through the residential access and landscaping of the proposed development from Mitton Road (grid ref. SD 7267 3753) generally south to another point on Mitton Road (SD 7267 3744) and from Mitton Road (SD 7265 3731) generally south to another point on Mitton Road (SD 7260 3712); points L to M (100m) and N to O (200m) as shown by bold black dashes on the Plan. The width of the footpath will be 2 metres.

#### **Background**

5. An application for the demolition of 34 existing dwellings and the erection of 50 new dwellings with vehicular accesses, landscaping, and other associated works (Planning Application no. 3/2021/0076), was considered by Ribble Valley Borough Council's Planning and Development Committee on 29<sup>th</sup> July 2021 (Appendix 1)
6. Planning permission for the development was granted by Ribble Valley Council on 11<sup>th</sup> February 2022. Appendix 2 contains the minutes of the meeting. A copy of the decision notice dated 11 February 2022, and a plan showing the approved layout of the development is included at Appendix 3.
7. At the time of the granting of planning permission, an alleged unrecorded footpath was referred to within the site, and this was the subject of an application from a member of the public to add them to the definitive map of public rights of way by means of a modification order under section 53 of the Wildlife and Countryside Act 1981. On the advice of Lancashire County Council this section of footpath was treated as a footpath and given ref: 3-45-FP51.

8. Prospect Homes applied to Ribble Valley Borough Council on 19 October 2022 for an order under section 257 of the Town and Country Planning Act 1990 to divert the path to enable the development to take place. A copy of the application form is at Appendix 4.

9. On receiving the application Nicola Hopkins, Director of Economic Development and Planning resolved:

It was identified at the time of the planning approval that the right of way would require diverting. The developer has subsequently applied to permanently divert part of the footpath running 240m from Mitton Road to Pendle Drive (points A to B), 220m from Pendle Drive to Calderstones Drive, except for the footpath alongside Calderstones Drive (points C to I and J to K) and 40 m from the junction in the path to Calderstones Drive, except for the footpath alongside it (points D to F and G to H) as shown on the attached plan.

Although the diversion comprises a longer route, it is not significantly different in extent or direction to the existing route. The end effect of the planning permission will result in the Footpath running along the estate road of the new development.

The Council considers the proposal to divert the length Footpath 3-45-FP51 described above, to be acceptable in the circumstances and the Council has accordingly agreed to make an Order under S257 of the Town and Country Planning Act 1990, in order to effect the diversion of the length of the footpath in question.

The diversion authorised by the Order will only come into effect after the order has been confirmed and the works have been certified.

A copy of the statement of grounds for the making of the Order is at Appendix 5.

10. On 3<sup>rd</sup> January 2023, in accordance with the resolution, Ribble Valley Council made the order to divert Footpath 3-45-FP51.
11. Notice of the making of the Order was published in the Clitheroe Advertiser. The notice of the Order and a copy of the Order was sent to the owners of the land, public rights of way user groups, Whalley Parish Council, utility companies and other interested parties. Copies of the notice and order plan were posted at the ends of the lengths of path to be diverted by the order. A copy of the Order and notice and was made available for viewing on Ribble Valley Borough Council's website.
12. Seven representations were received during the period provided by the notice of the making of the Order, one was received outside of the period provided. All of these opposed the Order. Five of these objections were subsequently withdrawn following further correspondence. The remaining three representations, which were sent to the Council by means of e mails, are included in full at Document Reference 4.

## **The Law**

### **Town and Country Planning Act 1990**

13. The Order was made under section 257 of the Town and Country Planning Act 1990 because the Council is satisfied that it is necessary to stop-up and divert the paths in order to allow development to be carried out in accordance with planning permission granted under Part III of the Act.
14. The test for the confirmation of the Order, contained in section 257 (1) of the Act, is that the diversion or stopping-up is necessary to enable development authorised by planning permission to take place.
15. The Order would not come into force until the Council has certified that the alternative paths to be brought into being by the Order have been provided to the Council's satisfaction.

### **Equality Act 2010**

16. The Equality Act 2010 requires (broadly) that in carrying out their functions public authorities must make reasonable adjustments to ensure that it is not impossible or unreasonably difficult for people with disabilities to benefit from those functions as others would do, or to show that there are good reasons for not doing so.
17. The proposed alternative footpath would not be more difficult for people to use than the existing paths. The new footpath will be two metres wide and have level and relatively smooth surfaces. There would be no barriers, stiles, gates or other structures across the paths.

### **Objections and other representations.**

18. A total of three representations have been maintained in which objections have been made to the Diversion Order made on 3rd January 2023 (Document Reference 4).
19. Ribble Valley Council's comments on the objections are contained in Document Reference 5.

### **Summary of Grounds on which the Council believes the order should be confirmed.**

20. Section 257 of the Town and Country Planning Act 1990 enables a local authority to make an order to divert or stop-up of any footpath, bridleway or restricted byway if it is satisfied that it is necessary to do so in order to allow development to be carried out in accordance with planning permission granted under Part III of the Act. The test for the confirmation of the order, contained in section 257 (1) of the Act, is that the diversion is necessary to enable development authorised by planning permission to take place.
21. The Council has made the Diversion Order because it is satisfied that it is necessary to divert the paths to enable the development to be carried out in accordance with the grant of planning permission. For the site to be constructed in accordance with the grant of planning permission, the diversion of the paths is necessary.

22. Section 257 does not provide a mechanism whereby objectors to the Order may re-open considerations inherent in the grant of planning permission. None of the objections put forward information which challenges the test of the necessity to stop up or divert the paths to enable the development to take place.
23. The Order provides for a network of alternative footpaths which would be safe and convenient for use by the public. The alternative footpath will have a width of two metres, The path will be surfaced to a standard that would make them easily accessible to most users. In the context of the development for which planning permission has been granted and for which the Order has been made, the merits associated with the amenity opportunities for the public that may be provided by the alternative paths are considered to be of sufficient substance to warrant their acceptability as replacements for the lengths of footpath to be diverted. The Council is satisfied that there will be no disadvantage or loss to members of the public, as a result of the Order, and that it retains a means of access which will meet the needs of local residents and other members of the public. In considering the impact of the Order, on the convenience and enjoyment of the public, it is submitted that the diverted routes would provide a pleasant circular walk, as well as relatively direct routes through and across the site. For these reasons, it is considered that the effect of the Order would not be to the detriment of the convenience, safety and welfare of path users.
24. It is submitted that proper consideration has been given to the provision of the alternative routes to be brought into being by the Order, and there is nothing in this regard to indicate that the Order should not be confirmed.
25. In summary, the alternative route is a suitable replacement for the existing footpath that would be diverted by the Order, and the diversion of the path is necessary to enable the development to take place.
26. The Council asks that the objections be dismissed, and the Order confirmed.

# Appendix 1- Committee Report

## RECOMMENDATION FOR PLANNING AND DEVELOPMENT COMMITTEE

APPROVAL

**DATE:**

**REF:**

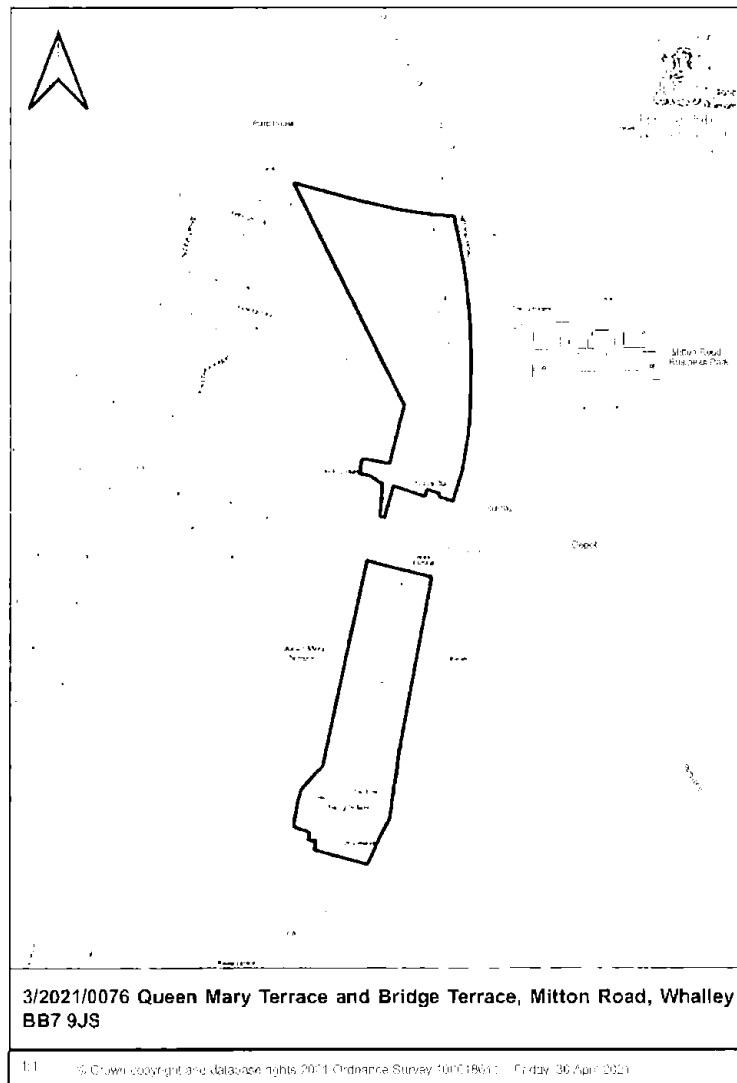
**CHECKED BY:**

**APPLICATION REF:      3/2021/0076**

GRID REF: SD 372611 437279

### **DEVELOPMENT DESCRIPTION:**

PROPOSED DEMOLITION OF 34 EXISTING DWELLINGS AND THE ERECTION OF 50 NEW DWELLINGS WITH VEHICULAR ACCESSSES, LANDSCAPING AND OTHER ASSOCIATED WORKS. QUEEN MARY TERRACE AND BRIDGE TERRACE, MITTON ROAD, WHALLEY, BB7 9JS



### **CONSULTEE RESPONSES/ REPRESENTATIONS MADE:**

#### **PARISH COUNCIL:**

The Parish Council object to the proposal:

The Parish council are concerned about the cumulative impact of additional traffic, and the formation of additional accesses. They request that traffic calming measures are included within the development.

They feel that the affordable housing offer is inadequate and disappointed that the housing which was originally built for NHS workers will be lost. The proposed offer is not policy compliant.

#### **ENVIRONMENT DIRECTORATE (COUNTY SURVEYOR):**

LCC Highways sent initial comments stating that they do not have any objections to the principle of the application. However, there were several concerns that will need to be addressed, in order for the application to receive their full support. These concerns were in relation to:

- the visibility splays should be altered to take account of actual average vehicle speeds on Mitton Road, which are in excess of the speed limit;
- the carriageway should be widened to 5.5m wide with 2m wide footways to accord with Lancashire's Residential Road Design Guide;



- amendments required to various access points;
- amendments required to pavement surfacing;
- traffic calming measures are required;
  - bus stops and bus shelters to be provided and electric vehicle charging points to accord with sustainable travel objectives; and
  - Section 38 and Section 278 agreements between the applicant and highway authority will be required.

Discussions have taken place between the agent and the highway officer which has resulted in agreement to the above and amended plans. The highway officer has confirmed that the proposals are acceptable subject to the relevant legal agreements and suggested planning conditions to ensure that the development will be acceptable in terms of highway issues.

#### **ENVIRONMENT DIRECTORATE (PUBLIC RIGHTS OF WAY):**

Members are advised that LCC Rights of Way have received an application to record a route through the site as a footpath. However, at this stage it is unclear whether this will be successful. The route claimed will be affected by the planning application and the applicant may wish to consider the implications of this.

#### **LANCASHIRE LOCAL LEAD FLOOD AUTHORITY:**

The initial consultation response requested further information; in summary:

- an up-to-date FRA;
- more details of existing and projected surface water flows and sustainable surface water drainage strategy;
- topographical surveys.

This was submitted on 23 March however no further comments from the LLFA have been received.

#### **UNITED UTILITIES:**

The Schematic Drainage Layout is not acceptable to United Utilities because they have not seen robust evidence that the drainage hierarchy has been thoroughly investigated and the proposals are not in line with the Non-Statutory Technical Standards for Sustainable Drainage Systems. They have advised that this issue can be overcome with conditions to ensure that the site is drained on separate systems.

#### **RVBC WASTE:**

No objections but the developer should make the buyers aware of the restrictions for waste collection due to the shared access.

#### **RVBC COUNTRYSIDE:**

Request a contribution towards off site improvements of the adjacent woodland in the interests of biodiversity net gain.

#### **ADDITIONAL REPRESENTATIONS:**

19 objections have been received and the concerns raised are summarised as follows:

- Impact on public rights of way.
- Historic value of the properties.
- Impact on the character of the area.
- Highway safety.
- Loss of privacy, noise and disturbance.

- Impact on wildlife and trees.
- Carbon footprint.
- Loss of housing stock which is suitable for affordable housing.
- More new houses are not needed.
- Disruption during build.
- Loss of recreation land.
- Inadequate developer contributions.

1. **Site Description and Surrounding Area**

- 1.1 The site is split into two parcels of land which front Mitton Road, Whalley and are separated by Pendle Drive. The Northern Parcel (A) is currently occupied by Bridge Terrace, 18 terraced dwellings, an area of open land adjacent to the houses and a triangular parcel of recreation land to the rear.
- 1.2 The Southern Parcel (B) is occupied by St Mary's Terrace, 14 terraced dwellings and two detached dwellings.
- 1.3 The site forms part of the Calderstones Hospital site which has undergone previous redevelopment for residential purposes. All 34 of the existing properties were originally let to households that worked for the NHS trust, and the rent was at a reduced market rent. Over the past 10 years, there has been gradual deterioration of all the 34 properties which has forced many tenants to leave due to the lack of security and the reminder that the sale of the units was imminent, most now stand empty.

2. **Proposed Development for which Consent is Sought**

- 2.1 The application seeks consent for the demolition of 34 dwellings and construction of 50 new dwellings, the site will encompass some areas of previously undeveloped recreation land behind and open land adjacent to the row of existing houses on Bridge Terrace.

3. **Relevant Planning History**

None relevant.

4. **Relevant Policies**

Ribble Valley Core Strategy:

Policy DS1: Development Strategy  
 Policy DS2: Sustainable Development  
 Policy EN3: Sustainable Development and Climate Change  
 Policy EN4: Biodiversity and Geodiversity  
 Policy H1: Housing Provision  
 Policy H2: Housing Balance  
 Policy H3: Affordable Housing  
 Policy DMI1: Planning Obligations  
 Policy DMI2: Transport Considerations  
 Policy DMG1: General Considerations  
 Policy DMG2: Strategic Considerations  
 Policy DMG3: Transport and Mobility  
 Policy DME1: Protecting Trees and Woodlands  
 Policy DME2: Landscape and Townscape Protection

Policy DME3: Site and Species Protection and Conservation  
Policy DMH1: Affordable Housing Criteria  
Policy DMB4: Open Space Provision

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Technical Guidance to National Planning Policy Framework

## 5. **Assessment of Proposed Development**

### 5.1 **Principle of Development:**

#### 5.1.1 **Background:**

The site is located adjacent to the Calderstones Hospital Site and the proposal seeks to demolish and redevelop the site of 34 houses that were occupied by hospital employees and incorporate some additional areas of previously undeveloped open land to provide a total of 50 new 3 and 4 bedroom dwellings including some affordable units.

All 34 of the existing properties were originally let to households that worked for the NHS trust, and the rent was at a reduced market rent. It is understood at the time of writing the report that only one dwelling remains occupied. The demolition/loss of 34 affordable rent properties, let to key workers in an area of high demand and high income to house price ratio is regrettable. Whilst the houses have provided low-cost accommodation for staff members, they are not considered affordable in planning terms and are not subject to any controls.

Over the past 10 years, there has been gradual deterioration of all the 34 properties and many tenants have left the properties, some have registered on the RVBC housing waiting list and have been rehoused. During this time, the Council have tried to secure a sale of the units to a Registered Provider, to ensure existing tenants could remain and the housing stock could be retained as affordable units. However, this has not been successful. The agent has explained that the demand from hospital employees to live on site has diminished and it does not form part of the NHS's core business to let out residential accommodation. The NHS need to dispose of the site to acquire a capital receipt and this will be discussed further within the report.

#### 5.1.2 **Policy Considerations:**

The site is within the Calderstones settlement boundary which is a Tier 2 settlement and forms part of the former hospital estate.

The proposal will introduce new housing and will deliver a small number of affordable units as part of the scheme. The applicant is using the provision of the vacant buildings credit system to offset the requirement for affordable units on this development in accord with Government guidance.

The proposal is to demolish the 34 former staff houses and replace with 50 new dwellings, giving a net gain of 16 units overall. There will be a net gain of 3 affordable units. Most of the new dwellings will be developed on previously developed land.

The scheme was supported by a viability appraisal and an independent assessment of this has been carried out on behalf of the Council which will be discussed in more detail below.

#### 5.1.3 Policy DS1: Development Strategy:

In terms of the Development Strategy for the area as set out in Policy DS1 of the Adopted Core Strategy, development in Tier 2 settlements will need to meet proven local needs or deliver regeneration benefits to be compliant. The scale of this development will need to reflect existing population size in the settlement, consideration needs to be given to the extent to which development can be accommodated within the local area.

The strategy includes provision for development to deliver regeneration benefits to be considered in all the borough's settlements, including small-scale development in the smaller settlements that are appropriate for consolidation, expansion or rounding-off of the built-up area.

The current housing land supply position as of March 2021 demonstrates that there is no requirement to meet additional housing provisions, however the fact that the Council can demonstrate a five-year supply, it not sufficient reason to warrant a refusal.

In terms of the scale that the additional growth from this proposal would generate the net additional housing would model an increase in population for the Calderstones Settlement of 34 persons, this is not considered to be harmful to the strategy or contrary to the management policies of the plan.

The proposed affordable housing contribution of 2 x 3 bed rental units and 1x 3 bed affordable homeownership unit is the requested tenure mix and best reflects the housing needs of the settlement. In addition, 6 of the units are Lifetime Homes M4(2) compliant as per the policy, the preference would have been for these older persons units to be delivered as bungalows, not 3 bed units however they do meet the requirements of the policy.

Likewise, there was an initial expectation of 5 affordable units on the site to meet the 30% affordable offer and this would have allowed for a greater house type mix of the affordable units being provided. However, Policy H3 allows a reduction to 20% where supported by a viability appraisal, which this application is. Furthermore, the affordable offer is for slightly larger homes for which there is a need within the borough.

#### 5.1.4 Policy DMG2: Strategic Considerations:

Consideration does need to be given to the requirements of Policy DMG2 which is intended to provide a mechanism to assist with implementing the Core Strategy and understanding what is acceptable in terms of the differing settlements. Within the Tier 2 villages development must meet at least one of the given considerations listed in the Policy. This proposal is considered against the first criteria of the Policy that the development should be essential to the local economy or the social wellbeing of the area.

*Social wellbeing:*

This proposal would utilise a previously developed site in the main, replacing vacant, underused stock and it would deliver additional affordable units. Whilst the provision of affordable housing is less than would be normally required, the applicant is taking advantage of the Government's vacant buildings credit system due to the scheme redeveloping vacant buildings and has provided viability evidence.

The existing properties are deteriorating and have been subject to vandalism. This is not only becoming a blight on the area but is a drain on NHS resources needed to secure them which could be put to better use. The proposal will deal with an area of derelict vacant properties and bring the land back into use. This is a substantial regeneration benefit of the scheme and supports the social wellbeing of the area.

The capital receipt from the redevelopment of the land, which is discussed in detail in the supporting planning statements, will support mental health services at the Whalley Hospital site as well as wider NHS services across the region.

Mersey Care NHS Foundation Trust (MCFT) current operates the Whalley Hospital Site and it provides specialist learning disability services for the people of Lancashire and the north west. It is a major employer in the area with circa. 400 staff. Many of whom live locally. NHS England policy is that this site can no longer be used for this purpose so MCFT is in the process of moving services away from Whalley.

Lancashire and South Cumbria NHS Foundation Trust (LSCFT) want to maintain and develop the site for mental health services and they are currently in discussions with MCFT.

The agent has advised that subject to the outcome of this application the receipt from the sale of the Mitton Road site will contribute towards the capital programme for MCFT, and the future operation of the site by the LSCFT, by:

- Contributing to the repayment of a £20m COVID loan taken by the MCFT to enable the medium secure service for people with learning disabilities in Lancashire and the north west to be re-located away from Whalley as per NHS England policy;
- Assisting the MCFT in relocating other services for people with learning disabilities in Lancashire and the north west away from Whalley in accordance with NHS England policy;
- Allowing the adaptation and refurbishment of the Whalley site to future proof its operation by LSCFT as a fit for purpose mental health facility for the residents of Lancashire, in line with NHS England policy. This would mean safeguarding the main Whalley site and using it for its original intended purpose as well as allowing patients who are currently treated out of area (outside the county) to be moved back into Lancashire for treatment and closer to their home. This will also enable LSCFT to eradicate dormitory wards across their services and provide single en-suite bedrooms for their Lancashire patients providing dignity to patients as well as a safer more therapeutic environment.

Should the sale not proceed then the agent has advised that MCFT will be left with no other option other than to review the use of the main site and look to

sell off other elements of the land to generate income to meet their capital programme requirements.

It is considered that the investment in the site will bring significant benefits in terms of social wellbeing to the residents of the immediate and wider area.

*Economic wellbeing:*

The development will contribute to the local economy as it will make use of properties that are currently empty; introducing new development, the residents of which will contribute to the local economy through spending in the local area and council tax revenue. There will also be some small economic gain because of the construction phase.

Whilst there will be economic benefits the redevelopment isn't deemed essential to the local economy in the current circumstances.

However, the social benefits demonstrated are considered to satisfy the criteria within DMG2.

5.1.5 Policy DMB4: Open Space Provision:

The open space associated with this development is an area of some 0.4ha but is not part of the designated areas of public open space identified in the local plan, however the scheme does result in the loss of open space and does need to be considered against policy DMB4.

Although not identified in the Council's local plan, it has been available as an informal playing field, remains undeveloped and the provisions of Policy DMB4 need to be addressed. As a principle the policy does allow for the site to be developed in exceptional circumstances where an assessment has been undertaken regarding the loss of the site, and its loss is justified based on social and economic benefit (which is a supporting circumstance in this case). Policy does permit the loss of this space where there are going to be benefits and the loss is justified, and appropriate mitigation made which can include the upgrading of open space that serves the vicinity.

The developer has agreed to contribute to offsite recreation using the council's standard methodology for calculating contributions, which amounts to around £10,000 and can be spent on upgrading existing facilities in the local area.

5.1.6 Other material considerations:

The scheme will support the NHS's operations at a regional level.

The development will be an effective use of land within the tier 2 settlement boundary and 80% of the site is previously developed.

Calderstones does not share the same characteristics as some of the more remote tier 2 settlements and is in a more sustainable location close to good public transport links and local services. It is within 1km of the higher order settlement of Whalley and only 7km from Clitheroe. As such it will not contribute to unsustainable patterns of travel. These considerations weigh in favour of the development.

#### 5.1.7 Principle of Development:

The proposal as a principle does not harm the development strategy for the borough. It will bring previously developed land back into use and reflects national policy to increase the supply of new homes. Core Strategy policy enables open space to be developed with mitigation and where justified.

The scheme includes additional affordable housing and makes provision for lifetime homes that will contribute to the objective of delivering additional older persons accommodation.

The proposal will bring regeneration and social well-being benefits in line with local policy and the overarching objectives of the NPPF.

Therefore, considering local and national planning policy and the other material considerations the proposal is considered to be a sustainable form of development and is acceptable in principle.

#### 5.2 Impact upon Residential Amenity:

5.2.1 The site is located adjacent to other housing development and across Mitton Road there is an industrial area. The development is quite low density. Whilst it will bring built form closer to the existing properties located to the rear, adequate facing distances are achieved between the new properties and those on adjacent sites.

5.2.2 There is a minimal net increase in dwellings and it is not considered that this will have a detrimental impact on the amenities of existing occupants.

#### 5.3 Visual Amenity/External Appearance:

5.3.1 The scheme presented is for 50 detached and semi-detached dwellings on a total site area of 2.421ha which results in a density of approx. 20 per hectare. This is quite a low density in comparison to other housing developments. However, given that this development is in a tier 2 settlement and the low density layout would be in keeping with the surrounding development it is considered to be acceptable.

5.3.2 The proposed dwellings are two-storey arranged around cul-de-sacs with frontages facing onto the internal access road. They will have rear gardens backing onto Mitton Road. There is some variety in terms of the design and materials palette and the design does make a reference to the architectural detailing of the existing dwellings and those on the adjacent development.

5.3.3 It is considered that the proposal will integrate into the surrounding area. It will change the character of the street scene on Mitton Road through the removal of rows of terraces with continuous hedge along the site frontage. A detailed landscaping scheme has been submitted and there will be planting of wildflowers along the boundary to Mitton Road, hedges on property frontages and between rear gardens and several shrubs around the site, hardstanding appear to be kept to a minimum which will soften the impact of the proposal.

5.3.4 The comments from objectors regarding the heritage value of the dwellings are noted and they do have some historic interest as workers dwellings, however

it is noted that most of the former hospital site has already been subject to redevelopment and these properties alone would not be worthy of designation.

- 5.3.5 The visual impact of the proposal is considered acceptable, and it is not considered that it will detract from the character of the area.

5.4 Highway Safety and Accessibility:

- 5.4.1 LCC's highway engineer has confirmed that the revisions to the scheme in response to their initial comments are acceptable. Several conditions are suggested as well as the requirement to enter into legal agreements with LCC. This will ensure that the development is acceptable in terms of highway safety.
- 5.4.2 LCC have received a request to formally designate an existing path to the rear of the terraces as a public right of way. At present the outcome of this is not known but the developer has been made aware of this. It may be that the route would need to be accommodated or diverted. It would appear that a route could be accommodated via Mitton Road or potentially through the site with minor amendments to the layout.

5.5 Landscape/Ecology:

- 5.5.1 The application is accompanied by an ecology report and plan. The report concludes that there is moderate potential for roosting bats in some areas and further surveys are required in respect of this. Lighting should be sensitively designed to minimise impact on protected species. The surrounding areas provide high quality habitat for birds and any removal of vegetation should take place outside the nesting season. Further methodology is also required with regards to badgers and reptiles. All of these matters can be controlled by condition
- 5.5.2 The applicant will also be required to demonstrate the proposal will provide biodiversity net gain. In addition to this the requirement for mitigation such as bat and bird boxes can be controlled with a suitable condition.

5.6 Water Management:

- 5.6.1 Further information was requested by the LLFA and UU advised that the drainage strategy did not accord with the drainage hierarchy. Further information was sent by the agent including a Flood Risk Assessment and surface water drainage details. It has been confirmed by consultees that the revised information is acceptable and standard conditions are recommended

5.7 Infrastructure, Services and Developer Contributions:

- 5.7.1 The application is supported by a viability appraisal which is carried out using standard inputs. RVBC have also commissioned an independent assessment of this. Both reports conclude that the scheme is unviable even with no financial contributions.
- 5.7.2 National planning policy states weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case.



- 5.7.3 Questions have been raised as to why the existing properties cannot be refurbished and sold as market housing as the viability appraisals have suggested that this would be the more profitable option.
- 5.7.4 The developer has explained that they have carried out an appraisal of the site and concluded that the cost of refurbishment and internal fixtures along with the purchase price would result in a deficit. This has informed the decision for a full scale redevelopment. The buildings do not appear to be so derelict that they could not be brought back into use, but the report explains that some of the properties are in a poor structural condition and been subject to vandalism.
- 5.7.5 Policy H3 states: In locations outside the principal settlements, on developments of 5 or more dwellings (or sites of 0.2 hectares or more irrespective of the number of dwellings) the council will require 30% affordable units on the site. The Council will only consider a reduction in this level of provision, to a minimum of 20% only where supporting evidence, including a viability appraisal fully justifies a lower level of provision to the Council's satisfaction.
- 5.7.6 Notwithstanding the unviability of the scheme the developer has agreed to make the following financial contributions all based on the net uplift of dwellings of 16 units, with bedroom numbers taken as an average across the site as a whole.
- 5.7.8 A reduced affordable housing offer of 3 units due to the conclusions of viability assessments. This is based on 20% of the additional 16 units being provided. This accords with policy H3
- 5.7.9 A contribution to offsite recreation of £9,977.40 to mitigate against the loss of recreation land and lack of onsite recreation provision. It is also noted that there are two areas of recreation land allocated in close proximity which are allocated open space (policy DMB4) and the contribution could be ringfenced to be spent in the local area.
- 5.7.10 LCC have requested a contribution of £46,123.50 for 2 secondary school places based on the additional demand generated by 16 extra units.

## 6. **Observations/Consideration of Matters Raised/Conclusion**

- 6.1 The matters raised by objectors to the scheme have been discussed in the appraisal above. The proposal presents a sustainable form of development which will contribute to housing supply within the district and for the reasons in the appraisal having regard to local and national planning policy and the material planning considerations it is recommended accordingly that the application is deferred and delegated for approval subject to a section 106 agreement.

**RECOMMENDATION:** That the application be DEFERRED AND DELEGATED FOR APPROVAL subject to the following conditions

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

REASON: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

*Plans*

Affordable Housing Layout – A  
Boundary Treatment – Rev D  
Finished floor level - FFL-01B  
Materials – ML-01C  
Refuse – RL-01B  
Sections SS-01B SS-02B  
Block Plan A&B – 200B  
Landscape 1,2,3&4 18544B

*House Types:*

Barton  
Barley Plus  
Croston  
Cleveley  
Edmonton  
Mawdesley  
Whalley  
Keighley  
Pattersley

Reason: For the avoidance of doubt and to clarify which plans are relevant to the consent hereby approved.

*Materials*

3. The materials to be used on the external surfaces of the development hereby approved as indicated on drawing(s) ML-101C shall be implemented as indicated.

REASON: In order that the Local Planning Authority may ensure that the materials to be used are appropriate to the locality and respond positively to the inherent character of the area.

*Highways*

4. No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway mitigation along with a timescale for their implementation has been submitted to, and approved in writing by, the Local Planning Authority. . Thereafter the site access and off-site works shall be completed in accordance with agreed timetable.

REASON: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site.

5. The new estate roads and accesses between the site and Mitton Road shall be constructed in accordance with Lancashire County Council's Specification for

Construction of Estate Roads to at least base course level before any development takes place within the site.

REASON: To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative.

6. All garage facilities/ off street parking provision shall include provision of an electrical supply suitable for charging an electric motor vehicle.

REASON: To support sustainable transport objectives and to contribute to a reduction in harmful vehicle emissions.

7. None of the dwellings hereby approved shall be occupied until the estate roads which serve that dwelling have been constructed and completed in accordance with a scheme that shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the estate roads..

REASON: In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway scheme/works.

No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.

Reason: To ensure that the estate streets serving the development are maintained to an acceptable standard in the interest of residential / highway safety

8. No development shall take place, including any works of demolition or site clearance, until a Construction Management Plan (CMP) or Construction Method Statement (CMS) has been submitted to, and approved in writing by the local planning authority.

The approved plan / statement shall provide:

- 24 Hour emergency contact number.
- Details of the parking of vehicles of site operatives and visitors.
- Details of loading and unloading of plant and materials.
- Arrangements for turning of vehicles within the site.
- Swept path analysis showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available and maintained, including any necessary temporary traffic management measures.
- Measures to protect vulnerable road users (pedestrians and cyclists).
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- Wheel washing facilities.
- Measures to deal with dirt, debris, mud or loose material deposited on the highway as a result of construction.
- Measures to control the emission of dust and dirt during construction.
- Details of a scheme for recycling/disposing of waste resulting from demolition and construction works.
- Construction vehicle routing.

- Delivery, demolition and construction working hours.

The approved Construction Management Plan or Construction Method Statement shall be adhered to throughout the construction period for the development.

REASON: In the interests of the safe operation of the adopted highway during the demolition and construction phases.

#### *Drainage*

9. The development permitted by this planning permission shall be carried out in accordance with the principles set out within the submitted flood risk assessment and outline surface water drainage strategy (ref: 200903-EDGE-XX-XX-RP-C0001\_FLOOD RISK ASSESSMENT[P01], by: EDGE Consulting Engineers, dated: 22 March 2021).

The measures shall be fully implemented prior to first occupation of any building and in accordance with the timing / phasing arrangements embodied within the scheme.

REASON: To ensure satisfactory drainage of the site.

10. No development shall commence until a final, detailed surface water sustainable drainage scheme for the site has been submitted to, and approved in writing by, the local planning authority. The detailed sustainable drainage scheme shall be based upon the site-specific flood risk assessment submitted and the sustainable drainage principles set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), either directly or indirectly. The detailed sustainable drainage scheme shall include, as a minimum:

- a) Final sustainable drainage plans, appropriately labelled to include:
  - i. A final surface water drainage layout plan showing all pipe and structure references, dimensions and design levels;
  - ii. A plan identifying the areas contributing to the surface water drainage network, including surface water flows from outside the curtilage as necessary;
  - iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
  - iv. Flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
  - v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building;
  - vi. Details of proposals to collect and mitigate surface water runoff from the development boundary; and vii.
  - vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and deliver suitably clean water to sustainable drainage components;
- b) A full set of sustainable drainage flow calculations for the surface water drainage network. The calculations must show the full network design criteria, pipeline schedules and simulation outputs for the 1 in 1 year, 1 in 30 year and 1 in 100 year return period, plus an additional 40% allowance for climate change and a 10% allowance for urban creep. Surface water run-off must not exceed the existing pre-development surface water runoff rates and volumes for the corresponding rainfall

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

**REASON:** To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 163 and 165 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

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

Those details shall include, as a minimum:

- a) Measures taken to ensure surface water flows are retained on-site during construction phase(s) and, if surface water flows are to be discharged they are done so at a restricted rate to be agreed with the Lancashire County Council LLFA.
- b) Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

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

**REASONS:**

1. To ensure the development is served by satisfactory arrangements for the disposal of surface water during each construction phase(s) so it does not pose an undue flood risk on site or elsewhere.
  2. To ensure that any pollution arising from the development as a result of the construction works does not adversely impact on existing or proposed ecological or geomorphic condition of water bodies.
2. No building hereby permitted shall be occupied until a Verification Report and Operation and Maintenance Plan for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority.

The Verification Report must demonstrate that the sustainable drainage system has been constructed as per the agreed scheme (or detail any minor variations), and contain information and evidence (including photographs) of details and locations (including national grid reference) of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an final 'operation and maintenance manual' for the sustainable drainage scheme as constructed.

Details of appropriate operational, maintenance and access requirements for each sustainable drainage component are to be provided, with reference to published guidance, through an appropriate Operation and Maintenance Plan for the lifetime of the development as constructed. This shall include arrangements for adoption by an appropriate public body or statutory undertaker, and/or management and maintenance by a Management Company and any means of access for maintenance and

easements, where applicable. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

REASON: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of Paragraph 165 of the National Planning Policy Framework.

### *Ecology*

3. No removal of vegetation including trees or hedges shall be undertaken within the nesting bird season (1st March – 31st August inclusive) unless a pre-clearance check on the day of removal, by a licenced ecologist, confirms the absence of nesting birds. A letter from the ecologist confirming the absence of nesting birds shall be submitted to the Council within one month of the pre-clearance check being undertaken.

Any removal of vegetation outside the nesting bird season shall be preceded by a pre-clearance check by a licensed ecologist on the day of removal to ensure that removal does not result in unacceptable impacts upon nesting birds or other species of conservation concern.

REASON: To ensure that there are no adverse effects on the favourable conservation status of birds, to protect the bird population and species of importance or conservation concern from the potential impacts of the development.

14. The development shall be carried out in strict accordance with the recommendations and timings set out within the Bat Mitigation Strategy by Biora dated December 2020 [Prior to the construction of any of the dwelling(s) hereby approved]

Notwithstanding the submitted details, no development, including any site preparation, demolition, scrub/hedgerow clearance or tree works/removal shall commence or be undertaken on site until] details of the provisions to be made for building dependent species of conservation concern, artificial bird nesting boxes and artificial bat roosting sites shall have been submitted to, and approved in writing by the Local Planning Authority.

For the avoidance of doubt the details shall be submitted on a dwelling/building dependent species site plan and include details of plot numbers and identify the actual wall and roof elevations into which the above provisions shall be incorporated.

The artificial bird/bat boxes shall be incorporated into the identified individual dwellings during their construction and be made available for use before each such dwelling is occupied and thereafter retained. The development shall be carried out in strict accordance with the approved details.

REASON: To ensure the protection of species/habitat protected by the Wildlife and Countryside Act 1981 (as Amended) and in the interests of biodiversity and to enhance habitat opportunities for species of conservation concern/protected species and to minimise/mitigate the potential impacts upon protected species resultant from the development

### *Landscaping*

15. The landscaping proposals hereby approved shall be implemented in the first planting season following occupation or use of the development, whether in whole or part and shall be maintained thereafter for a period of not less than 10 years to the satisfaction of the Local Planning Authority.

This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted.

All trees/hedgerow shown as being retained within the approved details shall be retained as such in perpetuity.

REASON: To ensure the proposal is satisfactorily landscaped and trees/hedgerow of landscape/visual amenity value are retained as part of the development.

16. During the construction period, all trees to be retained shall be protected in accordance with British Standard BS 5837:2012 or any subsequent amendment to the British Standard.

REASON: To protect trees/hedging of landscape and visual amenity value on and adjacent to the site or those likely to be affected by the proposed development hereby approved.

#### **UPDATE FOLLOWING 1<sup>st</sup> July 2021 PLANNING AND DEVELOPMENT COMMITTEE MEETING:**

At the committee meeting on 1st July 2021 members recommended refusal of the application due to a lack of affordable and older persons housing provision and inadequate housing mix for the household requirements in this location.

The applicants sought to overcome the specific concerns raised by Committee in advance to a decision being made and have verbally advised that they will offer 3 additional plots as affordable units. It is expected that this will be formalised in writing which will be reported to members as a late item prior to the meeting. They have considered the mix but are unable at this stage to offer any alterations to the layout or housing mix.

Members should note that the original affordable offer of 3 units is compliant in terms of policy H3 as it represents 20% of the net additional units which is an acceptable reduction within the policy given the unviability of the site. The offer of an additional 3 would represent 40% which exceeds the requirements of H3.

If committee still consider the housing mix and affordable and older persons housing offer to be unacceptable then the following reason for refusal would be suggested.

1. The proposal is considered contrary to Policy H1, H2 and H3 of the Adopted Core Strategy for the Ribble Valley. The proposal does not provide a suitable mix of house types including affordable and older persons house types, to cater for future household requirements in this location as required by policy H1 and H2. (Furthermore) The development fails to provide an adequate level of affordable and older persons housing provision as required by policy H3.

If committee accept the additional 3 affordable units but still consider the mix to be unacceptable then the following reason for refusal would be recommended.

2. The proposal is considered contrary to Policy H1 and H2 of the Adopted Core Strategy for the Ribble Valley. The proposal does not provide a suitable mix of house types including older persons house types, to cater for future household requirements in this location as required by policy H1 and H2.

#### BACKGROUND PAPERS

[https://www.ribblevalley.gov.uk/site/scripts/planx\\_details.php?appNumber=3%2F2021%2F0076](https://www.ribblevalley.gov.uk/site/scripts/planx_details.php?appNumber=3%2F2021%2F0076)



## Appendix 2- Extract of Committee minutes

### 170 PLANNING APPLICATION 3/2021/0076 - QUEEN MARY TERRACE AND BRIDGE TERRACE, WHALLEY

The Head of Planning Services reported upon an improved offer on affordable units made by the applicant.

RESOLVED: That the application be DEFERRED and DELEGATED to the Director of Economic Development subject to a Section 106 Agreement within 3 months from the date of this Committee meeting or delegated to the Director of Planning in conjunction with the Chairperson and Vice Chairperson of Planning and Development Committee should exceptional circumstances exist beyond the period of 3 months subject to the following conditions:

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

REASON: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

Plans

Affordable Housing Layout – B received on the 26/07/21 and letter received 26/07/21 indicating housing tenure.

Boundary Treatment – Rev D

Finished floor level - FFL-01B

Materials – ML-01C

Refuse – RL-01Br

Sections SS-01B SS-02B

Block Plan A&B – 200B

Landscape 1,2,3&4 18544B

House Types:

Barton

Barley Plus

Croston

Cleveley

Edmonton

Mawdesley

Whalley

Keighley

Pattersley

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent hereby approved.

Materials

3. The materials to be used on the external surfaces of the development hereby approved as indicated on drawing(s) ML-101C shall be implemented as indicated.

REASON: In order that the Local Planning Authority may ensure that the

materials to be used are appropriate to the locality and respond positively to the inherent character of the area.

#### Highways

4. No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway mitigation along with a timescale for their implementation has been submitted to, and approved in writing by, the Local Planning Authority. . Thereafter the site access and off-site works shall be completed in accordance with agreed timetable.

REASON: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site.

5. The new estate roads and accesses between the site and Mitton Road shall be constructed in accordance with Lancashire County Council's Specification for Construction of Estate Roads to at least base course level before any development takes place within the site.

REASON: To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative.

6. All garage facilities/ off street parking provision shall include provision of an electrical supply suitable for charging an electric motor vehicle.

REASON: To support sustainable transport objectives and to contribute to a reduction in harmful vehicle emissions.

7. None of the dwellings hereby approved shall be occupied until the estate roads which serve that dwelling have been constructed and completed in accordance with a scheme that shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the estate roads..

REASON: In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway scheme/works.

No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and Maintenance Company has been established.

REASON: To ensure that the estate streets serving the development are maintained to an acceptable standard in the interest of residential / highway safety

8. No development shall take place, including any works of demolition or site clearance, until a Construction Management Plan (CMP) or Construction Method Statement (CMS) has been submitted to, and approved in writing by the local planning authority.

The approved plan / statement shall provide:

- 24 Hour emergency contact number.
- Details of the parking of vehicles of site operatives and visitors.
- Details of loading and unloading of plant and materials.
- Arrangements for turning of vehicles within the site.
- Swept path analysis showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available

and maintained, including any necessary temporary traffic management measures.

- Measures to protect vulnerable road users (pedestrians and cyclists).
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- Wheel washing facilities.
- Measures to deal with dirt, debris, mud or loose material deposited on the highway as a result of construction.
- Measures to control the emission of dust and dirt during construction.
- Details of a scheme for recycling/disposing of waste resulting from demolition and construction works.
- Construction vehicle routing.
- Delivery, demolition and construction working hours.

The approved Construction Management Plan or Construction Method Statement shall be adhered to throughout the construction period for the development.

REASON: In the interests of the safe operation of the adopted highway during the demolition and construction phases.

#### Drainage

9. The development permitted by this planning permission shall be carried out in accordance with the principles set out within the submitted flood risk assessment and outline surface water drainage strategy (ref: 200903-EDGEXX-XX-RP-C0001\_FLOOD RISK ASSESSMENT[P01], by: EDGE Consulting Engineers, dated: 22 March 2021).

The measures shall be fully implemented prior to first occupation of any building and in accordance with the timing / phasing arrangements embodied within the scheme.

REASON: To ensure satisfactory drainage of the site.

10. No development shall commence until a final, detailed surface water sustainable drainage scheme for the site has been submitted to, and approved in writing by, the local planning authority. The detailed sustainable drainage scheme shall be based upon the site-specific flood risk assessment submitted and the sustainable drainage principles set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), either directly or indirectly.

The detailed sustainable drainage scheme shall include, as a minimum:

- a) Final sustainable drainage plans, appropriately labelled to include:
  - i. A final surface water drainage layout plan showing all pipe and structure references, dimensions and design levels;
  - ii. A plan identifying the areas contributing to the surface water drainage network, including surface water flows from outside the curtilage as necessary;
  - iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
  - iv. Flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
  - v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building;
  - vi. Details of proposals to collect and mitigate surface water runoff from the development boundary; and
  - vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and deliver

suitably clean water to sustainable drainage components;

b) A full set of sustainable drainage flow calculations for the surface water drainage network. The calculations must show the full network design criteria, pipeline schedules and simulation outputs for the 1 in 1 year, 1 in 30 year and 1 in 100 year return period, plus an additional 40% allowance for climate change and a 10% allowance for urban creep. Surface water run-off must not exceed the existing pre-development surface water runoff rates and volumes for the corresponding rainfall intensity. The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings.

REASON: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 163 and 165 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

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

Those details shall include, as a minimum:

a) Measures taken to ensure surface water flows are retained on-site during construction phase(s) and, if surface water flows are to be discharged they are done so at a restricted rate to be agreed with the Lancashire County Council LLFA.

b) Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

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

REASONS:

1. To ensure the development is served by satisfactory arrangements for the disposal of surface water during each construction phase(s) so it does not pose an undue flood risk on site or elsewhere.

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

12. No building hereby permitted shall be occupied until a Verification Report and Operation and Maintenance Plan for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority.

The Verification Report must demonstrate that the sustainable drainage system has been constructed as per the agreed scheme (or detail any minor variations), and contain information and evidence (including photographs) of details and locations (including national grid reference) of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an final 'operation and maintenance manual' for the sustainable drainage scheme as constructed.

Details of appropriate operational, maintenance and access requirements for each sustainable drainage component are to be provided, with reference to published guidance, through an appropriate Operation and Maintenance Plan for the lifetime of the development as constructed. This shall include arrangements for adoption by an appropriate public body or statutory undertaker, and/or management and maintenance by a Management

Company and any means of access for maintenance and easements, where applicable. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

REASON: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of Paragraph 165 of the National Planning Policy Framework.

#### Ecology

13. No removal of vegetation including trees or hedges shall be undertaken within the nesting bird season (1st March – 31st August inclusive) unless a preclearance check on the day of removal, by a licenced ecologist, confirms the absence of nesting birds. A letter from the ecologist confirming the absence of nesting birds shall be submitted to the Council within one month of the preclearance check being undertaken.

Any removal of vegetation outside the nesting bird season shall be preceded by a pre-clearance check by a licensed ecologist on the day of removal to ensure that removal does not result in unacceptable impacts upon nesting birds or other species of conservation concern.

REASON: To ensure that there are no adverse effects on the favourable conservation status of birds, to protect the bird population and species of importance or conservation concern from the potential impacts of the development.

14. The development shall be carried out in strict accordance with the recommendations and timings set out within the Bat Mitigation Strategy by Biora dated December 2020 [Prior to the construction of any of the dwelling(s) hereby approved]

Notwithstanding the submitted details, no development, including any site preparation, demolition, scrub/hedgerow clearance or tree works/removal shall commence or be undertaken on site until details of the provisions to be made for building dependent species of conservation concern, artificial bird nesting boxes and artificial bat roosting sites shall have been submitted to, and approved in writing by the Local Planning Authority.

For the avoidance of doubt the details shall be submitted on a dwelling/building dependent species site plan and include details of plot numbers and identify the actual wall and roof elevations into which the above provisions shall be incorporated.

The artificial bird/bat boxes shall be incorporated into the identified individual dwellings during their construction and be made available for use before each such dwelling is occupied and thereafter retained. The development shall be carried out in strict accordance with the approved details.

REASON: To ensure the protection of species/habitat protected by the Wildlife and Countryside Act 1981 (as Amended) and in the interests of biodiversity and to enhance habitat opportunities for species of conservation concern/protected species and to minimise/mitigate the potential impacts upon protected species resultant from the development

#### Landscaping

15. The landscaping proposals hereby approved shall be implemented in the first planting season following occupation or use of the development, whether in whole or part and shall be maintained thereafter for a period of not less than 10 years to the satisfaction of the Local Planning Authority.

This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted.

All trees/hedgerow shown as being retained within the approved details shall be retained as such in perpetuity.

REASON: To ensure the proposal is satisfactorily landscaped and trees/hedgerow of landscape/visual amenity value are retained as part of the development.

16. During the construction period, all trees to be retained shall be protected in accordance with British Standard BS 5837:2012 or any subsequent amendment to the British Standard.

REASON: To protect trees/hedging of landscape and visual amenity value on and adjacent to the site or those likely to be affected by the proposed development hereby approved.

(Mr S Tibenham spoke in favour of the above application).

## Appendix 3- Decision Notice and Plan

RIBBLE VALLEY BOROUGH COUNCIL

Department of Development

Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA

Telephone: 01200 425111 [www.ribblevalley.gov.uk](http://www.ribblevalley.gov.uk) [planning@ribblevalley.gov.uk](mailto:planning@ribblevalley.gov.uk)

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Town and Country Planning Act 1990

### PLANNING PERMISSION

**APPLICATION NO:** 3/2021/0076

**DECISION DATE:** 11 February 2022

**DATE RECEIVED:** 29/01/2021

#### **APPLICANT:**

Mr Richard Dimisianos  
Prospect (GB) Ltd  
Unit 5 Meridian Business Village  
Hansby Drive  
Liverpool  
L24 9LG

#### **AGENT:**

Miss Ann Daniels  
Pegasus Group  
Queens House  
Queen Street  
Manchester  
M2 5HT

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Proposed demolition of 34 existing dwellings and the erection of 50 new dwellings with vehicular accesses, landscaping and other associated works.

**AT:** Queen Mary Terrace and Bridge Terrace Mitton Road Whalley BB7 9JS

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

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

P.T.O.

Plans:

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:  
MR/W-SJS-PL01 Rev F - Planning Layout  
MR/W-SJS-ML01 Rev E - Materials Layout  
MR/W-SJS-FFL01 Rev C - Indicative Finished Floor Level Layout  
MR/W-SJS-BT01 Rev E - Boundary Treatment Layout  
Landscape Plans Sheets 1,2,3&4 18544B

House Types -

NDSS-22-32A Rev - - The Barton ES2  
HT21-1-41D Rev G - The Barley ES1  
HT21-41DE Rev G - The Barley Plus ES2  
HT21-2-42D Rev D - The Cleveley ES2  
HT21-1-31D Rev E - The Croston ES1  
HT21-2-31D Rev E - The Croston ES2  
HT21-1-T2D Rev B The Mawdesley ES1  
HT21-2-T2D Rev B - The Mawdesley ES2  
HT21-1-44D Rev G - The Whalley ES1  
HT21-2-44D Rev G - The Whalley ES2  
HT21-1-46D Rev F - The Keighley ES1  
HT21-2-46D Rev F - The Keighley ES2  
HT21-2-33D Rev D - The Edmonton ES2  
HT21-2-47D Rev F - The Pattersley ES1  
HT21-2-47D Rev F - The Pattersley ES2

Reason: For the avoidance of doubt and to clarify which plans are relevant to the consent hereby approved.



Highways:

4. No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway mitigation has been submitted to, and approved by, the Local Planning Authority in consultation with the Highway Authority.

Reason: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site.

5. The new estate roads and accesses between the site and Mitton Road shall be constructed in accordance with Lancashire County Council's Specification for Construction of Estate Roads to at least base course level before any development takes place within the site.

Reason: To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative.

6. All garage facilities on off street parking shall include provision of an electrical supply suitable for charging an electric motor vehicle as shown on plan MR/W-SJS-PL01 Rev F .

Reason: To support sustainable transport objectives and to contribute to a reduction in harmful vehicle emissions.

7. No part of the development hereby approved shall be occupied or opened for trading until all the highway works have been constructed and completed in accordance with a scheme that shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.

Reason: In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway scheme/works.

P.T.O.

8. No development shall take place, including any works of demolition or site clearance, until a Construction Management Plan (CMP) or Construction Method Statement (CMS) has been submitted to, and approved in writing by the local planning authority.

The approved plan / statement shall provide:

- o 24 Hour emergency contact number.
- o Details of the parking of vehicles of site operatives and visitors.
- o Details of loading and unloading of plant and materials.
- o Arrangements for turning of vehicles within the site.
- o Swept path analysis showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available and maintained, including any necessary temporary traffic management measures.
- o Measures to protect vulnerable road users (pedestrians and cyclists).
- o The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- o Wheel washing facilities.
- o Measures to deal with dirt, debris, mud or loose material deposited on the highway as a result of construction.
- o Measures to control the emission of dust and dirt during construction.
- o Details of a scheme for recycling/disposing of waste resulting from demolition and construction works.
- o Construction vehicle routing.
- o Delivery, demolition and construction working hours.

The approved Construction Management Plan or Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: - In the interests of the safe operation of the adopted highway during the demolition and construction phases.

Drainage:

9. The development permitted by this planning permission shall be carried out in accordance with the principles set out within the submitted flood risk assessment and outline surface water drainage strategy (ref: 200903-EDGE-XX-XX-RP-C0001\_FLOOD RISK ASSESSMENT[P01], by: EDGE Consulting Engineers, dated: 22 March 2021).

The measures shall be fully implemented prior to first occupation of any building and in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority in consultation with the Lead Local Flood Authority.

Reason: To ensure satisfactory drainage of the site.

P.T.O.

10. No development shall commence until a final, detailed surface water sustainable drainage scheme for the site has been submitted to, and approved in writing by, the local planning authority. The detailed sustainable drainage scheme shall be based upon the site-specific flood risk assessment submitted and the sustainable drainage principles set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), either directly or indirectly. The detailed sustainable drainage scheme shall include, as a minimum: a) Final sustainable drainage plans, appropriately labelled to include:
- i. A final surface water drainage layout plan showing all pipe and structure references, dimensions and design levels;
  - ii. A plan identifying the areas contributing to the surface water drainage network, including surface water flows from outside the curtilage as necessary;
  - iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
  - iv. Flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
  - v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building;
  - vi. Details of proposals to collect and mitigate surface water runoff from the development boundary; and vii.
  - vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and deliver suitably clean water to sustainable drainage components;
- b) A full set of sustainable drainage flow calculations for the surface water drainage network. The calculations must show the full network design criteria, pipeline schedules and simulation outputs for the 1 in 1 year, 1 in 30 year and 1 in 100 year return period, plus an additional 40% allowance for climate change and a 10% allowance for urban creep. Surface water run-off must not exceed the existing pre-development surface water runoff rates and volumes for the corresponding rainfall intensity. The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 163 and 165 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

P.T.O.

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

Those details shall include, as a minimum:

- a) Measures taken to ensure surface water flows are retained on-site during construction phase(s) and, if surface water flows are to be discharged they are done so at a restricted rate to be agreed with the Lancashire County Council LLFA.
- b) Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

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

Reasons:

- 1. To ensure the development is served by satisfactory arrangements for the disposal of surface water during each construction phase(s) so it does not pose an undue flood risk on site or elsewhere;
- 2. To ensure that any pollution arising from the development as a result of the construction works does not adversely impact on existing or proposed ecological or geomorphic condition of water bodies.

12. No building hereby permitted shall be occupied until a Verification Report and Operation and Maintenance Plan for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority.

The Verification Report must demonstrate that the sustainable drainage system has been constructed as per the agreed scheme (or detail any minor variations), and contain information and evidence (including photographs) of details and locations (including national grid reference) of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an final 'operation and maintenance manual' for the sustainable drainage scheme as constructed.

Details of appropriate operational, maintenance and access requirements for each sustainable drainage component are to be provided, with reference to published guidance, through an appropriate Operation and Maintenance Plan for the lifetime of the development as constructed. This shall include arrangements for adoption by an appropriate public body or statutory undertaker, and/or management and maintenance by a Management Company and any means of access for maintenance and easements, where applicable. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of Paragraph 165 of the National Planning Policy Framework.

P.T.O.

Ecology:

13. No removal of vegetation including trees or hedges shall be undertaken within the nesting bird season (1st March - 31st August inclusive) unless a pre-clearance check on the day of removal, by a licenced ecologist, confirms the absence of nesting birds. A letter from the ecologist confirming the absence of nesting birds shall be submitted to the Council within one month of the pre-clearance check being undertaken.

Any removal of vegetation outside the nesting bird season shall be preceded by a pre-clearance check by a licensed ecologist on the day of removal to ensure that removal does not result in unacceptable impacts upon nesting birds or other species of conservation concern.

Reason: To ensure that there are no adverse effects on the favourable conservation status of birds, to protect the bird population and species of importance or conservation concern from the potential impacts of the development.

14. The development shall be carried out in strict accordance with the recommendations and timings set out within the Bat Mitigation Strategy by Biora dated December 2020 and in accordance with the details of roosting provision specified on the approved drawings .

Reason: To ensure the protection of species/habitat protected by the Wildlife and Countryside Act 1981 (as Amended) and in the interests of biodiversity and to enhance habitat opportunities for species of conservation concern/protected species and to minimise/mitigate the potential impacts upon protected species resultant from the development

Landscaping:

15. The landscaping proposals hereby approved shall be implemented in the first planting season following occupation or use of the development, whether in whole or part and shall be maintained thereafter for a period of not less than 10 years to the satisfaction of the Local Planning Authority.

This maintenance shall include the replacement of any tree or shrub which is removed, or dies, or is seriously damaged, or becomes seriously diseased, by a species of similar size to those originally planted.

All trees/hedgerow shown as being retained within the approved details shall be retained as such in perpetuity.

Reason: To ensure the proposal is satisfactorily landscaped and trees/hedgerow of landscape/visual amenity value are retained as part of the development.

P.T.O.

16. During the construction period, all trees to be retained shall be protected in accordance with British Standard BS 5837:2012 or any subsequent amendment to the British Standard.

Reason: To protect trees/hedging of landscape and visual amenity value on and adjacent to the site or those likely to be affected by the proposed development hereby approved.

#### **Note(s)**

1. For rights of appeal in respect of any condition(s)/or reason(s) attached to the permission see the attached notes.
2. The applicant is advised that should there be any deviation from the approved plan the Local Planning Authority must be informed. It is therefore vital that any future Building Regulation application must comply with the approved planning application.
3. The Local Planning Authority has endeavoured to work proactively and positively to resolve issues and considered the imposition of appropriate conditions and amendments to the application to deliver a sustainable form of development.
4. This decision shall be read in conjunction with the Section 106 agreement dated 10 February 2022.

*John Machole*

pp NICOLA HOPKINS

**DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING**

#### **Notes**

##### **Right of Appeal**

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

· If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

· If this is a decision to refuse planning permission, or approve with conditions, a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

· If this is a decision to refuse planning permission, or approve with conditions, a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000. The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal

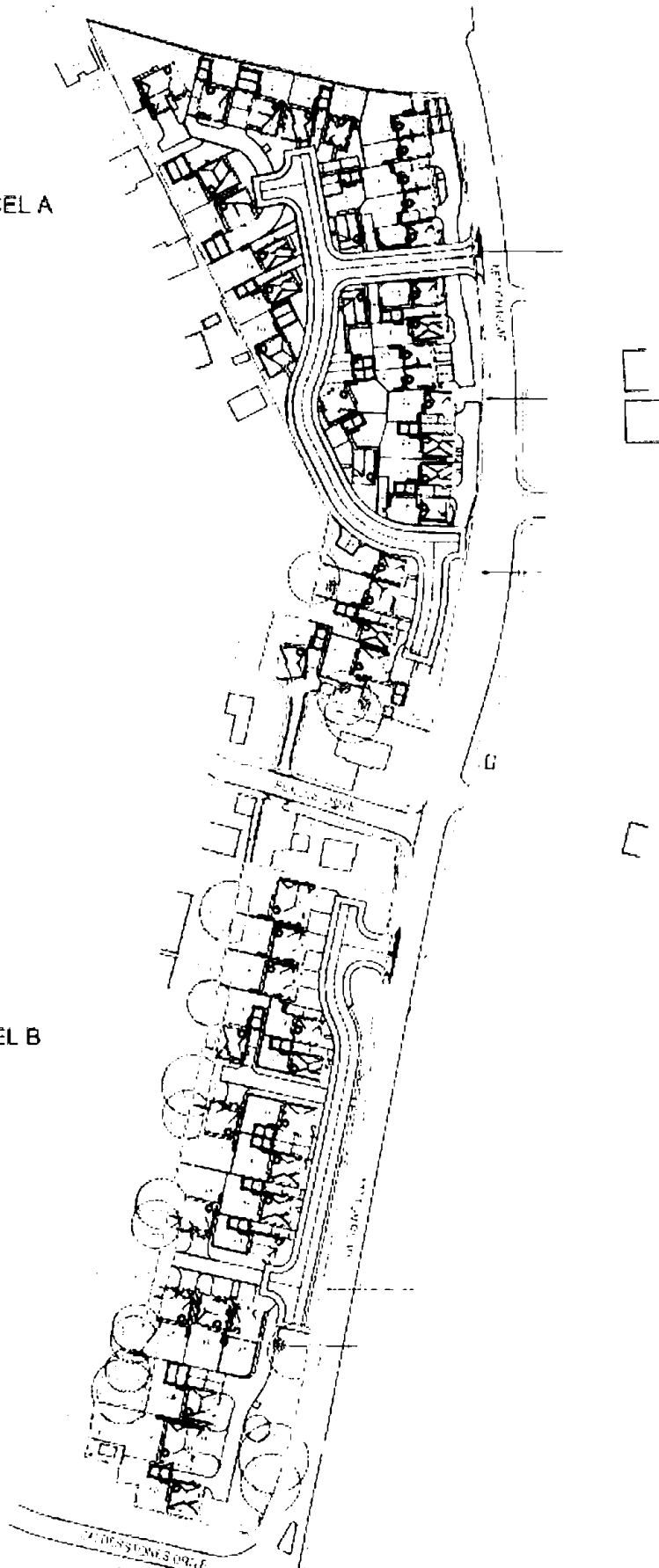
without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 114 of the Town and Country Planning Act 1990.

#### **Purchase Notices**

If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, they may serve on the Council of the county borough or county district in which the land is situated a purchase notice requiring that Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

PARCEL A

PARCEL B





## Appendix 4- Application





Ribble Valley  
Borough Council

[www.ribblevalley.gov.uk](http://www.ribblevalley.gov.uk)

## APPLICATION FORM FOR THE STOPPING UP OR DIVERSION OF PUBLIC RIGHT(S) OF WAY(S) SECTION 257 TOWN AND COUNTRY PLANNING ACT 1990

**Please read the attached notes carefully before completing this form.**

Return completed form and all supporting documents to: Planning Department, Ribble Valley Borough Council, Council Offices, Church Walk, Clitheroe BB7 2RA  
[planning@ribblevalley.gov.uk](mailto:planning@ribblevalley.gov.uk)

<b>1. Applicant Details</b>	
<b>Your/Applicant's name and address</b>	
Prospect (GB) Ltd, Unit 5 Meridian Business Village, Hansby Drive, Liverpool, L24 9LG	
Lead contact - Andrew Denton, Head of Land, Prospect (GB) Ltd	
<b>Tel No</b>	
<b>Email</b>	
<b>Name/Address of Planning Agent/Architect if applicable (our response will be sent to this address)</b>	
N/A	
<b>Tel No</b>	
<b>Email</b>	

The applicant/agent as stated above, requests the Council to make an Order under the provisions of **Section 257 of the Town and Country Planning Act 1990** for the diversion of the Public Right of Way, described in Part 2.

The application for the diversion is made on the grounds that the existing public right of way should be diverted to allow development to take place in accordance with any planning permission granted.

<b>2. Highways to be diverted or stopped up</b>	
<b>a)</b>	<b>Status of the Highway: Footpath/Bridleway (please delete if applicable)</b>
	Footpath
<b>b)</b>	<b>Number of Right of Way to be diverted</b>
	3-45-FP51

<b>c)</b>	<b>Description of location of Right of Way to be diverted (Include grid references)</b>
	A - SD 7266 3755, B - SD 7261 3735, C - SD 7261 3734, D - SD 7257 3715, F - SD 7255 3713
	G - SD 7255 3713, H - SD 7255 3713, I - SD 7257 3713, J - SD 7257 3713, K - SD 7257 3712
	L - SD 7267 3753, M - SD 7267 3744, N - SD 7266 3731, O - SD 7261 3712
	See S257 Plan enclosed
<b>d)</b>	<b>Parish(es)</b>
	Whalley
<b>e)</b>	<b>Length(s) In metres of section(s) to be Diverted or Stopped Up:</b>
	Referring to the letters on the enclosed plan:- 234m A-B, 223m C-K and 41m D-H
<b>f)</b>	<b>Existing surface of the route</b>
	Mixture of hardstanding and unmade ground
<b>g)</b>	<b>Existing furniture on route (stiles, gates, fences etc)</b>
	x1 Stile
<b>h)</b>	<b>Are you applying to i) divert or ii) stop up the public right of way?</b>
	Divert

### 3. Planning Permission

**Has Planning Permission been applied for which necessitates the Diversion or Stopping Up of the Highway(s)?**

If Yes,

**Application number:** 3/2021/0076

**Date of Consent:** 11 February 2022

**Address and description of development:** Queen Mary Terrace and Bridge Terrace Milton Road Whalley BB7 9JS

Proposed demolition of 34 existing dwellings and the erection of 50 new dwellings with vehicular accesses, landscaping and other associated works.

**Expected start date for development:**

Works started in June 2022 on parts of the development not interfering with the Right of Way

#### 4. Applicant's case for the proposal

**a) Describe the development and why it necessitates the Stopping Up or Diversion of the Highway(s).**

The Right of Way would be blocked by permanent structures (houses, fences etc) that are to built as part of the development approved under planning consent 3/2021/0076

**b) Please supply a copy of the approved (or proposed) site layout plan with the site boundary edged red and the existing highway boundary, within the site, edged blue.\***

enclosed - \* existing highway is indicated by a continuous bold line and the proposed diversion by a dashed line

**c) Please supply a copy of an up to date plan based on an Ordnance Survey plan. All plans must clearly show a north point, and use a scale of 1:2500 or 1:1250**

#### 5. Existing Path

- a) Give full name(s) and address(es) of all landowners, occupiers and other persons with any legal interest in the land which is crossed by the length(s) of existing path(s) subject to this application

Name(s) and interest in land	Address(es) and contact details
The applicant - Prospect GB Ltd	Unit 5 Meridian Business Village, Hansby Drive, Liverpool, L24 9LG
George Wimpey City 2 Ltd	Gate House, Tumpke Road, High Wycombe, Buckinghamshire, HP12 3NR
Mersey Care NHS Foundation Trust	V7 Building, Kings Business Park, Prescot, Liverpool, L34 1PJ

Continue on another sheet if necessary

**b) Is any of the land registered? If so, please give title numbers and names on title.**

LAN261848 - PROPRIETOR: PROSPECT (GB) LIMITED (Co. Regn. No. 4192419).

LA864367 - George Wimpey City 2 Ltd (Co. Reg. No. 00718741)

LA754966 - Mersey Care NHS Foundation Trust

**c) Does anyone else use any of the existing path(s) to gain access to land or property?  
If so, please give name and contact details.**

No

**d) Have you obtained the consent of every person having an interest in land crossed  
by the existing path(s) (including persons named at 5a & 5c)?**

Written to and discussed the matter with each; their consent to follow.

**e) Will a related compulsory purchase order, or other statutory action, be involved?  
If yes, please give details.**

No

## 6. Proposed Path

**a) Give full name(s) and address(es) of all landowners, occupiers and other persons  
with any legal interest in the land which is crossed by the length(s) of proposed  
path(s) subject to this application**

Name(s) and interest in land	Address(es) and contact details
Only the applicant - Prospect GB Ltd	Unit 5 Meridian Business Village, Hansby Drive, Liverpool, L24 9LG
Continue on another sheet if necessary	

**b) Is any of the land registered? If so, please give title numbers and names on title.**

All registered under title LAN261848

**c) Does anyone else use any of the existing path(s) to gain access to land or property?**

<b>If so, please give name and contact details.</b>		
No		
<b>d) Have you obtained the consent of every person having an interest in land crossed by the existing path(s) (including persons named at 5a &amp; 5c)?</b>		
Yes - the applicant is the freeholder		
<b>e) Will a related compulsory purchase order, or other statutory action, be involved?</b>		
<b>If yes, please give details.</b>		
No		
<b>f) Is the proposed path i) a footpath? ii) a bridleway?</b>		
Footpath		
<b>g) Details of the new Highway:</b>		
<b>i) Length(s) in metres of section(s) to be created:</b>		
<b>ii) Description of surface:</b>		
i) Referring to the letters on the enclosed plan: 98m L-M and 190m N-O		
ii) predominantly tarmac - footways, shared drives and carriageway plus a short section of grassed lawn		
<b>g) Please give details of any proposed new structures e.g. type of gate(s), stile(s), fence(s), explain their purpose (e.g. stock control) and clearly mark the locations on a plan.</b>		
<b>Type of Structure</b>	<b>Point on Plan</b>	<b>Purpose</b>
non proposed		

<b>7. Public Utilities</b>
<b>a) If you have carried out consultations with the Public Utilities please indicate those with apparatus or interests affected by the Diversion or Stopping Up and enclose a copy of any correspondence received:</b>

## 8. Declaration

**\*I/We the undersigned understand that no authority for the stopping up/diversion of any Right of Way is conferred unless confirmed by Ribble Valley Borough Council/Secretary of State.**

Signed... [redacted] ..... Dated..... 15/02/2022

**\*I/We declare that the Right of Way to be diverted is in no way obstructed and shall be in no way obstructed before the Order is confirmed.**

Signed... [redacted] ..... Dated..... 15/02/2022  
- \* not obstructed by any permanent structures

**\*I/We undertake to put new paths in place to the standards of Lancashire County Council should the proposals succeed**

Signed .. [redacted] ..... Dated..... 15/02/2022

**\*I/We apply for the diversion/stopping up of the highways as described above and declare that to the best of \*my/our knowledge all particulars inserted on this form are true and accurate.**

Signed .. [redacted] ..... Dated..... 15/02/2022

### Objections to the Order

**\*I/We recognise that if objections are received to a published Order, the Council may:**

- a) Request that the Secretary of State determine the Order
- b) Represent the case at Public Inquiry, hearing or through written representations
- c) Request that the applicant represent themselves at Public Inquiry, Hearing or written representations.

Signed .. [redacted] ..... Dated..... 15/02/2022

## 9. Costs

**\*I/We understand that Ribble Valley Borough Council is entitled to recover the costs incurred in the making of a Public Path Order under "The Local Authority (Recovery of costs of PPOs) Regulations 1993" as amended by the Local Authorities (charges for Overseas Assistance and Public Path Orders) Regulations 1996".**

Signed .. [redacted] ..... Dated..... 15/02/2022



**\*I/We undertake the pay:**

- a) the associated costs and expenses incurred by Ribble Valley Borough Council (including the cost of any statutory adverts)**
- b) any compensation which may become payable as a consequence of the diversion coming into operation**
- c) the costs of any works necessary in consequence of the coming into operation of the Order so that the diverted route may be brought up to the necessary standard**
- d) the full costs of investigating, making and confirming the Order**

Signed ....

..... Dated.....

19/10/2022

**\*I/We understand that these costs will remain payable should the Council resolve not to make the Order or the Order is not confirmed for any reason.**

Signed ...

..... Dated.....

19/10/2022

**\*I/We are aware that, although at present the minimum costs of a straightforward application (which has received no objection) are approximately £1500.00 this figure is for each order and cannot be guaranteed.**

Signed ...

..... Dated.....

19/10/2022

**If more than one Order is required to achieve your aim, then additional costs will occur.**



## Appendix 5- Statement of Grounds

### STATEMENT OF GROUNDS

The order is made pursuant to S257 of the Town and Country Planning Act 1990.

S257 states that (1) a competent authority may by order authorise the stopping up or diversion of any footpath if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted under Part III.

Ribble Valley Borough Council are satisfied that it is necessary to divert part of Public Right of Way 3-45-FP51 to enable the development of 50 dwellinghouses with associated infrastructure following the demolition of 34 existing dwellings at the rear of the former Queen Mary Terrace and Bridge Terrace, Mitton Road, Whalley BB7 9JS (Planning application reference 3/2021/0076).

Full planning approval was granted on 11 February 2022 under planning permission 3/2021/0076.

There is an existing right of way (Footpath 3-45-FP51) which runs through the site.

It was identified at the time of the planning approval that the right of way would require diverting. The developer has subsequently applied to permanently divert part of the footpath running 240m from Mitton Road to Pendle Drive (points A to B), 220m from Pendle Drive to Calderstones Drive, except for the footpath alongside Calderstones Drive (points C to I and J to K) and 40 m from the junction in the path to Calderstones Drive, except for the footpath alongside it (points D to F and G to H) as shown on the attached plan.

Although the diversion comprises a longer route, it is not significantly different in extent or direction to the existing route. The end effect of the planning permission will result in the Footpath running along the estate road of the new development.

The Council considers the proposal to divert the length Footpath 3-45-FP51 described above, to be acceptable in the circumstances and the Council has accordingly agreed to make an Order under S257 of the Town and Country Planning Act 1990, in order to effect the diversion of the length of the footpath in question.

The diversion authorised by the Order will only come into effect after the order has been confirmed and the works have been certified.

